
CIVIL PROCEDURE RULES
CAP 12

This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.

Legislation incorporated in this Consolidation	Ordinance	Date in Force
Civil Procedure Rules	<u>Cap.12</u> With marginal notes	
Rules of Court (No.1) 1954	321/1954	20/05/1954
Civil Procedure Rules (No.1) 1956	549/1956	21/06/1956
Civil Procedure Rules (No.1) 1958	295/1958	04/05/1958
Civil Procedure (Amendment) Rules 1973	7/1973	30/01/1973
Civil Procedure (Amendment) Rules 1974	12/1974	18/04/1974
Civil Procedure (Amendment) Rules 1976	88/1976	18/10/1976
Civil Procedure (Amendment) Rules 1979	8/1979	01/02/1979
Civil Procedure (Amendment) Rules 1983	13/1983	18/02/1983
Civil Procedure (Amendment) Rules 1986	65/1986	08/09/1986
Civil Procedure (Amendment) Rules 1987	68/1987	10/09/1986
Civil Procedure (Amendment) Rules 1988	18/1988	01/01/1988
Civil Procedure (Amendment) Rules 1990	16/1990	17/02/1990
Civil Procedure (Amendment) Rules 1993	41/1993	01/01/1993
Civil Procedure (Amendment) Rules 1994	17/1994	30/03/1994
Civil Procedure (Amendment) Rules 1995	51/1995	25/07/1995
Civil Procedure (Amendment) Rules 1999 <i>Provided that these Rules shall be applicable to all civil proceedings filed on or after 19 July 1996 the costs for which have not been determined up to the date of such application.</i>	13/1999	22/03/1999
Judicial Review Procedure Rules 2007	19/2007	08/05/2007
Civil Procedure (Amendment to Advocates' Fees) Rules 2008	17/2008	28/05/2008
Civil Procedure (Amendment) Rules 2022	14/2022	16/05/2022

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CIVIL PROCEDURE RULES
CAP 12

ORDER 1

Preliminary and Interpretation

1. These rules may be cited as the Civil Procedure Rules. **(a)**

2. In these rules, unless repugnant to the context:—

“action” means a civil proceeding commenced by writ or in such other manner as may be prescribed by any law or rules of court; **(b)**

“cause” includes any action or other original proceeding between a plaintiff and defendant; **(c)**

“the Court” means the court having jurisdiction or power under the law for the time being in force, and includes a judge having such jurisdiction or power;

“days” does not mean clear days unless expressly stated to be such; **(d)**

“defendant” includes any person served with any writ of summons or process, or served with notice of, or entitled to attend any proceedings; **(e)**

“Judge” includes a Judge of the Supreme Court, a President of a District Court, a District Judge, and a Magistrate, according to the context in which it occurs and in so far he has jurisdiction or power under the law for the time being in force;

“matter” includes every proceeding in court not in a cause; **(f)**

“office copy” means a sealed copy or translation of any document lodged, filed or kept in, or issued out of a court registry, certified to be a true copy or translation by the registrar of that registry;

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

“personal representative” means the executor or administrator of the deceased’s estate or, if there is none, his heirs as representing the estate;

“plaintiff” includes every person asking any relief (other than a defendant asking relief by way of counter-claim) against any other person by any form of proceeding, whether the proceeding is by action, petition, motion, summons or otherwise; **(g)**

“the Registrar” means the registrar of the court and includes an assistant registrar attached to the court, and in the case of a registry established in a place other than the principal town of a district, a judge or (save in regard to the taxation of costs) the clerk in charge of such registry; **(h)**

“sealed” means sealed with a court seal;

“Specially indorsed” in the case of a writ of summons, means a writ of summons indorsed pursuant to Order 2, Rule 6.

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- (a)** These rules were previously cited as the Rules of Court, 1983 to (No.2) 1953
(b) E.Jud. Act, 1925, s225
(c) E.Jud. Act, 1925, s225
(d) Cap.1, s.2 (contra-but *see* s.225)
(e) E.Jud. Act, 1925, s225
(f) E.Jud. Act, 1925, s225
(g) E.Jud. Act, 1925, s225
(h) 51 Vol II 49

3. An application under section 37 of the Partnership Law, Cap 186 for dissolution of partnership shall be by way of action.^(a)

4. Wherever under these rules anything may be done by a person it may, unless the context otherwise requires, or the Court otherwise directs, be done by an advocate acting with such person's authority and on his behalf.

5. The forms in Appendix A shall, where applicable, be used with such variations as may be necessary to suit the case, and where not applicable, forms of the like character may be used.

ORDER 2

Forms and Commencement of Action

(But see Order 65 for Special Rules on Actions relating to Claims not exceeding £50)

1. Save where other provision is made, any action before a District Court shall be commenced by a writ of summons. (Forms 1 and 2).

2. No writ of summons for service out of Cyprus, or of which notice is to be given out of Cyprus, shall be sealed without the leave of the Court or a Judge.

3. When presented for sealing every writ of summons shall contain the name of the Court and the year in which the action is being instituted, the name in full of the plaintiff and the defendant, the address in full and occupation of the plaintiff and, so far as they can be ascertained, of the defendant, and the plaintiff's address for service within the municipal limits of the town or village in which is situated the registry in which the writ is being filed. The writ shall be indorsed with a statement of the nature of the claim made, or of the relief or remedy required in the action, but it shall not be essential to set forth in such indorsement the precise ground of complaint, or the precise remedy or relief to which the plaintiff considers himself entitled. The writ shall be signed by the plaintiff or his advocate at the foot of such statement.

4. (a) If the plaintiff sues, or any defendant is sued, in a representative capacity, the indorsement shall show in what capacity the plaintiff or defendant sues or is sued.

(b) If a defendant is under disability of any kind, that is to say, is an infant, or mental patient or criminal mental patient under the Mental Patients Law, cap. 120, or a person of unsound mind not so found, or a prodigal having a guardian under the Guardianship of Infants and Prodigal Law, Cap. 102, he shall be described as such in the writ of summons in the title of the action; and the name of the guardian or administrator (whether he is or is not authorized to defend) shall be given in the writ of summons.

5. In probate actions the indorsement shall show whether the plaintiff claims as creditor, executor, administrator, legatee, heir, or in any and what, other character.

6. In actions—

(1) (a) Where the plaintiff seeks to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising—

(b) upon a bond or upon a contract, express or implied (as, for instance, on a bill of exchange, promissory note or cheque, or other contract debt); or

(c) on a guarantee, where the claim against the principal is in respect of a debt or liquidated demand; or

(2) Where a landlord seeks to recover possession of immovable property, with or without a claim for rent, against the tenant whose term has expired or has been duly determined by notice to

(a) C. Partnership Rr, 129, r 30

quit, or has become liable to forfeiture for non-payment of rent, or against persons claiming under such tenant; or

(3) Where the plaintiff seeks to recover possession of a specific chattel with or without a claim for the hire thereof or for damages for its detention; and

(4) In all other actions in the District Court (except actions for libel, slander, malicious prosecution, false imprisonment, seduction or breach of promise of marriage, and actions in which fraud is alleged by the plaintiff);

the writ of summons may, at the option of the plaintiff, be specifically indorsed with a statement, of his claim, or of the remedy of relief to which he claims to be entitled. (Form 2).

7. Wherever the plaintiff's claim is for a debt or liquidated demand only, the indorsement, besides stating the nature of the claim, shall state the amount claimed for debt or in respect of such demand, and for costs respectively, and shall further state that upon payment thereof within ten days after service, or in the case of a writ not for service in Cyprus within the time allowed for appearance, further proceedings will be stayed. Such statement shall be in Form 3. The defendant may, notwithstanding such payment, have the costs taxed, and if more than one-sixth is disallowed the plaintiff's advocate shall pay the costs of taxation unless he shows that he overcharged bona fide.

8. In all cases in which the plaintiff, in the first instance, desires to have an account taken, the writ of summons shall be indorsed with a claim that such account be taken.

9. In actions for libel the indorsement on the writ shall state sufficient particulars to identify the publications in respect of which the action is brought.

10. In actions for recovery of possession of immovable property the indorsement on the writ shall set out the value of the property sought to be recovered, and in those for trespass the value of the property trespassed upon.

11. On presenting his writ for sealing the plaintiff shall leave, for each defendant, one office copy of the writ for service plus a duplicate of such copy for the affidavit of service.

12. If the writ is such as may be sealed the registrar shall enter the action in the Civil Cause Book and give the writ a number showing the order in which the action is so entered; he shall mark the writ "Filed and sealed on the Day of20.....", naming the date on which it is filed; he shall then seal the writ with the seal of the Court, and thereupon the writ shall be deemed to be issued and the action to be commenced.

13. The sealing of a writ of summons in probate actions shall be preceded by the filing of an affidavit by the plaintiff, or one of the plaintiffs, in verification of the indorsement on the writ.

14. No writ with a claim relating to more than two pounds shall, when the plaintiff lives in Cyprus, be sealed when presented by an advocate unless accompanied by a retainer in writing in Form 4 attested, where the plaintiff is illiterate, by a registrar, certifying officer, or two competent witnesses not being advocates clerks.

Provided that, with the leave of a Judge, upon a good cause shown, which shall be recorded in the minutes, a writ may be sealed by the Registrar without its being accompanied by a retainer in writing as aforesaid; but such retainer shall be filed later within such time as the Judge may think fit to allow.

15. No writ shall be sealed if presented by or behalf of a prodigal having a guardian under the Guardianship of Infants and Prodigals Law, Cap 102, unless it is endorsed by a statement signed by such guardian to the effect that the action is being brought with his advice and consent. Such statement, where the guardian is illiterate, shall be attested by a registrar, certifying officer, or two competent witnesses not being advocate's clerks. If a writ is filed by or on behalf of such a prodigal contrary to the provisions of this Rule, a Judge may order all proceedings under the writ to be stayed until such provisions are complied with, and upon proof of their having been complied with a judge may order that such stay be removed.

ORDER 3

Change of Advocate

1. A party suing or defending by an advocate shall, subject to the provisions of rule 4 in Order 8, be at liberty to change his advocate in any cause or matter upon notice of the change being filed in the Court in which the cause or matter is proceeding; but until such notice is filed and a copy thereof served on the other parties to the cause or matter, the former advocate shall be considered the advocate of the party until the final conclusion of the cause or matter, whether in the District or the Supreme Court.

ORDER 4

Renewal of the Writ of Summons

1. No writ of summons shall be in force for more than 12 months from the day of its issue including that day; but if any defendant named in it has not been served, the plaintiff may, before the 12 months expire, apply for an order to renew the writ; and the Court, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reasons, may order that the writ be renewed inclusive, and so from time to time during the currency of the renewed writ. And the writ shall in such case be marked in red ink by the registrar with the words “Renewed by order, dated the day of, 20....” or words to the like effect; and a writ so renewed shall remain in force and be available to prevent the operation of any law whereby the time for the commencement of the action may be limited, and for all other purposes, from the date of the issuing of the original writ of summons.

2. After a writ is renewed every office copy used for service shall bear a copy of the words on the original writ indicating that it has been renewed.

ORDER 5

Service of the Writ of Summons

1. Every defendant named on the writ of summons shall, except a Judge otherwise orders, be served in the manner provided in rule 2 of this Order with an office copy of the writ, and such service shall be deemed good service of the writ.

2.—(1) The service shall, whenever it is practicable, be effected by leaving the copy with the person to be served; but if he is not found at his house or at his usual place of employment, the service shall be deemed to be effected if the copy is left:-

- (i) with any member of his family of apparently 16 years and upwards then in his town or village or within the lands thereof; or
- (ii) with any person apparently of such age and in charge of the place of his employment; or
- (iii) with his master in the case of a servant living with his master.

Where service is effected by leaving the copy with a person other than the person to be served, the affidavit of service shall state (if such be the case) that the person to be served was not found at his house or at his usual place of employment (Form 5).

(2) The affidavit of service endorsed upon, or having attached thereto as an exhibit, a duplicate of the copy of the writ of summons served, shall be sworn and filed within seven days after service. The registrar shall, within forty-eight hours after the affidavit of service is filed, give the plaintiff notice of the date on which the service was effected.

3. Service on the person to be served may be effected at any time of the day or night and in any place and on any day of the week. This provision applies equally to the leaving of a copy with a

member of his family or with his master in the case of a servant living with his master. In other cases the copy left with the person in charge of the place where the person to be served is employed shall be left during the hours, and at the place, of employment.

4. When an infant is a defendant to the action, service on his guardian authorised to defend proceedings against him or, if none, on his father, mother, or guardian not so authorised, or, if none, then upon the person with whom the infant resides or under whose care he is, shall, unless the Court or a Judge otherwise orders, be deemed good service on the infant:

Provided that the Court or Judge may order that service made or to be made on the infant shall be deemed good service.

5. When a defendant is a mental or criminal mental patient so found under the Mental Patients Law, Cap 120, or is a person of unsound mind not so found, service on his administrator if there is one, or if there is not, on the person with whom he resides or under whose care he is, shall, unless the court or a Judge otherwise orders, be deemed good service.

6. When a defendant is a prodigal having a guardian under the Guardianship of Infants and Prodigals Law, Cap 102, the writ shall be served both upon him and upon the guardian.

7. In the absence of any statutory provision regulating service of process upon a corporate body, service of an office copy of a writ of summons or other process on the president or other head officer, or on the treasurer or secretary of such body, or delivery of such copy at the office of such body, shall be deemed good service; and in the case of any company not formed in Cyprus, the copy may be left at its place of business in Cyprus, or if there is no such place, with any person in Cyprus who appears to be authorised to transact business for the company in Cyprus, and such leaving of the copy shall be deemed good service unless the Court or a Judge otherwise orders. And where by any law provision is made for the service of any writ of summons or other process on any corporate body or society or fellowship or anybody or number of persons, corporate, or unincorporated, the service of the office copy of a writ may be effected accordingly.

8. Where a contract has been entered into in Cyprus by or through an agent residing or carrying on business in Cyprus on behalf of a principal residing or carrying on business outside Cyprus, a writ of summons in an action relating to or arising out of such contract may, by leave of the Court or a Judge given before the determination of such agent's authority or of his business relations with the principal, be served on such agent. Notice of the order giving such leave and an office copy thereof and of the writ of summons shall forthwith be sent by prepaid double registered post letter to the defendant or defendants at his or their address out of the jurisdiction: provided that nothing in this rule shall invalidate or affect any other mode of service provided by these rules.

9. If it be made to appear to the Court or a Judge that from any cause it is not possible promptly to effect service in the manner provided in rule 2 of this Order, the Court or Judge may make such order for substituted or other service, or for the substitution of notice for service by letter, public advertisement, or otherwise, as may be just.

10. An order under rule 9 of this Order shall appoint the time within which the defendant shall enter this appearance to the writ, and shall also contain a direction that, if the defendant does not enter an appearance within the appointed time, notice of any application in the action may be given by posting an office copy of the notice on the Court notice board.

ORDER 5A

Substituted Service

1. Every application to the Court or a Judge for an order for substituted or other service, or for the substitution of notice for service, shall be supported by an affidavit setting forth the grounds upon which the application is made.

ORDER 6

Service out of Jurisdiction

1. Subject to section 15 of the Courts of Justice Law, Cap 11, service out of the jurisdiction of a writ of summons or notice of a writ of summons may be allowed by the Court or a Judge whenever:—

- (a) the whole subject matter of the action is immovable property of any kind situated in Cyprus;
- (b) any act, deed, will, contract, obligation or liability affecting immovable property of any kind situated in Cyprus, is ought to be construed, rectified, set aside, or enforced in the action; or
- (c) any relief is sought against any person domiciled or ordinarily resident in Cyprus; or
- (d) the action is for the administration of the movable property of any deceased person who at the time of his death was domiciled in Cyprus, or for the execution (as to property situated in Cyprus) of the trusts of any written instrument, of which the person to be served is a trustee, which ought to be executed according to the law of Cyprus; or
- (e) the action is on brought to enforce, rescind, dissolve, annul, or otherwise affect a contract or to recover damages or other relief for or in respect of the breach of a contract—
 - (i) made in Cyprus, or
 - (ii) mad by or through an agent trading or residing in Cyprus on behalf of a principal trading or residing out of Cyprus,or is one brought in respect of a breach committed in Cyprus of a contract wherever made, even though such breach was preceded or accompanied by a breach out of Cyprus which rendered impossible the performance of the part of the contract which ought to have been performed in Cyprus; or
- (f) the action is founded on a civil wrong committed in Cyprus; or
- (g) any injunction is sought as to anything to be done in Cyprus, or any nuisance in Cyprus is sought to be prevented or removed, whether damages are or are not also sought in respect thereof; or
- (h) any person out of Cyprus is necessary or proper party to an action properly brought against some other person duly served in Cyprus.

2. The parties to any contract may agree that service of any writ of summons in any action brought in respect of such contract may be effected at any place in or out of Cyprus on any party or any person on behalf of any party or in any manner specified or indicated in such contract. Service of any such writ of summons at the place (if any) or on the party or on the person (if any) or in the manner (if any) specified or indicated in the contract shall be deemed to be good and effective service wherever the parties are resident, and if no place or mode or person be so specified or indicated, service out of Cyprus of such writ may be ordered.

3. In probate actions service of a writ of summons or notice of a writ of summons may by leave of the Court or a Judge be allowed out of Cyprus.

4. Every application for leave to serve a writ of summons or notice thereof on a defendant out of Cyprus shall be supported by affidavit or other evidence satisfying the Court or Judge that the plaintiff has *prima facie* a good cause of action and showing in what place or country such defendant is or probably may be found, and whether such defendant is a British subject or not, and the grounds upon which the application is made; and no such leave shall be granted unless it shall be made sufficiently to appear to the Court or Judge that the case is a proper one of service out of Cyprus under this Order.

5. Any order giving leave to effect such service or give such notice shall limit a time after such service or notice within which such defendant is to enter an appearance, such time to depend on

the place or country where or within which the writ is to be served or the notice given. Such order shall also contain a direction that, if the defendant does not enter an appearance within the appointed time, notice of any application in the action may be given by posting a copy on the court notice board.

6. When the defendant is neither a British subject nor in British Dominions, notice of the writ, and not the writ itself is to be served upon him. Such notice shall be in Form 6.

7. Where leave is given by the Court or a Judge for service of a writ of summons or notice of such writ in any foreign country with which a convention relating to such service has been or shall be extended to Cyprus the following procedure shall, subject to any special terms in the convention, be adopted:-

(1) The party bespeaking such service shall file with the Registrar a request in Form 7, which request shall state whether the service is desired to be effected (i) directly through the British Consul, or (ii) through the foreign judicial authority and shall be accompanied by—

- (a) the document to be served;
- (b) two copies thereof – in the case of France three copies;
- (c) a translation thereof in the official language of the country in which service is to be effected verified upon oath by or on behalf of the person making the request; and
- (d) two copies of such translation.

Where the service is required to be made on a British subject through the British Consul the translation and copies thereof need not – except in the case of Turkey – be supplied.

(2) The party bespeaking such service shall also deposit to the Court the sum of ~~£4~~ £10(a) in respect of each person to be served. In the event of the expenses incurred by the Colonial Secretary in respect of such service amounting to less than the amount of the deposit the surplus shall be refunded by the Registrar to the party making the deposit.

(2) The Registrar shall file a copy of the document to be served and the verified translation thereof (where required). He shall seal and forward to the Colonial Secretary in duplicate – in the case of France in triplicate – the document to be served, and shall also seal and forward therewith in duplicate the verified translation (where required) of such document.

8. The certificate of any British Consul or an affidavit sworn before him by the person who effected the service, or an official certificate or declaration upon oath or otherwise transmitted by the Government or Court of a foreign country, shall, provided that it certifies or declares the writ of summons or notice of the writ to have been personally served, or to have been duly served upon the defendant in accordance with the law of such foreign country, or words to that effect, be deemed to be sufficient proof of such service.

9. Where an official certificate or declaration, transmitted to the Cyprus Court in the manner provided in rule 8 of this Order, certifies or declares that efforts to serve a document have been without effect, the Court or a Judge may, upon the ex parte application to the plaintiff, order that the plaintiff be at liberty to bespeak a request for substituted service of such document.

ORDER 7

Actions by and Against Firms and Persons Carrying on Business in the Names other Than Their Own

1. Any two or more persons claiming or being liable as co-partners and carrying on business in Cyprus may sue or be sued in the name of the respective firms (if any) of which such persons were co-partners at the time of the accruing of the cause of action; and any party to an action may in such case apply by summons to a Judge for a statement of the names and addresses of the persons

(a) Amended by Rules of Court 12/1974 – came into force on 18 April 1974

who were, at the time of the accruing of the cause of action, co-partners in any such firm, to be furnished in such manner, and verified on oath or otherwise as the Judge may direct.

2. When a writ is sued out by partners in the name of their firm, the plaintiff's or their advocates shall, on demand in writing by or on behalf of any defendant, forthwith declare in writing the names and places of residence of all the persons constituting the firm on whose behalf the action is brought. And if the plaintiffs or their advocates shall fail to comply with such demand, all proceedings in the action may, upon an application for that purpose, be stayed upon such terms as the Court or a Judge may direct. And when the names of the partners are so declared, the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the writ. But all the proceedings shall, nevertheless, continue in the name of the firm.

3. Where persons are sued as partners in the name of their firm under rule 1 of this Order, the writ shall be served either upon any one or more of the partners or at the principal place, in Cyprus, of the business of the partnership upon any person having at the time of service the control or management of the partnership business there; and, subject to these rules, such service shall be deemed good service upon the firm so sued, whether any of the members thereof are out of Cyprus or not, and no leave to issue a writ against them shall be necessary:

Provided that in the case of a co-partnership which has been dissolved to the knowledge of the plaintiff before the commencement of action, the writ of summons shall be served upon every person in Cyprus sought to be made liable.

4. Where a writ is issued against a firm, and is served as directed by rule 3 of this Order, every person upon whom it is served shall be informed by notice in writing in Form 8 given at the time of such service whether he is served as a partner or as a person having the control or management of the partnership business, or in both characters. In default of such notice, the person served shall be deemed to be served as a partner.

5. Where persons are sued as partners in the name of their firm they shall appear individually in their own names; but all subsequent proceedings shall, nevertheless, continue in the name of the firm.

6. Where a writ is served under rule 3 of this Order upon a person having the control or management of the partnership business, no appearance by him shall be necessary unless he is a member of the firm sued.

7. Any person served as a partner under rule 3 of this Order, but who denies that he was a partner or liable as such at any material time, may on appearing state that he does so as "a person served as a partner in the defendant firm, but who denies that he as a partner at any material time". Such appearance as long as it stands shall be treated as an appearance for the firm. If a person so states on appearance, (a) the plaintiff may apply to the Court to strike out the statement on the ground that the person making it was a partner or liable as such; or may leave that question to be determined at a later stage of the proceedings; or (b) the person so stating on appearance may apply to the Court to set aside the service on him on the ground that he was not a partner or liable as such; or he may by his defence deny either or both (1) his liability as a partner, (2) the liability of the defendant firm in respect of the plaintiff's claim. An order may on the application of either party at any time be made that the liability of the person served and the liability of the defendant firm may be tried in such manner and at such times as the court may think fit.

8. Where a judgment or order is against a firm, execution may, subject to the provisions of Orders 40 to 45 and of any other rules or law for the time being in force, issue:—

- (a) against any property of the partnership in Cyprus;
- (b) against any person who has appeared in his own name under rule 5 or 6 of this Order, or who has admitted on appearance that he is, or who has been adjudged to be a partner;
- (c) against any person who has been individually served, as a partner, with the writ of summons, and has failed to appear.

If the party who has obtained judgment or an order claims to be entitled to issue execution against any other person as being a member of the firm, he may apply to the Court or a Judge for leave so to do; and the Court or Judge may give such leave if the liability be not disputed, or if such liability be disputed may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined. But except as against any property of the partnership, a judgment against a firm shall not render liable, release, or otherwise affect any member thereof who was out of Cyprus when the writ was issued, and who has not appeared to the writ, unless he has been served out of Cyprus under Order 6, or has been served in Cyprus after the writ in the action was issued.

9. Debts owing from a firm carrying on business in Cyprus may be attached under Part VII of the Civil Procedure Law, Cap 7, or any other law or rules for the time being in force, although one or more members of such firm may be resident abroad:

Provided that any person having the control or management of the partnership business or any member of the firm in Cyprus is served with the garnishee order. An appearance by any member pursuant to an order shall be sufficient appearance by the firm.

10. The above rules shall apply to actions between a firm and one or more of its members, and to actions between firms having one or more members in common, provided such firm or firms carry on business in Cyprus, but no execution shall be issued in such actions without leave of the Court or a Judge, and on an application for leave to issue such actions without leave to issue such execution all such accounts and inquiries may be directed to be taken and made, and directions given as may be just.

11. Any person carrying out business in Cyprus in a name or style other than his own name may be sued in such name or style as if it were a firm name; and, so far as the nature of the case will permit, all rules relating to proceedings against firms shall apply.

ORDER 8

Proceedings By and Against Poor Person

1. The Court or a Judge may admit a person to sue or defend as a pauper except in bankruptcy proceedings if satisfied—

- (i) that he is not worth ~~£10~~ ~~£50(a)~~ **£100(b)** (excluding wearing apparel, bed and bedding, and the subject matter of the action); and
- (ii) that his usual income from all sources does not, exceed ~~10s~~ ~~£2(e)~~ **£5(d)** a week; and
- (iii) that he has reasonable grounds for suing or defending.

2.—(1) The application shall be accompanied:—

- (a) by an affidavit stating that the applicant satisfies conditions (i) and (ii) of rule 1 of this Order, or to the like effect, and setting forth all the material facts on which he relies in his desire to sue or defend, distinguishing between those which are within his personal knowledge and those which he bases on information and belief and in the latter case setting forth the sources of his information and grounds of his belief; and
- (b) by an advocate's opinion to the effect that the applicant has good cause of action or good grounds of defence.

(2) The application and affidavits shall be signed and sworn by the applicant himself.

(3) *No Court fees shall be payable on filing any such application or in respect of the affidavit accompanying it. (a)*

(a) Amended by Rules of Court 295/1958 – came into force on 04 May 1958

(b) Amended by Rules of Court 7/1973 – came into force on 30 January 1973

(c) Amended by Rules of Court 295/1958 – came into force on 04 May 1958

(d) Amended by Rules of Court 7/1973 – came into force on 30 January 1973

3. No Court fees shall be paid by a person admitted to sue or defend as a pauper, nor shall he, save where the Court otherwise orders, be liable to pay or be entitled to receive any costs.

4. In granting the application the Court or Judge may assign an advocate to the applicant, and the advocate assigned shall not refuse to act for the applicant or be discharged by him except with the leave of the Court or Judge.

5.—(1) Neither the advocate whose opinion accompanies the application, nor the advocate assigned to the applicant, nor any other person, shall, without permission of the court, take or agree to take or seek to obtain any payment whatsoever from the applicant or any other person in connection with the application or the action taken or defended thereunder. Breach of this rule shall be punishable as a contempt of Court.

(2) If the applicant pays or agrees to pay any money to any person whatsoever either in connection with his application or the action taken or defended thereunder, his application shall be refused, or, if already granted, he shall be dispaupered.

(3) If the advocate assigned to the applicant discovers that the applicant is possessed of means beyond those stated in the affidavit, he shall at once report the matter in writing to the Court.

6. The Court or a Judge may at any time revoke the order granting the application, and thereupon, the applicant shall not be entitled to the benefit of this Order in any proceedings to which the application relates unless otherwise ordered.

7. Neither the applicant nor the advocate assigned to him shall discontinue, settle or compromise the action without the leave of the Court or a Judge.

8. The Court may order to be paid to the advocate assigned out of any money recovered by the applicant, or may charge in favour of the advocate assigned upon any property recovered by the applicant, such sum, not exceeding one-fourth of the amount or value recovered, as may seem fit.

9. Every writ, notice or application, on behalf of the applicant in the action (except an application for the discharge of his advocate) shall be signed by his advocate, who shall take care that no application or notice is made or given without reasonable cause.

10. There shall be no appeal as a pauper by a person admitted to sue or defend as such without the leave of the trial or the appellate Court.

11. A person who has not sued or defended as a pauper may be admitted to appeal as such by the trial or the appellate Court.

12.—(1) An application under rule 10 or 11 of this Order shall be accompanied by a statement of the grounds – which shall be grounds of law only – on which it is desired to appeal, and such grounds shall be certified by an advocate to be proper grounds for appeal: and the order granting the application may limit the grounds on which the appeal may be made.

(2) The application shall likewise be accompanied by an affidavit by the applicant stating that he satisfies conditions (i) and (ii) of rule 1 of this Order.

(3) In either case, the application shall be signed by the applicant.

13. Where a person has been admitted to appeal as a pauper the provisions of the preceding rules shall, *mutatis mutandis*, apply to all proceedings on the appeal.

(a) Sub-rule (3) inserted by Rules of Court 295/1958 – came into force on 04 May 1958

ORDER 9

Parties

1. All persons may be joined in one action as plaintiffs, in whom any right to relief in respect of or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally, or in the alternative, where if such persons brought separate actions any common questions of law or fact would arise:

Provided that, if upon the application of any defendant it shall appear that such joinder may embarrass or delay the trial of the action, the Court or Judge may order separate trials, or make such other order as may be expedient, and judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who shall not be found entitled to relief unless the Court or a Judge in disposing of the costs shall otherwise direct.

2. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff, the Court or a Judge may, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute to do so, order that any other person consenting thereto be substituted or added as plaintiff upon such terms as may be just.

3. Where in an action any person has been improperly or unnecessarily joined as a co-plaintiff, and a defendant has set up a counter-claim, he may obtain the benefit thereof by establishing his counter-claim as against the parties other than the co-plaintiff so joined, notwithstanding the misjoinder of such plaintiff or any proceeding consequent thereon.

4. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

5. It shall not be necessary that every defendant shall be interested as to all the relief prayed for, or as to every cause of action included in any proceeding against him; but the Court or a Judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest.

6. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally liable on any one contract, including parties to bills of exchange and promissory notes.

7. Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may, in such manner as hereinafter mentioned, or as may be prescribed by any special order, join two or more defendants, to the intent that the question as to which (if any) of the defendants is liable, and to what extent, may be determined as between all parties.

8. Trustees, executors, and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives, without joining any of the persons beneficially interested in the trust or estate, and shall be considered as representing such persons; but the Court or a Judge may at any stage of the proceedings order any of such persons to be made parties, either in addition or in lieu of the previously existing parties.

This rule shall apply to trustees, executors and administrators, sued in proceedings to enforce a security.

9.—(1) Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may be authorized by the Court or a Judge to sue or defend in such cause or matter, on behalf or for the benefit of all persons so interested.

(2) Before any such order is made a power of attorney signed by the persons to be represented and certified by a Registrar or certifying officer or the ~~Chairman of the Village~~ Chairman of the

Village Commission (a) and two azas of their village, and empowering the person or persons, who are to sue or defend on their behalf, to represent them in the cause or matter specified in the power of attorney, shall be filed with the writ of summons, except in the case of any unincorporated religious, charitable, philanthropic, educational, social or athletic institution or association not established or conducted for profit.

(3) Where any such order is made, the persons represented shall be bound by the judgment of the Court in the action, and the same may be enforced against them in all respects as if they were parties to the action.

10. No cause or matter shall be defeated by reason of the misjoinder or non-joinder of parties, and the Court may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before it. The Court or a Judge may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Court or Judge to be just, order that the names of any parties improperly joined, whether as plaintiffs or as defendants, be struck out, and that the names of any parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the Court may be necessary in order to enable the Court effectually and completely to adjudicate upon and settle all the questions involved in the cause or matter, be added. No person shall be added as a plaintiff suing without a next friend, or as the next friend of a plaintiff under any disability, without his own consent in writing thereto. Every party whose name is so added as defendant shall be served with a writ of summons or notice in manner provided by rule 11 of this Order or in such manner as may be prescribed by any special order, and the proceedings as against such party shall be deemed to have begun only on the service of such writ or notice.

11. Where a defendant is added or substituted, the writ of summons shall be amended accordingly and the plaintiff shall, unless otherwise ordered by the Court or a Judge, file a copy of the writ as amended, and serve the new defendant with such amended writ or notice in lieu of service thereof in the same manner as original defendants are served, and the proceedings shall be continued as if the new defendant had originally been made a defendant.

12. An infant who has no guardian authorized to bring proceedings and a person of unsound mind whether or not a mental patient or criminal mental patient may sue as plaintiff by a person to be named in the writ of summons and therein described as his next friend. Where such an infant or person of unsound mind is sued he shall defend by a guardian *ad litem* appointed by the Court or a Judge and such guardian shall not be personally liable for any costs properly incurred by him in the course of action.

12A.—(1) Where, in any cause, matter or other proceeding it appears that any person who belongs to a class of persons who are parties to the cause or matter in question in the same interest, is interested in or affected by, or is party to such cause, matter or other proceeding, but cannot be found, the Court or Judge may, if satisfied that it is expedient so to do, appoint one or more persons to represent such person, and the judgement or order of the Court or Judge in the presence of the person or persons so appointed shall be binding on the person so represented.

(2) An application to the Court or a Judge under paragraph (1) of this rule shall be supported by an affidavit setting forth the efforts made to find the person proposed to be represented.

13. If in any cause, matter, or other proceeding it shall appear to the Court or a Judge that any deceased person who was interested in the cause or matter in question has no personal representative in Cyprus, the Court or Judge may, in the cases mentioned below, proceed in the absence of any person representing the estate of the deceased person, or may appoint some person to represent his estate for all purposes of the cause, matter or other proceeding on such notice to such persons (if any) as the Court or Judge shall think fit, either specially or generally by public advertisement, and the order so made, and any order consequent thereon, shall bind the estate of the deceased person in the same manner in every respect as if a duly constituted personal representative of the deceased had been a party to the cause, matter, or proceeding.

(a) Replace Chairman of the Village with Chairman of the Village Commission wherever it appears in these rules – Rules of Court 65/1986 – came into force on 8 September 1986

The cases above referred to are:—

- (a) where there are other parties to the action in the same interest as the deceased;
- (b) where the deceased was an accounting party and without beneficial interest and died insolvent;
- (c) where the interest of the deceased in the proceeding was small and contingent, or where useless delay and expenses would be caused by appointing a person to represent his estate;
- (d) where the deceased died after appearance or the time therefore had lapsed, leaving heirs residing abroad.

ORDER 10

Third-Party Procedure

1.—(1) Where in any action a defendant claims as against any person not already a party to the action (in this Order called the “third party”)—

- (a) that he is entitled to contribution or indemnity, or
- (b) that he is entitled to any relief or remedy relating to or connected with the original subject matter of the action and substantially the same as some relief or remedy claimed by the plaintiff, or
- (c) that any question or issue relating to or connected with the said subject matter is substantially the same as some question or issue arising between the plaintiff and the defendant and should properly be determined not only as between the plaintiff and the defendant but as between the plaintiff and defendant and the third party or between any or either of them,

the Court or a Judge may give leave to the defendant to issue and serve a “third-party notice”.

(2) The Court or Judge may give leave to issue and serve a “third-party notice” on an *ex parte* application supported by affidavit, or, where the Court or Judge directs a summons to the plaintiff to be issued, upon the hearing of the summons. ~~The application shall be filed together with the memorandum of appearance.~~ (a) *An application for the issue of a third party notice shall be made not later than within a month from the date when the statement of defence was filed. This time limit shall not be extended.* (b)

2.—(1) The notice shall state the nature and grounds of the claim or nature of the question or issue sought to be determined and the nature and extent of any relief or remedy claimed. It shall be in accordance with Form 9 or Form 10, and shall be sealed and served on the third party in the same manner as a writ of summons is sealed and served.

(2) The notice shall, unless otherwise ordered by the Court or Judge, be served within fifteen days of delivering the defence, or where the notice is served by a defendant to the counter-claim, the defence thereto, and with it there shall be served a copy of the writ of summons or originating summons and of any pleadings served or delivered in the action.

3. The third party shall, as from the time of the service upon him of the notice, be a party to the action with the same rights in respect of his defence against any claim made against him and otherwise as if he had been duly sued in the ordinary way by the defendant.

4.—(1) The third party may, in the manner set out in paragraph (2) of this rule, enter an appearance in the action within fifteen days from service or within such further time as may be directed by the Court or Judge and specified in the notice:

(a) Text deleted by Rules of Court 88/1976 – came into force on 18 October 1976

(b) Text inserted by Rules of Court 41/1993 – came into force on 01 January 1993

Provided that a third party failing to appear within such time may apply to the Court or a Judge for leave to appear, and such leave may be given upon such terms (if any) as the Court or Judge shall think fit.

(2) The third party shall enter his appearance in the same manner as a defendant is by these rules directed to enter an appearance, with this qualification, namely that he shall, at the same time as he delivers a duplicate of his memorandum of appearance and a duplicate of his defence to the defendant, also deliver similar duplicates to the plaintiff.

5. If a third party duly served with a third-party notice does not enter an appearance, he shall be deemed to admit the validity of and shall be bound by any judgement given in the action, whether by consent or otherwise, and by any decision therein on any question specified in the notice; and when contribution or indemnity or other relief or remedy is claimed against him in the notice, he shall be deemed to admit his liability in respect of such contribution or indemnity or other relief or remedy.

6. Where a third party makes default in entering an appearance and the defendant giving the notice suffers judgment by default, such defendant shall be entitled to any time, after satisfaction of the judgement against himself, upon an *ex parte* application, or before such satisfaction by the leave of the Court or a Judge obtained on an application by summons, to enter judgment against the third party to the extent of any contribution or indemnity claimed in the third-party notice, or by leave of the Court or Judge so obtained to enter such judgment in respect of any other relief or remedy claimed as the Court or Judge shall direct:

Provided that it shall be lawful for the Court or Judge in a proper case to set aside or vary such judgment against third party upon such terms as may seem just.

7.—(1) If the third party enters an appearance the defendant giving notice may, after serving notice of the intended application upon the plaintiff, the third party and any other defendant, apply to the Court or a Judge for directions, and the Court or Judge may—

- (a) where the liability of the third party to the defendant giving the notice is established on the hearing of the application, order such judgment as the nature of the case may require to be entered against, the third party in favour of the defendant giving the notice, or
- (b) if satisfied that there is a question or issue proper to be tried as between the plaintiff and the defendant and the third party or between any or either of them as to the liability of the defendant to the plaintiff or as to the liability of the third party to make any contribution or indemnity claimed, in whole or in part or as to any other relief or remedy claimed in the notice by the defendant, or that a question or issue, stated in the notice should be determined not only as between the plaintiff and the defendant, but as between the plaintiff, the defendant and the third party or any or either of them, order such question or issue to be tried in such manner as the Court or Judge may direct, or
- (c) dismiss the application.

(2) Any directions given pursuant to this rule may be given either before or after any judgment has been obtained by the plaintiff against the defendant in the action, as may be varied from time to time and may be rescinded.

(3) The third party proceedings may at any time be set aside by the Court or Judge.

8. The Court or Judge upon the hearing of the application for directions may, if it shall appear desirable to do so, give the third party liberty to defend the action, either alone or jointly with the original defendant, upon such terms as may be just, or to appear at the trial and take such part therein as may be just, and generally may order such proceedings to be taken, pleadings or documents to be delivered, or amendments to be made, and give such directions as to the Court or Judge shall appear proper for having the question and the rights and liabilities of the parties most conveniently determined and enforced and as to the mode and extent in or to which the third party shall be bound or made liable by the decision or judgment in the action.

9.—(1) Where the action is tried, the Court or Judge who tries the action may, at or after the trial, enter such judgment as the nature of the case may require for or against the defendant giving

the notice, against or for the third party, and may grant to the defendant or to the third party any relief or remedy which might properly have been granted if the third party had been made a defendant to an action duly instituted against him by the defendant:

Provided that execution shall not be issued without leave of the Court or a Judge until after satisfaction by the defendant of the judgment against him.

(2) Where the action is decided otherwise than by trial, the Court or Judge may, on application by summons, make such order as the nature of the case may require, and, where the plaintiff has recovered judgment against the defendant, may order such judgment as may be just to be entered for or against the defendant giving notice, against or for the third party.

10. The Court or Judge may decide all questions of costs as between a third party and other parties to the action, and may order any one or more of them to pay the costs of any other, or others, or give such directions as to costs as the justice of the case may require.

11.—(1) Where a third party makes us against any person not already a party to the action such a claim as is defined in rule 1 of this Order, the provisions of this Order regulating the rights and procedure as between the defendant and the third party shall apply *mutatis mutandis* as between the third party and such other person, and the Court or Judge may give leave to such third party to issue a third-party notice, and the preceding rules of this Order shall apply *mutatis mutandis*, and the expression “third-party notice” and “third party” shall apply to and include every notice so issued and every person served with such notice respectively.

(2) Where a person served with a notice under this rule by a third party in turn makes such a claim as is defined in rule 1 of this Order against another person not already a party to the action, this Order as applied by this rule shall have effect as regards such further person and any other further person or persons so served and so on successively.

12.—(1) Where a defendant claims against another defendant—

- (a) that he is entitled to contribution or indemnity, or
- (b) that he is entitled to any relief or remedy relating to or connected with the original subject matter of the action and substantially the same as some relief or remedy claimed by the plaintiff, or
- (c) that any question or issue relating to or connected with the said subject matter is substantially the same as some question or issue arising between the plaintiff and the defendant making the claim and should properly be determined not only as between the plaintiff and the defendant making the claim but as between the plaintiff and the defendant and another defendant or between any or either of them,

the defendant making the claim may without any leave issue and serve on such other defendant a notice making such claim or specifying such question or issue.

(2) No appearance to such notice shall be necessary and the same procedure shall be adopted for the determination of such claim, question or issue between the defendants as would be appropriate under this Order if he were a third party.

(3) Nothing herein contained shall prejudice the rights of the plaintiff against any defendant to the action.

ORDER 11

Proceeding under Part XII of the Civil Procedure Law, Cap. 7

1. If a person entitled under Part XII of the Civil Procedure Law, Cap. 7 to assignment of any security is refused such assignment, such person (or a trustee for him) may bring an action against the creditor claiming such assignment (or damages in default thereof) and join as defendants thereto any other persons from whom he is entitled to indemnification or contribution; and the Court may, by its judgment, order such assignment and realization of the security for such

person's benefit (or damages in default of assignment), and adjudge any such other persons as aforesaid to make such indemnification or contribution as the plaintiff may be entitled to.

2.—(1) If a person entitled to bring an action under rule 1 of this Order becomes so entitled after action brought by the creditor, such person may apply in the creditor's action—

- (a) to be substituted for the plaintiff;
- (b) to join as defendants any other persons from whom he is entitled to indemnification or contribution;
- (c) for an order granting him such relief or remedy as he might have been granted in an action under rule 1 of this Order.

(2) If any persons sought to be joined as defendants oppose the application on the ground that they are not liable to make indemnification or contribution, and the Court or Judge is of opinion that the question of their liability can, without prejudice to the applicant's interests, be more conveniently tried in an independent action, the application may be refused either wholly or in part, and thereupon the applicant shall be at liberty to bring an action as mentioned in rule 1 of this Order in regard to that part of his application which has been refused without a decision on its merits.

3.—(1) A person to whom any security has been assigned pursuant to Part XII of the Civil Procedure Law, Cap. 7, (or a trustee for him) may in an action brought by him against any persons from whom he is entitled to indemnification or contribution also claim enforcement of such security for his benefit.

(2) Such person may, if an action has been brought, by the creditor, apply in such action—

- (a) to be substituted for the plaintiff;
- (b) to join as defendants any persons from whom he is entitled to indemnification or contribution;
- (c) for an order granting him such relief or remedy as he might have been granted in action.

4. In any proceedings taken by a person to whom a security has been assigned for the enforcement thereof, such person shall describe himself as the assignee of the creditor by whom the assignment was made, but such creditor shall not be liable for any costs which such person may be ordered to pay in any such proceedings.

Order 12

Change of Parties by Death, etc.

1. A cause or matter shall not become abated by reason of the death or bankruptcy of any of the parties, if the cause of action survive or continue, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendent elite*; and, whether the cause of the action survives or not, there shall be no abatement by reason of the death of either party between the termination of the hearing and judgment, but judgment may in such case be given notwithstanding the death.

2. In case of the death, or bankruptcy, or devolution of estate by operation of law, of any party to a cause or matter, the Court or a Judge may, if it be deemed necessary for the complete settlement of all the questions involved, order that the personal representative, trustee or other successor in interest (if any) of such party to be made party, or be served with notice in such manner and form as hereinafter prescribed, and on such terms as the Court or Judge shall think just, and shall make such order for the disposal of the cause or matter as may be just.

3. In case of an assignment, creation, or devolution of any estate or title *pendent elite*, the case or matter may be continued by or against the person to or upon whom such estate or title has come or devolved.

4. Where by reason of death, bankruptcy, or any other event occurring after the commencement of a cause or matter, and causing a change or transmission of interest or liability, or by reason of any person interested coming into existence after the commencement of the cause or matter, it becomes necessary or desirable that any person not already a party should be made a party, or that any person already a party should be made a party in another capacity, an order that the proceedings shall be carried on between the continuing parties, and such new party or parties, may be obtained *ex parte* on application to the Court or a Judge, upon an allegation of such change, or transmission of interest or liability, or of any such person interested having come into existence.

5.—(1) An order obtained as mentioned in rule 4 of this Order shall, unless the Court or Judge otherwise directs, be served upon the continuing party or parties, or their advocates, and also upon each such new party, unless the person making the application be himself the only new party, and the order shall from the time of such service, subject nevertheless to rules 6 and 7 of this Order, be binding on the persons served therewith, and every person served therewith who is not already a party to the cause or matter shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons.

(2) Every new party who is added as a defendant shall, at the same time as he is served with the order, be served with an office copy of the writ of summons. The copy of the order served shall bear an endorsement in Form 11.

6. Where any person served with an order made under rule 4 of this Order is an infant without a guardian authorized to defend proceedings on his behalf, or is a person of unsound mind whether or not a mental patient or criminal mental patient under the Mental Patients Law, Cap 120, the person on whose application the order was made, or any continuing party to the action, may at any time after the making of the order, apply to the Court or a Judge that a guardian *ad litem* be appointed, in the same way as a plaintiff may apply under rule 1 of Order 17.

7. Any person served with an order made under rule 4 of this Order who is not under any disability, or being under disability appears by a guardian authorized by any law to defend proceedings on his behalf, or has had a guardian *ad litem* appointed for him, may apply to the Court or Judge to discharge or vary such order within fifteen days from the service thereof, and any person so served who is under any disability and who is without any guardian authorized by law to defend on his behalf, or who has not had a guardian *ad litem* appointed for him, may similarly apply to discharge or vary the order within fifteen days from the appointment of such guardian; such order shall be binding on every person served therewith who is not under disability or who has a guardian authorized to defend proceedings on his behalf, unless it be discharged or varied, but in the case of a person under disability who has no such guardian it shall have no force or effect until the lapse of fifteen days after the appointment of the guardian *ad litem*.

8. When the plaintiff or defendant in a cause or matter dies and the cause of action survives, but the person entitled to proceed fails to proceed, the defendant (or the person against whom the cause or matter may be continued) may apply to compel the plaintiff (or the person entitled to proceed) to proceed within such time as may be ordered: and, in default of such proceeding, judgment may be entered for the defendant, or as the case may be, for the person against whom the cause or matter might have been continued; and in such case, if the plaintiff has died, execution may issue as in the case provided for by Order 40, rule 8.

9. Where any cause or matter becomes abated or in the case of any such change of interest as is by this Order provided for, the advocate for the plaintiff or person having the conduct of the cause or matter, as the case may be, shall certify the fact to the Registrar, who shall cause an entry thereof to be made in the Cause Book opposite the name of such cause or matter.

10. Where any cause or matter shall have been standing for one year in the Cause Book marked as “abated”, or standing over generally, such cause or matter at the expiration of the year shall be struck out of the Cause Book.

ORDER 13

Joinder of Causes of Action

1. Subject to the following rules of this Order, the plaintiff may unite in the same action several causes of action; but if it appear to the Court or a Judge that any such causes of action cannot be conveniently tried or disposed of together, the Court or Judge may order separate trials of any such causes of action to be had, or may make such other order as may be necessary or expedient for the separate disposal thereof.

2. Claims by a trustee in bankruptcy as such shall not, unless by leave of the Court or a Judge, be joined with any claim by him in any other capacity.

3. Claims by or against an executor or administrator as such may be joined with claims by or against him personally, provided the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor or administrator.

4. Claims by plaintiffs jointly may be joined with claims by them or any of them separately against the same defendant.

5. Rules 3 and 4 of this Order shall be subject to rules 1, 6 and 7 thereof.

6. Any defendant alleging that the plaintiff has united in the same action several causes of action which cannot be conveniently disposed of together, may at any time apply to the Court or a Judge for an order confining the action to such of the causes of action as may be conveniently disposed of together.

7. If, on the hearing of such application as in the last preceding rule mentioned, it shall appear to the Court or a Judge that the causes of action are such as cannot all be conveniently disposed of together, the Court or Judge may order any of such causes or action to be excluded, and consequential amendments to be made, and may make such order as to costs as may be just.

ORDER 14

Consolidation of Actions

1. When actions are brought by one and the same person against different defendants in respect of the same or substantially the same libel, the Court or a Judge may on the application of two or more of such defendants order that such actions be consolidated so that they be tried together. In a consolidated action under this rule the damages (if any) shall be assessed in one sum but shall be apportioned between and against such of the defendants as judgement is given against, and the Court or Judge, if he awards the plaintiff the costs of the action, shall make order as he deems just for apportionment of such costs between and against such defendants.

2. When two or more actions are pending in the same Court, whether by the same or different plaintiffs against the same or different defendants, and the claims of such actions involve a common question of law or fact of such importance in proportion to the rest of the matters involved in such actions as to render it desirable that the actions should be consolidated, the Court or a Judge may order that they be consolidated.

3. Application for consolidation under the last preceding rule may be made by a party to any such actions as are therein mentioned upon notice to the other parties to such actions.

4. Any order under rule 2 of this Order shall, save for special reason to be therein stated, direct that the plaintiff or plaintiffs who first commenced proceedings shall have the conduct of the consolidated action.

5. Where at the trial of a consolidated action it appears that the claims of the plaintiffs in the actions before consolidation or the defences of the defendants therein, as the case may be, are not

conflicting, only one set of costs subsequent to the order for consolidation shall as a general rule be allowed.

ORDER 15

Discontinuance

1. The plaintiff may, at any time before the receipt of the defendant's defence, or after the receipt of the defendant's pleaded defence before taking any other proceedings in the action (save any interlocutory application), by notice in writing, wholly discontinue his action against all or any of the defendants or withdraw any part or parts of his alleged cause of complaint, and thereupon he shall pay such defendant's costs of the action, or if the action be not wholly discontinued, the costs occasioned by the matter so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action. Save as in this rule otherwise provided, it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the Court or a Judge, but the Court or a Judge may, before or at or after the hearing or trial, upon such terms as to costs, and as to any other action, and otherwise as may be just, order the action to be discontinued, or any part of the alleged cause of the complaint to be struck out. The Court or a Judge may, in like manner and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence or counter-claim to be withdrawn or struck out, but it shall not be competent to a defendant to withdraw his defence or any part thereof, without such leave.

2. When a cause has been set down or fixed for trial, it may be withdrawn by either plaintiff or defendant, upon producing to the Registrar a consent in writing signed by the parties.

3. Any defendant may have judgement for the costs of the action if it is wholly discontinued against him, or for the costs occasioned by the matter withdrawn, if the action be not wholly discontinued.

4. If any subsequent action shall be brought before payment of the costs of a discontinued action, for the same, or substantially the same, cause of action, the Court or a Judge may, if they or he think fit, order a stay of such subsequent action, until such costs shall have been paid.

ORDER 16

Appearance

1. A defendant shall enter his appearance in the Registry out of which the writ of summons was issued.

2. A defendant shall enter his appearance to a writ of summons by delivering to the Registrar of the Registry mentioned in rule 1 of this Order a memorandum in writing in conformity to the provisions of rule 3 thereof, and by delivering at the plaintiff's address for service, on the same day as he delivers the memorandum to the Registrar, a duplicate of the memorandum dated, signed and sealed by the Registrar.

3.—(1) The memorandum mentioned in rule 2(1)(a) of this Order, shall—

- (a) contain the name of the defendant's advocate or state that the defendant defends in person;
- (b) contain an address for service within the municipal limits of the town or village in which the Registry mentioned in rule of this Order is situated. (Form 12).

(2) If the memorandum does not contain such address, it shall not be received; and if such address shall be illusory or fictitious, the appearance may be set aside by the Court or a Judge, on the application of the plaintiff.

4. Upon receipt of the memorandum the Registrar shall file the same, and date, sign, and seal the duplicate thereof.

5. The duplicate of the memorandum dated, signed and sealed as aforesaid, shall be a certificate that the appearance was entered on the day noted by the Registrar.

6. If two or more defendants in the same action shall appear by the same advocate and at the same time, the names of all the defendants so appearing shall be inserted in one memorandum.

7. A defendant may appear at any time before judgment. If he appears at any time after the time limited by the writ for appearance, he shall be ordered to pay any costs properly incurred by the plaintiff by his failure to appear within the time limited by the writ.

8. In probate actions any person not named in the writ may intervene and appear in the action if it affects his interests, on filing an affidavit showing how he is interested in the estate of the deceased.

9. A defendant before appearing shall be at liberty, without obtaining an order to enter or entering a conditional appearance, to take out a summons to set aside the service upon him of the writ or of notice of the writ, or to discharge the order authorizing such service.

10. A defendant who is a prodigal having a guardian under the Guardianship of Infants and Prodigals Law, Cap. 102, shall not enter an appearance unless his memorandum bears a consent in writing from his guardian, attested, where the guardian is illiterate, by a Registrar, certifying officer, or two competent witnesses not being advocates' clerks.

11. Where an advocate enters appearance on behalf of a defendant who lives in Cyprus and is sued upon a claim relating to more than £25, the memorandum shall not be received by the Registrar, nor shall the duplicate thereof be dated, signed and sealed by him, unless the memorandum delivered to the Registrar is accompanied by a retainer in writing in Form 12A attested, where the defendant is illiterate, by a Registrar, certifying officer, or two competent witnesses not being advocates' clerks:

Provided that, with the leave of a Judge, upon good cause shown, which shall be recorded in the minutes, the memorandum may be received by the Registrar and the duplicate thereof be dated, signed and sealed by him, without the memorandum being accompanied by a retainer in writing as aforesaid; but such retainer shall be filed later within such time as the Judge may think fit to allow.

These provisions shall also apply to an appearance entered by an advocate on behalf of a third party under Order 10, the form of retainer being varied to suit the circumstances of the case.

ORDER 17

Default of Appearance

1.—(1) Where no appearance has been entered to a writ of summons for a defendant who is either—

- (a) an infant not having a guardian authorized to defend proceedings on his behalf under the Guardianship of Infants and Prodigals Law, Cap. 102, or
- (b) a person of unsound mind whether or not a mental patient or criminal mental patient under the Mental Patients Law, Cap 120,

the plaintiff shall, before further proceeding with the action against such defendant, apply to the Court or a Judge for an order that some proper person be assigned guardian of such defendant, by whom he may appear and defend the action. But no such order shall be made unless it appears on the hearing of such application that the writ of summons was duly served, and that notice of such application was, after the expiration of the time allowed for appearance, and at least four days before the day in such notice named for hearing the application, served upon the person with whom or under whose care such defendant was at the time of the service of the writ of summons

and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) served upon the father or mother, or guardian (if any) of such infant, unless the Court or Judge at the time of hearing such application shall dispense with such last-mentioned service.

(2) Notice of the application shall also be served upon the person sought to be assigned guardian, but if he is served and fails to attend or is unwilling to act, the Court or Judge may appoint any advocate as guardian to appear and defend the action, and direct that the costs to be incurred by him and his remuneration as such guardian (as fixed in the order of appointment or to be fixed later) be borne and paid either by the parties to the action or some one or more of them and may also direct either that security be given therefore, or that they be borne by and paid out of any fund in Court in which the defendant for whom he is appointed as such guardian may be interested, and may give directions for the repayment or allowance of such costs and remuneration as the justice and circumstances of the case may require.

(3) The order of appointment shall limit the time within which the person appointed is to enter an appearance, and if such person fails to enter an appearance within the time so limited, his appointment may be revoked and he may be ordered to pay personally any costs occasioned by his failure. Upon an appointment being revoked, another appointment may be made upon such proceedings being had as the Court or Judge may direct.

2. Where any defendant fails to appear to a writ of summons, and the plaintiff is desirous of proceeding upon default of appearance under any of the following rules of this Order, he shall before taking such proceeding upon default, file an affidavit of service, or of notice in lieu of service, as the case may be, if such affidavit has not already been filed by the Registrar.

3. Where the writ of summons is for a liquidated demand, whether specially indorsed or otherwise, and the defendant fails, or all the defendants, if more than one, fail, to appear thereto, the plaintiff may apply for judgment for any sum not exceeding the sum claimed by the writ, together with interest at the rate specified in the claim (if any) and costs.

4. Where the writ of summons is for a liquidated demand, whether specially indorsed or otherwise, and there are several defendants, of whom one or more appear to the writ, and another or others of them fail to appear, the plaintiff may apply for judgment, as in the preceding rule, against such as have not appeared, and may issue execution upon such judgement without prejudice to his right to proceed with the action against such as have appeared.

5. Where the writ is for pecuniary damages only, or for detention of goods with or without a claim for pecuniary damages, and the defendant fails, or all the defendants, if more than one, fail, to appear, the plaintiff may apply *ex parte* to the Court or a Judge for judgment, and the Court or Judge may ascertain the value of the goods or the amount of damages in any way which the Court or Judge may think fit and give judgement accordingly.

6. Where the writ claims as in the last preceding rule mentioned, and there are several defendants, of whom one or more appear to the writ and another or others of them fail to appear, the plaintiff may apply *ex parte* to the Court or Judge interlocutory judgement against the defendant or defendants who have failed to appear and the value of the goods and the damages, or either of them, as the case may be, may be assessed as against such defendant or defendants at the same time as the trial of the action or issue therein against the other defendant or defendants who have appeared, unless the Court or Judge shall otherwise direct.

7. Where the writ is for pecuniary damages only, or for detention of goods with or without a claim for pecuniary damages, and is further for a liquidated demand, whether specially indorsed or otherwise, and any defendant fails to appear, the plaintiff may apply for judgment for the debts or liquidated demand, interest and costs against the defendant or defendants failing to appear, and proceed as mentioned in rule 5 and 6 of this Order, as the case may require, in regard to the value of goods and/or the damages.

8. Where the writ is for the recovery of immovable property and the defendant fails to appear to the writ within the time limited for appearance, or if an appearance is entered by the defence is

limited to part only, the plaintiff may apply for judgement for recovery of the property or of the part thereof to which the defence does not apply.

9. Where the plaintiff has a claim for arrears of rent, or damages for breach of contract or wrong or injury to the property claimed, upon a writ for the recovery of immovable property, if the defendant fails to appear thereto, the plaintiff may apply for judgment as in the last preceding rule mentioned for the property and liquidated sum claimed for arrears of rent, and the action may proceed as in the other preceding rules of this Order mentioned as to such other claim.

10. Where judgement is entered pursuant to any of the preceding rules of this Order, it shall be lawful for the Court in a proper case to set aside or vary such judgement upon such terms as may be just.

11. In all actions for which no other provisions is specially made by the rules of this Order, in case the party served with the writ does not appear within the time limited for appearance, upon proof of service and, if the writ is not specially indorsed under Order 2, rule 6, upon the filing of a statement of claim, the plaintiff may apply *ex parte* for judgment.

12. Where a defendant or respondent to an originating summons to which an appearance is required to be entered fails to appear within the time limit, the plaintiff or applicant may apply to the Court or a Judge for an appointment for the hearing of such summons, and the Court or Judge shall appoint a time for the hearing of such summons, upon such conditions (if any) as they or he shall think fit.

13. The provisions of this Order shall be read subject to this qualification, named that in all cases in which it is sought to obtain judgment by default the Court or Judge may, where it seems to be necessary or desirable, call upon the plaintiff to prove his claim, and whether the plaintiff is so called upon or not the Court or Judge may only give judgment to the extent to which the plaintiff is in law entitled.

14.—(1) The Registrar shall, once a month or at such times as he may be required by the Court or a Judge, furnish the Court or Judge with a list of actions in which there has been default of appearance within the time limited by the writ and in which the plaintiff has failed to proceed upon such default under the preceding rules of this Order for one month after the expiration of the time so limited, and the Court or Judge may thereupon direct the Registrar to give notice to the plaintiff requiring him so to proceed within fourteen days after the giving of the notice, and informing him that upon failure so to proceed within the fourteen days aforesaid the action shall stand dismissed for want of prosecution.

(2) Upon failure so to proceed within the fourteen days aforesaid, or within such extended time as may be allowed, the actions shall stand dismissed for want of prosecution but without prejudice to the institution of a fresh action, and the Registrar shall forthwith lay the file of the action before a Judge, who shall endorse it with a note to that effect.

(3) The notice from the Registrar mentioned in paragraph (1) of this rule shall be served at the plaintiff's address for service, and a copy thereof sent by post to the plaintiff if in Cyprus; and the fourteen days mentioned in the notice shall be reckoned as from the day of service or posting, whichever be the later. An affidavit of service and posting shall be filed.

ORDER 18

Summary Judgment and Leave to Defend Where Writ Specially Indorsed

- 1.—(a) Where the defendant appears to a writ of summons specially indorsed under Order 2, rule 6, the plaintiff may on affidavit made by himself, or by any other person who can swear positively to the facts, verifying the cause of action, and the amount claimed (if any), and stating that in his belief there is no defence to the action, apply for judgment for the amount so indorsed, together with interest (if any), or for recovery of the land (with or without rent), or for the delivering up of a specific chattel, as the case may be, and costs. Any judgement for the plaintiff may be given thereupon, unless the defendant

shall satisfy the Court that he has a good defence to the action on the merits, or disclose such facts as may be deemed sufficient to entitle him to defend.

- (b) If on the hearing of any application under this rule it shall appear that any claim which could not have been specially indorsed under Order 2, rule 6, has been included in the indorsement on the writ, the Court may, if it shall think fit, forthwith amend the indorsement by striking out such claim, or may deal with the claim specially indorsed as if no other claim had been included in the indorsement, and allow the action to proceed as respects the residue of the claim.
- (c) Where the plaintiff's claim is for the delivery up of a special chattel (with or without claim for the hire thereof or for damages for its detention) the Court may make an order for the delivery up of the chattel without giving the defendant any option of retaining the same upon paying the assessed value thereof.

2. The application by the plaintiff for judgment under rule 1 of this Order shall be made by summons returnable not less than four days after service accompanied by a copy of the affidavit and exhibits referred to therein.

- 3.—(a) The defendant may show cause against such application by affidavit, or the Court may allow the defendant to be examined upon oath.
- (b) The affidavit shall state whether the defence alleged goes to the whole or to part only, and (if so) to what part of the plaintiff's claim.
 - (c) The Court may, if it thinks fit, order the defendant, or in the case of a corporation, any officer thereof, to attend and be examined upon oath, or to produce any leases, deeds, books, or documents, or copies thereof or extracts therefrom.

4. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of his claim is admitted, the plaintiff shall have judgment forthwith for such part of his claim as the defence does not apply to or as is admitted, subject to such terms (if any) as to suspending execution, or the payment of the amount levied or any part thereof, into Court by the sheriff, the taxation of costs, or otherwise, as the Court may think fit. And the defendant may be allowed to defend as to the residue of the plaintiff's claim.

5. If it appears to the Court that any defendant has a good defence to or ought to be permitted to defend the action, and that any other defendant has not such defence and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to have judgment without prejudice to his right to proceed with his action against the former.

6. Leave to defend may be given unconditionally, or subject to such terms as to giving security or time or mode of trial or otherwise as the Court may think fit.

7. Upon the hearing of the application, with the consent of the parties, an order may be made, in cases where the Court is constituted by more than one Judge, referring the action to one of the Judges constituting the Court; and the Judge to whom the action is referred may make his award thereon, and the Court may, upon application, give judgment in conformity therewith.

- 8.—(a) Where leave, whether conditional or unconditional is given to defend, the Court shall have power to set down the action for trial forthwith.
- (b) A special list shall be kept for the trial of causes in which leave to defend has been given under this Order, and in which the Court is of opinion that prolonged trial will not be requisite; and the Court may, if it thinks it advisable, order any such action to be put into such list.

9.—(a) The costs of and incident to all applications under this Order shall be dealt with by the Court on the hearing of the application, and the Court shall order by and to whom and when the same shall be paid, or may leave them to be decided at the trial: provided that in case no trial afterwards takes place, or no order as to costs is made, the costs are to be costs in the cause.

- (b) If the plaintiff makes an application under this Order where the case is not within the Order, or where the plaintiff, in the opinion of the Court, knew that the defendant relied on a contention which could entitle him to unconditional leave to defend, the application may be dismissed with costs to be paid forthwith by the plaintiff.

ORDER 19

Pleadings

1. The following rules of pleading shall apply.
2. The plaintiff shall, subject to the provisions of Order 20, and at such time and in such manner as therein prescribed, deliver to the defendant a statement of his claim, and of the relief or remedy to which he claims to be entitled. The defendant shall, subject to provisions of Order 21, and at such time and in such manner as therein prescribed, deliver to the plaintiff his defence or counter-claim (if any). And the plaintiff shall, subject to the provisions of Order 21, and at such time and in such manner as therein prescribed, deliver his reply (if any) to the defence, and his own defence to the counter-claim. Such statements shall be as brief as the nature of the case will admit.
3. Subject to the provisions of rule 10 or Order 21, a defendant in an action may set up by way of counter-claim against the claims of the plaintiff any right of claim, whether such counter-claim sound in damages or not, and such counter-claim shall have the same effect as a cross-action, so as to enable the Court to pronounce a final judgement in the same action, both on the original and on the cross-claim.
4. Every pleading shall contain, and contain only, a statement in a summary form of the material facts on which the party pleading relies for his claim or defence, as the case may be, but not the evidence by which they are to be proved, and shall, when necessary, be divided in paragraphs, numbered consecutively. Dates, sums and numbers shall be expressed in figures and not in words. The pleading shall be signed by the advocate, or by the party, if he sues or defends in person.
5. In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default, or undue influence, full particulars thereof shall be stated in the pleading. In the case of fraud the alleged fraudulent acts must be specially set out and it must be averred that such acts were done fraudulently.
6. A further and better statement of the nature of the claim or defence, or further and better particulars of any matter stated in any pleading, notice, or written proceeding requiring particulars, may in all cases be ordered, upon such terms, as to costs and otherwise, as may be just.
7. Before applying for an order for particulars a party may apply for them by letter. The costs of the letter and of any particulars delivered pursuant thereto shall be allowed on taxation. In dealing with the costs of any application for an order for particulars, the provisions of this rule shall be taken into consideration by the Court or Judge.
8. Particulars of a claim shall not be ordered under rule 6 of this Order to be delivered before defence unless the Court or Judge shall be of opinion that they are necessary or desirable to enable the defendant to plead or ought for any other special reason to be so delivered.
9. The party at whose insistence particulars have been delivered under a Judge's order shall, unless the order otherwise provides, have the same length of time for pleading after the delivery of the particulars that he had at the date of the order. Save as in this rule provided, and order for particulars shall not, unless, the order otherwise provides, operate as a stay for proceedings, or give any extension of time.
10. Every pleading shall be delivered between parties and marked on the face with the date of delivery and the number and title of the action, and shall be endorsed with the name and address of the advocate delivering the same, or of the party delivering it if he does not act by an advocate.

11. Every allegation of fact in any pleading, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the opposite party, shall be taken to be admitted, except as against an infant, or person of unsound mind.

12. Any conditions precedent, the performance or occurrence of which is intended to be contested, shall be distinctly specified in his pleadings by the plaintiff or defendant, as the case may be; and subject thereto an averment of performance or occurrence of all conditions precedent necessary for the case of a plaintiff or defendant shall be implied in his pleading.

13. The defendant or plaintiff, as the case may be, must raise by his pleading all matters which show the action or counter-claim not to be maintainable, or that the transaction is either void or voidable in point of law, and all such grounds of defence or reply, as the case may be, as if not raised would be likely to take the opposite party by surprise, or would raise issues of fact not arising out of the preceding pleadings as, for instance, fraud, prescription or limitation of time, release, payment, performance, or facts showing illegality of any kind, or rendering the claim or counter-claim unenforceable.

14. No pleading shall, except by way of amendment where leave to amend has been granted, raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same.

15. It shall not be sufficient for a defendant in his defence to deny generally the grounds alleged by statement of claim, or for a plaintiff in his defence to a counter-claim to deny generally the grounds alleged in a defence by way of counter-claim, but each party must deal specifically with each allegation of fact of which he does not admit the truth, except damages.

16. When a party in any pleading denies an allegation of fact in the previous pleading of the opposite party, he must not do so evasively, but answer the point of substance. Thus if it be alleged that he received a certain sum of money, it shall not be sufficient to deny that he received that particular amount, but he must deny that he received that sum or any part thereof, or else set out how much he received. And if an allegation is made with divers circumstances, it shall not be sufficient to deny it along with those circumstances.

17. Subject to rule 15 of this Order, the plaintiff by his reply may join issue upon the defence, and each party in his pleading (if any) subsequent to reply, may join issue upon the previous pleading. Such joinder of issue shall operate as a denial of every material allegation of fact in the pleading upon which issue is joined, but I may except any facts which the party may be willing to admit, and shall then operate as a denial of the facts not so admitted.

18. When a contract, promise or agreement is alleged in any pleading, a bare denial of the same by the opposite party shall be entered only as a denial in fact of the express contract, promise, or agreement alleged, or of the matters of fact from which the same may be implied by law, and not as a denial of the legality or sufficiency in law of such contract, promise or agreement, whether with reference to any enactment requiring the same to be evidenced in any particular way, or otherwise.

19. Wherever the contents of any document are material, it shall be sufficient in any pleading to state the effect thereof as briefly as possible, without setting out the whole or any part thereof, unless the precise words of the document or any part thereof are material.

20. Wherever it is material to allege malice, fraudulent intention, knowledge, or other condition of the mind of any person, it shall be sufficient to allege as a fact without setting out the circumstances from which the same is to be inferred.

21. Wherever it is material to allege notice to any person of any fact, matter, or thing, it shall be sufficient to allege such notice as a fact, unless the form or the precise terms of such notice, or the circumstances from which such notice is to be inferred, be material.

22. Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations, or otherwise from a number of circumstances, it shall be sufficient to allege such contract or relation as a fact, and to refer generally to such letters, conversations, or

circumstances without setting them out in detail. And if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances, he may state the same in the alternative.

23. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side, unless the same has first been specifically denied (e.g. consideration for a bill of exchange where the plaintiff sues only on the bill, and not for the consideration as a substantive ground of claim).

24. In probate actions it shall be stated with regard to every defence which is pleaded what is the substance of the case on which it is intended to rely: and further where it is pleaded that the testator was not of sound mind, memory, and understanding, particulars of any specific instances of delusion shall be delivered before the case is set down for trial, and, except by leave of the Court or a Judge, no evidence shall be given of any other instances at the trial.

25. No technical objection shall be raised to any pleading on the ground of any alleged want of form.

26. The Court or a Judge may, at any stage of the proceedings, order to be struck out or amended any matter in any indorsement or pleading which may unnecessary or scandalous or which may tend to prejudice embarrass, or delay the fair trial of the action.

27. Where in any cause or matter it appears to the Court or a Judge that the issue of fact in dispute are not sufficiently defined by the pleadings, the parties may be directed to prepare issues, and such issues shall, if the parties differ, be settled by the Court or a Judge.

ORDER 20

Statement of Claim

1. Where the writ is specially indorsed under Order 2, rule 6, no further statement of claim shall be delivered, unless the Court or a Judge shall otherwise order. In other cases the plaintiff shall, subject to Order 17, rule 11, as to filing a statement of claim when there is no appearance, file and deliver a statement of claim within ten days after appearance, unless the time is enlarged by the Court or a Judge.

1A. Whenever a statement of claim is delivered the plaintiff may therein alter, modify, or extend his claim without any amendment of the indorsement of the writ.

2. Every statement of claim shall state specifically the relief which the plaintiff claims, either simply or in the alternative, and it shall not be necessary to ask for general or other relief, which may always be given, as a Court or a Judge may think just, to the same extent as if it had been asked for. And the same rule shall apply to any counterclaim made, or relief claimed by the defendant, in his defence.

3. Where the plaintiff seeks relief in respect of several distinct claims or causes of complaint founded upon separate and distinct grounds, they shall be stated, as far as may be, separately and distinctly. And the same rules shall apply where the defendant relies upon several distinct grounds of defence or counter-claim, founded upon separate distinct facts.

4. In every case in which the case of actions is a stated or settled account, the same shall be alleged with particulars; but in every case in which a statement of account is relied upon by way of evidence or admission of any other cause of action which is pleaded, the same shall not be alleged in the pleadings.

5. In probate actions where the plaintiff disputes the interest of the defendant, he shall allege in his statement of claim that he denies the defendant's interest.

ORDER 21

Defence, Counter-claim, Defence to Counter-claim and Reply

1.—(1) Where a defendant has entered an appearance, he shall file and deliver his defence within fourteen days from the time limited for appearance or from the delivery of the statement of claim, which ever shall be the later, unless such time is extended by the Court or a Judge, or, in actions in which the writ of summons has been specially indorsed with a statement of claim under Order 2, rule 6, the plaintiff in the meantime serves a summons for judgement under Order 18.

(2) Where leave has been given to a defendant to defend under Order 18, he shall file and deliver his defence (if any) within such time as shall be limited by the order giving him leave to defend: or if no time is thereby limited, then within eight days after the order.

2. In actions for a debt or liquidated demand in money comprised in Order 2, rule 6, a mere denial of the debt shall be inadmissible.

3. In actions upon bills of exchange, promissory notes, or cheques, a defence in denial must deny some matter of fact, e.g. the drawing, making, endorsing, accepting, presenting, or notice of dishonour of the bill or note.

4. In actions comprised in Order 2, rule 6, class (1) (a), a defence in denial must deny such matters of fact, from which the liability of the defendant is alleged to arise, as are disputed; e.g. in actions for goods bargained and sold or sold and delivered, the defence must deny the order or contract, the delivery, or the amount claimed; in an action for money had and received, it must deny the receipt of the money, or the existence of those facts which are alleged to make such receipt by the defendant a receipt to the use of the plaintiff; and in an action on a bond in customary form the defence must set up some one or more of the grounds which may, under Part X of the Contract Law, Cap. 192, be set up as a defence.

5. No denial or defence shall be necessary as to damages claimed or their amount; but they shall be deemed to be put in issue in all cases, unless expressly admitted.

6. If either party wishes to deny the right of any other party to claim as executor, or as trustee whether in bankruptcy or otherwise, or in any representative or other alleged capacity, or the alleged constitution of any partnership firm, he shall deny the same specifically.

7. Where the Court or a Judge shall be of opinion that any allegations of fact denied or not admitted by the defence ought to have been admitted, the Court or Judge may make such order as shall be just with respect to any extra costs occasioned by their having been denied or not admitted.

7A. Where any defendant seeks to rely upon any grounds as supporting a right of counter-claim, he shall, in his defence, state specifically that he does so by way of counter-claim.

8.—(1) Where a defendant by his defence sets up any counter-claim which raises questions between himself and the plaintiff along with any other persons, he shall add to the title of his defence a further title similar to the title in a statement of claim, setting forth the names of all the persons who, if such counter-claim were to be enforced by cross-action, would be defendants to such cross-action, and shall deliver his defence to such of them as are parties to the action within the period within which he is required to deliver it to the plaintiff.

(2) Where any such person as in the last preceding paragraph mentioned is not a party to the action, he shall be summoned to appear by being served with a copy of the defence, and such service shall be regulated by the same rules as are hereinbefore contained with respect to the service of a writ of summons, and every defence so served shall be endorsed in Form 13, or to the like effect.

9.—(1) any person not already a party to the action who is served with a defence and counter-claim as aforesaid, must appear thereto as if he had been served with a writ of summons to appear in an action.

(2) Any person named in a defence as a party to a counter-claim thereby made may file and deliver a defence to the counter-claim within the time within which he might file and deliver a defence if it were a statement of claim.

10. Where a defendant sets up a counter-claim, if the plaintiff, or any other person made a party to it, contends that the claim thereby raised ought not to be disposed of by way of counter-claim, but in an independent action, the Court or a Judge may at any time order that such counter-claim be excluded.

11. If in any case in which the defendant sets up a counter-claim the action of the plaintiff is stayed, discontinued, or dismissed, the counter-claim may nevertheless be proceeded with.

12. If the claim or counter-claim is admitted, the Judge may give judgment for the plaintiff on the claim, or for the defendant on the counter-claim, or for the party in whose favour the balance happens to be, or adjudge to either party such relief as he may be entitled to, or make such other order as may seem just. These provisions shall also apply to the decision of the Court upon the merits of the case where the action is tried out.

13. No plea or defence shall be pleaded in abatement.

14.—(1) Where the plaintiff desires to deliver a reply, he shall file and deliver it within seven days from the delivery of the defence.

(2) No subsequent pleading shall be delivered, unless ordered by the Court or a Judge. Where a subsequent pleading is ordered it shall be filed and delivered together with an office copy of the order within the time specified in the order giving leave to deliver the same.

15. Where a counterclaim is pleaded, a defence thereto shall be subject to the rules applicable to the defence.

ORDER 22

Payment into Court

1.—(1) In any action for a debt or damages the defendant may at any time upon notice to the plaintiff pay into Court a sum of money in satisfaction of the claim or (where several causes of action are joined in one action) in satisfaction of one or more of the causes of action: provided that with a defence setting up tender before action the sum of money alleged to have been tendered must be brought into Court.

(2) Where the money is paid into Court in satisfaction of one or more of several causes of action the notice shall specify the cause or causes of action in respect of which payment is made and the sum is paid in respect of each such cause of action unless the Court or a Judge otherwise order.

(3) The notice shall be in Form 14, and shall state whether liability is admitted or denied and receipt of the notice shall (where notice of acceptance in Form 14 is not being given) be acknowledged in writing by the plaintiff within four days.

2.—(1) Payment of money in Court shall be effected in such manner as may be prescribed by the Accountant-General with the concurrence of the Chief Justice.

(2) The manner prescribed from time to time shall be notified in the Gazette.

(3) The Registrar shall, at the request of any person paying money into Court, furnish him with a certificate in Form 15, which shall be appended to or endorsed on the notice in Form 14.

3.—(1) Where money is paid into Court under rule 1 of this Order the plaintiff may within four days of the receipt of the notice of payment into Court or, where more than one payment into Court has been made, within ten days of the receipt of the notice of the last payment into court, accept the whole sum or any one or more of the specified sums in satisfaction of the claim or in satisfaction of the cause or causes of action to which the specified sum or sums relate, by giving notice to the defendant in Form 16; and thereupon he shall be entitled to receive payment of the accepted sum or sums in satisfaction as aforesaid.

(2) Payment shall be made to the plaintiff or on his written authority to his advocate, and thereupon proceedings in the action or in respect of the specified cause or causes of action (as the case may be) shall be stayed.

(3) If the plaintiff accepts money paid into Court in satisfaction of his claim, or if he accepts a sum or sums paid in respect of one or more of specified causes of action, and gives notice that he abandons the other cause or causes of action, he may, after payment-out and unless the Court or a Judge otherwise order, tax his costs incurred to the time of payment into Court.

(4) A plaintiff in an action for libel or slander who takes money out of Court may apply by summons to a Judge in chambers for leave to make in open Court a statement in terms approved by a Judge.

(5) This rule does not apply to an action or cause of action to which a defence of tender before action is pleaded.

4. If the whole of the money in Court is not taken out under rule 3 of this Order, the money remaining in Court shall not be paid out except in satisfaction of the claim or specified cause or causes of action in respect of which it was paid in and in pursuance of an order of the Court or a Judge, which may be made at any time before, at, or after trial.

5.—(1) Money may be paid into Court under rule 1 of this Order by one or more of several defendants sued jointly or in the alternative, upon notice to the other defendant or defendants.

(2) If the plaintiff elects within four days after receipt of notice of payment into Court to accept the sum or sums paid into Court, he shall give notice as in Form 16 to each defendant.

(3) Thereupon all further proceedings in the action or in respect of the specified cause or causes of action (as the case may be) shall be stayed, and the money shall not be paid out except in pursuance of an order of the Court or a Judge dealing with the whole costs of the action or cause or causes of action (as the case may be).

6. A plaintiff or other person made defendant to a counter-claim may pay money into Court in accordance with the fore-going rules of this Order, with the necessary modifications.

7. Except in an action to which a defence of tender before action is pleaded or in which a plea under section 23 of the Civil Wrongs Law, Cap 9, has been filed, no statement of the fact that money has been paid into Court under the preceding rules of this Order shall be inserted in the pleadings and no communication of that fact shall at the trial of any action be made to the Court until all questions of liability and amount of debt or damages have been decided, but the Court shall, in exercising its discretion as to costs, take into account both the fact that money has been paid into Court and the amount of such payment.

8. Money paid into Court under an order of the Court or a Judge shall not be paid out of Court except in pursuance of an order of the Court or a Judge.

9.—(1) In any cause or matter in which money or damages is or are claimed by or on behalf of an infant who has no guardian authorized to sue on his behalf or a person of unsound mind suing either alone or in conjunction with other parties, no settlement or compromise or payment or acceptance of money paid into Court, whether before or at or after the trial, shall as regards the claim of any such infant or person of unsound mind be valid without the approval of the Court or a Judge.

(2) No money (which expression for the purposes of this rule includes damages) in any way recovered or adjudged or ordered or awarded or agreed to be paid in any such cause or matter in respect of the claims of any such infant or person of unsound mind, whether by judgment or by settlement, compromise payment, payment in Court or otherwise, before or at or after the trial, shall be paid to the plaintiff or to the next friend of the plaintiff or to the plaintiff's advocate unless the Court or a Judge shall so direct.

(3) All money so recovered or adjudged or ordered or awarded or agreed to be paid shall be dealt with as the Court or a Judge shall direct.

(4) This rule shall apply to the case of a counter-claim by an infant who has no guardian authorized to sue on his behalf or a person of unsound mind, the expression plaintiff, plaintiff's

advocate and next friend being read as applying to a defendant setting up the counter-claim or his guardian *ad litem*.

This rule shall also apply to the case of a mental patient or criminal mental patient.

ORDER 23

Matters arising pending the Action

1. Any ground of defence which has arisen after action brought, but before the defendant has delivered his defence, and before the time limited for his doing so has expired, may be raised by the defendant in his defence, either alone or together with other grounds of defence. And if, after a defence has been delivered, any ground of defence arises to any counter-claim put in by the defendant, it may be raised by the plaintiff in his defence to the counter-claim, either alone or together with any other ground of defence.

2. Where any ground of defence arises after the defendant has delivered his defence, or after the time limited for his doing so has expired, the defendant may, and where any ground of defence to any counter-claim arises after defence to the counter-claim, or after the time limited for delivering such defence has expired, the plaintiff may, within fifteen days after such ground of defence has arisen or at any subsequent time by leave of the Court or a Judge, deliver a further defence as the case may be, setting forth the same.

3. Whenever any defendant in his defence, or in any further defence as in the immediately preceding rule mentioned, alleges any ground of defence which has arisen after the commencement of the action, the plaintiff may deliver a confession of such defence in Form 17, and may thereupon have judgment for his costs up to the time of the making or pleading of such defence, unless the Court or a Judge shall otherwise order.

ORDER 24

Admissions

1. Any party to a cause or matter may give notice by his pleading or otherwise in writing that he admits the truth of the whole or any part of the cause of any other party.

2. Either party may call upon the other party to admit any document, saving all just exceptions; and in case of refusal or neglect to admit after such notice, the costs of proving any such document shall be paid by the party so neglecting or refusing, whatever the result of the cause or matter may be, unless at the trial or hearing the Court shall certify that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given, except where the omission to give a notice is, in the opinion of the Court or Registrar, a saving of expense.

3. A notice to admit documents shall be given in duplicate in Form 18, and the admission thereunder shall be endorsed on the notice after the manner provided in the footnote to that Form.

4. Any party may, by notice in writing, at any time not later than ten days before the day for which the trial has been fixed, call on any opposite party to admit for the purposes of the cause, matter, or issue only, any specific fact or facts mentioned in such notice. And in case of refusal or neglect to admit the same within eight days after service of such notice, or within such further time as may be allowed by the Court or a Judge, the costs of proving such fact shall be paid by the party so neglecting or refusing, whatever the results of the cause, matter, or issue may be, unless at the trial or hearing the Court or a Judge shall certify at the refusal to admit was reasonable, or unless the Court or a Judge shall at any time otherwise order or direct:

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purpose of the particular cause, matter, or issue, and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice:

5. A notice to admit facts shall be in Form 19, and admission of facts shall be in Form 20.
6. Any party may at any stage of a cause or matter where admissions of fact have been made either on the pleadings, or otherwise, apply to the Court or a Judge for such judgment or order as upon such admission he may be entitled to, without waiting for the determination of any other question between the parties; and the Court or a Judge may upon such application make such order, or give such judgment, as the Court or Judge may think just.
7. Any admission made in pursuance of any notice to admit documents or facts may be signed by the party's advocate: but if signed by the party himself, it shall be signed before a Registrar, who shall certify the party's signature; and the advocate's signature, or the Registrar's certificate, shall be sufficient evidence of such admission. Either a duplicate or an office copy of the admission shall be filed.
8. Notice to produce documents shall be in Form 21 and shall be served through the Court.
9. If a notice to admit or produce comprises documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice.

ORDER 26

Default of Pleading

1. If the plaintiff, being bound to deliver a statement of claim, does not deliver the same within the time allowed for that purpose, the defendant may, at the expiration of that time, apply by summons to the Court to dismiss the action with costs, for want of prosecution; and on the hearing of such application the Court may, if not statement of claim shall have been delivered, order the action to be dismissed accordingly, or may make such other order on such terms as the Court shall think just.

2. If the plaintiff's claim be only for a debt or liquidated demand, the defendant does not, within the time allowed for the purpose, deliver a defence, the plaintiff may, at the expiration of such time, apply for judgment for the amount claimed, with costs.

3. When in any such action as in the last preceding rule mentioned there are several defendants, if one of them make default as mentioned in the last preceding rule, the plaintiff may apply for judgement against the defendant so making default, and issue execution upon such judgement without prejudice to his right to proceed with his action against other defendants.

4. If the plaintiff's claim be for pecuniary damages only, or for detention of goods with or without a claim for pecuniary damages, the defendant, or all the defendants, if more than one, make default as mentioned in rule 2, the plaintiff may apply *ex parte* to the Court or a Judge for judgement against the defendant or defendants, and the Court or Judge may ascertain the value of the goods or the amount of the damages in any way in which the Court or Judge may think fit and give judgment accordingly.

5. When in any such action as in rule 4 mentioned there are several defendants, if one or more of them make default as mentioned in rule 2, the plaintiff may apply *ex parte* to the Court or Judge for interlocutory judgment against the defendant or defendants so making default, and proceed with his action against the others. And in such case, the value and amount of damages against the defendant making default shall be assessed at the same time with the trial of action or issues therein against the other defendants, unless the Court or a Judge shall otherwise direct.

6. If the plaintiff's claim be for a debt or liquidated demand, and also for pecuniary damages only, or for detention of goods with or without a claim for pecuniary damages, and any defendant make default as mentioned in rule 2, the plaintiff may apply for judgement for the debt or liquidated demand, and proceed as mentioned in rule 4 or 5 of this Order, as the case may require, in regard to the value of the goods and/or damages.

7. In an action for the recovery of immovable property, if the defendant makes default as mentioned in rule 2, the plaintiff may apply for judgement for recovery of the property, with his costs.

8. Where the plaintiff has a claim for arrears of rent, or damages for breach of contract or wrong or injury to the property claimed upon a writ for the recovery of immovable property, if the defendant makes default as mentioned in rule 2, or, if there be more than one defendant, some or one of the defendants make such default, the plaintiff may apply for judgement against the defaulting defendant or defendants for the property and liquidated sum claimed for arrears of rent, and proceed as mentioned in rules 4 and 5 as to such other claim.

9. If the plaintiff's claim be for a debt or liquidated demand, or for pecuniary damages only, or for detention of goods with or without a claim for pecuniary damages, or for any of such matters, or for the recovery of immovable property, and the defendant delivers a defence which purports to offer an answer to part only of the plaintiff's alleged cause of action, the plaintiff may by leave of the Court have judgement, final or interlocutory, as the case may be, for the part unanswered: provided that the unanswered part consist of a separate cause of action or is severable from the rest, as in the case of part of a debt or liquidated demand: provided also that, where there is a counter-claim, execution of any such judgement as above-mentioned in respect of the plaintiff's claim shall not issue without leave of the Court or a Judge.

10. In all other actions than those mentioned in the preceding rules of this Order, if the defendant makes default in delivering a defence, the plaintiff may apply by summons for judgement, and such judgement shall be given as the Court or a Judge shall consider the plaintiff to be entitled to.

11. Where a pleading subsequent to reply is not ordered, then, at the expiration of seven days from the delivery of the defence or reply (if any); or, where a pleading subsequent to reply is ordered, and the party who has been ordered or given leave to deliver the same fails to do so within the period limited for the purpose, then, at the expiration of the period so limited, the pleading shall be deemed to be closed and material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue:

Provided that this rules shall not apply to a defence to a counter-claim and that unless the plaintiff delivers a defence to a counter-claim, the statements of fact contained in such counter-claim shall at the expiration of fourteen days from the delivery thereof or of such time (if any) as may be order be allowed for delivery of a defence thereto de deemed to be admitted, but the Court or Judge may at any subsequent time give leave to the plaintiff to deliver such a defence.

12. In any case in which issues arise in an action other than between plaintiff and defendant, if any party to any such issue makes default in delivering any pleading the opposite party may apply to the Court or a Judge for such judgement (if any) as upon the pleadings he may appear to be entitled to. And the Court or Judge may subject to Order 17, rule 13, order judgment to be entered accordingly, or may make such other order as may be necessary to do complete justice between the parties.

13.—(1) The Registrar shall, once a month or at such times as he may be required by the Court or a Judge, furnish the Court or Judge with a list of actions in which there has been default of pleading within the time allowed for that purpose, and the Court or Judge may thereupon direct the Registrar to give notice to the party in default requiring him to file and deliver his pleading within fourteen days after the giving of the notice, and informing him, as may seem fit in the circumstances of the case, that upon failure so to do within the fourteen days aforesaid the action may be dismissed for ant of prosecution, or that judgment in certain terms may be given in favour of a specified party.

(2) Upon failure to file and deliver the pleading within the fourteen days aforesaid, or within such extended time as may be allowed, the Registrar shall forthwith lay the file of the action before the Court or a Judge, and the Court or Judge may, as may seem fit in the circumstances of the case, dismiss the action for want of prosecution or give judgement in the terms specified in the notice or in terms not being more onerous than those so specified on the party affected thereby.

(3) Where an action is dismissed under this rules, such dismissal shall not prejudice the institution of a fresh action.

(4) The provisions of rule 14(3) in Order 17 shall apply, *mutatis mutandis*, to a notice under this rule.

14. Any judgement by default, whether under this Order or under any other of these rules, may in a proper case be set aside by the Court upon such terms as to costs or otherwise as the Court may think fit.

15. If a person who is not a party to the record seeks to set aside a judgment which the defendant in the action has allowed to go by default and by which such person is injuriously affected, he may by summons taken out in his own name, and served on both the plaintiff and the defendant, apply for leave to have the judgment set aside and to be allowed to defend the action on such terms as to costs or otherwise as the Court may consider right.

ORDER 27

Points of Law raised by Pleadings

1. Any party shall be entitled to raise by his pleading any point of law, and any point so raised shall be disposed of by the Court at any stage that may appear to it convenient.

2. If in the opinion of the Court the decision of such point of law substantially disposes of the whole action, or of any distinct cause of action, ground of defence, counter-claim, or reply therein, the Court may thereupon dismiss the action or make such other order therein as may be just.

3. The Court may order any pleading to be struck out on the ground that it discloses no reasonable cause of action or answer, and in any such case or in case of the action or defence being shown by the pleadings to be frivolous or vexatious, the Court may order the action to be stayed or dismissed, or judgement to be entered accordingly as may be just.

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

ORDER 28

Discovery and Inspection

1. Any party may, without filling any affidavit, apply to the Court or a Judge for an order directing any other party to any cause or matter to make discovery on oath of the documents which are or have been in his possession or power relating to any matter in question therein. On the hearing of such application the Court or Judge may either refuse or adjourn the same, if satisfied that such discovery is not necessary, or not necessary at that stage of the cause or matter, or make such order, either generally or limited to certain classes of documents, as may, in the Court's or judge's discretion, be thought fit:

Provided that discovery shall not be ordered when and so far as the Court or Judge shall be of the opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs. If an order is made for discovery, such order shall specify the time within which the party directed to make discovery shall file his affidavit.

2. The affidavit to be made by a party against whom such order as is mentioned in rule 1 of this Order has been made shall be in Form 22 and shall specify which (if any) of the documents therein mentioned such party objects to produce.

3. If a party ordered to make discovery of documents fails so to do, he shall not afterwards be at liberty to put in evidence on his behalf in the action any documents he failed to discover or to allow to be inspected, unless the Court is satisfied that he had sufficient excuse for so failing, in which case the Court may allow such document to be put in evidence on such terms as it may think fit.

4. It shall be lawful for the Court or a Judge, at any time during the pendency of any case or matter, to order the production by any party thereto upon oath of such of the documents in his possession or power, relating to any matter in question in such cause or matter, as the Court or Judge shall think right; and the Court may deal with such documents when produced in such manner as shall appear just.

5. An application for an order to inspect documents except such as are disclosed in the pleadings, particulars of affidavits of the party against whom the application is made, shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them, and that they are in possession or power of the other party. The Court or Judge shall not make such order for inspection of such documents when and so far as the Court or Judge shall be of opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs.

6. Where any party to a cause or matter has in his pleadings particulars or affidavits referred to any document he may be required an any other party thereto by notice in writing to produce such document for the inspection of the arty giving such notice or of his advocate and to permit him or them to take copies thereof. Any party failing to comply with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such cause or matter, unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the cause or matter, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with the notice, in which case the Court may allow the same to be put in evidence on such terms as the costs and otherwise the Court shall think fit.

7. Notice to any party to produce any documents referred to in his pleadings, particulars or affidavits shall be in Form 23.

8. The party to whom such notice is given shall, within five days from the receipt of such notice if all the documents therein referred to have been set forth by him in an affidavit of discovery under rule 2 of this Order or within ten days from the receipt of such notice if any of the documents referred to therein have not been set forth in any such affidavit, deliver to the party requiring inspection of the documents a notice stating a time within three days from the delivery thereof at which the documents or such of them as he does not object to produce may be inspected at the office of his advocate, or in the case of bankers' books or other books of account or books in constant use for the purpose of any trade or business at their usual place of custody, and stating which (if any) of the documents he objects to produce and on what ground. Such notice shall be in Form 24.

9. If a party served with notice under rule 6 of this Order omits to give such notice of a time for inspection or objects to give inspection, or offers inspection elsewhere than at the office of his advocate, the Court or a Judge may, on the application of the party desiring it, make an order for inspection in such place and in such manner as the Court or Judge may think fit: provided that the order shall not be made when and so far as the Court or Judge shall be of the opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs.

10. Where on an application for an order for inspection privilege is claimed for any document, it shall be lawful for the Court or a Judge to inspect the document for the purpose of deciding as to the validity of the claim of privilege.

11. The Court or a Judge may, on the application of any party to a cause or matter at any time, and whether an affidavit of documents shall or shall not have already been ordered or made, make an order requiring any other party to state by affidavit whether any particular document or documents or any class or classes of documents specified or indicated in the application, is or are, or has or have at any time been, in his possession, custody or power; and, if not then in his possession, custody or power, when he parted with the same and what has become thereof. Such application shall be made on an affidavit stating that in the belief of the deponent the party against whom the application is made has, or has at some time had in his possession, custody or power, the particular document or documents or the class or classes of documents specified or indicated in the application, and that they relate to the matters in question in the cause or matter, or to some or one of them.

12. If any party refuses to allow inspection at the place named by him in that behalf and within the prescribed time of any document which he has not objected to produce, or if he fails to comply with any order for discovery or inspection of documents, he shall be liable to attachment. He shall also, if a plaintiff, be liable to have his action dismissed for want of prosecution, and, if a defendant, to have his defence (if any) struck out, and to be placed in the same position as if he had not defended, and the party seeking discovery or inspection may apply to the Court for an order to that effect, and an order may be made accordingly.

13. Service of an order for discovery or inspection made against any party on his advocate shall be sufficient service to found an application for an attachment for disobedience to the order. But the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order.

14. An advocate upon whom an order against any party for discovery or inspection is served under rule 13 of this Order, who neglects without reasonable excuse to give notice thereof to his client, shall be liable to attachment.

15. This Order shall apply to infant plaintiffs and defendants, and to their next friends and guardians *ad litem*.

ORDER 29

Special Case

1. The parties to any cause or matter may concur in stating the questions of law arising therein in the form of a special case for the opinion of the Court. Every such special case shall be divided into paragraphs numbered consecutively, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the questions raised thereby. Upon the argument of such case the Court and the parties shall be at liberty to refer to the whole contents of such documents, and the Court shall be at liberty to draw from the facts and documents stated in any such special case any inference, whether of fact or law, which might have been drawn there from if proved at a trial.

2. If it appear to the Court or a Judge that there is in any cause or matter a question of law which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried, or before any reference is made to an arbitrator, the Court or Judge may make an order accordingly and may direct such question of law to be raised for the opinion of the Court either by special case or in such other manner as the Court or Judge may deem expedient, and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed.

3. Every special case shall be filed in three typewritten copies by the plaintiff and signed by several parties or their advocates.

4. No special case in any cause or matter to which an infant or person of unsound mind is a party shall be set down for argument without leave of the Court or a Judge, the application for which must be supported by sufficient evidence that the statements contained in such special case, so far as the same affect the interest of such infant or person of unsound mind, are true.

5. Either party may set down a special case for argument, but if such case affects an infant or person of unsound mind the application to the Registrar to fix a day shall be accompanied by an office copy of the order giving leave to set down the same for argument.

6. The parties to an action may enter into an agreement in writing signed in the presence of a Registrar and filed in the action, which shall not be subject to any stamp duty, that on the judgment of the Court being given in the affirmative or negative of an issue or of the question of law raised by special case, a sum of money, fixed by the parties, or to be ascertained upon a question inserted in the issue or the special case, shall be paid by one of the parties to the other of them either with or without costs of the cause or matter; and the judgment of the Court may be entered for the sum so agreed or ascertained, with or without costs, as the case may be, and execution may issue upon such judgment forthwith, unless otherwise agreed, or unless stayed on appeal.

ORDER 30

Summons for Directions

1.—(a) Except in the cases mentioned in paragraphs (d) and (e) of this rules, the plaintiff in every action shall take out a summons for directions returnable in not less than four days (Form 25).

- (b) Such summons shall be taken out within ten days from the time when the pleadings shall be deemed to be closed and before the plaintiff takes any fresh step in the action other than an application for an injunction.
- (c) Where under Order 18 the plaintiff applies for judgement, the Court may deal with such application as if the plaintiff had been entitled to take out and had taken out a summons for directions.
- (d) This rule shall not apply to actions in which is filed, within ten days from the time when the pleadings shall be deemed to be closed, a joint statement, signed by all the parties to the action, to the effect that a summons for directions is not required on the ground that there is no need for any one of the orders which might be sought thereunder, or to actions in which the amount in dispute or the value of the subject matter (as defined in section 16(7) of the Courts of Justice Law, Cap 11), does not exceed fifty pounds, or to actions in which the writ is specially indorsed under Order 2, rule 6, or to any proceeding commenced by originating summons, but in any such action or proceeding a summons for directions may be taken out at the instance of any party thereto.
- (e) This rule shall not apply to any action wherein the only order for a direction is the one mentioned in paragraph (f) of rule 2 of this Order.

2. On the hearing of the summons for directions the Court or Judge may in its or his discretion—

- (a) where a plaintiff or defendant has failed to give sufficient particulars of his claim, defence or counter-claim, make such order for further and better particulars, and as to costs occasioned by such default, as the Court or Judge may think fit, or may order issues to be framed or a special case to be stated, or the counter-claim to be excluded;
- (b) make such order for discovery and inspection of documents, or with regard to admissions of fact and of documents, as may seem necessary or desirable having regard to the issues raised in the pleadings;
- (c) order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the trial on such conditions as the Court or a Judge may think reasonable, or that any witness whose attendance in Court ought for some sufficient ground to be dispensed with be examined before a Commissioner or Examiner:

Provided that where it appears to the Court or Judge that the other party reasonably desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit, but the expenses of such witness at the trial may be specially reserved;

- (d) record any consent of the parties either wholly excluding their right of appeal or limiting it to questions of law only;
- (e) make such order for inspection of property as may seem desirable;
- (f) direct either party to apply to the Registrar within a specified time to fix the case for trial and/or direct the Registrar to fix it at short notice;
- (g) make such other order with respect to the proceedings to be taken in the action, and as to the costs thereof, as may seem necessary or desirable with a view to saving time and expenses.

3. No affidavit shall be used on the hearing of a summons for directions except by direction of the Court or a Judge, or except where it is intended to apply under the summons for an order which, if applied for independently, would require to be supported by affidavit.

4. On the hearing of the summons any party to whom the summons is addressed shall, so far as practicable, apply for any order or directions as to any interlocutory matter or thing in the action which he may desire. If any such party intends so to apply for any order or directions other than those mentioned in the summons addressed to him, he shall, not less than two days before the day on which the hearing of the summons is fixed, give notice in Form 26 of his intention to the Registrar and to the party who took out the summons, which notice shall be accompanied by

affidavit in case it is intended to apply for an order which, if applied for independently, would require to be supported by affidavit.

5. Any application by any party which might have been made at the hearing of a summons for directions shall, if granted on any subsequent application, be granted at the costs of the party applying, unless the Court or a Judge shall be of opinion that the application could not properly have been made at the hearing of the summons of directions.

6. There shall be no appeal from a decision under this Order without the leave of the Court or a Judge giving decision (which leave may be obtained *ex parte*), or the Court to which the appeal is to be made to be obtained upon an application by summons, the hearing of which, if before the Court of Appeal (and not only before one Judge thereof) may be treated as the appeal itself is such Court so thinks fit.

7. In any action to which rule 1 of this Order applies, if the plaintiff does not within ten days from the time when the pleadings shall be deemed to be closed take out a summons for directions under this Order, the defendant shall be at liberty to apply for an order to dismiss the action and upon such application the Judge may either dismiss the action on such terms as may be just, or may deal with such application in all respects as if it were a summons for directions under this Order.

ORDER 31

Notice of Trial

1. The plaintiff, or the person standing in the position of plaintiff, may, at any time after the close of the pleadings, apply to the Registrar to fix a day for trial.

2.—(1) If the plaintiff does not so apply within one month after the close of the pleadings, or within such extended time as may be allowed, the defendant may apply to the Registrar to fix a day for trial or to the Court to dismiss the action for want of prosecution, and the Court may order the action to be dismissed accordingly or may make such other order, and on such terms as to the Court may seem just.

(2) Where on an application to dismiss the action for want of prosecution the Court orders that the plaintiff be at liberty to apply to the Registrar to fix a day for trial, such order shall be deemed to direct (and may be drawn up to the following effect, namely) that, unless the plaintiff so applies within the time limited for that purpose by the order, or where not time is thereby limited, then within seven days from the making thereof, the action be dismissed for want of prosecution with costs to be taxed and paid by the plaintiff to the defendant.

3. Every application under rule 1 and 2 of this Order to fix a day for trial shall state the amount in dispute in the action, or the value of the subject matter thereof, within the meaning of section 16(7) of the Courts of Justice Law, Cap 11.

4. The party at whose instance a day is fixed for trial shall give notice of such day to the other parties; but such notice shall not be necessary if the day is fixed in the presence of all parties concerned. Notice under this rule shall, save where the Court or a Judge otherwise directs, be a fourteen days' notice.

5. Where there has been a direction made for an action and cross-action to be heard together, an application for the fixing of a trial day for one shall be sufficient, but in the notice given of the day fixed both shall be mentioned.

6. If the Registrar fixes a day for trial on the application of a party in the absence of that party, the Registrar shall forthwith give notice of the day he fixes to that party.

7. If a party applies to the Registrar for a day to be fixed for trial, he shall not countermand his application without leave of the Court or a Judge.

8. If an action is settled or abandoned or is being withdrawn or discontinued, the party who applied for a day to be fixed for the trial shall forthwith give notice to the Registrar accordingly.

9. The Registrar shall, save where the Court or a Judge allows a shorter period, put up a list on the Court notice board of cases fixed for trial at least fourteen days before the day fixed for trial.

10.—(1) The Registrar shall, at least once a year or at shorter intervals if so required by the Court or a Judge, furnish the Court or Judge with a list of actions in which there has been a failure to apply under rule 1 and 2 of this Order for three months after the close of pleadings, and the Court or Judge may thereupon direct the Registrar to give notice to the plaintiff and any counter-claiming defendant, requiring the plaintiff and any such counter-claiming defendant to apply under rule 1 or 2 within fourteen days after the giving of the notice, and informing the plaintiff and any such defendant that upon failure to so apply within the fourteen days aforesaid the action shall stand dismissed for want of prosecution.

(2) Upon failure to apply within the fourteen days aforesaid, or within such extended time as may be allowed, the action shall stand dismissed for want of prosecution but without prejudice to the institution of a fresh action, and the Registrar shall lay the file of the action before a Judge, who shall endorse it with a note to that effect.

(3) The provisions of rule 14(3) in Order 17 shall apply, *mutatis mutandis*, to a notice under this rule.

ORDER 32

Summoning Witnesses

1. Any party in a cause or matter who desires the issue of a summons requiring any witness or person to attend for examination, or to produce any document, shall deposit a written application for the issue thereof with the Registrar giving the full name and address of such witness or person, and if the application for the issue thereof is made ten days before the day on which such person is required to attend, such summons shall, subject to rule 2 of this Order, be issued without further proceedings, but if the application be deposited at any later time, such summons shall not be issued without the leave of the Court or a Judge.

2. Any Judge or Registrar may where he shall think fit require that, before any summons issued under the last preceding rule the person applying for the issue thereof shall pay into Court such sum as, in the opinion of the Judge or Registrar, is sufficient to satisfy any expenses which may be reasonably incurred by the witness or person to be served with the summons in obeying the same.

2(a). Without prejudice to the generality of this Rule, any person who desires the issue of a summons to be served on a salaried public servant of the Crown in any capacity or of the Republic, (a) a Municipality or an Improvement Board or the Areas or the Republic, shall pay into Court, a sum equivalent to the time lost by the witness, having first presented to the Registrar all the necessary details with regard to the official remuneration of the witness. (b)

2(b). Without prejudice to the generality of this Rule, any person who desires the issue of a summons to be served on a public servant of the Crown in any capacity or of the Republic, shall deposit with the Court the sum of £27 for the time lost by the witness and in a case where the witness does not appear in Court, such sum shall be refunded. (c)

3. Any person, whether a party or not, may be summoned to produce a document without being summoned to give evidence.

(a) The word “public” and text following deleted by Rules of Court 41/1993 – came into force on 01 January 1993

(b) Rule 2(a) inserted by Rules of Court 16/1990 – came into force on 17 February 1990

(c) Rule 2(b) inserted by Rules of Court 41/1993 – came into force on 01 January 1993

4. Any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes the document to be produced, instead of attending personally to produce it.

5. A summons to a person to attend and give evidence or to produce any document may be in Form 27, and shall be served not less than four days before the day on which such person is required to attend.

ORDER 33

Proceedings at Trial

1. If on the day fixed for trial the parties do not appear when the trial is called on, upon proof that they (or the party at whose instance such day was fixed) had notice, the action shall stand dismissed and shall not subsequently be heard, unless upon application to the Court, the Court orders reinstatement of the action on the ground that it is equitable so to do in the circumstances of the case.

2. If on the day fixed for trial any party fails to appear when the trial is called on, the Court shall require proof that the absent party was given notice of such day. In the absence of such proof, the Court may proceed with the trial if the presence of the absent party is not material, or may adjourn the trial and give such direction as may be necessary.

3. If on the day fixed for trial the plaintiff appears when the trial is called on but the defendant does not, then upon proof being given of the defendant having been given notice of such day, the plaintiff may prove his claim, so far as the burden of proof lies upon him and judgment may be given accordingly.

4. If on the day fixed for trial the defendant appears when the trial is called on but the plaintiff does not, then upon proof being given of the plaintiff having been given notice of such day, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter-claim, then he may prove his counter-claim so far as the burden of proof lies upon him, and judgment may be given accordingly.

5. Any judgment obtained where one party does not appear at the trial may in proper case be set aside by the Court upon such terms as may seem fit, upon an application made within fifteen days after the trial.

6. The Court may, if it thinks it expedient for the interests of justice, postpone or adjourn a trial for such time, and to such place, and upon such terms (if any), as it may think fit.

6A. *The Court may, if it thinks it expedient in the interest of justice, fix or adjourn a trial for mention upon such terms (if any) as it may think fit.*(a)

7. The proceedings at the trial shall be as follows:—(The party on whom the burden of proof lies is called in this Rule “the first party”, and the other party is called “the second party”).

(i) Where the issues between the parties involve legal points only and the parties state that no evidence is being adduced, the first party may address the Court, then the second party may do likewise, and finally the first party may reply.

(ii) In other cases—

(a) The first party may open his case and adduce his evidence; after he has done so, the second party shall be asked whether he intends to adduce evidence and if he states that he does not so intend, then the first party may address the Court for the purpose of summing up the evidence; and finally the second party may address the Court. If the second party

(a) Rule 6A inserted by Rules of Court 68/1978 – came into Force on 24 August 1987

states that he does intend to call evidence, then this party may open his case and adduce his evidence; and after he has done so, he may sum up the evidence, and finally the first party may reply.

- (b) The first party may adduce evidence in reply except by leave of the Court. If he desires to adduce such evidence, he must ask for leave immediately after the second party's evidence is concluded. If such leave is granted, the second party's summing up shall be postponed until after the evidence in reply is heard.
- (c) When the first party has replied, or, if he has no right to reply, when the second party has addressed the Court, the case shall be closed, unless the Court directs either party to adduce further evidence or itself calls any witness.

8. Every document or other exhibit put in evidence shall be marked by a Judge or by an officer of the Court when it is put in, and the mark placed thereon shall be noted in the minutes of the Court. Exhibits shall remain in the custody of the Court and shall not be given out except by leave of a Judge.

9. On the hearing of any action involving a counter-claim or of any action and cross-action directed to be heard together, the order of proceedings shall be as follows:—("The first party" in this rule means the party on whom the burden of proof lies in respect of the claim in the action, and "the second party" means the other party; and "counter-claim" includes a cross-claim in a cross-action.)

- (a) Where the parties state that the evidence is not being adduced—
 - (i) If the burden of proof in the counter-claim is on the first party, this party may address the Court in regard to the claim and the counter-claim, then the second party may do likewise, and finally the first party may reply;
 - (ii) If the burden of proof in the counter-claim is not on the first party, the first party may address the Court in regard to the claim, the second party may address the Court in regard to the claim and the counter-claim, then the first party may reply in regard to the claim and address the Court on the counter-claim, and finally the second party may reply in regard to the counter-claim only.
- (b) Where the parties state that evidence is not being adduced in regard to the claim but is being adduced in regard to the counter-claim (or that it is not being adduced in regard to the counter-claim but is being adduced in regard to the claim), then the proceedings in the claim shall be severed from those in counter-claim and be regulated in accordance with the provisions of rule 7 of this Order. If witnesses have been summoned, that part of the case shall be taken first in which evidence is being served.
- (c) Where the parties state that evidence is being adduced both on the claim and on the counter-claim, then—
 - (i) If the burden of proof as regards the counter-claim lies on the first party, this party may open his case and adduce his evidence both on the claim and the counter-claim; after he has done so, the second party shall be asked whether he intends to call evidence, and if he states that he does not so intend, then the first party may address the Court for the purpose of summing up the evidence; and finally the second party may address the Court. If the second party states that he does intend to call evidence, then this party may open his case and adduce his evidence both on the claim and the counter-claim, and after he has done so, he may sum up the evidence; and finally the first party may reply. And paragraph (ii)(b) of rule 7 of this Order shall apply.
 - (ii) If the burden of proof as regards the counter-claim does not lie on the first party, this party may open his case and adduce his evidence on the claim. After he has done so, the second party shall be asked whether he intends to call evidence on the claim. Then—

- (a) If the second party states that he does not so intend, the first party may address the Court for the purpose of summing up the evidence on the claim, the second party may then address the Court on the claim, and the proceedings as regards the claim, shall terminate with such address. Then the proceedings on the counter-claim shall begin with the second party opening his case thereon and adducing his evidence, and shall be conducted in the same manner as the hearing of a claim.
- (b) If the second party states that he intends to call evidence in regard to the claim, this party may open his case both on the claim and the counter-claim and adduce his evidence in regard to both. Then if the first party states that he is not calling evidence in regard to the counter-claim, the second party may address the Court for the purpose of summing up the evidence; and finally the first party may reply. If, on the other hand, the first party states that he intends calling evidence in regard to the counter-claim, then the second party shall address the Court on the claim, and the first party may open his case on the counter-claim and adduce his evidence thereon and thereafter address the Court for the purpose of summing up the evidence and of replying on the claim; and finally the second party may reply on the counter-claim only. (But the first party's reply on the claim may, if the Court so thinks fit, follow immediately after the second party's address thereon).

A party shall not adduce evidence in reply except by leave of the Court; and where such leave is given, the evidence shall be adduced at such stage as the Court may direct, regard being had to the principle that the other party must be given an opportunity of commenting thereon.

The Court may, with the consent of the parties, sever the trial of the claim from that of the counter-claim, care being taken to save expenses in respect of witnesses, if they have been summoned and are in attendance.

Subject to the foregoing provisions, the Court may modify, and regulate the proceedings in such manner as it may consider expedient so as to enable the claim and the counter-claim to be fully heard, regard being had to the principles underlying the procedure laid down in rule 7 of this Order.

10. Where on the trial of any action it appears to the Court before which such action is being tried that it should have been instituted in another Court, the Court trying the action shall not dismiss it but shall stay the proceedings therein and order the plaintiff to pay the defendant's costs.

11. The Court may give judgement against either party on the close of his case without any further proceedings, unless it shall think fit to adjourn the trial so as to enable further evidence to be adduced.

12. At the conclusion of the trial the Court shall give judgement for the plaintiff or defendant, as the case may be, upon the claim and the counter-claim (if any) and shall include in its judgement a direction as to the costs of the action. Where a Judge in delivering judgement makes use of notes or reads a written judgment, the notes made use of or the judgment read shall forthwith be handed to the Registrar to be filed.

13. The presiding Judge shall make a note of the times at which a hearing or trial commences and terminates respectively and the time actually occupied thereby on each day on which the same shall take place, for purposes of taxation.

14. Where damages are to be assessed in respect of any continuing cause of action, they shall be assessed down to the time of the assessment.

15. A judgement obtained by fraud may, upon action brought by any person, whether a party to the record or not, be set aside as against the person who committed or procured the fraud, but this limitation shall not apply to an action set aside a judgment grant probate of a will.

ORDER 34

Entry of Judgment

1. Save where the Court shall have directed that a judgment be not drawn up until a certain date or until a certain event has happened, every judgment shall, on the application of any party to the Registrar, be entered in a book to be kept for the purpose.

2. Every judgement when entered shall be dated as the day on which it was pronounced, and shall save where it otherwise directs, take effect from the date, and a note shall be made in the book in which it is entered of the date of entry.

3. Every judgement when entered shall be entitled with the full title and amended title (if any) of the action in which it is given. It shall show which of the parties were present or represented by advocate at the hearing or trial, and whether any of the parties were not so present or represented. It shall state as concisely as possible the judgment of the Court, and, where it shall seem to the Court necessary or advisable, the grounds of the judgment.

4. In any judgement, whether in default of appearance or defence or after hearing or trial or otherwise, the party at whose instance the judgment is entered shall, if he so desires, be entitled to have recited in the judgment a statement as to the manner and place in and at which the service of the writ of summons or other process by which the proceedings were commenced was effected.

5. Every judgment or order made in any case or matter requiring any person to do an act thereby ordered shall state the time, or the time after service of the judgment or order, within which the act is to be done.

6. Where any judgement is given subject to the filing of any affidavit of production of any document, the Registrar shall examine the affidavit or document produced, and if the same shall be regular and contain all that is by law required, the judgment shall be entered accordingly.

ORDER 35

Appeals

1. In this Order “Court of Appeal” includes the Supreme Court and the President of a District Court when sitting on appeals.

2. Subject and without prejudice to the power of the Court of Appeal under Order 57, rule 2, no appeal from any interlocutory order, or from an order whether final or interlocutory, in any matter not being an action, shall be brought after the expiration of fourteen days, and no other appeal shall be brought after the expiration of six weeks, unless the Court or Judge, at the time of making the order or at any time subsequently, or the Court of Appeal shall enlarge the time. The said respective periods shall be calculated from the time that the judgement or order becomes binding on the intending appellant, or in the case of the refusal of an application, from the date of such refusal. Such deposit or other security for the costs to be occasioned by any appeal shall be made or given as may be directed under special circumstances by the Court of Appeal.

3. All appeals shall be by way of rehearing and shall be brought by written notice of appeal filed, within the appropriate period prescribed by rule 2 of this Order, with the Registrar of the Court appealed from, together with an office copy of the judgment or order complained of (Form 28).

4. The appellant may, by his notice, appeal from the whole or any part of any judgment or order, and the notice shall state whether the whole or part only of the judgement or order is complained of, and in the latter case shall specify such part. The notice shall also state all the grounds of appeal and set forth fully the reasons relied upon for the grounds stated. *Every reason for an*

appeal shall be set forth in a separate paragraph. After every ground of an appeal the reasons relied upon shall be set forth separately. (a) Any notice of appeal may be amended at any time as the Court of Appeal may think fit.

5. The notice of appeal shall, within the appropriate period prescribed by rule 2 of this Order, be served together with an office copy of the judgment or order appealed from upon all parties directly affected by the appeal, and it shall not be necessary to serve parties not so affected; but the Court of Appeal may direct notice of the appeal to be served on all or any parties to the action or other proceeding, or upon any person not a party, and in the meantime may postpone or adjourn the hearing of the appeal upon such terms as may be just, and may give such judgment and make such order as might have been given or made if the persons served with such notice had been originally parties.

6.—(1) Any party or person affected by the appeal may apply to the Registrar of the Court of Appeal to fix a day for hearing and to prepare copies of the file of the proceedings (or, in the case of an appeal from the decision of the President of a District Court sitting on appeal, of the record of appeal) and documents put in evidence; and, subject to the provisions of part (2), the Registrar shall prepare copies of such part of the said file (or record) and documents as he may think necessary for the use of the Court of Appeal.

(2) The said Registrar shall require the party or person applying for copies to deposit such sum as the said Registrar may think necessary to cover the cost of the copies, and when the copies are ready shall demand from such party or person any unpaid balance of the cost, or return to him any surplus remaining over, and such balance shall be paid within a week from the date of the demand; and upon such balance being paid the appeal shall be fixed for hearing. The party or person or advocate applying for the copies shall be liable for any unpaid balance of the costs thereof, and payment thereof may be enforced by order of the President of the Court of Appeal upon application made by the Registrar.

(3) If the party or person applying for copies omit to pay the balance within a week from the date of the demand, the Registrar shall bring the matter to the notice of the President of the Court of Appeal, who may direct the appeal to be struck out or make such other directions as he may deem fit. Any appeal which is struck out under this provision may, if the Court of Appeal so deems fit, be reinstated on such terms as may be just.

7.—(1) The date to be fixed by the Registrar shall be, in the case of an appeal from any judgement (whether final or interlocutory) or final order, not less than fourteen days, and in the case of an appeal from an interlocutory order, not less than eight days, from the day on which he fixes the date of the hearing; and the person at whose instance the date for hearing is fixed shall give in the case of an appeal from a judgment (whether final or interlocutory) or from a final order not less than ten days' notice of such date to those affected by the appeal, and not less than four days' notice in the case of an appeal, from an interlocutory order. The above times may be varied *suo motu* or upon an *ex parte* application by order of the President of the Court of Appeal, an office copy of which shall be served with the notice of the day fixed.

(2) When evidence is to be heard before the President of the District Court on the hearing of an appeal pursuant to section 18(2) of the Courts of Justice Law, Cap 11, notice of the fact that evidence is so to be heard shall be given to the other parties to the appeal not less than ten days before the day fixed for the hearing of the appeal. This time may be varied *suo motu* or upon and *ex parte* application by order of the said President, and office copy of which shall be served with the notice of the day fixed.

8. The Court of Appeal shall have all the powers and duties as to amendment and otherwise of the Trial Court, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in Court, by affidavit, or by deposition taken before an examiner or commissioner. Such further evidence may be given without special leave upon interlocutory applications, or in any case as to matters which have occurred after the date of the decision from which the appeal is brought. Upon appeals from a judgment after trial or

(a) Text inserted by Rules of Court 51/1995 – came into force on 25 July 1995

hearing of any cause or matter upon the merits, such further evidence (save as to matters subsequent as aforesaid) shall be admitted on special grounds only, and not without special leave of the Court. The Court of Appeal shall have power to draw inferences of fact and to give any judgment and make any order which ought to have been made, and to make such further or other order as the case may require. The powers aforesaid may be exercised by the said Court notwithstanding that the notice of appeal may be that a part only of the decision may be reversed or varied, and such powers may also be exercised in favour of all or any of the respondents or parties, although such respondents or parties may not have appealed from or complained of the decision. The Court of Appeal shall have power to make such order as to the whole or any part of the costs of the appeal as may be just.

9. If upon the hearing of an appeal it appears to the Court of Appeal that a new trial ought to be had, it shall be lawful for the said Court, if it shall think fit, to order that the decision appealed from shall be set aside either wholly or in part and that a new trial shall be had either generally or in regard to a particular issue or matter.

10. It shall not under any circumstances be necessary for a respondent to make a cross-appeal; but if he intends upon the hearing of the appeal to contend that the decision of the Court below should be varied, he shall give a written notice of his intention, specifying in what respects he contends that the decision should be varied, to any parties or person who may be affected by his contention, and the Registrar of the Court of Appeal. Such notice shall set forth fully the respondent's grounds and reasons therefore for seeking to have the decision varied on appeal. The notice given to the Registrar shall be filed by him with the record of the appeal. The notice required by this rule shall be not less than a six days' notice in the case of an appeal from a judgment (whether final or interlocutory) or final order, and not less than a two days' notice in the case of an appeal from an interlocutory order; but these times may be varied by order of the President of the Court of Appeal, an office copy of which shall be served with the notice aforesaid. The omission to give such notice shall not diminish the powers conferred by rule 8 of this Order upon the Court of Appeal, but may, in the discretion of the Court, be ground for an adjournment of the appeal, or for a special order as to costs.

11. Where at the time fixed for hearing of any appeal neither party appears, the appeal shall be struck out; but the Court of Appeal may give leave for reinstatement of the appeal if it so thinks fit and on such terms as may be just.

12. If when the appeal is called on for hearing any of the parties shall be absent, the Court of Appeal shall require due service of notice upon such absent party of the day fixed for the hearing to be proved, unless such party is the party on whose application such day was fixed.

13. If when the appeal is called on for hearing the respondent appears and the appellant does not, the appeal may, on the application of the respondent, be dismissed or otherwise dealt with as the Court of Appeal may think right.

14. If when the appeal is called on for hearing the appellant appears and the respondent does not, the Court of Appeal may upon proof of service on the respondent hear the appellant and dispose of the appeal as though the respondent were present.

15.—(1) The proceedings on the hearing of the appeal shall be as follows:-

- (a) Where no new evidence is adduced the appellant shall address the Court of Appeal in support of his appeal. The respondent shall then address the Court and the appellant may reply.
- (b) Where new evidence is adduced the Court of Appeal shall give such directions as to the order of the proceedings as may seem just.

(2) Where the appeal is only from part of a judgment or order, the hearing shall be confined to that part. Further, the hearing shall be confined to the grounds stated and the reasons set forth in the notice of appeal. But these provisions shall be subject to the discretion of the Court of Appeal.

16. No interlocutory order from which there has been no appeal shall operate so as to bar or prejudice the Court of Appeal from giving such decision upon the appeal as may be just.

17. Where an *ex parte* application has been refused by the Court below, an appeal shall lie to the Court of Appeal. Such appeal shall be brought within four days from the date of the refusal of the Court below, or within such enlarged time as a Judge of the Court below or of the Court of Appeal may allow, and the provisions relating to appeals from interlocutory orders shall apply.

18. An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from except so far as the Court appealed from or the Court of Appeal, or a Judge of either Court, may order; and no intermediate act or proceeding shall be invalidated, except so far as the Court appealed from may direct. Before any order staying execution is entered, the person obtaining the order shall furnish such security (if any) as may have been directed. If the security is to be given by means of a bond, the bond shall be made to the party in whose favour the decision under appeal was given.

19. Wherever under these rules an application may be made either to the Court below or to the Court of Appeal, or to a Judge of either Court, it shall be made in the first instance to the Court or Judge below.

20. An appeal from a decision solely on the ground of a wrong direction in regard to costs, or from an order made on taxation or review of taxation, shall not be entered except with the leave of the Court of Appeal or a Judge thereof, which shall not be given unless it is made to appear that the direction or order is contrary to the provisions of any law or rule, or is based on a misconception of fact, or directs any party to pay costs incurred or occasioned, without sufficient reason, by another party.

21. If the appellant does not, within one month of lodging his notice of appeal, apply for copies and make a deposit as provided in rule 6 of this Order, the appeal may be dismissed on the application of any party. Such application may be made *ex parte*, but the Court of Appeal may direct notice to be given to such of the other parties or persons affected by the appeal as it may deem fit.

22. If the appellant does not, within three months of lodging his notice of appeal, take the steps mentioned in rule 21 of this Order, the appeal shall stand dismissed, but it may, if the Court of Appeal so deems fit, be reinstated upon such terms as may be just.

23. In the case of an appeal to the Supreme Court the Registrar of the District Court appealed from shall send to the Chief Registrar the file of the proceedings or the record of appeal, as the case may be, enclosing the exhibits in a separate cover.

24. When an appeal before the Supreme Court is concluded or stand dismissed under rule 22 of this Order, the Chief Registrar shall return to the Registrar of the District Court appealed from the file of proceedings or record of appeal, as the case may be, with an endorsement giving the concise effect of the Supreme Court's decision or stating that the appeal so stands dismissed.

25. The judgments and orders of the Supreme Court in appeals shall be entered in the same manner as those of the District Court.

26. Writs of execution on judgments or orders of the Supreme Court in appeals shall be issued out of the Court appealed from upon the filing of an office copy of such judgment or order.

27.—(1) The foregoing provisions in this Order shall also apply to appeals brought with leave under the proviso to section 18(1) or under section 18(3) of the Courts of Justice Law, Cap 11, with this modification, namely, that an office copy of the order granting leave shall, within the prescribed time, be filed with the notice of appeal and served therewith.

(2) An application for leave to appeal may be made *ex parte* without affidavit. The application may be made orally to the Magistrate or the President of the District Court, as the case may be, immediately after he pronounces the decision which it is desired to appeal from. If made later, it shall be made in writing and shall state all the points of law on which leave to appeal is sought and the reasons relied upon for the points stated.

(3) An order granting leave to appeal may confine the leave to some of the points of law sought to be raised and in such a case the appeal shall (unless the Court of Appeal at any time directs otherwise) be on those points only.

28. The Court of appeal or a Judge thereof may by order consolidate appeals at any stage if it appears convenient that they should be heard together.

29.—(1) The appellant may at anytime abandon his appeal with the respondent's written consent by giving notice to that effect in writing to the Registrar of the Court of Appeal bearing, or accompanied by, such consent, and thereupon the appeal shall stand dismissed, and any notice given by the respondent under rule 10 of this Order be deemed abandoned.

(2) The appellant may at any time before the appeal is fixed for hearing abandon it by giving notice to that effect in writing to the said Registrar and to the respondent. In such a case the appeal shall stand dismissed and the respondent shall be entitled to tax in his favour any costs reasonably incurred by him up to the receipt of such notice. Further, abandonment of an appeal under this rule shall not preclude the hearing of any contention by the respondent that the decision of this Court below should be varied; but if the respondent has not already given notice under rule 10 of this Order, he shall do so within fifteen days of his receiving the appellant's notice of abandonment and take all the necessary steps for a hearing within that time, otherwise he shall be precluded from proceeding.

(3) If after an appeal is fixed for hearing the appellant wishes to abandon his appeal he may do so by giving notice in writing to the respondent and to the said Registrar, and a Judge of the Court may strike out the appeal on such terms as he thinks fit. The provisions of paragraph (2) of this rule in regard to notice under rule 10 of this Order shall apply.

30. Parties who are not under any disability may by consent in writing, signed by themselves in the presence of a Registrar and filed, exclude their rights of appeal or limit them to a particular issue, or portion of the proceedings, or points of law only, and in such case their rights shall in the absence of fraud be excluded or limited accordingly. And the next friends, guardians, or guardians *ad litem* of parties who are under any disability may so consent with the leave of the Court of Appeal.

31. An appeal shall not be brought by a prodigal having a guardian under the Guardianship of Infants and Prodigals Law, Cap.102, unless the notice of appeal is endorsed by a statement signed by such guardian in the presence of a Registrar or certifying officer to the effect that the appeal is being brought with his advice and consent. If a notice of appeal is filed contrary to this rule, a Judge of the Court appealed from or of the Court of Appeal may order all proceedings under such notice to be stayed until this rule is complied with, and upon proof of its having been complied with any such Judge may order the stay to be removed.

32. Where a Judge in delivering his decision on an appeal or application makes use of notes or reads a written judgment, the notes made use of or the judgment read shall forthwith be handed to the Registrar to be filed.

ORDER 36

Evidence in General

1. Subject to these rules, the witnesses at the trial of any action or at any assessment of damages shall be examined *viva voce* and in open Court, but the Court or a Judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the hearing or trial, on such conditions as the Court or Judge may think reasonable, or that any witness whose attendance in Court ought for some sufficient cause to be dispensed with be examined by interrogatories or otherwise before a commissioner or examiner; and where any witness is in a country with which a convention in that behalf has been or shall be extended to Cyprus, the Court may order such witness to be examined before the competent Court or authority of such country or before any person appointed by such Court or authority:

Provided that, where it appears to the Court or Judge that the other party *bona fide* desires the production of a witness for cross-examination, and that such witness can be produced, an order shall not be made authorizing the evidence of such witness to be given by affidavit.

2. An order to read evidence taken in another cause or matter between the same parties or their privies shall not be necessary, but such evidence may, saving all just exceptions, be read on *ex parte* applications by leave of the Court, or a Judge, to be obtained at the time of making any such application, and in any other case upon the party desiring to use such evidence giving two days' previous notice to the other parties of his intention to read such evidence.

3. Office copies of all writs, records, pleadings and documents filed in any Court shall be admissible in evidence in all causes and matters and between all persons or parties, to the same extent as the original would be admissible.

4. Production of a copy of the Gazette in which any statement purporting to be sent or delivered to the Registrar of Partnerships under the provisions of section 51 or 52 of the Partnership Law, CAP. 196, is published shall be evidence of the receipt of such statement by such Registrar, and shall as against the person or persons signing the same be proof of each and every fact therein stated. It shall be the duty of such Registrar to furnish a copy of such statement on payment of the prescribed fee to any person requiring the same.

5. The evidence of any witness may by leave of the Court or a Judge be taken at any time as preparatory to the hearing of the action of any application therein before the Court or a Judge thereof, and the evidence so taken may be used at the hearing subject to just exceptions.

Evidence so taken shall not be used at the hearing unless the party obtaining leave shall have given notice to all other parties to attend at the examination.

Evidence so taken shall be taken in like manner, as nearly as may be, as evidence at the hearing of an action is to be taken. The note of the evidence shall be read over to the witness, and tendered to him for signature. If he refuses to sign it a note shall be made of his refusal, and the evidence may be used whether he signs it or not.

ORDER 37

Evidence on Commission or before Examiner

1. An order for a commission to examine a witnesses shall be in the Form 29 or 30, and the writ of commission in the Form 31, but instead of a commission the Court or Judge may order the issue of a request in Form 32.

2. Where an order is made to examine a witness or witnesses in any foreign country with which a convention in that behalf has been or shall be extended to Cyprus the following procedure shall be adopted:—

- (i) The party obtaining such order shall file with the Registrar an undertaking in the Form 33.
- (ii) Such undertaking shall be accompanied by—
 - (a) a request in duplicate in the Form 32, together with a translation of that request in the official language of the country in which the same is to be executed, which translation shall be verified upon oath by or on behalf of the party obtaining the order;
 - (b) two copies of the specific interrogatories (if any) to accompany the request and a translation of such interrogatories verified on oath;
 - (c) two copies of the cross-interrogatories (if any) and a translation thereof verified on oath.
- (iii) The party obtaining an order under this rules shall also at the time of filing the undertaking mentioned in paragraph (i) of this rule deposit in the Court ten pounds in

respect of each witness to be examined. In the event of the expenses incurred by the Colonial Secretary in connection with the request amounting to less than the sum deposited, the surplus will be refunded by person making the deposit.

(iv) The Registrar shall file a copy-

- (a) of the request;
- (b) of the specific interrogatories (if any);
- (c) of the cross-interrogatories (if any).

He shall seal and forward for the Colonial Secretary-

- (a) the request and verified translation thereof;
- (b) a copy of the interrogatories (if any) and a verified translation thereof;
- (c) a copy of the cross-interrogatories (if any) and a verified translation thereof.

He shall also furnish to the Colonial Secretary the names and addresses of the agents of the parties given in the undertaking filed pursuant to this rule.

3. Where an order is made for the examination of a witness or witnesses before the British Consul in any foreign country with which a convention authorizing such examination has been or shall be extended to Cyprus, such order shall be in Form 34.

4. Where any witness or person is ordered to be examined before any person appointed for the purpose, the person taking the examination shall be furnished by the party on whose application the order was made with an office copy of the writ and pleadings (if any), or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties.

5. The examination shall take place in the presence of the parties, their advocates, or agents, or such of them as shall attend. And the depositions shall not be used at the trial or hearing unless the party on whose application the order was made shall have given notice to all other parties to attend the examination.

6. On an examination taken as aforesaid witnesses shall be subject to cross-examination and re-examination and the depositions shall be taken, as nearly as possible, in the same way as evidence is taken on the trial of an action. The depositions shall be taken down in writing by the examiner, not ordinarily by question and answer, but so as to represent as nearly as may be the statement of the witness and shall be signed by the witness in the presence of the parties, or such of them as may think fit to attend. The examiner may put down any particular question or answer if there should appear any special reason for doing so, and may put any question to the witness as to the meaning of any answer, or as to any matter arising in the course of the examination. Any questions which may be objected to shall be taken down by the examiner in the depositions, and he shall state his opinion thereon to the advocates, agents, or parties, and shall refer to such statement in the depositions, but he shall not have power to decide upon the materiality or relevancy of any question. If the witness refuses to sign his deposition, the examiner shall make a note of his refusal and sign the deposition himself, and the deposition may be given in evidence whether the witness signs it or not.

7. If a witness shall object to any question which may be put to him before an examiner, the question so put and the objection of the witness thereto, shall be taken down by the examiner and transmitted by him to the Court to be there filed, and the validity of the objection shall be decided by the Court.

8. If any person duly summoned by subpoena to attend for examination shall refuse to attend, or if, having attended, he shall refuse to be sworn or to answer any lawful questions, a certificate of such refusal, signed by the examiner, shall be filed in Court, and thereupon the party requiring the attendance of the witness may apply to the Court or a Judge for an order directing the witness to attend, or to be sworn, or to answer any question, as the case may be.

9. In any case under rules 7 and 8 of this Order the Court or a Judge shall have power to order the witness to pay any costs occasioned by his refusal or objection.

10. When the examination of any witness before any examiner shall have been concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the Court, and there filed.

11. Except where by this Order otherwise provided, or directed by Court or a Judge, no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same may be offered, unless the Court or Judge is satisfied that the deponent is dead, or beyond the jurisdiction of the Court or unable from sickness or other infirmity to attend the hearing or trial, in any of which cases the depositions certified under the hand of the person taking the examination shall be admissible in evidence saving all just exceptions without proof of the signature to such certificate.

12. Any party in any cause or matter may summon any person in Cyprus to attend and give evidence or produce any document in his possession before any person appointed to take the examination in Cyprus, for the purpose of using his evidence upon any proceedings in the cause or matter in like manner as such witness would be bound to attend and be examined at the hearing or trial; and any party or witness having made an affidavit to be used or which shall be used on any proceeding in the cause or matter shall be bound on being served with such summons to attend before such person for cross-examination.

13. The foregoing rules relating to the examination of any person before a person appointed to take the examination shall be subject to the provisions of section 7 of the Civil Procedure Law, Cap.7, and to such directions at the Court may see fit to make pursuant thereto.

14. All evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the same cause or matter.

ORDER 38

Evidence at Trial

1. Each witness, when his examination in chief is closed, is liable to be cross-examined by the opposite party and to be re-examined by the party calling in, and after re-examination may be questioned by the Court, and shall not be recalled or further questioned save through and by leave of the Court.

The Court may direct in what form any question shall be put to a witness, and, except in regard to matters which are introductory or undisputed, may refuse to allow any question to a witness upon his examination in chief or re-examination to be put in form calculated to suggest the answer to it.

2. The Court may, if it thinks fit, refuse to allow any questions to be put which it regards as indecent or scandalous, although they may have some bearing on the matter before the Court, unless they are shown to relate to facts or matters necessary to be known in order to dispose of the matter in dispute between the parties. The Court may also disallow any questions put in cross-examination of any party or other witness which may appear to it to be vexatious, and not relevant to any matter proper to be inquired into in the case or matter.

3. In actions for libel or slander, in which the defendant does not by his defence assert the truth of the statement complained of, the defendant shall not be entitled on the trial to give evidence in chief, with a view to mitigation of damages, as to the circumstances under which the libel or slander was published, or as to the character of the plaintiff, without the leave of the Court, unless seven days at least before the trial he furnishes particulars to the plaintiff of the matters as to which he intends to give evidence.

4. Objections to the reception of evidence shall be made at the time the evidence is offered, and shall be argued and decided at the time.

5. Where a question put to a witness is objected to, the Court shall make a note of the question and of the arguments on the objection and of the grounds of its ruling thereon; and if the Court is composed of two or more Judges and they differ in opinion each Judge may, if he so wishes, write out his views separately and file them at the time. These provisions shall also apply to any document of which the reception in evidence is objected to.

6. Any document offered in evidence and not objected to shall be put in and read, or taken as read by consent.

ORDER 39

Affidavits

1. Upon an application evidence may be given by affidavit; but the Court or a Judge may, on the request of either party, order the attendance of the deponent for cross-examination.

2. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, but on interlocutory applications an affidavit may contain statements of information and belief, with the sources and grounds thereof. The costs of every affidavit which shall unnecessarily set forth matter or hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

3. Every affidavit shall be intitled in the cause or matter in which it is sworn; but in every case in which there are more than one plaintiff or defendant, it shall be sufficient to state the full name of the first plaintiff or defendant respectively, and that there are other plaintiffs or defendants, as the case may be.

4. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and, as nearly as may be, shall be confined to a distinct portion of the subject.

5. Every affidavit shall state the description and true place of abode of the deponent.

6. There shall be appended to every affidavit a note showing on whose behalf it is filed, and no affidavit shall be filed or used without such note, unless the Court or a Judge shall otherwise direct. And before an affidavit is used in the Court for any purpose, the original shall be filed in the Court.

7. An affidavit may be sworn before a Judge or Registrar of any Court.

8. Where an affidavit proposed to be sworn is illegible or difficult to read, or is in the judgment of the person who would have to administer the oath so written as to facilitate fraudulent alterations, he may refuse to administer the oath and may require the affidavit to be re-written.

9. The affidavit when sworn shall be signed by a deponent, or if he cannot write, marked by him with his mark, in the presence of the person administering the oath.

10. The person taking the affidavit shall note immediately at the foot thereof, towards the left side of the paper, the time when and the place where the affidavit is taken, and that the affidavit was sworn and signed before him; he shall sign the jurat and describe his office (Form 35).

11. In every affidavit made by two or more deponents the names of the several person making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents.

12. The person administering the oath shall not allow an affidavit when sworn to be altered in any way without being re-sworn. If the jurat has been added and signed, he shall add a new jurat on the affidavit being re-sworn, and in the new jurat he shall mention the alteration. He may refuse to allow the affidavit to be re-sworn, and may require the affidavit to be re-written.

13. Where an affidavit is sworn by any person who appears to the officer taking it to be illiterate or blind, the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it, and that the deponent made his signature in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate, unless the Court or a Judge is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent. (Form 36).

14. No affidavit having in the jurat or body thereof any interlineations, alteration, or erasure, shall without leave of the Court or a Judge be read or made use of in any matter pending in Court unless the interlineations or alteration (other than by erasure) is authenticated by the signature or initials of the officer taking the affidavit, nor in the case of any erasure, unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are re-written and signed or initialled in the margin of the affidavit by the officer taking it.

15. The Court or a Judge may receive an affidavit sworn for the purposes of being used in any cause or matter, notwithstanding any defect by misdescription of parties or otherwise in the title or jurat, or any other irregularity in the form thereof, and may direct a memorandum to be made on the document that it has been so received.

16. A defective or erroneous affidavit may be amended by leave of the Court, which may be obtained *ex parte*.

17. Any affidavit, declaration or affirmation may be sworn or taken in Great Britain, Ireland or the Channel Islands or in any British Colony, Possession, Protectorate or Mandated Territory or other place under the dominion of Her Majesty in foreign parts before any Court, Judge, notary public, or person lawfully authorized to administer oaths in any such Colony, Possession, Protectorate, Mandated Territory or other place under the dominion of Her Majesty, or may be sworn or taken before any of Her Majesty's Consuls or Vice-Consuls in any foreign parts outside Her Majesty's Dominion, and the Judges and other officer of the Cyprus Courts shall take judicial notice of the seal or signature as the case may be of any such Court, Judge, notary public, person, Consul or Vice-Consul appended or subscribed to any such affidavit, declaration or affirmation or to any other document, and shall allow the same as regards its form to be used in a Cyprus Court without further proof but subject always as regards admissibility of its contents to the rules of evidence.

18. The Court or a Judge may order to be struck out from any affidavit any matter which is scandalous and irrelevant.

19. Every alteration in an account verified by affidavit shall be marked with the initials of the officer before whom the affidavit is sworn and such alteration shall be made by erasure.

20. Accounts, extracts from registers, particulars of creditors' debts, and other documents referred to by affidavit shall not be annexed to the affidavit, or referred to in the affidavits as annexed, but shall be referred to as exhibits.

21. Every exhibit referred to in an affidavit shall be marked with the short title of the cause or matter and contain a reference to the person swearing the affidavit and the date on which it is sworn, and shall be initialled by the officer before whom the affidavit is sworn. If there are two or more exhibits to the same affidavit they shall be marked with separate letters and in the affidavit be referred to by their letters.

ORDER 40

Execution in General

1. Where any person is by any judgement or order directed to pay any money, or to deliver or transfer any property movable or immovable to another, it shall not be necessary to make any demand thereof, by the person so directed shall be bound to obey such judgement or order upon being duly served with the same without demand.

2. Where any person who has obtained any judgment or order upon condition does not perform or comply with such condition, he shall be considered to have waived or abandoned such judgement or order so far as the same is beneficial to himself, and any other person interested in the matter may on breach or non-performance of the condition take either such proceedings as the judgement or order may in such case warrant, or such proceedings as might have been taken if no such judgment or order had been made, unless the Court or a Judge shall otherwise direct.

3. Where a judgment or order 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 or a Judge for leave to issue execution against such party. And the Court or Judge may, if satisfied that the right to relief has arisen according to the terms of the judgment or order, order that execution issue accordingly, or may direct that any issue or question necessary for the determination of rights of the parties to be tried in any of the ways in which questions arising in an action may be tried.

4. No writ of execution shall be issued without the production to the officer by whom the same should be issued of an office copy of the judgment or order upon which the writ of execution is to issue. And the officer shall (where necessary) be satisfied that the proper time has elapsed or (where necessary) the proper leave given to entitle the creditor to execution.

5. Every writ of execution shall be sealed with the seal of the Court which gave the judgment or made the order sought to be executed, and shall bear date as of the day on which it is issued.

6. Every writ of execution for the recovery of money shall direct the deputy sheriff to levy the money really due and payable and sought to be recovered under the judgment or order, stating the amount and the costs of the execution. And the writ shall also direct in what manner the money levied in execution is to be disposed of by the deputy sheriff.

7. Every person to whom any sum or money or any costs shall be payable under a judgement or order shall, so soon as the money or costs shall be payable, be entitled to apply for the issue of writs to enforce payment thereof, subject nevertheless as follows:—

- (a) If the judgment or order is for payment within a period therein mentioned, no writ shall be issued until after the expiration of such period;
- (b) The Court or Judge may, at or after the time giving judgment or making an order, stay execution until such time as they or he shall think fit.

8. Where six years have elapsed since the judgment or date of the order, or where any change has taken place by death or otherwise in the parties entitled or liable to execution, the party alleging himself to be entitled to execution may apply to the Court or a Judge for leave to issue execution accordingly. And such Court or Judge may, if satisfied that the party so applying to entitled to issue 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 an action may be tried. And in either case the Court or Judge may impose such terms as to costs or otherwise as shall be just.

9. Every order of the Court or a Judge in any cause or matter may be enforced against all persons bound thereby in the same manner as a judgment to the same effect.

10. Any person not being a party to a cause or matter who obtains any order or in whose favour any order is made shall be entitled to enforce obedience to such order by the same process as if he were a party to such cause or matter; and any person not being a party to a cause or matter against whom obedience to any judgment or order may be enforced shall be liable to the same process for enforcing obedience to such judgment or order as if he were a party to such cause or matter.

11. Any party against whom judgment has been given on an order made may apply to the Court or a Judge for a stay of execution or other relief against such judgement upon the ground of facts which have arisen too late to be pleaded; and the Court or Judge may give such relief and upon such terms as may be just.

12. If a mandamus, granted in an action or otherwise, or a mandatory order, injunction, or judgment for the specific performance of any contract, be not complied with, the Court or a Judge, besides or instead of proceedings against the disobedient party for contempt, may direct that the act required to be done so far as practicable by the party by whom the judgment or order has been obtained, or some other person appointed by the Court or Judge, at the cost of the disobedient party, and upon the act being done, the expenses incurred may be ascertained in such manner as the Court or a Judge may direct and execution may issue for the amount so ascertained and costs.

13. Any judgment or order against a corporation wilfully disobeyed may, by leave of the Court or a Judge, be enforced by sequestration against the corporate property, or by attachment against the directors or other officers thereof, or by writ of sequestration against their property.

14. Every writ of execution shall expire and cease to be in force as soon as it is returned into the Court, but if the judgment or order remains unsatisfied, a new writ may be issued.

15. If either the deputy sheriff executing a writ or any person interested in or affected by the execution thereof wishes to have the Court's direction in any matter relating to it, he may apply to the Court out of which the writ issued or to a Judge thereof, for directions to the deputy sheriff; and the Court or Judge may, either *ex parte* or upon notice given to such person as the Court or Judge may think fit, give such directions as may be just. Directions given to the deputy sheriff on his own application need not be entered as an order. In other cases any person interested in or affected thereby may require the directions to be entered as an order and deliver an office copy of the order to the deputy sheriff for compliance therewith, or may appeal there from if dissatisfied:

Provided that where the application is made by a person claiming property seized under a writ of execution, directions shall not be given *ex parte*.

16. Where any judgment or order is sought to be executed out of the District of the Court by which such judgment or order is given, the writ shall be prepared by a Registrar of such Court in the same manner as any writ of execution to be executed within the District of the Court is prepared, save that it shall be addressed to the Sheriff of the District within which the writ is to be executed. Such writ shall be delivered by a Registrar to the party applying for the same, and shall be presented by him to the Registrar of the Court within the District of which it is to be executed. On presentation thereof by him the same shall be signed by one of the Judges of such last-mentioned Court, and shall then be passed to the Sheriff for execution.

17. Such writ when so signed shall for all purposes be deemed to be a writ issued out of such last-mentioned Court, and all questions arising in the course of, or consequent on the execution of such writ, shall be disposed of by such last-mentioned Court.

18. Where any sum payable under— (a)

- (a) a maintenance order made under the provisions of section 44 of the Courts of Justice Law, 1953(b) and 1955(c), or
- (b) a contribution order made under the provisions of section 16 of the Juvenile Offenders Law (d) on the complaint or application of the person to whose care the child or young person is for the time being committed, or
- (c) an affiliation order made under the provisions of section 9 of the Illegitimate Children Law, 1955(e),

are in arrear, the Registrar shall, if the person for whose benefit the payment should have been made so requests in writing, and subject to any directions that may be given by the Court or a Judge, take all such proceedings as may be necessary to enforce payment of any money due as aforesaid, and he shall pay the money when so collected to such person:

(a) Rule 18 inserted by Rules of Court 549/1956 – came into force on 21 June 1956
(b) 40 of 1953
(c) 66 of 1955
(d) Cap. 19, 49 of 1954
(e) 15 of 1955

Provided that the said person shall have the same liability for all costs properly incurred in the proceedings as if the proceedings had been taken by him.

ORDER 41

Execution by Seizure and Sale of Moveable Property

1. When a judgment or order of a Court directing the recovery by or payment to any person of money is sought to be enforced by a writ of execution for the sale of moveable property, the writ may be issued upon a request in writing to the Registrar of the Court signed by the party applying for the writ, accompanied by an affidavit of the amount still due under the judgment or order. The request shall state the title of the action, the date of the judgment or order sought to be executed and the name of the person or firm against whose goods the writ is to be issued.

2. Writs for the seizure and sale of moveable property shall be passed to a bailiff for execution, and the provisions of Order 44 shall apply.

3. When on the hearing of an application by a person claiming property seized under a writ the judgment creditor, though given notice, does not appear, the property claimed shall be delivered back to the person in whose possession it was when seized.

ORDER 42

Execution by Sale of Immovable Property

1. Every application under Part 5 of the Civil Procedure Law, Cap 7, for the sale of immovable property shall be by summons and set out the property sought to be sold, giving the registration number, the locality, the kind of property, and its extent; it shall also set out the times making up the amount sought to be recovered, and shall have attached thereto the receipts or other evidence in support of any items for disbursements. There shall also be attached to the application an office copy of the judgment or order sought to be executed and the Land Registry Office certificates showing that the property sought to be sold stands registered in the debtor's name.

2. The application shall be supported by affidavit verifying the sum stated to be still due under the judgment or order and all sums claimed as expenses incidental to the execution thereof; the affidavit shall set forth in detail the number of the debtor's family, the house accommodation left, and (where necessary) the land to be exempted as requisite for the support of the debtor and his family, and shall also state that to the best of the applicant's belief sufficient provision is made for the needs of the debtor and his family in these respects.

3. A copy of the application and the affidavit in support thereof shall be served upon the debtor.

4. The writ of sale shall describe clearly the property to be sold and the property to be exempted, and embody any special directions given in regard to the sale. The order directing the issue of the writ shall be drawn up before the writ is issued.

5.—(1) Judgment creditors making applications to a Land Registry officer under section 101 of the Civil Procedure Law, Cap 7, shall swear an affidavit, which may be in Form 37, and shall take the same to the proper Land Registry officer.

(2) Notices to judgment debtors under the said section may be in Form 38.

Service of any such notice shall be effected in the same manner as service of a writ of summons is required to be effected under these rules.

(3) Where in an application under the said section a debtor disputes the amount of the debt owing and the Land Registry officer refers the matter to a Judge of the District Court he shall forward to the registrar a notice in writing which may be in Form 39.

(4) The Registrar shall thereupon bring the application before a Judge of the Court and the judge after hearing such persons and such evidence (if any) as he may think necessary shall endorse his

decision on the application, and the application so endorsed and signed by the Judge shall be returned by the Registrar to the Land Registry officer.

(5) The application shall inform the judgment creditor at whose insistence the application for sale was made, of the date of the hearing of the application to the Judge, and it shall be the duty of the judgment creditor to give notice to the judgment debtor and to such other persons (if any) as may be required by the Judge or by any Rule of Court.

ORDER 42A (a)

Attachment and Sequestration

1. *Where any order is issued by any Court directing any act to be done or prohibiting the doing of any act there shall be endorsed by the Registrar on the copy of it, to be served on the person required to obey it, a memorandum in the words or to the effect following :*

'If you, the within-named A.B., neglect to obey this order, by the time therein limited, you will be liable to be arrested and to have your property sequestered.'

2. *An office copy of the order shall be served on the person to whom the order is directed. The service shall, unless otherwise directed by the Court or a Judge, be personal.*

3.—(1) *Where such an order has been issued by any Court and the person directed to do or prohibited from doing an act (hereinafter referred to as 'the respondent') refuses or neglects to do or abstain from doing it, according to the directions or such order, the person in whose favour such order has been given (hereinafter referred to as 'the applicant') may apply to the Court for a writ of attachment.*

(2) *Such an application shall be made by summons supported by affidavit and an office copy thereof shall, unless otherwise directed by the Court or a Judge, be served on the respondent personally. But the Court or a Judge, if satisfied that the delay caused by proceeding in the aforesaid way would or might entail irreparable or serious mischief, may make an order ex parte upon such terms as to costs or otherwise, and subject to such undertaking, if any, as the Court or Judge may think just; and any party affected by such order may move to set it aside.*

4. *On the return day of the summons, if the respondent does not attend and the Court is satisfied that he has been duly served, the Court may order that a writ of attachment be issued against him.*

5. *The court may enlarge the time for the appearance of the respondent, or may, on the return day of the summons, direct that the writ of attachment shall issue only until after a certain time and in the event of his continued disobedience at the time to the order in respect of which he has been guilty of disobedience.*

6. *If the respondent shall not establish sufficient excuse for not attending on the return day of the summons, or if he attends and does not show cause to the satisfaction of the Court why he should not be punished for disobedience, the Court may order him to pay such fine, or to be committed to prison for such time as the Court directs.*

7. *The Court may order that a person committed to prison for disobedience to an order shall be detained in prison till he has obeyed such order in all things that are to be immediately performed and given such security as the Court thinks fit to obey the other parts of the order, if any, at the time or times when they are to be performed.*

8. *Whenever any such order or commitment shall have been made the Registrar shall issue, under the seal of the Court, a warrant of commitment directed to the proper officer of the Court who by such warrant shall be empowered to take the body of the person against whom such order shall have been made, and all police officers within their several jurisdictions shall aid in the execution of every such warrant, and the gaoler or keeper of every gaol or prison mentioned in*

(a) Order 42A inserted by Rules of Court 321/1954 – came into force on 20 May 1954

any such order shall be bound to receive and keep therein the person against whom such order of commitment shall have been made until he shall be discharged by due course of law.

9. *Where any person in custody under a warrant desires to apply for his discharge, he shall file an affidavit showing that he has purged or is desirous of purging his contempt, and shall, not less than one clear day before the application is made, serve on the party at whose instance the warrant of attachment was issued, an office copy of the affidavit, together with notice of his intention to make the application.*

10. *In case the respondent against whom a writ of attachment has issued is not and cannot be found, the Court may make an order that a writ of sequestration be issued against his property. The said writ shall bind his immovable property from the date of the order in the same manner, and to the same extent in every respect, as an order for sequestration in a civil action.*

11. *The writ of sequestration shall be directed to two or more persons to be appointed by the Court for that purpose, who shall be commanded and empowered to enter upon all immovable property of the person against whom the writ shall issue, and collect, take, and get into their hands not only the rents and profits of his said immovable property, but also all his goods, chattels, and movable property, and detain and keep the same under sequestration in their hands until he shall appear before the Court and purge his contempt, or the Court shall make other order to the contrary. And the Court may order payment out of the proceeds of such sequestration of all charges attending the execution thereof, including such reasonable remuneration to the persons appointed to carry out the same as the Court shall think fit to allow.*

12. *In all proceedings against any person for disobedience of the order of a Court, the Court before which such proceedings are taken shall make such order as to the costs thereby occasioned as to the Court shall seem just.*

13. *A writ of attachment shall be in Form 39A, and a writ of sequestration shall be in Form 39B.*

ORDER 43

Execution by Attachment of Debt or Property

1. Whenever in any proceedings to obtain an attachment under Part 7 of the Civil Procedure Law, Cap.7, it is suggested by the garnishee that the debt or property sought to be attached belongs to some third person, or that any third person has a lien or charge upon it, the Court or Judge may order such third person to appear and state the nature and particulars of his claim upon such debt or property.

2. After hearing the allegations of the third person under such order as in the preceding rule mentioned, and of any other person whom by the same or any subsequent order the Court or a Judge may order to appear, or in case of such third person not appearing when ordered, the Court or Judge may order execution to issue to levy the amount due from the garnishee, with the costs of the garnishee proceedings, or may make such other order as such Court or Judge shall think fit upon such terms with respect to the lien or charge (if any) of such third person and the costs as the Court or Judge shall think just and reasonable.

3. A writ of attachment may be issued by the Registrar upon presentation of an office copy of the order directing the issue of the writ.

ORDER 43A (a)

Writ of Possession

1.—(1) *Where a judgement or order of a Court for the recovery or delivery of possession of any immovable property is sought to be enforced by a writ of possession, the writ may be issued by leave of the Court or a Judge obtained on an ex parte application by the plaintiff supported by an affidavit. The affidavit shall be in Form 39C and writ in Form 39D.*

(2) *Such leave shall not be given unless it is shown that all persons in actual possession of the whole or any part of the property have received such notice of the proceedings as may be considered sufficient to enable them to apply to the Court for relief or otherwise.*

2. *Upon any judgement or order for the recovery of any property and costs, there may be either one writ or separate writs of execution for the recovery of possession and for the costs at the option of the successful party.*

3. *Every writ of possession shall be passed to a bailiff for execution; and where costs are to be recovered under the same writ, the provisions of Order 44 shall be observed in so far as they are applicable except that every writ of possession issued shall be entered in a separate register.*

ORDER 43B

Writ of Delivery

1. *Where it is sought to enforce a judgement or order for the recovery or delivery of any movable property by writ of delivery, the Court or a Judge may, upon the ex parte application of the plaintiff, order that execution shall issue for the delivery of the property, without giving the defendant the option of retaining the property upon paying its assessed value, if any, and that if the property cannot be found, and unless the Court or a Judge shall otherwise order, the deputy sheriff shall distrain all the movable and immovable property of the defendant till the defendant deliver the property; or, at the option of the plaintiff, that the deputy sheriff cause to be levied, by seizure and sale of the defendant's movable property, the assessed value, if any, of the property which cannot be found. The application for the writ of delivery shall be accompanied by a copy of the judgement or order sought to be enforced.*

2. *A writ of delivery shall be in Form 39E; and when a writ of delivery is issued, the plaintiff shall, either by the same or a separate writ of execution, be entitled to levy, by seizure and sale of the defendant's movable property, the damages and costs awarded, and interest.*

3. *Every writ of delivery shall be passed to a bailiff for execution; and where damages or costs are to be recovered under the same writ, the provisions of Order 44 shall be observed in so far as they are applicable except that every writ or delivery issued shall be entered in a separate register.*

ORDER 44

Bailiffs

1. Every bailiff shall have power to do all things necessary for the execution of a writ for the seizure and sale of movable property, and upon receipt of the writ he shall take all steps necessary for its prompt and due execution.

2. Every writ for the seizure and sale of moveable property shall, before it is handed to the bailiff, be registered by the registry officer in charge of writs (hereinafter called "the writ clerk") in the register of writs, which shall be initialled by the bailiff, and after it is handed to him it shall

(a) Order 43A and 43B inserted by Rules of Court 321/1954 – came into force on 20 May 1954

be entered in the bailiff's book, which shall be initialled by the writ clerk; and the number of the book and the page thereof shall be endorsed on the writ.

3. The bailiff's book shall be in form 40 with numbered pages. A register of these books shall be kept by the writ clerk; and when a book is issued to a bailiff, the Registrar shall number the book and initial it, and the bailiff shall initial the register, and when he completes his book, he shall return it to the Registrar.

4. The bailiff shall issue receipts out of a counterfoil receipt book for all moneys he receives and obtain the payer's signature on the counterfoil of the receipt issued. The bailiff shall enter the serial numbers of the counterfoils of such receipts in the bailiff's book; and the writ clerk shall check, at least once a month, these counterfoils with the bailiff's book and initial both books the entries checked, and shall satisfy himself that all moneys received have been promptly paid out. If the writ clerk discovers any cases in which the bailiff has kept money more than two days, he shall report the fact to the Registrar; and the Registrar, if satisfied with the bailiff's explanation of the delay, shall make a note to that effect in the bailiff's book.

5. The bailiff shall pay promptly into the Treasury or to the judgment creditor (according to the direction given in the writ) the net proceeds of the sale, and shall in the one case affix the Treasury receipt to the appropriate page of the bailiff's book, noting on the page its number and date, and in the other take the payee's receipt on the page itself. But this Rule shall be read subject to section 45 (2) of the Bankruptcy law, Cap. 6, as regards execution for an amount exceeding twenty pounds in respect of a judgment.

6. When a levy is completed, or is impracticable, the bailiff shall return the writ into Court with an endorsement thereon made by the Chairman of the Village Commission showing the gross amount collected and net sum given to the bailiff, or that there were no goods to seize. And when a writ is returned, the writ clerk shall satisfy himself both as to the amount collected and that it has been paid out by the bailiff, and shall make a note to that effect both on the writ and in the bailiff's book before filing the writ.

7. Not less than once a month the writ clerk shall inspect the register of writs and the bailiff's books and furnish the Registrar with a list of outstanding writs: and the Registrar shall take all proper steps to ensure that such writs are executed and returned with dispatch.

8.—(1) Upon proceeding to execute a writ the bailiff shall obtain the assistance of the Chairman of the Village Commission of the village in which the execution is to be effected, or, (in case of the Chairman of the Village Commission's absence, illness or incapacity, or where the Chairman of the Village Commission is himself the judgment debtor) of a member of the village commission, and shall seize in his company so much of the judgment debtor's moveable property as in the bailiff's opinion would be amply sufficient to cover the amount on the writ and the expenses of the levy, and place him in possession thereof.

(2) The Chairman of the Village Commission or such member of the village commission shall keep the property seized in safe custody and sell it at auction to the highest bidder, after giving notice of the intended sale in the village, so soon as may be practicable after the lapse of three days after seizure.

(3) The Chairman of the Village Commission or such member of the village commission shall keep an account (to be known as the "Chairman of the Village Commission's account") showing the names of the purchasers and the amounts for which the property seized was sold. The Chairman of the Village Commission or such member will be allowed his reasonable expenses in connection with the seizure and sale and such fees as allowed under the Village Authorities Law, Cap. 256 and the Village Authorities (Fees Regulation) Law, Cap. 259, or any enactment substituted therefore.

(4) If no sale takes place the Chairman of the Village Commission (or such member) may be allowed by the Registrar his reasonable expenses in connection with the seizure, and the same shall be paid by the judgment creditor or by sale of the goods seized, as the Registrar may direct.

(5) The Chairman of the Village Commission's account shall be handed to the bailiff and the Chairman of the Village Commission or said member shall sign in the bailiff's book a receipt for

the money received by him for expenses and charges, and such receipt shall be sealed with the Chairman of the Village Commission's seal.

9.—(1) In case no bid is made for the property seized when put up to auction, or in case the price bid is manifestly low and inadequate, the Chairman of the Village Commission or person referred to in rule 8 of this Order, may, in his discretion, suspend the continuance of the sale, and in such case he shall report the fact to the bailiff, and the bailiff may, in his discretion, order the property to be removed by the Chairman of the Village Commission or such person as aforesaid to the chief town or other town or village of the district to be put up to action, and in such a case the Chairman of the Village Commission or such person shall be entitled to charge the fair and reasonable expenses of such removal and for any loss of time at a rate not exceeding five shillings a day, or other reasonable expenses incurred by such new auction, against the proceeds of sale.

(2) If the judgment creditor desires that the property be removed to a town or village of another district, the Registrar may allow its removal at the creditor's expense, which shall not be recoverable by him.

10. All the expenses and the charges legally payable under these rules shall be added to the amount recoverable under the writ, unless the Court or a Judge shall otherwise order.

11. The execution of a writ shall not be suspended unless the Court or a Judge so orders or the judgment creditor or his advocate withdraws the writ by writing under his hand. The notice of withdrawal should where practicable be endorsed on the writ itself and should specify the ground of withdrawal with details (if such is the case) of the amount received or arrangement arrived at; and where the writ is withdrawn because the creditor admits that the property seized belongs to a third person claiming the same, an inventory thereof signed by the bailiff shall be attached to the writ.

12. If the property seized is claimed by a third person them-

- (a) If the bailiff or the deputy sheriff is of opinion that the claim is without foundation, he shall inform the claimant in writing that he may within three days of the seizure apply to the Court for an order to stay the sale and avail himself of section 20 of the Civil Procedure Law, Cap.7.
- (b) If the bailiff or the deputy sheriff is of opinion that there is some foundation for the claim, he shall give notice in Form 41 to the judgment creditor or his advocate, and, if the seizure is not abandoned, shall interplead upon the creditor furnishing the security mentioned in the notice, or, if such security be not furnished within the time specified in the notice, may withdraw from possession. The interpleader shall be made by summons without affidavit but with notice thereof given to all person affected by seizure.

13.—(1) If a bailiff seizes property belonging to the judgment debtor from a hotel or workshop, he shall ask in writing (Form 42) the person in charge of the hotel or workshop whether there is any claim for hotel dues or for work done on the property seized; and the person in charge shall forth with inform the bailiff in writing (Form 43) whether there is any such claim and give the details thereof.

(2) Upon a claim being made as aforesaid, the bailiff shall inquire of the judgment creditor and the judgment debtor whether they admit it. If they do, the bailiff shall take their admission in writing and pay the amount of the lien of the person in charge of the hotel or workshop out of the net proceeds of the sale. If either of them does not admit the claim in writing, the bailiff shall pay the net proceeds into the Treasury as a deposit, and the deputy sheriff shall interplead by summons without affidavit but with notice thereof to all interested persons.

14. If goods are seized in a shop or store under the lease of the judgment debtor and kept there under seizure and the rent for the time they are so kept has not been paid, the landlord shall be paid the rent for such time out of the proceeds of the sale of such goods. And if no sale takes place, such rent shall be paid by the judgment creditor or by sale of such goods, as the Registrar may direct.

15. *Where the bailiff is unable to obtain, for any reason, the assistance of the Chairman or member of the Commission of the village in which the execution is to be effected he may, subject to directions received from the Writs Clerk seek the assistance of any appropriate person or public Officer or if he considers it necessary not to as the assistance of the aforementioned persons but proceed with the execution of the writ alone, he shall himself carry out the duties that the Chairman of the Village Commission or the member of the Village Commission would have exercised if his assistance was obtained. (a)*

ORDER 45

Receivers

1. Every summons by a separate judgment creditor of a partner for an order charging his interest in the partnership property and profits under section 25 of the Partnership Law, Cap. 196, or for such other orders or directions as are thereby authorized to be made or given, shall be served on the judgment debtor and on his partners, or such of the as are in Cyprus; and such service shall be good service on all the partners, and all orders made on such summons shall be similarly served.

2. Every application which shall be made by any partner of the judgment debtor under section 25 of the Partnership Law, Cap. 196, shall be made by summons, and such summons shall be served on the judgment creditor and on the judgment debtor, and on such of the other partners as shall not concur in the application and as shall be in Cyprus, and such service shall be good service on all the partners and all orders made on such summons shall be similarly served.

3. In every case in which an application is made for the appointment of a receiver under section 25(2) of the Partnership Law, Cap. 196, the Court or a Judge, in determining whether it is just or convenient that such appointment should be made, shall have regard to the amount of the debt claimed by the applicant, to the amount which may probably be obtained by the receiver, and to the probable costs of the appointment, and may, if they or he shall so think fit, direct any inquiries on these or other matters before making the appointment.

4. Except as provided in the next following rule, where an order is made directing a receiver to be appointed, unless otherwise ordered, the person to be appointed shall first give security by recognizance or otherwise as the Court or a Judge may direct in a form approved by them or him, and with or without sureties as they or he may direct, to be taken before the Registrar, duly to account for what he shall receive as such receiver, and to pay the same as the Court or a Judge shall direct; and the person so to be appointed shall, unless otherwise ordered, be allowed a proper salary or allowance.

5. Where any judgment or order is pronounced or made in Court appointing a person therein named to be receiver, the Court or a Judge may adjourn to chambers the cause or matter then pending, in order that the person named as receiver may give security as in the last preceding rule mentioned, and may thereupon direct such judgment or order to be drawn up.

6. When a receiver is appointed with a direction that he shall pass accounts, the Court or a Judge shall fix the days upon which he shall (annually, or a longer or shorter periods) leave and pass such accounts, and also the days upon which he shall pay the balances appearing on the accounts so left, or such part thereof as shall be certified as proper to be paid by him. And with respect to any such receiver as shall neglect to leave and pass his accounts and pay the balances thereof at the times so to be fixed for that purpose as aforesaid, the Judge before whom any such receiver is to account may from time to time, when his subsequent accounts are produced to be examined and passed, disallow the salary therein claimed by such receiver, and may also, if he thinks fit, charge him with interest at the rate of four per centum per annum upon the balances so neglected to be paid by him during the time the same shall appear to have remained in the hands of any such receiver.

(a) Rule 15 inserted by Rules of Court 65/1986 – came into force on 08 September 1986

7. Receivers' accounts shall be in such form as the Court or a Judge may direct.

8. Every receiver shall leave in the office of the Registrar his account, together with an affidavit verifying the same. An appointment shall thereupon be obtained by the plaintiff or person having the conduct of the cause for the purpose of passing such account.

9. In case of any receiver failing to leave any account or affidavit, or to pass such account, or to make any payment, or otherwise, the receiver or the parties, or any of them, may be required to attend at chambers to show cause why such account or affidavit has not been left, or such account passed, or such payment made, or any other proper proceeding taken, and thereupon such directions as shall be proper may be given at chambers or by adjournment into Court, including the discharge of any receiver and appoint of another, and payment of costs.

10. A certificate of the Registrar stating the result of a receiver's account shall from time to time be taken.

ORDER 46

Enforcement of Judgments in Newspaper Libel Actions

1. Where a successful plaintiff in an action for libel in a newspaper is desirous of obtaining an order under section 64 of the Civil Wrongs Laws, Cap. 9, he shall apply by summons to the Court which gave the judgment accompanied by-

- (a) an affidavit (Form 44);
- (b) an office copy of the judgment in the action;
- (c) a certificate of the costs allowed in the action, if the amount of such costs does not appear on the copy of the judgment;
- (d) an office copy of the return to the writ of execution on the defendant's movable property;
- (e) an office copy of the final account showing the return to the writ of execution (if any) on the defendant's immovable property;
- (f) a certificate of the Land Registry Office showing the immovable property standing registered in the defendant's name for his place of residence; and
- (g) a copy of the bond referred to in the said section, certified by the Colonial Secretary to be a true copy, together with a similarly certified copy of any document embodying the security (if any) given for such bond.

2.—(i) Where the Court makes an order that the judgment be enforce against a signatory of the bond referred to in the said section, such order shall operate as a judgment against him and may be enforced and executed accordingly.

- (ii) Where the Court makes an order for execution to be levied against the security referred to in the said section, it may at any time give such directions in relation to the order as the nature of the case may require, and the Registrar shall, at the applicant's expense, take all necessary steps for carrying out the Court's order and directions.

ORDER 47

Enforcement of Extra-Judicial Orders

1. Whenever provision is made in any Law enabling enforcement by a Court of an order made under the Law, or the removal of such order into a Court for enforcement, application may be made *ex parte* to the Court or a Judge to enter the order in its book of orders, and upon leave being given the order sought to be enforced may be entered into the book of civil orders in the case of an

order removed in to the Supreme Court, and in the book of orders on originating applications in the case of an order removed in the District Court.

2. The application shall be accompanied by the order sought to be enforced and any certificate or other document which may by Law be required, and shall be numbered and filed as an origination application.

3. It shall not be necessary to draw up the leave given under rule 1 of this Order; but the order sought to be enforced when entered shall be signed by a Judge of the Court, and thereupon may be enforced as an order of the Court.

ORDER 48

Applications

1. Every application to the Registrar shall be in writing stating the nature of the request made and referring to the specific section of the Law or to the specific Rule of Court upon which it is founded. If the application relies on any facts which do not appear in the Court books or records, it shall be supported by affidavit.

2.—(1) Save where other provision is made, every application to the Court shall be in writing stating the nature of the order or direction sought and referring to the specific section of the Law or to the specific Rules of Court upon which it is founded.

(2) Application made *ex parte* shall be in Form 45; applications made by summons shall be in Form 46, and set out at the foot thereof the name of every person to be served therewith and the address at which service is to be effected, which in the case of any person who has given an address for service in action may be such address.

(3) In the case of applications which may under rules 8 and 9 of this Order be made without affidavit, the facts relied upon (if any) shall be stated in the applications; and in the case of applications supported by affidavits, it shall be sufficient if reference is made thereto for the facts relied upon.

3. Where an application is made by summons an office copy thereof shall be served on all persons affected thereby; and where such application is supported by affidavit, an office copy of the affidavit shall be served together with the summons. The service shall be effected at least four days before the day fixed for hearing of the application.

4. If any person served with a summons to attend the hearing of an application intends to oppose the application, such person shall, at least two days before the day fixed for hearing, file a notice of such intention in the Form 47 and leave a copy thereof for the applicant at this address for service. Such notice shall refer to the specific section of the Law or to the specific Rules of Court upon which the opposition is founded. Any facts relied upon in opposition which are not apparent on the face of the proceedings shall be set out in one or more affidavits accompanying the notice of opposition, and copies of such affidavits shall be left for the applicant together with such notice. If there is a conflict between the applicant and any person giving notice of opposition in regard to the facts, the applicant or such person must, at the hearing of the application, be prepared to prove the facts he relies upon in so far as the burden of proof lies upon him.

5. If on the hearing of an application by summons the Court or Judge is of opinion that any person to whom notice has not been given ought to have or have had notice, the Court or Judge may either dismiss the application, or adjourn the hearing thereof, in order that such person may be served as provided in rule 3 of this Order, upon such terms (if any) as the Court or a Judge may see fit to impose.

6. The hearing of any application may from time to time be adjourned upon such terms (if any) as the Court or Judge shall think fit.

7. The Court or Judge, in disposing of any application, may direct by whom the costs of the application are to be paid, and in default of any such direction, such costs shall be costs in the action, and, unless otherwise disposed of at the hearing of the action, shall be paid in the same manner, and by the same person, as the costs of the action.

8.—(1) The following applications may be made *ex parte*—

- (a.1) under Order 2, rule 2, for leave to issue a writ of summons for service out of Cyprus, or of which notice is to be given out of Cyprus;
- (a.2) under Order 2, rule 14, for leave to seal a writ without its being accompanied by a retainer in writing;
- (b) under Order 2, rule 15, for an order to remove the stay in a prodigal's action begun without his guardian's consent;
- (c) under Order 4, rule 1, for renewal of writ of summons;
- (d) under Order 5, rule 8, for leave to serve a writ of summons on an agent residing or carrying on business in Cyprus in an action relating to or arising out of a contract entered into in Cyprus by or through such agent on behalf of principal residing or carrying on business outside Cyprus;
- (e) under Order 5, rule 9, for substituted service or notice of the writ of summons;
- (f) under Order 6, rule 4, for leave to server a writ of summons or notice thereof on a defendant out of Cyprus.
- (g) under Order 8, rule 1, for leave to sue or defend as a pauper;
- (h) under Order 8, rule 10 or 11, for leave to appeal as a pauper;
- (i) under Order 9, rule 8, for an order to join persona beneficially interested in a trust or estate;
- (j.1) under Order 9, rule 9, for leave to sue or defend on behalf of persons having the same interest in a cause or matter;
- (j.2) under Order 9, rule 12A, for an order appointing a representative of a person who cannot be found;
- (k) under Order 9, rule 13, for an order appointing a representative of a deceased person's estate;
- (l) under Order 10, rule 1, for leave to issue and serve a third-party notice;
- (m) under Order 10, rule 6, for leave to defendant suffering judgment by default to enter, after satisfaction of the judgement against himself, judgment against a third party who failed to enter appearance;
- (n) under Order 10, rule 9, for leave to issue execution under third-party procedure before satisfaction by defendant of the judgment against him;
- (o) under Order 12, rule 2, for an order making a party the personal representative, trustee or other successor in interest of a party;
- (p) under Order 12, rule 4, for the proceedings to be carried on between the continuing and new parties;
- (q) under Order 13, rule 2, for leave to join a claim by a trustee in bankruptcy as such with a claim by him in another capacity;
- (r.1) under Order 16, rule 9, for leave to enter a conditional appearance;
- (r.2) under Order 16, rule 11, for leave to receive a memorandum without its being accompanied by a retainer in writing;
- (s) under Order 17, rules 3,4,5,6,7,8,9 or 11, for judgment in default of appearance;
- (t) under Order 17, rule 12, for an appointment for the hearing of an originating summons in default of appearance;
- (u) (Deleted);

- (v) under Order 25, rule 1, for amendment of endorsement on writ of summons or statement of claim, if before service thereof;
- (w) under Order 25, rule 5, for leave to amend a memorandum of appearance;
- (x) under Order 26, rule 11, for leave to deliver a defence to a counter-claim after lapse of time prescribed by the rule or allowed by order;
- (y) under Order 26, rules 2,3,4,5,6,7,8 and 12, for judgment in default of pleading;
- (z) under Order 28, rule 1, for discovery by affidavit of documents;
 - (aa) under Order 32, rule 1, for leave to issue summons to a witness less than ten days before the day on which he is required to attend;
 - (bb) under Order 33, rule 8, for leave to take away exhibits;
 - (cc) under Order 35, rule 4, for leave to amend notice of appeal if before service thereof;
 - (dd) under Order 35, rule 6(3), for reinstatement of appeal struck out for failure to pay balance of fees on copies, if application is made within three months of lodging the notice of appeal, or within seven days after the appeal is struck out, whichever period may last expire;
 - (ee) under Order 35, rule 18, for stay of execution pending appeal;
 - (ff) under Order 35, rule 20, for leave to appeal solely in regard to costs;
 - (gg) under Order 35, rule 21, for dismissal of appeal in default of prosecution;
 - (hh) under Order 35, rule 27, for leave to appeal under the proviso to section 18 (1) or under section 18 (3) of the Courts of Justice Law, Cap. 11;
 - (ii) under Order 35, rule 30, for leave to person suing or defending on behalf of parties under disability, to consent to limitation or exclusion of rights of appeal;
 - (jj) under Order 36, rule 2, for leave to read evidence taken in another cause or matter between the same parties or their privies;
 - (kk) under Order 40, rule 8, for leave to issue execution after six years have elapsed since the judgment or order or where any change has taken place in the parties entitled or liable to execution, if the Court or Judge is satisfied that it is impracticable to serve a summons or give notice thereof and the property on which it is desired to levy execution has devolved by death;
 - (ll) under Order 40, rule 11, for an interim stay of execution on the ground of facts which arose too late to be pleaded;
 - (mm) under Order 40, rule 15, on application by deputy sheriff for directions in regard to the execution of a writ;
 - (nn) under Order 47, rule 1, for leave to enter an extra judicial order;
 - (oo) under Order 51, rule 1, for leave to serve or give a summons or notice in manner other than that specified in the said rule;
 - (pp) under Order 51, rule 4, for service at short notice;
 - (qq) under Order 57, rule 2, for enlargement or abridgment of time, except in regard to extension of time for appearance by third-party procedure;
 - (rr) under Order 63, rule 10, for a general search or inspection or for office copies, if by a person not a party;
 - (ss) in any other case in regard to which it is expressly provided that the application may be made *ex parte*.

(2) *Ex parte* applications need not (unless required by the Court or Judge) be supported by affidavit except in the cases lettered (a.1),(c),(d),(e),(f),(g),(h),(i),(k),(l),(m),(n),(o),(p),(x),(aa),(dd), (ff),(ii),(kk),(oo),(pp),(qq),(rr), of paragraph (1) of this Rule and in any other case

in which it is expressly provided that the application shall be supported by affidavit. In case (ff) an affidavit need not accompany the application if it is based solely on the ground that the direction or order as to costs sought to be appealed from is contrary to the provisions of any law or rule.

(3) The Court or Judge dealing with an application made *ex parte* may direct that it be made by summons with notice to such persons as the Court or Judge may think fit.

(4) Any person (other than the applicant) affected by an order made *ex parte* may apply by summons to have it set aside or varied and the Court or judge may set aside or vary such order on such terms as may seem just.

9. Saving the powers conferred on the Courts and Judges by section 3 of the Courts of Justice (Supplementary provisions) Law, Cap. 12, and section 8 of the Civil Procedure Law, Cap. 7, to make temporary orders without notice under the circumstances and in the manner mentioned and provided in the said sections, all applications other than those mentioned in rule 8 of this Order shall be made by summons supported by affidavits of the facts relied upon with this qualification that, unless required by the Court or Judge, the under mentioned applications (and any others in which an affidavit is expressly dispensed with) need not be accompanied by affidavit—

- (a) under Order 8, rule 8, for an order in favour of advocate assigned to a pauper directing payment out of money or a charge on property recovered by the pauper;
- (b) under Order 13, rule 1, for an order for separate trials of causes united in the same action, if all the facts relied upon are apparent on the face of the proceedings;
- (c) under Order 13, rule 6, for an order confining the action to such of the causes united in the action as may be conveniently disposed upon are apparent on the face of the proceedings;
- (d) under Order 14, rule 1, for consolidation of libel actions;
- (e) under Order 14, rule 2, for consolidation of other actions, if all the facts relied upon are apparent on the face of the proceedings;
- (f) under Order 15, rule 1, for leave to discontinue action or withdraw defence;
- (g) under Order 15, rule 3, for judgment for costs upon discontinuance of action or in respect of matter withdrawn;
- (h) under Order 17, rule 10, for an order setting aside a judgment which is irregular on the face of the proceedings;
- (i) under Order 19, rule 6, for further and better statement of claim or defence, or further and better particulars;
- (j) under Order 19, rule 26, for an order striking out unnecessary or scandalous matter in pleadings;
- (k) under Order 21, rule 10, for exclusion of counter-claim, if all the facts relied upon are apparent on the face of the proceedings;
- (l) under Order 21, rule 14, for leave to deliver reply or subsequent pleading;
- (m) under Order 24, rule 6, for judgment on admissions of fact;
- (n) under Order 26, rules 1 and 10, for judgment in default of pleadings;
 - (nn) under Order 26, rule 9, for judgment for unanswered part of claim;
- (o) under Order 27, rule 3, to strike out a pleading that discloses no cause of action or answer, or to stay or dismiss an action or enter judgment where the pleadings show the action or defence to be frivolous or vexatious;
- (p) under Order 29, rule 2, for an order to decide a question of law in the first instance (without prejudice to the express provisions of Rule 4 in that Order);
- (q) under Order 35, rule 28, for consolidation of appeals if all the facts relied upon are apparent on the records of the appeals to be consolidated;
- (r) under Order 37, rule 8, for an order directing a witness to attend or be sworn or answer a question;

- (s) under Order 49, rule 10, for an order enforcing a summons to a witness to attend before the arbitrator;
- (ss) under Order 57, rule 3, for an order for amendment, delivery or filing of pleadings during any other part of the last seven days of the period mentioned in Order 61, rule 2 (a);
- (t) under Order 60, for security of costs, if the fact relied upon is plaintiff's residence out of Cyprus and such fact appears on the writ;
- (u) under Order 63, rule 3, for setting aside proceedings for irregularity, if the irregularity is apparent on the face of the proceedings; and
- (v) in any other case in regard to which it is expressly provided that the application may be made without affidavit.

10. Where a Judge in delivering his decision on an application makes use of notes or reads a written judgment, the notes made use of or the judgment read shall forthwith be handed to the Registrar to be filed.

11. Every order, if and when drawn up, shall be drawn up in the same manner as judgments are by these rules directed to be drawn up, and when drawn up, shall show on the face of it by whom, or on whose behalf, the application was made, and the nature of the order made. Every such order may be set aside or varied in the same way as a judgment, and may be enforced in any manner in which the judgment, and may be enforced in any manner in which the judgment of a Court may be enforced.

12. Every order shall from the date thereof be binding on the person on whose application the same was made and on all parties to the action on whom notice of the application was duly served. Where any party to the action has not been duly served with notice of the application, such order shall be binding on him from the date of the service of an office copy thereof upon him.

ORDER 49

Arbitration

1. The consent of the parties to refer an action to arbitration pursuant to section 4 of the Courts of Justice (Supplementary Provisions) Law, Cap. 12, shall be signified in writing signed by the parties themselves in the presence of a Judge, Registrar, certifying officer, or notary public. If the consent is on separate documents, such documents shall be identical in all material respects. The document or documents of consent shall be filed.

2. If any party to the action is under any disability of any kind, his consent shall be of no value and arbitration shall not be ordered, unless the person suing or defending on his behalf consents and the Court or Judge considers that such party's interests run no risk of being prejudiced by an arbitration.

3. The consent shall be intitled in the action and state that the parties concerned consent to the action being referred to arbitration.

4. Upon the parties consenting as aforesaid and upon any party applying by summons for reference to arbitration and giving notice to all parties concerned, the Court or Judge may, if of opinion that the action cannot, by reason of its requiring any prolonged examination of documents or any scientific or local investigation or by reason of the question in dispute consisting wholly or in part of matters of account, conveniently be tried in the ordinary way, make an order referring the action to arbitration. Where in the action there are in dispute both a claim and a counter-claim, the order of reference shall be construed as including both, unless either is expressly excluded by the consent or the order of reference.

5. No order of reference shall be entered unless provision be made for the arbitrator's costs by the parties or such of them as the Court or Judge may direct by depositing the sum within the time specified by the Court or Judge such sum in respect thereof as may be ordered. And if the

deposit is not made within such time, the order shall become *ipso facto* void unless the time is extended by the Court or Judge, and the action shall proceed as if no consent had been filed.

6.—(1) The order of reference shall specify the arbitrator and the rate of his remuneration; but such rate may be increased or reduced if the Court or Judge so think fit.

(2) Not more than one arbitrator may be appointed.

(3) Save under Order 18, rule 7, a Judge or an advocate engaged in the action, or the clerk of such advocate, may not be appointed.

(4) A civil servant shall not be appointed without the consent of his departmental head obtained in writing and filed.

(5) An arbitrator shall not be appointed without his consent signified in writing and filed.

(6) An arbitrator shall not be appointed unless he swears before the Court or Judge or files an affidavit that he will conduct the proceedings with all possible speed and determine the action with impartiality.

(7) Subject to these provisions, the Court or Judge may have regard to the wishes of the parties as shown in the consent filed, but shall, nevertheless, have unfettered discretion in deciding on the appointment, and shall appoint a fit and proper person.

7.—(1) The order of reference shall limit the time within which the award is to be filed, but the time may be enlarged whether before or after the time limited has expired.

(2) Where the time is enlarged, the enlargement shall be deemed to be for one month, unless a different time is specified in the order.

8. A copy of the order of reference and of such part of the file of proceedings as may in the opinion of the Court or Judge be necessary shall be handed to the arbitrator, and any proceedings before him prior to his receiving such copies shall be void.

9. The arbitrator shall appoint the time for the conduct of the proceedings before him, and the Registrar shall at his request give notice to the parties of the time and place at which the proceedings before him will be held. The notice shall be not less than a ten days' notice.

10. The proceedings before the arbitrator shall, as nearly as possible, be conducted in the same way as proceedings before the Court, and he shall have power to administer oaths to the witnesses. Summonses to witnesses to give evidence or produce documents before him may be issued by the Registrar upon the request of any party and enforced by order of the Court upon the arbitrator's application in the same way as summonses to appear before a Court. The summons shall specify clearly the time and place at which the witness is required to attend.

11. If after notice given as provided in rule 9 of this Order a party fails to appear before the arbitrator, he may proceed in that party's absence to hear the case and make his award. If no parties appear he may dismiss the action.

12. If the arbitrator is an advocate he shall have power to decide all questions of evidence and any other question relating to the proceedings before him, including the costs of the action. If he is not an advocate he shall refer questions of evidence and costs with his report thereon, in the form of a case for the decision of the Court, if so requested by a party to the proceedings. But this rule shall be subject to any special directions made in the order of reference.

13. The award shall be in writing signed by the arbitrator; it shall be sent to the Registrar in a sealed cover together with the copy of the order of reference, the copies of the notes of the proceedings before the Court furnished to him pursuant to rule 8 of this Order and the arbitrator's own notes of the proceedings before him. Any documents and exhibits put in evidence before him shall be sent by him at the same time in a separate sealed cover with a distinguishing label. Save as provided in rule 16 of this Order, copies of the papers sent by the arbitrator shall be furnished to any party upon payment of the prescribed fee. The Registrar shall note on the envelopes the day and time when he received them.

14. The arbitrator shall be regarded as an officer of the Court and may invoke its aid by application in any matter, and the Court or a Judge may make such order as may be necessary with a view to the proper conduct of the proceedings before the arbitrator. The arbitrator's applications and the orders thereon shall be free of charge.

15. If the arbitrator is a civil servant, he may adjourn the proceedings to suit the convenience of his duties as such; but if he is not a civil servant, he shall conduct the proceedings *de die in diem* until they are concluded, and shall not adjourn them except for good reason to be recorded in his notes and communicated to the parties present: provided that any arbitrator may reserve consideration of his award.

16.—(1) The arbitrator shall be bound to hear the action referred to him and make award thereon, and if he unduly delays, refuses or neglects to carry out his duties, he may be ordered by the Court to pay the costs occasioned by such undue delay, refusal, or neglect, and to forfeit any remuneration he may have earned, unless he satisfies the Court or Judge that such delay, refusal or neglect was justifiable.

(2) An arbitrator shall, for good reason shown, be liable to removal by the Court upon application made prior to the receipt of his award by the Registrar. The affidavit in support of such application shall state that the applicant is not acquainted with the result of the award. A copy of the application and affidavit in support shall be served upon the arbitrator and the other parties to the proceedings. In such a case he may hold up his award or may send it to the Registrar, but the envelope shall not be opened until the application is decided; and if the arbitrator's removal is ordered, the papers sent by him to the Registrar shall, with the exception of the documents and exhibits put in evidence before him, be destroyed by the Registrar unopened, and the Court or Judge may make order or direction for the further conduct of the case as may seem fit.

(3) Save as aforesaid, judgment may, upon the application of any party, and subject to the arbitrator's costs having been paid or provided for, be given in conformity with the award in so far as it determines the action referred, but if there is any mistake apparent on the face of the award, the Court may remit it for correction and then give judgment accordingly.

17. (Revoked)

ORDER 50

Address for Service

1.—(1) Every party to an action or other proceeding before a Court of first instance shall furnish an address for service, being some proper place within the municipal limits of the town or village in which is situated the registry of the Court in which the action or other proceedings is instituted, at which address documents intended for him may be left.

(2) In the case of appeals or other proceedings before the Supreme Court every party thereto shall furnish an address for service in Nicosia.

2. If in the course of the action or appeal a change occurs in a party's address for service, such party shall give notice of his new address to the Registrar and to every other party, failing which the old address for service shall continue to stand; but if at such old address the occupant of the premises refuses to allow such address to be treated as the address for service, it shall be sufficient if anything intended for the party failing to give notice of his new address for service is filed in the action or appeal. This rule shall also apply to a guardian *ad litem*.

3. The plaintiff shall give his address for service on the writ of summons, and the defendant on his memorandum of appearance, and any person subsequently becoming a party to the action or any application therein shall give his address for service on the first document that he files in the action and on the first document he serves or delivers in relation thereto. Any person already a party to the action or any application therein who serves notice of any proceedings on a person who is not already such a party shall on the document he serves state his address for service.

ORDER 51

Service

1. Any summons or notice to be served or given to any person may be served or given at his address for service if he has furnished one, and if he has not then at his last known or usual place of residence or, if this is impossible, with the leave of the Court or Judge obtained *ex parte*, in any of the ways in which service or notice of a writ of summons may be effected or given. Any everything done on any proceeding whereof notice has been served or given according to these rules shall be binding on a person so served or notified, whether he attends on the proceeding or not.

2. All documents or processes required to be served under any Rules of Court or under any Law shall be served through the Court on payment of the prescribed fee: such fee shall in the first instance be paid by the party by whom or on whose behalf application is made for such service. Such application shall be made, and fees paid, at the time of filing or issue of the originals of such documents or processes, and the Registrar may refuse to file or issue such originals except upon production of an application for service having endorsed thereon a certificate by the proper officer that the fees have been paid.

2A. Where under these Rules or any Law, personal service or any other mode of service is required for the service of any writ, notice, pleadings, order, summons, warrant or other document in any cause or action, and where the person served is the consular officer of a State in respect of which the Governor has notified the Chief Justice that the provisions of this rule shall apply, service shall be effected by posting a registered envelope addressed to such officer at his Consulate by the Registrar of the Court issuing the document; and the time at which the document so posted would be delivered for service in the ordinary course of post shall be considered as the time of service thereof.

3. Every document calling upon a person to appear before the Court, or giving any person notice of any proceeding proposed to be had or taken before the Court, shall, save where it is otherwise provided by these rules, be served on such person at least four days prior to the day on which he is required to appear, or on which the proceeding whereof notice is given is to be had or taken.

4. The Court or Judge may, if it or he shall see fit, by order direct that any such document be served at short notice, care being taken that the person to be served, having regard to his place of residence, is allowed sufficient time to comply with the notice; and on making the order the Court or Judge may also thereby direct in what manner service of the document is to be effected.

Any such order may be made on the application of any person without notice to any other person.

5. When the Court or Judge shall authorize any document to be served at short notice, the order need not be drawn up but a note shall be made on such document by the Registrar that it is so served under the authority of an order of the Court or Judge.

6. When application is made for the service of any document, the document to be served shall be accompanied by a duplicate, and the affidavit of service shall be endorsed upon or have attached thereto as an exhibit, such duplicate.

ORDER 52

Applications under Usury Laws

1. Every application by a farmer under the Usury (Farmers) Law, Cap.178, and the Dealings between Merchants and Farmers Law, Cap. 193, shall be in writing intituled as follows:-

“In the matter of the (give short title of Law under which the application is made).

Between A.B. of _____, a farmer Applicant
and
C.D. of _____, a merchant Respondent.”

2. The application shall set forth the nature of the relief sought and be supported by affidavit of the facts relied upon.

3. If pending the hearing of such an application the creditor brings an action on the agreement or to enforce the security which is the subject matter of the application, the Court or Judge may, if it appears expedient, direct that the action and the application be heard together.

4. Subject to the provisions of the said Laws and of these rules the fees payable, and the procedure to be followed in respect of such applications and of appeals from decisions thereon shall be regulated by the same rules and provisions as are applicable to applications by summons with such modification as the Court or Judge may direct to suit the nature of the case.

5. Costs in respect of such applications shall be according to the scale applicable in actions where the subject matter or the sum recovered exceeds £15 but does not exceed £25 unless the Court or Judge shall order that a lower or higher scale be applicable.

ORDER 53

Trade Marks

1. Applications to the Supreme Court under the Trade Marks Law, 1951, shall be in writing in the Form 48, and shall be accompanied by affidavits of the facts in support thereof.

2. An office copy of the application and affidavit in support thereof shall be, not less than seven days before the day fixed for hearing—

- (i) served on the Registrar of Trade Marks and any person affected by the application; and
- (ii) published in the Gazette.

3. Any person wishing to oppose the application shall, not less than four days before the day fixed for hearing—

- (i) file a notice of intention to oppose together with an affidavit of the facts in support thereof; and
- (ii) leave office copies of such notice and affidavit at the applicant’s address for service.

4. Applications and notices of intention to oppose shall—

- (i) set forth specifically the Law and Rules relied upon; and
- (ii) contain an address for service within the municipal limits of Nicosia.

5. The rules governing applications by summons shall apply to applications in regard to trade marks with such modification as the Court or Judge may direct to suit the nature of the case.

6. Proceedings relating to trade marks shall be entitled—

“In the matter of the Trade Marks Law, 1951,”

(and

where the application is in respect of a trade mark already registered,

“In re Trade Mark No. _____ of A.B. _____.”)

ORDER 54

Winding-up of Limited Partnerships

1. In the event of a limited partnership being wound up by the Court every present and past partner, general or limited, shall be liable to contribute to the assets of the limited partnership to an amount sufficient for payment of its debts and liabilities, and the costs, charges, and expenses of the winding-up, and for the adjustment of the rights of the contributories amongst themselves, with the qualifications following, that is to say:-

(1) No present or past limited partner shall be liable to contribute as such to the assets of the limited partnership to any greater amount than the amount of any part of his contribution as such limited partner which he may have drawn out or received back since he became or whilst he remained a limited partner, except in the case of a present limited partner who is a past general partner and in the case of a past limited partner who has become a present general partner.

(2) No past general partner shall be liable to contribute as such to the assets of the limited partnership, except in respect of partnership debts and obligations incurred whilst he continued to be a general partner: but every past general partner who has become a limited partner shall in addition to any amount which he may be liable to contribute in respect of partnership debts and obligations incurred while he continued to be a general partner be liable to contribute to the assets of the limited partnership to an amount equal to the amount of any part of his contribution as such limited partner which he may have drawn out or received back since he became or whilst he remained a limited partner.

(3) No past partner, general or limited, shall be liable to contribute as such to the assets of the limited partnership unless it appears to the Court that the existing partners are unable to satisfy the contributions required to be made by them in pursuance of this rule.

(4) No sum due to any partner, general or limited, in his character of a partner, by way of capital, dividend, profits, or otherwise, shall be deemed to be a debt of the limited partnership payable to such partner in a case of competition between himself and any other creditor not being a partner: but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories amongst themselves.

2.—(1) Every petition for winding-up a limited partnership shall be in Form 49.

(2) A petition for the winding-up of a limited partnership if presented in the name of the firm shall be signed by all the general partners, if there are more than one.

3.—(1) Every demand for payment, and every notice of the institution of any action or other proceeding, and every petition for the winding-up of a limited partnership unless presented in the name of the firm by all the general partners jointly, if there are more than one, shall be served upon the limited partnership at the principal place of business of the limited partnership as registered, by delivering the same to one of the general partners there or to some person having at the time of service the control or management of the partnership business there, unless the court or Judge shall otherwise direct.

(2) Every petition for the winding-up of a limited partnership presented in the name of the firm by all the general partners jointly, if there are more than one, or presented by any general partner, shall be served on each of the limited partners personally unless the Court or Judge shall otherwise direct.

(3) Every notice and other document requiring to be served upon the limited partnership for the service of which no special mode is prescribed may be served by leaving the same at the principal place of business of the limited partnership as registered.

4. For the purpose of settling the list of contributories the Court shall have power to rectify the register of the limited partnership in respect of—

- (a) the name of any of the partners whether general or limited; and
- (b) the sum contributed by any limited partner; and

- (c) the nature of the liability of any partner, whether general or limited as therein registered and otherwise as may be necessary for the purpose aforesaid, upon the application of any person aggrieved or of any partner whether general or limited.

5. In the event of any contributory being adjudged bankrupt, entering into an agreement to pay his creditors less than twenty shillings in the pound, or dying in insolvent circumstances, and of an order being made for the administration of his estate according to the law of bankruptcy, the liquidator shall not have power to prove, rank, claim, and draw a dividend for any balance against the estate of such contributory, or to take and receive dividends in respect of such balance, until the claims of other separate creditors of such contributory for valuable consideration in money or money's worth have been satisfied.

ORDER 55

Declaration on Originating Summons

1. Any person claiming to be interested under a deed, will, or other written instrument, may apply to the Court by originating summons (Forms 50 and 51) for the determination of any question of construction arising under the instrument, and for a declaration of rights of the persons interested.
2. The Court or Judge may direct such persons to be served with the summons as they or he may think fit.
3. The application shall be supported by such evidence as the Court or Judge may require,
4. The Court or Judge shall not be bound to determine any such question of construction if in their or his opinion it ought not to be determined on originating summons.

ORDER 56 (a)

Action of Mandamus

- ~~1. The plaintiff, in any action in which he shall, pursuant to the Mandamus Law, Cap.23, claim a mandamus to command the defendant to fulfil any public duty in the fulfilment of which the plaintiff is personally interested, shall endorse such claim upon the writ of summons.~~
- ~~2. The endorsement shall be to the effect following—
“For a mandamus commanding the defendant to”, etc.~~
- ~~3. If judgment be given for the plaintiff the Court may by the judgment command the defendant either forthwith or on the expiration of such time and upon such terms as may appear to the Court to be just, to perform the duty in question. The court may also extend the time for the performance of the duty.~~
- ~~4. A mandamus shall be by judgment or order, which may be enforced in the same way as a judgment or order may be enforced.~~

(a) Order 56 repealed by Public Instrument 19/2007 – came into force on 08 May 2007

ORDER 57

Time

1. The day on which an order for security for costs is made, and the time allowed for the giving of such security, shall not be reckoned in the computation of time allowed to plead or take any other proceeding in the cause or matter.

2. A Court or Judge shall have power to enlarge or abridge the time appointed by these rules, or fixed by any order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case may require, and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed: provided that when the time for delivering any pleading or document or filing any affidavit, answer or document, or doing any act is or has been fixed or limited by any of these rules or by any direction or order of the Court or Judge, the costs of any application to extend such time and of any order made thereon shall be borne by the party making such application unless the Court or Judge shall otherwise order.

3. Summonses may be issued and pleadings may be amended, delivered, or filed during the last seven days of the period mentioned in Order 61, rule 2 (a), but pleadings shall not be amended, delivered or filed during any other part of that period, unless by order of the Court or a Judge to be obtained by summons.

4. Save where the Court or a Judge otherwise orders, the time of the period mentioned in Order 61, rule 2(a), shall not be reckoned in the computation of the times appointed or allowed by these rules for amending, delivering, or filing any pleading, except to the extent of the last seven days of that period.

ORDER 58

Language

1. Subject to rule 3 of this Order, any document served in Cyprus shall, if served on a Greek-speaking person, be in Greek, and if served on a Turkish-speaking person, be in Turkish, and in all other cases be in English.

2. Judgment and orders shall be entered in English. If a Greek or Turkish translation of a judgment or order is required for service in Cyprus, it shall be made by the Registrar of the Court.

3. Documents for the use of the Court presented by advocates who are barristers shall be in English. And documents intended for any such advocates may, even where the client for whom he is acting is Greek or Turkish-speaking, be in English. Advocates other than barristers may bring themselves under this rule by giving notice to that effect to the Registrar of the Court before which they appear, who shall post it up in the registry for public information.

ORDER 59

Costs

1. Subject to the provisions of any law or rules, the costs of and incident to any proceeding shall be in the discretion of the Court or Judge, who may authorize an executor, administrator or trustee who has not unreasonably instituted, or carried on, or resisted any proceeding, to have his costs paid out of a particular estate or fund.

2. Where upon the trial of any cause or matter it appears that the same cannot conveniently proceed by reason of the advocate for any party having neglected to attend personally, or by some other person on his behalf, or having omitted to give notice or deliver any papers or do any other

act that was necessary, the advocate shall personally pay to all or any of the parties such costs as the Court or Judge shall think fit to award.

3. Where an advocate appearing in an action or other proceeding on a bond, account, or other liquidated claim, is plaintiff, or where, although the plaintiff named on the record is another person, the Court or Registrar is satisfied that the real claimant is the advocate himself, such advocate shall, notwithstanding any agreement to the contrary, be entitled to his out-of-pocket costs only: and where in such actions or proceedings the plaintiff being an advocate, (or, although the plaintiff is another person, the Court or Registrar is satisfied that the real claimant is an advocate) employs counsel to appear for him, such plaintiff shall, notwithstanding any agreement to the contrary, be allowed his out-of-pocket costs only.

4. Save where other provision is made, in causes or matters commenced after these rules come into operation, and in respect of proceedings taken hereafter in causes or matters already commenced, parties as between themselves, and advocates as between themselves and their clients shall, subject to the provisions of these rules and any special order of the Court, be entitled to charge and shall be allowed such fees set forth in Appendix B as are appropriate to the case; and where the claim in any case or matter is not a claim for money, the value of the claim must be ascertained from the evidence in the case or, if it cannot, then from any admission made to the Registrar or evidence received by him.

5. For the purposes of taxation or any other matter which he is authorized to hear the Registrar may administer oaths.

6. The Court or Judge may allow, or order to be taxed, fees on a higher scale than those specified in Appendix B on special grounds arising out of the nature and importance or the difficulty or urgency of the case, and may in addition allow, generally or in regard to particular items, fees for a second advocate on such scale as may seem fit, but not exceeding two-thirds of the fees allowed to the first advocate.

7. If in any case it shall appear to the Court or Judge that costs have been incurred either improperly or without any reasonable cause, or that by reason of any undue delay in proceeding under any judgment or order or of an misconduct or default of the advocate, any costs properly incurred have nevertheless proved fruitless to the person incurring the same, the Court or Judge may call on the advocate of the person by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the advocate and his client, and also (if the circumstances of the case shall require) why the advocate should not repay to his client any costs which the client may have been ordered to pay to any other person; and may thereupon make such order as justice of the case may require. Such notice (if any) of the proceedings or order shall be given to the client in such a manner as the Court or Judge may direct.

8. A set-off for damages or costs between parties may be allowed.

9. In any probate action in which it is ordered that any costs shall be paid out of the estate, the Court or Judge making such order may direct out of what portion or portions of the estate such costs shall be paid, and such costs shall be paid accordingly.

10. Costs may (where necessary) be taxed on an award.

11. In every bill of costs the professional charges shall be entered separately from the disbursements, and the two sets of items shall be totalled separately in the bill.

12. In any case where the Court or Judge shall think fit to award costs to any party, the Court or Judge may by the order direct taxation of costs of such party and payment of a proportion thereof, or direct payment of a sum in lieu of taxed costs, and direct by and to whom such proportion or sum shall be paid.

13. The Court or Judge may, at the hearing of any cause or matter, or upon any application or proceeding in any cause or matter in Court or at chambers, and whether the same is objected to or not, direct the costs of any endorsement on a writ of summons, pleading, summons, affidavit, evidence, notice requiring a statement of claim, notice to produce, admit, or cross-examination

witnesses, account, statement, procuring discovery, applications for time, bills of costs, service of notice of summons, or other proceeding, or any party thereof, which is improper, vexatious, unnecessary or contains vexatious or unnecessary matter, or is of unnecessary length, or caused by misconduct or negligence, to be disallowed, or may direct the taxing officer to look into the same and to disallow the costs thereof, or of such part thereof as he shall find to be improper unnecessary, vexatious, or to contain unnecessary matter, or to be of unnecessary length, or caused by misconduct or negligence; and in such case the party whose costs are so disallowed shall pay the costs occasioned thereby to the other parties; and in any case where such questions shall not have been raised before and dealt with by the Court or Judge, it shall be the duty of the taxing officer to look into the same (and, as to evidence, although the same may be entered as read in any judgment or order) for the purpose aforesaid and thereupon the same consequence shall ensue as if he had been specially directed to do so.

14. In any case in which, under rule 13 of this Order, or any other Rule of Court, or by the order or direction of a Court or Judge, or otherwise, a party entitled to receive costs is liable to pay costs to any other party, the taxing officer may tax the costs such party is so liable to pay, and may adjust the same by way of deduction or set-off, or may, if he shall think fit, delay the allowance of the costs of such party is entitled to receive until he had paid or tendered the costs he is liable to pay; or such officer may allow or certify the costs to be paid, and the same may be recovered by the party entitled thereto in the same manner as costs ordered to be paid may be recovered.

15. On every taxation the taxing officer shall allow all such costs, charges and expenses, as shall appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same no costs shall be allowed which appear to the taxing officer to have been incurred or increased through over-caution, negligence, or mistake, or by payment of special fees to counsel or special charges or expenses to witnesses or other persons, or by other unusual expenses.

16. As to all fees or allowances which are discretionary, the same are, unless otherwise provided, to be allowed at the discretion of the taxing officer, who, in the exercise of such discretion, is to take into consideration the other fees and allowances to the advocate (if any) in respect of the work to which any such allowance applies, the nature and importance of the cause or matter, the amount involved, the interest of the parties, the fund or persons to bear the costs, the general conduct and costs of the proceedings, and all other circumstances.

17. If upon any taxation it shall appear that the costs have been increased by unnecessary delay or by improper, vexatious, prolix or unnecessary proceedings, or by other misconduct or negligence, or that from any other cause the amount of the costs is excessive having regard to the nature of the business transacted or the interests involved or the money or value of property to which the costs relate, or to the other circumstances of the case, the taxing officer shall allow only such an amount of costs as may be reasonable and proper, and shall (if necessary) apportion the amount among the parties if more than one.

18. Any party who may be dissatisfied with the certificate of the taxing officer, as to any item which may have been objected to, may within seven days from the date of the certificate, apply for review of the taxation as to such item or part of an item, and the Court may thereupon make such order as it may think just; but the certificate of the taxing officer shall be final and conclusive as to all matters which shall not have been objected to.

19. If an advocate makes an agreement with his client as to the fees to be paid to him by the client, such agreement shall not affect the amount of or any rights or remedies for the recovery of any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs, payable or recoverable by him to or from the client, to be taxed according to these rules unless such person has otherwise agreed: provided always that the client who has entered into any agreement with his advocate shall not be entitled to recover from any other person, under any order for the payment of any costs which are the subject of such agreement, more than the amount payable by the client to his own advocate under the same.

20. Subject to the provisions contained in these rules, the party enforcing a judgment or order shall be entitled to recover his costs of execution unless the Court shall otherwise direct:

Provided that where the judgment or order sought to be enforced is one for the payment of money and costs, the party enforcing it shall not be allowed as costs of execution more than the money directed to be paid (exclusive of costs) under such judgment or order:

Provided also that where the judgment or order is not one for the payment of money and directs the payment of costs, the party enforcing such payment of costs shall not be allowed as costs of execution more than the money directed to be paid as costs under such judgment or order.

In execution by sale of immovable property all fees and charges (including all fees and charges paid to the Land Registry Office in connection therewith) shall be deemed to be costs of execution.

Where the judgment or order sought to be enforced by sale of immovable property directs payment of a sum not exceeding twenty-five pounds costs shall be allowed for one application for such sale.

In other cases no costs shall be allowed for a second or subsequent application for such sale unless the Court is satisfied that such further application was really necessary.

21. In execution by sale of immovable property no costs of execution shall be recovered which are in excess of the amount realized at the sale unless for good cause shown the Court or a Judge shall otherwise order.

22. The costs of any proceedings which may require to be taxed shall be taxed by the Registrar of the Court in which the proceeding is taken, unless the Court disposing of the proceeding shall have already measured them under rule 13 of this Order.

23. On taxation of any bill of costs the Registrar shall call upon the party claiming any costs to furnish evidence that any sum claimed on account of service, or on account of the travelling expenses and costs of maintenance of any witness, or on account of the preparation of a plan or model, or on account of the translation or copying of any documents, or otherwise however, was in fact paid.

24. The Registrar need not require further proof of payment in sums in respect of work and service shown on the face of the proceedings to have been done and performed.

In matters not appearing on the face of the proceedings the Registrar shall require proof that the work has been done or the services rendered in respect of which any claim is made.

In respect of disbursements other than those in this rule mentioned or any liability the Registrar shall require proof that the payment has been made.

25. If it shall appear to the Court or the Registrar that costs have been incurred improperly or unreasonably, or that any costs properly incurred have proved fruitless through the fault of the advocate, the Court or Registrar may disallow such costs.

26. Where on taxation between advocate and the client the advocate relies upon any agreement and the client objects that it is unfair and unreasonable, the Registrar may enquire in the facts and certify the same to the Court; and if, upon such certificate, it shall appear to the Court or Judge that the cause has been shown either for cancelling the agreement or for reducing the amount payable under the same, the Court or Judge shall have power to order such cancellation or reduction, and to give all such order into effect, or otherwise consequential thereon, as to the Court or Judge may seem fit.

27. Any party seeking to recover costs may (but shall not be bound to) serve upon the party from whom payment is sought a copy of the bill of costs, with a demand for payment of the amount thereof; and if payment is not made within seven days of the day on which the copy of the bill of costs was served, the costs of the service shall be considered as part of the costs of taxation.

28. The costs of every taxation shall be paid by the parties, of such of them as the Registrar shall at the time of taxation direct, in such proportion and in such manner as he shall think right; and no costs of taxation shall be allowed unless claimed at the time of taxation.

29. —

- (i) When application is made for the taxation of a bill of costs, the Registrar shall appoint such time for the taxation as shall in his opinion be sufficient to enable all parties interested to appear before him; and notice of the time so fixed shall be caused to be served on all parties interested by the party applying for the taxation. For the purpose of any taxation of costs by the Chief Registrar the address for service of a party shall include the address of any advocate who may have appeared for such party on the hearing before the Court.
- (ii) —(a) When advocate's fees are claimed in a taxation between party and party, the bill of costs shall, where no retainer by the party claiming costs has been filed, be accompanied by a joint affidavit or separate affidavits by the party applying and his advocate (or advocates, where costs for more than one advocate has been certified by the Court), stating whether or not any express agreement was made in regard to the advocate's remuneration and whether or not such agreement was oral (in which case the terms thereof shall be set forth in the affidavit) or in writing (in which case the written agreement shall be attached to the affidavit as an exhibit thereto).
- (b) When an advocate seeks to tax costs against his client he shall, with his bill, where no retainer has been filed, file an affidavit stating that he was retained by the client orally or in writing (in which latter case he shall attach the written retainer to the affidavit as an exhibit, if it is not already filed in Court), and whether or not he made any express agreement about his remuneration: if he states that there was such agreement, he shall, if it was oral, set forth the terms thereof in the affidavit, or, if it was in writing, attach it to the affidavit as an exhibit thereto.

30. The proceedings on the taxation of any bill of costs shall, as nearly as possible, be the same as on the hearing of an action.

31. Where the Registrar shall allow to the party seeking to recover costs the costs of taxation or any part thereof, he shall add the costs of taxation allowed to the amount of the taxed costs.

Where he shall allow to the party from whom costs are sought to be recovered his costs of taxation or any part thereof, he shall set off the costs of taxation allowed by him against the amount of taxed costs, and the person seeking to recover costs shall be entitled only to recover the residue.

32. Where any party is ordered to pay the costs of any action or of any action or of any proceeding in an action, such costs shall not include the costs of proving any document, unless it was proved in the course of action (or is proved at the time of taxation) that notice to admit the document according to the provisions of Order 24, rule 2, was duly served on such party.

33. Where the Court shall by its judgment order that the costs occasioned by an particular party of any claim or defence are to be paid by the party making such claim or defence, the Registrar on ascertaining the particulars of any costs claimed under such order, may apply to the court for directions as to whether all or any of the costs so claimed are to be considered as costs so ordered to be paid.

34. Where any party is ordered to pay the costs of any appeal, such costs shall not, unless the Court which heard the appeal or a Judge thereof shall otherwise order, include any costs occasioned by the neglect of the appellant to specify in his notice of appeal the particular part of the judgment or order against which the appeal is made, and the Registrar in taxing any bill of

costs may, when he has ascertained the particulars thereof, apply to the Court for directions as to whether any of the costs claimed are to be considered as costs so occasioned.

35. Any person entitled to recover costs shall, on application, be furnished by the Registrar with a certificate of the amount of such costs allowed on taxation, to be dated as of the day of taxation.

36. Certificates of taxation may, upon being filed, be executed as if they were orders of the Court, but execution thereon may be stayed by order of a Judge of the Court on the same terms as execution of an order of the Court may be stayed.

ORDER 60

Security for Costs

1. A plaintiff (and, in respect of a counter-claim which is not merely in the nature of a set-off, a defendant) ordinarily resident out of Cyprus may, at any stage of the action, be ordered to give security for costs, though he may be temporarily resident in Cyprus.

2. In actions, brought by resident out of Cyprus, when the plaintiff's claim is founded on a judgment or order or on a negotiable instrument, the power to require the plaintiff to give security for costs shall be in the discretion of the Court.

3. Where a person sues as next friend or an infant or other person under disability he may, if an appellant, be ordered to give security for costs.

4. If it appears that person suing is not the real plaintiff but is merely suing as nominal plaintiff in somebody else's interest, then such person may, at any stage of the action, be required to give security for costs on the grounds of insolvency or poverty.

5. Where the Court orders security for costs to be given it may stay the proceedings in the action until such security is given, and in the event of the security not being given within the time appointed may dismiss the action.

6. Where a bond is to be given as security for costs, it shall, unless the Court or a Judge otherwise directs, be given to the party or person requiring the security, and not to an officer of the Court.

ORDER 61

Court Sittings

1. The period from the 15th August to the 14th September, both inclusive, shall be the annual vacation of the Supreme Court:

Provided that the Chief Justice may, if it appears to desirable, direct sittings to be held during the vacation at such time as he may deem fit.

2. The trial of civil actions in the District Courts may be discontinued—

- (a) from the 1st Monday in July for eleven weeks, that is to say, until the third Saturday in September:

Provided that the President of a District Court shall, on application by the Crown, and may, if it appears to him desirable, direct sittings to be held for such time as he may deem fit, for the trial of civil actions;

- (b) on the day before Christmas;
- (c) on Saturday before Easter;
- (d) on the two days before and the day following the Greek-Orthodox Easter, so far as Greek-Orthodox litigants are concerned;

- (e) for three days during Ramazan Bairam and three days during Qurban Bairam, and on the Birthday of the Prophet, so far as Moslem litigants are concerned;
- (f) on the 6th January so far as the Greek-Orthodox Armenian litigants are concerned.

ORDER 62

Court Books and Office Procedure

1. The Registrar shall keep a cause book in connection with the proceedings in actions, which books shall show such particulars as the Chief Justice may from time to time direct. In the absence of any such direction, the Registrar shall continue to show in the cause book the same particulars as heretofore.

2. The Registrar shall keep a taxing book in which he shall enter the particulars of every bill of costs taxed by him, showing which of the items claimed are allowed and which disallowed, and at the foot of such particulars he shall certify under this hand the amount allowed by him.

3. In actions for claims not exceeding twenty-five pounds the following shall bear a note under the hand of or initialled by a Court officer to the effect that the action is for a claim not exceeding twenty-five pounds—

- (i) all documents filed in the action;
- (ii) all judgments and orders entered therein;
- (iii) all documents issued in connection therewith;
- (iv) the counterfoils of any such documents.

4. The President of every Court shall make such arrangements as shall seem to him convenient for regulating the time at which application may be made to the officers of the Court for the issue of writs of summons, the drawing up of judgments, and other like matters.

Notice of such arrangements shall be posed in some conspicuous place in or near the Court.

ORDER 63

Title of Proceedings, File of Proceedings, and Record of Appeal

1. The name of the Court in which a writ of summons is filed, the names of the parties, and the number of the action together with the hear in which it is instituted, shall form the title of the action. In the case of an originating summons, application, or petition, the title directed by the law or rules governing the same, including the name of the Court in which it is filed and the number given to it in the registry of that Court, together with the year in which it is filed, shall form the title of such summons, application or petition. And every document to be used in an action, or upon an originating summons, application, or petition, shall be intituled with the title thereof, together with any amended title that may become necessary:

Provided that where there are two or more plaintiffs, applicants or petitioners, or two or more defendants or respondents, it shall be sufficient, except in judgments and others and where there is any provision to the contrary, to state the name of the first-named plaintiff, applicant or petitioner, and the first-named defendant or respondent, and that there are other plaintiffs, applicants, petitioners, defendants or respondents, as the case may be.

2. Where new parties are added or any parties struck out in the course of an action or proceeding by originating summons, application, or petition, the title shall be amended so as to state the names of the parties between whom the same is actually continued; and all documents therein, bearing date subsequent to the amendment of title, shall be intituled with the original and amend title and the date of the order directing such amendment, according to Form 52.

3. In every action the writ of summons, the form of entry of appearance, the pleadings (if any), the minutes of any proceeding before the Court or judge, the notes of evidence, affidavits, and depositions taken on commission, applications to the Court or Registrar, agreements for arbitration and awards, any judgment read or notes made use of in delivering judgment or making any order, notices of appeal and copies of judgments or order lodged therewith, and all other documents directed to be filed with the file of proceedings, shall be in loose paper fastened up together, and shall constitute the file of proceedings. This provision shall also apply, *mutatis mutandis*, to originating summonses, applications, and petitions. The file of the proceedings shall be kept in a jacket. The writ of summons (or other document whereby the proceedings are begun) shall be placed at the top and other documents shall follow in the order in which they are filed, and the latest in date being last in order. The documents shall be paged, beginning with page 1 for the writ, and where the writ is for more than fifty pounds, briefly described on the jacket, the page being shown against the description.

4. The record of an appeal shall consist of any application made to the Court of Appeal or its Registrar, any affidavit in support thereof or by way of evidence in the appeal, one of the copies prepared under Order 35, rule 6, any notes of evidence taken by the presiding Judge or another Judge on his behalf, any depositions taken on commission, any judgment read or notes made use of in delivering judgment or making any order, and any other document directed to be filed with the record of appeal. Notes of evidence taken in an appeal shall be on loose paper. Further the notes of the President of the District Court hearing an appeal shall be taken on loose paper and filed with the record of appeal.

5. All documents lodged with the Registrar by an advocate or on his behalf, and all documents served or delivered by an advocate or at his request, shall be typed. ~~The paper used shall be thirteen inches by eight, or thereabouts.~~ *The paper used shall be of the series of international size paper 210 x 297 millimetres (A4 marking).* (a) The lines shall be double-spaced, and paragraphs shall be separated by triple spacing. There shall be left on the top and the left-hand side a margin of about one inch and three-quarters, at the bottom of not less than one inch, and on the right-hand side of not less than half an inch. The Registrar may refuse to receive any document which does not comply with this rule; but no objections shall be allowed on the ground of non-compliance therewith.

6.—(1) The file of proceedings instituted in a District Court shall be in the custody of the Registrar of the Court and shall not leave his office except when needed by a Judge dealing with the proceedings, or when forwarded to another Court upon transfer of the proceedings, or to the Chief Registrar.

(2) The record of an appeal before the President of a District Court shall be in the Registrar's custody, and shall not leave his office except when needed by the President or sent to the Chief Registrar.

7.—(1) The file of proceedings instituted in the Supreme Court shall be in the custody of the Chief Registrar and shall not leave his office except when needed by Judge dealing with the proceedings.

(2) The record of an appeal before the Supreme Court shall be in the custody of the Chief Registrar and shall not leave his office except when needed in Court.

8. Any person upon payment of the proper fee may obtain any information which can be derived from inspection of the cause book in any cause or matter of which he can give the reference number and the general description, and the Registrar having custody of the cause book shall give him a certificate (which shall be admissible in evidence) specifying the dates and general description of the several proceedings which have been taken in such cause or matter.

9. Any party to a cause or matter is entitled as a right to inspect or be furnished with office copies of all documents and proceedings in such cause or matter upon payment of the proper fee.

(a) Text deleted and new text inserted by Rules of Court 41/1993 – came into force on 01 January 1993

10. On application for a general search of the cause books, or for inspection or office copies of a document or record by a person not party to the cause or matter, the grounds of the application shall be set out therein, and permission may be given by the President of the Court in which the same are kept if he so thinks fit.

11. In administration actions and causes all creditors, legatees, heirs and beneficiaries under the will, have the same rights of inspection as a party.

12. The inspection shall take place in the presence of the Registrar or an officer of the Court at such time as may be convenient to him.

ORDER 64 (a)

Effect of Non-Compliance

~~1. Non compliance with any of these rules, or with any rule of practice for the time being in force, shall not render any proceedings void unless the Court or Judge shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Court or Judge shall think fit.~~

~~2. No application to set aside any proceeding for irregularity shall be allowed unless made within reasonable time, nor if the party applying has taken any fresh step after knowledge of the irregularity.~~

~~3. Where an application is made to set aside proceedings for irregularity, the several objections intended to be insisted upon shall be stated in the summons.~~

~~4. When a summons is taken out to set aside any process or proceeding for irregularity with costs and the summons is dismissed generally without any special directions as to costs, it is to be understood as dismissed with costs.~~

ORDER 64

Effect of Non-Compliance

1.—(1) *Non-compliance, due to any action or omission, with the provisions of these Rules, in relation to time, place, manner, form, content or anything else upon the commencement or the presumed commencement of any proceedings, or at any stage in any proceedings, or relating to such proceedings, shall be presumed to be an irregularity and shall not render the proceedings, or any step in the proceedings, or any document, judgement or order made in proceedings, void.*

(2) Subject to paragraph (3), the Court may, when it finds such non-compliance with the Rules, as is provided in paragraph (1), and subject to such conditions as to costs or otherwise, as it considers fit, set aside wholly or in part the proceedings in which such non-compliance occurred, or any step that was taken in the proceedings, or any document, judgement or order made in the proceedings, or in exercising the powers conferred upon it by these Rules, allow such amendments, if required, and issue such order, if required, relating to the procedure generally, as it may consider appropriate.

(3) The Court shall not set aside wholly any proceeding, or the Summons, or other originating process with which the proceedings were commenced, on the ground that a different originating process was used to commence the proceedings other than that required by these Rules.

2. *An application to set aside any proceeding, or step which was taken in any proceeding, or any document, judgement or order made in the proceeding, for non-compliance, shall not be allowed, unless it is filed within a reasonable time and before the party who files the application takes any*

(a) Repealed and replaced by Rules of Court 51/1995 – came into force on 25 July 1995

fresh step, since the irregularity came to his knowledge, The alleged grounds for setting aside any proceedings under this Order, shall be specified in the application.

ORDER 65

Special Rules on Actions Relating to Claims not Exceeding ~~£50~~ ~~£100~~ (a) ~~£1000~~ (b) £5000(c)

1. This Order shall apply to actions relating to claims not exceeding ~~fifty hundred~~ (d) ~~one thousand five thousand~~ (e) ~~one thousand~~ (f) pounds. In such actions the foregoing Orders shall be observed with the modifications made by this present Order in regard to the conduct of such actions down to judgment.

2.—(1) In such actions a special form of writ of summons shall be used (Form 53). ~~In actions relating to claims in respect of accidents where the sum claimed varies between £1000—£5000, the plaintiff may opt for the use of either the form provided by this Rule or the one provided by Rule 1 or Order 2.~~ (g) (h)

(2) The writ of summons shall call upon the defendant to appear before the Court, at the time and place therein named, and inform him that if he intends to dispute the plaintiff's claim he must, within ten days after service of the writ of summons, deliver his defence in writing to the plaintiff or at his address for service, and give a duplicate thereof or send the same by registered post to the Registrar.

(3) The statement of claim (whether or not the same can be specially indorsed under Order 2, rule 6) shall be indorsed on the writ of summons, and signed by the plaintiff or his advocate.

(4) The writ of summons shall also contain an address for service for the plaintiff pursuant to Order 50, rule 1.

(5) The time named in the writ of summons for the appearance of the defendant shall not be less than ten days from the day on which the writ is issued.

3. An office copy of the writ of summons shall be served on the defendant not less than ten days before the day named therein for the appearance of the defendant. The person effecting the service shall note on the copy served the date of service.

4.—(1) The defendant may deliver his defence at any time before judgment. If he delivers it at any time after the time limited by the writ of summons for that purpose, he shall be ordered to pay any costs properly incurred by the plaintiff by reason of his failure to deliver his defence within the time limited by the writ.

(2) The defence shall contain an address for service for the defendant pursuant to Order 50, rule 1, and bear on top the title of the action and at the foot thereof the signature of the defendant or his advocate.

5. The defendant may by his defence set up a counter-claim against the plaintiff; but no counter-claim shall be entertained which raises questions between the defendant and the plaintiff along with others.

6. If a counter-claim is set up, the plaintiff shall, within ten days of the delivery thereof, deliver his defence thereto to the defendant or at his address for service, and give a duplicate of such defence or send the same by registered post to the Registrar.

(a) Heading and Rule 1 amended by Rules of Court 7/1973 – came into force on 30 January 1973

(b) Amended by Rules of Court 13/1983 – came into force on 18 February 1983

(c) Amended by Rules of Court 18/1988 – came into force on 01 January 1988

(d) Amended by Rules of Court 7/1973 – came into force on 30 January 1973

(e) Amended by Rules of Court 18/1988 – came into force on 01 January 1988

(f) Text deleted and new text inserted by Rules of Court 41/1993 – came into force on 01 January 1993

(g) Text inserted by Rules of Court 16/1990 – came into force on 17 February 1990

(h) Text deleted by Rules of Court 41/1993 – came into force on 01 January 1993

7. Save as aforesaid, no other pleadings shall be delivered.

8. No applications for interlocutory orders antecedent to judgment (other than applications for injunctions or variation of the times prescribed by the rules of this Order) shall be made before the hearing of the action. Any application for any such interlocutory order may be made orally at the hearing, and the Court may hear the application with it in such manner as may be just.

9. No further and better statement of the nature of the claim or defence shall be asked for before the hearing of the action.

The parties shall, in regard to their pleadings, pay attention to the rules governing the same, and particularly to rule 4, 5, 10, 11, 13, 15, 16, 18 and 20 of Order 19, rules 2, 3 and 4 of Order 20, and rules 2, 4 and 5 of Order 21.

10. (Revoked)

11. If at any time fixed by the writ of summons for the appearance of the defendant neither party appears the action shall stand dismissed and shall not subsequently be heard, unless on application to the Court, the Court orders reinstatement of the action on the ground that it is equitable so to do in circumstances of the case.

12. If at the time the plaintiff appears but the defendant does not, then upon proof being given to the defendant having been served with the writ of summons, the plaintiff may prove his claim, so far as the burden of proof lies upon him, and judgment may be given accordingly.

13. If at the time the defendant appears but the plaintiff does not, the defendant, if he has no counter-claim, shall be entitled to judgment dismissing the action, but if he has a counter-claim, then he may prove his counter-claim so far as the burden of proof lies upon him, and judgment may be given accordingly.

14.—(1) If at that time both parties appear and the defendant disputes the claim, the Court shall fix a day for the hearing of the action, *subject to the provisions of sub-paragraph (3) below.* (a)

(2) A defendant who is illiterate and is not represented by counsel may, subject to rule 4 of this Order in regard to costs, be allowed to state his defence orally in Court.

~~(3) If the defendant fails to deliver his defence with the time limited therefore by the writ of summons, the—~~(b) The plaintiff may orally apply to the Court for summary judgment, and the Court may thereupon receive evidence from the parties and generally do whatever may be done under Order 18 upon an application for summary judgment.

15. Nothing contained in this Order shall be construed as curtailing the Court's powers of adjournment or of varying under Order 57 the time appointed by any rule of this present Order, or any other powers conferred on the Court by any law or rules. Further, the court shall have power to vary the procedure in any action to which the Order applies in such manner as it may think fit with a view to saving time and expenses but so that no prejudice is caused to the parties concerned.

ORDER 66 (c)

Closed Material Procedure

Scope and interpretation

1.—(1) *This Order contains rules—*

(a) Text inserted by Rules of Court 18/1988 – came into force on 01 January 1988

(b) Text deleted and 'The' inserted by Rules of Court 18/1988 – came into force on 01 January 1988

(c) Order 66 inserted by Public Instrument 14/2022 – came into force on 16 May 2022

- (a) *about applications under 9ZF(2)(a), 9ZG(4)(a) and 9ZN(1) of the Civil Procedure Ordinance;*
 - (b) *about closed material applications in section 9ZF proceedings;*
 - (c) *about 9ZF proceedings;*
 - (d) *about appeals to the Senior Judges' Court where there have been proceedings on or in relation to any matter within sub-paragraphs (a) to (c).*
- (2) *Subject to paragraph (3), in this Order—*
- (a) *“closed material application” means an application of the kind mentioned in section 9ZH(1)(a) of the Ordinance;*
 - (b) *“legal representative” is to be construed in accordance with section 9ZL(1) of the Ordinance;*
 - (c) *“the Ordinance” means the Civil Procedure Ordinance;*
 - (d) *“relevant person” is to be construed in accordance with section 9ZL(1) of the Ordinance;*
 - (e) *“section 9ZF proceedings” is to be construed in accordance with section 9ZL(1) of the Ordinance;*
 - (f) *“sensitive material” has the meaning given by section 9ZF(11) of the Ordinance;*
 - (g) *“special advocate” means a person appointed under section 9ZI(1) of the Ordinance;*
 - (h) *“specially represented party” means a party whose interests a special advocate represents.*
- (3) *In relation to proceedings arising by virtue of section 9ZN of the Ordinance (review of certification)—*
- (a) *a reference to the relevant person is to be read as a reference to the Administrator, and*
 - (b) *a reference to the interests of national security includes a reference to the interests of the international relations of the United Kingdom.*

Hearings in private

2.—*(1) If the court considers it necessary for any party and that party's legal representative to be excluded from any hearing or part of a hearing in order to secure that information is not disclosed where disclosure would be damaging to the interests of national security, it must—*

- (a) *direct accordingly, and*
 - (b) *conduct the hearing, or that part of it from which that party and that party's legal representative are excluded, in private but attended by a special advocate to represent the interests of the excluded party.*
- (2) *The court may conduct a hearing or part of a hearing in private for any other good reason.*

Notifications of hearings

3. *Unless the court directs otherwise, it must serve notice of the date, time and place fixed for any hearing on—*

- (a) *every party, whether or not entitled to attend that hearing, and*
- (b) *the special advocate or those instructing the special advocate.*

Proceedings which must be determined at a hearing

4. *The following proceedings must, unless the court directs otherwise, be determined at a hearing—*

- (a) *an application by the Administrator under section 9ZF(2)(a) of the Ordinance for a declaration;*

- (b) *a closed material application;*
- (c) *a review of the court's own motion under section 9ZG of a declaration made under 9ZF of the Ordinance;*
- (d) *a formal review under section 9ZG(3) of the Ordinance of a declaration made under section 9ZF of the Ordinance;*
- (e) *an application under section 9ZG of the Ordinance for revocation of a declaration made under section 9ZF of the Ordinance;*
- (f) *an application under section 9ZN(1) of the Ordinance to have a certificate issued under section 9ZM(3)(e) of the Ordinance set aside;*
- (g) *an appeal to the Senior Judges' Court from a decision or order of any court in the Areas made in any of the proceedings mentioned in paragraphs (a) to (f) above.*

Appointment of a special advocate

5.—*(1) Subject to paragraphs (2) and (3), where—*

- (a) *the Administrator decides to make an application under section 9ZF(2) of the Ordinance for a declaration, or*
- (b) *the Administrator receives written notice under rule 15 of this Order (notification of intention to make application for a declaration) that a party other than the Administrator intends to make such an application, or*
- (c) *the Administrator receives written notice under rule 24 of this Order (review of certification) of an application under section 9ZN(1) of the Ordinance to have a certificate issued under section 9ZM(3)(e) of the Ordinance set aside,*

the Administrator must immediately give notice of the proceedings to the Attorney-General and Legal Adviser (who, under section 9ZI(1) of the Ordinance, has the power to appoint a special advocate).

(2) Paragraph (1) applies unless a special advocate has already been appointed to represent the interests of the specially represented party in the proceedings and that special advocate is not prevented from communicating with that party by virtue of rule 7 (special advocate: communicating about proceedings).

(3) Where any proceedings to which this Rule applies are pending but no special advocate has been appointed, any party or the Administrator may request that the Attorney-General and Legal Adviser appoint a special advocate.

Functions of a special advocate

6. *The functions of a special advocate are to represent the interests of a specially represented party by—*

- (a) *making submissions to the court at any hearing or part of a hearing from which the specially represented party and the specially represented party's legal representatives are excluded,*
- (b) *adducing evidence and cross-examining witnesses at any such hearing or part of a hearing,*
- (c) *making applications to the court or seeking directions from the court where necessary, and*
- (d) *making written submissions to the court.*

Special advocate: communicating about proceedings

7.—*(1) The special advocate may communicate with the specially represented party or the specially represented party's legal representative at any time before a relevant person serves sensitive material on the special advocate.*

(2) *After the relevant person serves sensitive material on the special advocate, the special advocate must not communicate with any person about any matter connected with the proceedings, except in accordance with paragraph (3) or (6)(b) or with a direction of the court pursuant to a request under paragraph (4).*

(3) *The special advocate may, without directions from the court, communicate about the proceedings with—*

- (a) the court,*
- (b) the relevant person (where this is not the Administrator),*
- (c) the Administrator or any person acting for the Administrator,*
- (d) the Attorney-General and Legal Adviser or any person acting for the Attorney-General and Legal Adviser, or*
- (e) any other person, except the specially represented party or the specially represented party's legal representative, with whom it is necessary for administrative purposes for the special advocate to communicate about matters not connected with the substance of the proceedings.*

(4) *The special advocate may request directions from the court authorising the special advocate to communicate with the specially represented party or the specially represented party's legal representative or with any other person.*

(5) *Where the special advocate makes a request for directions under paragraph (4)—*

- (a) the court must notify the relevant person, and (where the relevant person is not the Administrator) the Administrator, of the request and of the content of the proposed communication and the form in which it is proposed to be made, and*
- (b) the relevant person or the Administrator or each of them (where each wishes to object) must, within a period specified by the court, file with the court and serve on the special advocate notice of any objection which the relevant person or the Administrator has to the proposed communication or to the form in which it is proposed to be made.*

(6) *Paragraph (2) does not prohibit the specially represented party from communicating with the special advocate after the relevant person has served material on the special advocate, but—*

- (a) the specially represented party may only communicate with the special advocate in writing through the specially represented party's legal representative, and*
- (b) the special advocate must not reply to the communication other than in accordance with directions of the court, except that the special advocate may without such directions send a written acknowledgment of receipt to the specially represented party's legal representative.*

Evidence in proceedings to which this Order applies

8.—*(1) Subject to the other rules in this Part, the evidence of a witness may be given either—*

- (a) orally before the court, or*
- (b) in writing, in which case it must be given in such manner and at such time as the court directs.*

(2) The court may also receive evidence in documentary or any other form.

(3) The court may receive evidence that would not, but for this rule, be admissible in a court of law.

(4) Every party is entitled to adduce evidence and to cross-examine witnesses during any hearing or part of a hearing from which that party and that party's legal representatives are not excluded.

(5) A special advocate is entitled to adduce evidence and to cross-examine a witness only during a hearing or part of a hearing from which the specially represented party and the specially represented party's legal representatives are excluded.

(6) The court may require a witness to give evidence on oath.

Sensitive material

9.—(1) *The relevant person—*

- (a) must apply to the court for permission to withhold sensitive material from a specially represented party or the specially represented party's legal representative in accordance with this rule, and*
- (b) may not rely on sensitive material at a hearing on notice unless a special advocate has been appointed to represent the interests of the specially represented party.*

(2) *The relevant person must file with the court and, at such time as the court directs, serve on the special advocate—*

- (a) the sensitive material, and*
- (b) a statement of the relevant person's reasons for withholding that material from the specially represented party and the specially represented party's legal representatives.*

(3) *The relevant person may at any time amend or supplement material filed under this rule, but only with—*

- (a) the agreement of the special advocate, or*
- (b) the permission of the court.*

Consideration of closed material application or of objection to special advocate's communication

10.—(1) *This rule applies where the relevant person or, as the case may be, the Administrator has—*

- (a) applied under rule 9 (sensitive material) for permission to withhold sensitive material, or*
- (b) objected under rule 7(5)(b) (special advocate: communicating about proceedings) to a proposed communication by the special advocate or to the form in which it is proposed to be made.*

(2) *The court must fix a hearing for the relevant party, the Administrator and the special advocate to make oral representations, unless—*

- (a) the special advocate gives notice that he or she does not challenge the application or objection,*
- (b) the court has previously, in determining the application under section 9ZF(2) of the Ordinance for a declaration, found that the first condition in 9ZF of the Ordinance is met in relation to the same or substantially the same material and is satisfied that it would be just to give permission without a hearing,*
- (c) the court has previously considered—*
 - (i) an application under rule 9(1) for permission to withhold the same or substantially the same material, or*
 - (ii) an objection under rule 7(5)(b) to the same or substantially the same proposed communication; and is satisfied that it would be just to give permission or uphold the objection without a hearing, or*
- (d) the relevant person, the Administrator and the special advocate consent to the court deciding the application or objection without a hearing.*

(3) *If the special advocate does not challenge the application or the objection, he or she must give notice of that fact to the court, the relevant person and the Administrator no later than the end of—*

- (a) 14 days after the date on which the relevant person or the Administrator serves on the special advocate the notice under rule 7(5)(b) or the material under rule 9(2), or*
- (b) such other period as the court may direct.*

(4) *Where the court fixes a hearing under this rule, the relevant person, the Administrator and the special advocate must before the hearing file with the court a schedule identifying the issues which cannot be agreed between them, which must also—*

- (a) give brief reasons for their contentions in relation to each issue, and*
- (b) set out any proposals for the court to resolve those issues.*

(5) *A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.*

(6) *Where the court has, in determining an application under section 9ZF(2) of the Ordinance for a declaration, found that the first condition in section 9ZF of the Ordinance is met in relation to any material, it may give permission to withhold that material without a hearing in relation to that material, whether or not a hearing is required in relation to any other material.*

(7) *Where the court gives permission to the relevant person to withhold sensitive material, the court—*

- (a) must consider whether to direct the relevant person to serve a summary of that material on the specially represented party and the specially represented party's legal representative, and*
- (b) must ensure that any such summary does not contain material the disclosure of which would be damaging to the interests of national security.*

(8) *If the court is satisfied that—*

- (a) the relevant person does not intend to rely on sensitive material, and*
- (b) that material does not adversely affect the relevant person's case or support the case of another party to the proceedings, the court may direct that the relevant person must not rely in the proceedings on that material, without the court first requiring the relevant person to serve a summary of that material on the specially represented party and the specially represented party's legal representative.*

(9) *Where the court has not given permission to the relevant person to withhold sensitive material from, or has directed the relevant person to serve a summary of that material on, the specially represented party and the specially represented party's legal representative—*

- (a) the relevant person shall not be required to serve that material or summary, but*
- (b) if the relevant person does not do so, at a hearing on notice the court may—*
 - (i) if it considers that the material or anything that is required to be summarised might adversely affect the relevant person's case or support the case of another party to the proceedings, direct that the relevant person is not to rely on such points in the relevant person's case, or that the relevant person makes such concessions or takes such other steps as the court may direct, and*
 - (ii) in any other case, direct that the relevant person must not rely in the proceedings on that material or (as the case may be) on what is required to be summarised.*

(10) *The court must give permission to the relevant person to withhold sensitive material where it considers that disclosure of that material would be damaging to the interests of national security.*

Failure to comply with directions

11.—*(1) Where a party or the special advocate fails to comply with a direction of the court, the court may serve on that person a notice which states—*

- (a) the respect in which that person has failed to comply with the direction,*
- (b) a time limit for complying with the direction, and*
- (c) that the court may proceed to determine the proceedings before it on the material before it if that person fails to comply with the direction within that time limit.*

(2) Where a party or the special advocate fails to comply with the direction after such a notice, the court may proceed in accordance with paragraph (1)(c).

Judgments

12.—*(1) Where the court gives judgment in any proceedings to which this Order applies, it may withhold any, or any part, of its reasons if and to the extent that it is not possible to give those reasons without disclosing information the disclosure of which would be damaging to the interests of national security.*

(2) Where the judgment of the court does not include the full reasons for its decision, the court must serve on the relevant person, the Administrator (where not the relevant person) and the special advocate a separate written judgment giving those reasons.

Application by the Administrator or relevant person for reconsideration of decision

13.—*(1) If the court proposes, in any proceedings to which this Order applies, to serve on a specially represented party—*

- (a) notice of any order or direction made or given in the absence of the Administrator or, if the relevant person is not the Administrator, the absence of the relevant person, or*
- (b) any written judgment,*

then before the court serves any such notice or judgment on the specially represented party, it must first serve notice on the Administrator and, if the relevant person is not the Administrator, on the relevant person, of its intention to do so.

(2) The Administrator or relevant person may, within 5 days of being served with notice under paragraph (1), apply to the court to reconsider the terms of the order or direction or to review the terms of the proposed judgment if the Administrator or relevant person considers that—

- (a) the Administrator or relevant person's compliance with the order or direction, or*
- (b) the notification to the specially represented party of any matter contained in the judgment, order or direction, would cause information to be disclosed where such disclosure would be damaging to the interests of national security.*

(3) Where the Administrator or relevant person makes an application under paragraph (2), the Administrator or relevant person must at the same time serve on the special advocate—

- (a) a copy of the application, and*
- (b) a copy of the notice served on the Administrator or relevant person pursuant to paragraph (1).*

(4) Rule 10 of this Order (consideration of closed material application or of objection to special advocate's communication), except for paragraphs (6) to (8) of that rule, applies with any necessary modifications to the consideration of an application under paragraph (2) of this rule.

(5) The court must not serve notice or a written judgment on the specially represented party as mentioned in paragraph (1) before the time for the Administrator or relevant person to make an application under paragraph (2) has expired.

Possible application for declaration under section 9ZF of the Ordinance by Administrator: notification to Administrator if not a party

14.—*(1) This rule applies to applications under section 9ZF of the Ordinance (application for a declaration that the proceedings are proceedings in which a closed material application may be made).*

(2) This rule applies where the Administrator is not a party to relevant civil proceedings but—

- (a) it appears to—*
 - (i) a party to those proceedings, or*
 - (ii) the court,*

that the party may be required to disclose material the disclosure of which would be damaging to the interests of national security, and

- (b) *either—*
 - (i) *the party does not intend to make an application under section 9ZF of the Ordinance for a declaration, or*
 - (ii) *the court does not consider it appropriate to make such a declaration of its own motion.*
- (3) *Where this rule applies by virtue of paragraph (2)(a)(i) and (b)(i)—*
 - (a) *the party must—*
 - (i) *notify the Administrator and the court in writing, and*
 - (ii) *not disclose the material in question unless and to the extent that the court directs, and*
 - (b) *the court must on receiving notification give such directions as appear necessary pending the Administrator's response.*
- (4) *Where this rule applies by virtue of paragraph (2)(a)(ii) and (b)(ii), the court must—*
 - (a) *direct the party in question not to disclose the material in question unless and to the extent the court directs otherwise,*
 - (b) *notify the Administration in writing, and*
 - (c) *give such directions as appear necessary pending the Administrator's response.*
- (5) *Within 14 days of being notified in accordance with paragraph (3) or (4), the Administrator must respond in writing to the court—*
 - (a) *confirming that the Administrator intends to apply under section 9ZF(2) of the Ordinance for a declaration,*
 - (b) *confirming that the Administrator does not intend to apply for such a declaration, or*
 - (c) *requesting further time to consider whether to apply for such a declaration.*
- (6) *The court—*
 - (a) *may stay the proceedings either on application by a party or of its own motion where the Administrator has been notified under paragraph (3) or (4), and*
 - (b) *must stay the proceedings where the Administrator responds in accordance with paragraph (5)(a) or (c).*
- (7) *Any stay may be subject to conditions, including a condition that the application must be made, or confirmation given that no application will be made, within a time specified by the court.*

Notification of intention to make application for a declaration

15.—*(1) Any person who intends to make an application under section 9ZF(2) of the Ordinance for a declaration—*

- (a) *must, at least 14 days before making the application, serve written notice of that intention on the court and on every other party to the relevant civil proceedings and (if the Administrator is not a party) on the Administrator;*
- (b) *may at any time apply to the court for the relevant civil proceedings to which the declaration would relate to be stayed pending—*
 - (i) *the application, or*
 - (ii) *the person's consideration of whether to make an application.*
- (2) *The court may stay the relevant civil proceedings to which the declaration would relate on an application under paragraph (1)(b) or of its own motion.*
- (3) *Any stay may be subject to conditions, including a condition that the application must be made, or confirmation given that no application will be made, within a time specified by the court.*

Application for a declaration

16.—*(1) An application under section 9ZF(2) of the Ordinance for a declaration must be made by the applicant filing with the court—*

- (a) a statement of reasons to support the application and any additional written submissions;*
- (b) material in relation to which the court is asked to find that the first condition in section 9ZF of the Ordinance is met;*
- (c) the details of any special advocate already appointed under rule 5 (appointment of a special advocate).*

(2) Where the applicant is the Administrator, the statement of reasons required by paragraph (1)(a) must include the Administrator's reasons for not making, or not advising another person to make, a claim for public interest immunity in relation to the material on which the application would be based.

Directions for hearing of an application

17.—*(1) When a party to relevant civil proceedings or (if the Administrator is not a party) the Administrator makes an application under section 9ZF(2) of the Ordinance for a declaration, the court must serve notice of the application on—*

- (a) all other parties and (if the Administrator is neither a party nor the applicant) the Administrator,*
- (b) the legal representatives of all other parties and (where relevant) the Administrator, and*
- (c) the special advocate,*

and must give directions for a directions hearing unless it considers that the application can be determined on the papers, in which case it must give directions as it considers appropriate.

(2) Any directions hearing shall take place in the absence of the specially represented party and the specially represented party's legal representative.

(3) At the directions hearing the court must give directions—

- (a) for the hearing of the application, and*
- (b) specifying a date and time by which the parties and the special advocate must file and serve any written evidence or written submissions.*

(4) The hearing of the application shall take place in the absence of the specially represented party and the specially represented party's legal representative.

Notification by applicant following hearing of application

18.—*(1) When the court has determined an application made under section 9ZF(2) of the Ordinance, the applicant must within 7 days of that determination serve written notice of the outcome of the application on every other party to the proceedings and (if the Administrator is not a party) on the Administrator.*

(2) The notice must be limited to stating whether the application was granted or refused.

Administrator to be joined where declaration made

19.*If the court makes a declaration under section 9ZF of the Ordinance and the Administrator is not already a party to the proceedings in relation to which the declaration is made, the court must order the Administrator to be joined as a party to those proceedings, unless the Administrator does not wish to be joined and notifies the court in writing accordingly.*

Directions following declaration

20.—(1) *If the court makes a declaration under section 9ZF of the Ordinance, it must give directions for the further management of the case, or for a directions hearing, or for both.*

(2) *The court must, either when giving directions under paragraph (1) or at the directions hearing (if it directs such a hearing), give directions—*

- (a) *for a hearing of a closed material application, and*
 - (b) *specifying a date and time by which the parties and special advocate must file and serve any written evidence or written submissions, unless it considers that the application can be determined on the papers, in which case it must give directions as it considers appropriate.*
- (3) *Directions given under this rule may include directions for—*
- (a) *the filing by any party of—*
 - (i) *a statement of case, or*
 - (ii) *an amended statement of case, and*
 - (b) *a hearing of a closed material application in relation to such a statement of case.*

Possible revocation of declaration: court's own motion

21.—(1) *This rule applies if the court at any time considers that a declaration made under section 9ZF of the Ordinance may no longer be in the interests of the fair and effective administration of justice in the proceedings.*

(2) *The court must in writing—*

- (a) *notify the parties (and the Administrator if not a party) and the special advocate that it is considering whether to revoke the declaration, and*
- (b) *invite them to make submissions.*

(3) *Each party (and the Administrator if not a party) and the special advocate must within 28 days of the date of notification under paragraph (2) file a response either—*

- (a) *containing written submissions supporting or opposing revocation of the declaration and giving reasons, or*
- (b) *confirming that the party (or the Administrator, or the special advocate, as appropriate) does not wish to make any submissions.*

(4) *The court may, on receipt of the responses under paragraph (3), either—*

- (a) *give directions—*
 - (i) *for a hearing to determine whether the declaration should be revoked, and*
 - (ii) *specifying a date and time by which the parties (and Administrator if not a party) and special advocate must file and serve any written evidence or written submissions, or*
- (b) *determine the issue without a hearing.*

(5) *A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.*

Application for revocation of declaration

22.—(1) *An application under section 9ZG(4)(a) of the Ordinance for revocation of a declaration made under section 9ZF of the Ordinance must be made by the applicant filing with the court—*

- (a) *a statement of reasons to support the application, and*
- (b) *any written submissions.*

(2) *When such an application has been made, the court must serve notice of the application on—*

- (a) *all other parties and (if the Administrator is neither a party nor the applicant) the Administrator,*
- (b) *the legal representatives of those parties and (where relevant) the Administrator, and*
- (c) *the special advocate,*

and must give directions for a hearing unless it considers that the application can be determined on the papers, in which case it may give directions as it considers appropriate.

(3) Each party (and the Administrator if neither a party nor the applicant) and the special advocate must within 28 days of the date of notification under paragraph (2) file a response either—

- (a) *containing written submissions supporting or opposing revocation of the declaration and giving reasons, or*
- (b) *confirming that the party (or the Administrator, or the special advocate, as appropriate) does not wish to make any submissions.*

(4) The court must, after receipt of the responses under paragraph (3), either—

- (a) *give directions—*
 - (i) *for a hearing to determine whether the declaration should be revoked, and*
 - (ii) *specifying a date and time by which the parties (and Administrator if not a party) and special advocate must file and serve any written evidence or written submissions, or*
- (b) *determine the issue without a hearing.*

(5) A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.

Review of declaration: formal review

23.—*(1) Once the pre-trial disclosure exercise in proceedings where there has been a declaration under section 9ZF of the Ordinance has been completed, the court must review whether the declaration continues to be in the interests of the fair and effective administration of justice in the proceedings.*

(2) If the court considers that the declaration may no longer be in the interests of the fair and effective administration of justice in the proceedings, it must proceed in accordance with paragraphs (2) to (5) of rule 21 of this Order.

(3) If the court considers that the declaration continues to be in the interests of the fair and effective administration of justice in the proceedings, it may so declare without a hearing.

(4) For the purposes of section 9ZG(3) of the Ordinance and this rule, the pre-trial disclosure exercise in the proceedings is to be considered to have been completed when disclosure equivalent to standard disclosure has been completed in accordance with this Order.

Review of certification

24.—*(1) An application under section 9ZN(1) of the Ordinance to have a certificate issued under section 9ZM(3)(e) of the Ordinance set aside must be made by the applicant filing with the court—*

- (a) *a statement of reasons to support the application, and*
- (b) *any written submissions.*

(2) The court with which the documents in paragraph (1)(a) and (b) must be filed is the Senior Judges' Court.

(3) When such an application has been made, the court must serve notice of the application on the Administrator and the Administrator's legal representative, and on the special advocate when a special advocate has been appointed pursuant to rule 5.

(4) *The Administrator must, within 28 days of the date of notification under paragraph (3), file, and serve upon the special advocate, a response either—*

(a) *containing written submissions opposing the setting aside of the certificate and giving reasons, or*

(b) *confirming that the Administrator does not oppose the setting aside of the certificate.*

(5) *The special advocate must within 28 days of being served under paragraph (4) file, and serve on the Administrator, a response either—*

(a) *containing written submissions supporting the setting aside of the certificate and giving reasons, or*

(b) *confirming that the special advocate does not wish to make any submissions.*

(6) *The court must, after receipt of the responses under paragraphs (4) and (5), either—*

(a) *give directions—*

(i) *for a hearing to determine whether the declaration should be revoked, and*

(ii) *specifying a date and time by which the parties (and Administrator if not a party) and special advocate must file and serve any written evidence or written submissions, or*

(b) *determine the issue without a hearing.*

(7) *A hearing under this rule shall take place in the absence of the specially represented party and the specially represented party's legal representative.*

Appeals to the Senior Judges' Court

25.—(1) *Section 26 (appellate jurisdiction of Senior Judges' Court) of the Courts (Constitution and Jurisdiction) Ordinance 2007(a) applies to any appeal—*

(a) *against an order of the Court on or in relation to an application under section 9ZF(2), 9ZG(4) or 9ZN(1) of the Ordinance, or section 9ZF proceedings;*

(b) *where the order under appeal was not made on or in relation to a matter within subparagraph (a) but the appeal proceedings involve such a matter or are 9ZF proceedings.*

(2) *Paragraph (1) is subject to paragraph (3) of this rule.*

(3) *The appellant must serve a copy of the appellant's notice on any special advocate.*

Senior Judge may sit outside the Areas

26. *A Senior Judge may sit as member of the Senior Judges' Court from outside the Areas for any application made under this Order.*

(a) Ordinance 5/2007, as amended by Ordinances 8/2012, 2/2014, 6/2016, 2/2017, 2/2018, 3/2018, 3/2019 and 07/2020.

APPENDIX A

Forms

Form No. 1

Writ of Summons (O.2.R.1)

In the District Court of No of 19.....

Between A.B. Plaintiff
and
.....C. D., Defendant.

To C.D. of (a), (b).....

This is to command you that within ten days after the service of this writ you enter an appearance in an action against you by A.B. of (a), (c)

The plaintiff's claim in the action is set out in the endorsement overleaf.

The plaintiff's address for service is (d)

And take notice that in default of your entering an appearance in the manner specified below, the Plaintiff may proceed in the action and judgment may be given in your absence.

Filed and sealed on the (e)..... day of,
20..... (Signed)

Registrar

N.B.: An appearance may be entered either personally or by advocate by delivering to the Registrar at (f) a memorandum of appearance, and on the same day by delivering at the Plaintiff's address for service a duplicate of such memorandum dated, signed and sealed by the Registrar.

(a) Give full address, including street and number of premises, of any.

(b) State Defendant's occupation, if known.

(c) State Plaintiff's occupation.

(d) Give the full name, occupation and address of person within the municipal limits of the town or village in which is situated the Registry in which the action is filed, with whom documents intended for Plaintiff may be left.

(e) The date should be filled in by the Registrar.

(f) State the town or village in which is situated the Registry described in (d) above.

N.B: - In drawing up a writ regard should be had to the provision of Order 2 and the provisions governing endorsements of claim.

Note for Defendant – A Defendant who wishes to employ an advocate should bear in mind that, except with the leave of the Judge, an advocate cannot enter appearance for him unless he has a retainer in writing in Form 12A given to him by the Defendant.

Endorsement of Claim

The Plaintiff's Claim is

(Signed)

(a) Advocate for Plaintiff

(a) Strike out the words "Advocate for" if suing in person.

Form No.2

Specially Indorsed Writ (O.2.r.6)

In the District Court of No of 20.....

Between A.B. Plaintiff
and
.....C. D., Defendant

To C.D. of (a), (b).....

This is to command you that within ten days after the service of this writ you enter an appearance in an action against you by A.B. of (a), (c)

The plaintiff's claim in the action is set out in the endorsement overleaf.

The plaintiff's address for service is (d)

And take notice that in default of your entering an appearance in the manner specified below, the Plaintiff may proceed in the action and judgment may be given in your absence.

Filed and sealed on the (e)..... day of,
20.....

(Signed)
Registrar

N.B. (1) An appearance may be entered either personally or by advocate by delivering to the Registrar at (f) memorandum of appearance, and on the same day by delivering at the Plaintiff's address for service a duplicate of such memorandum dated, signed and sealed by the Registrar.

(2) If the Defendant fails to deliver a defence within fourteen days after the last day of the time limited for his appearance, he may have judgment entered against him without notice, unless he has in the meantime been served with a summons for judgment.

(a) Give full address, including street and number of premises if any.

(b) State Defendant's occupation if known.

(c) State Plaintiff's occupation.

(d) Give the full name, occupation and address of a person within the municipal limits of the town or village in which it situated the Registry in which the action is filed, with whom documents intended for Plaintiff may be left.

(e) The date should be filled in by the Registry.

(f) State the town or village in which is situated the Registry described in (d) above.

N.B. - In drawing up a writ regard should be had to the provisions of Order 2 and the provisions governing statements of claim.

Note for Defendant – A Defendant who wishes to employ an advocate should bear in mind that, except with the leave of the Judge, an advocate cannot enter appearance for him unless he has a retainer in writing in Form 12A given him by the Defendant.

Statement of Claim.

The Plaintiff's claim is

Particulars:-

(Signed)

(a) Advocate for Plaintiff

(a) Strike out the words "Advocate for" if suing in person.

Examples of Special Endorsements

A

The Plaintiff's claim is for the price of goods sold, and delivered.

Particulars:-

20.... – 31st December	£	s.	p.
Balance of account for butcher's meat to this date	35	10	0
20.... – 1st January to 31st March			
Butcher's meat ...	74	5	0
	<hr/>		
	109	15	0
20.... – 1st February – Paid	45	0	0
	<hr/>		
Balance Due	£64	15	0
	<hr/>		

(Signed)

B

The Plaintiff's claim is for money received by the Defendant for the use of the Plaintiff.

Particulars:-

20.... – 1st January	£	s.	p.
To amount of rents of No 5, Smith Street			
collected by the Defendant	72	10	0
To deposit on intended site of Eva Street	100	0	0
	<hr/>		
Amount Due	£172	10	0
	<hr/>		

(Signed)

C

The Plaintiff's claim is for money lent by the Plaintiff to the Defendant at his request and which is still due and unpaid.

Particulars:-

20.... To money lent to the Defendant as above	£	s.	p.
and in respect of which the Defendant gave the			
Plaintiff a bond as follows:-			
(Copy bond)	1,000	00	0

D

The Plaintiff's claim is against the Defendant, as maker of a promissory note for £250, dated 1st January, 20..... payable four months after date to (a)

Particulars:-

	£
Principal	250
Interest	10
	<hr/>
Amount Due	260
	<hr/>

(Signed)

(a) State to whom the promissory note is payable.

E

The Plaintiff's claim is against the Defendant as the acceptor of a bill of exchange for £200 date the day of 20....., drawn by the Plaintiff and accepted by the Defendant payable (on the date thereof, *or as may be*) at (place of payment) to the order of the Plaintiff which was duly endorsed by the Plaintiff and was presented by the Plaintiff in due course and was dishonoured.

Particulars:-

	£
Principal due	200
Interest	8
	<hr/>
Amount Due	£ 208
	<hr/>

(Signed)

F

The Plaintiff's claim is against the Defendant, as acceptor of a bill of exchange for £400 dated 1st January 20....., drawn by A.B. payable three months after date to the order of E.F and endorsed to the Plaintiff.

Particulars:-

	£
Principal due	400
Interest	16
	<hr/>
Amount Due	£ 416
	<hr/>

(Signed)

G

The Plaintiff's claim is against the Defendant A.B. as acceptor, and against the Defendant C.D. as drawer, of a bill of exchange for £500, dated 1st January, 20.... payable three months after date, and endorsed by the Defendant C.D. to the Plaintiff, of the dishonour of which on presentation the Defendant C.D. had notice.

Particulars:-

	£
Principal due	500
Interest	<u>20</u>
Amount Due	<u>£ 520</u>

(Signed)

H

The Plaintiff's claim is against the Defendant as drawer of a bill of exchange for £600 dated 1st March 20....., drawn upon A.B. payable to Plaintiff three months after date, which was duly presented for payment and dishonoured, but A.B. had no effects of the Defendant. nor was there any consideration for the payment of the said bill by the said A.B.

Particulars:-

	£
Principal due	400
Interest	<u>16</u>
Amount Due	<u>£ 416</u>

(Signed)

I

The Plaintiff's claim is for principal and interest due upon the Defendant's bond to the Plaintiff, dated 1st January, 20..... Conditioned for payment of £100 on the 26th December, 20.....

Particulars:-

	£
Principal due	50
Interest	<u>2</u>
Amount Due	<u>£ 52</u>

(Signed)

J

The Plaintiff's claim is for the price of goods sold and delivered by the Plaintiff to E.F. under the following guarantee:-

2nd February, 20.....

Sir,

In consideration of your supplying goods to E.F I undertake to see you paid.

Yours, etc

C.D (*Defendant*)

To Mr A.B (*Plaintiff*)

Particulars:-	£. s. p.
20-25 th March, 55 tons of coal at 20s.....	55 0 0
	<hr style="width: 100px; margin-left: auto;"/>
Amount Due	£ 55 0 0

(*Signed*)

K

The Plaintiff's claim is against Defendant A.B as principal and against the Defendant C.D as surety, for the price of goods sold and delivered by the Plaintiff to A.B on the guarantee by C.D dated the 2nd of February, 20.....

Particulars:-

	£ s. p.
20... - 2nd February – Goods	47 15 0
3rd March – Goods	105 14 0
17th March – Goods	14 12 0
5th April – Goods	34 0 0
	<hr style="width: 100px; margin-left: auto;"/>
Amount Due	£ 202 1 0

(*Signed*)

L

Action for Recovery of Land, etc

The Plaintiff is entitled to the possession of a house, No 5 Ledra Street in the town of Nicosia, which was let by the Plaintiff to the Defendant for the term of three years from the 29th of September, 20.... which term has expired; or tenant from year to year from September 20.... which said tenancy was duly determined by notice to quit expiring on the 29th September, 20.... or which term has become liable to forfeiture for non-payment of £..... for one quarter's (or as may be) rent due and payable the day of, 20...../

The Plaintiff claims possession and £..... for the rent aforesaid.

(*Signed*)

Form No.3
Indorsement for Costs (O.2.r.7)

(If the claim is for a debt or liquidated demand only, the following words should be added immediately following the endorsement of the writ)

And the sum of £..... for costs, and also, in case the Plaintiff obtains an order for substituted service, the further sum of £.....

If the amount claimed is paid to the Plaintiff or his advocate within ten days from the service hereof, further proceedings will be stayed.

(Signed)

Form No.4
Form of Retainer Given by Plaintiff (O.2.r.14)

1. (a) of (b)..... hereby authorise (c)..... of (d) to take legal proceedings on my behalf against (e) of (f)..... and (e) of (f) for the recovery of (g)

(h) I have not made any express agreement with the said advocate in regard to his remuneration, but will pay him according to the scales in the Civil Procedure Rules.

or

(h) I have made the following express agreement with the said advocate in regard to his remuneration: (Set out the terms of remuneration agreed upon).

(Signed) (i)

N.B: - Where the client giving the retainer is illiterate the following attestation must be made:-

“I certify that the contents of this retainer were read out by my to the above named (j) and agreed to by him and that he thereupon affixed his mark thereto in my presence”.

(Signed)

*Registrar, Certifying Officer or two competent
not being Advocates' clerks*

witnesses

(as the case may be)

-
- (a) State name, and (b) Place of abode.
 - (c) State name, and (d) business address of advocate retained.
 - (e) State names of intended Defendant and Defendants (f) his or their addresses.
 - (g) State subject matter of intended action.
 - (h) Strike out whichever is not applicable. The client or, where he is illiterate, the witness or witnesses should initial the statement in regard to remuneration which is left as forming part of the retainer.
 - (i) Signature of client executing the retainer.
 - (j) Insert name of client giving the retainer.

Notes:- The registrar should be stamped as an agreement if it contains any express agreement in regard to the advocate's remuneration.

Form No.5
Affidavit of Service (O.5.r.2)

I,, a process server, make oath and say that I served an office copy of the writ of summons in Action No of the Registry, at (a) on the day of, 20..... by leaving the same in the presence of the Defendant (b) (c)..... of, for usual place of employment, the said being a (d) of the said Defendant.

A duplicate of the document(s) served is attached hereto as an exhibit and is marked "A".

or

This affidavit is endorsed on a duplicate of the document served,

Signed and sworn before me at on the day
..... of, 20.....

(Signed)

Registrar

- (a) Town or village where service effected.
- (b) Strike out the words "the Defendant" if applicable.
- (c) Strike out to the end, if inapplicable.
- (d) State his relationship to the Defendant for whom the writ is left.

Note: - The affidavit of service should be sworn within seven days after service.

Notice of Writ for Service on Non-British Defendant Outside British Dominions
(O.6.r.6)

Between A.B Plaintiff
and
C.D Defendant
To C.D of (a) _____, (b) _____

The Plaintiff's claim in the action is as follows:

(Signed)

N.B.: An appearance may be entered either personally or by advocate by delivering to the Registrar at (e) a memorandum of appearance, and on the same day by delivering at the Plaintiff's address for service (which is) a duplicate of the memorandum dated, signed and sealed by the Registrar.

- (a) State Defendant's address.
- (b) State Defendant's occupation, if known.
- (c) State Plaintiff's occupation.
- (d) Insert here the number of days limited by the order of the Court.
- (e) Give the name of the Registry in which the action is filed.

This notice was served by me at on the Defendant C.D. on the day of 20...., by delivering a true copy thereof to him in the presence of of

(Signature and Address of Server)

110

Form No.7

Request for Service in Foreign Country with Which There is a Convection (O.6.r.7)

In the District Court of No of 20.....

Between	A.B	Plaintiff
	and	
	C.D	Defendant

I hereby request that a writ of summons (or notice of a writ of summons, *as the case may be*) in this action be transmitted through the proper channel to (*name of country*) for service (*or* substituted service) on the defendant at (*give address*) or elsewhere in (*name of country*) * directly through the British Consul or * by the foreign judicial authority.

And I hereby personally undertake that should the expenses incurred by the Colonial Secretary of Cyprus in respect of the service hereby requested exceed the amount of the deposit of £..... in that behalf now paid by me into the above named court, I will, on receiving due notification of the amount of such expenses pay the amount in excess of such deposit to the registrar of the Court.

Dated this day of, 20.....

(*Signature of Advocate*)

* Strike out if not wanted.

Form No.8

Notice of Service on Manager of Partnership (O.7.r.4)

In the District court of No of 20.....

Between	A.B.	Plaintiff
	and	
	C.D.	Defendant

Take notice that the writ served herewith is served on you as the person having the control or management of the partnership business of the above named Defendant firm of

(*If the person served in served also as a partner add the words “and also as a partner in the said firm”*)

To X.Y of

(*Signed*)

Advocate for Plaintiff

Form No.9
Third Party Notice (O.10.r.2)

In the District Court of No of 20.....

Between	A.B	Plaintiff
	and	
	C.D	Defendant

Third- Party Notice

Issued pursuant to order dated the day of, 20..... of which a copy is attached hereto.

To E.F of (a), (b)

Take notice that this claim has been brought by the Plaintiff against the Defendant: the Plaintiff's claim appears in the copy of the writ of summons delivered herewith.

The Defendant claims against you [*here state concisely the nature of the claim against the third party as for instance to be indemnified against the Plaintiff's claim and the costs of this action or contribution to the extent of (one half) of the Plaintiff's claim or the following relief or remedy, namelyon the grounds that (state concisely the grounds of the claim against the third party)*].

And take notice that if you wish to dispute the Plaintiff's claim against the Defendant, or the Defendant's claim against you, you must cause an appearance to be entered for you in the manner specified below within fifteen days after the service of this notice upon you.

In default of your entering such appearance, you will be deemed to admit the Plaintiff's claim against the Defendant and the Defendant's claim against you and your liability to (indemnify the Defendant *or to contribute to the extent claimed or to stating the relief or remedy sought*) and the validity of any judgment that may be given in the action and you will be bound by such judgment and such judgment may be enforced against you pursuant to the Civil Procedure Rules, Order 10.

Dated the day of, 20.....

(Signed)

Registrar

N.B: - An appearance may be entered either personally or by advocate by delivering to the Registrar at (c) a memorandum of appearance, and on the same day by delivering at the Plaintiff's and Defendant's addresses for service, namely and respectively a duplicate of the memorandum dated, signed and sealed by the Registrar.

-
- (a) State address of third party including street and number of premises if any.
(b) State occupation if known.
(c) State name of Registry in which is filed the action in which the third party notice is being issued.

Third Party Notice When Question or Issue to be Determined (O.10.r.2)

Between	A.B	Plaintiff
	and	
	C.D	Defendant

- (a) State address of third party, including street and number of premises, if any.
- (b) State occupation, if known.
- (c) State name of Registry in which is filed the action in which the third party notice is being issued.

Form No.11
Endorsement on Order to Carry on Proceedings (O.12.r.5)
(Title of Action)

To *(name of person added as Defendant by the order to continue the proceedings)*.

Take notice that from the time of the service of the within order upon you, you will be bound by the proceedings in the above action.

You may within ten days of the service of the within order upon you enter an appearance in the said action in the manner specified below; and in default of your so doing, the Plaintiff may proceed in the said action and judgment may be given in your absence.

(Signed)

Registrar

N.B. - An appearance may be entered either personally or by advocate by delivering to the Registrar at (a) a memorandum of appearance, and on the same day by delivering at the Plaintiff's address for service, namely, a duplicate of the memorandum dated, signed and sealed by the Registrar.

(a) Give the name of the town or village in the Registry of which the action is filed.

Form No.12
Memorandum of Appearance (O.16.r.3)

In the District Court of No of 20

Between	A.B.	Plaintiff,
	And	
	C.D	Defendant

The under mentioned Defendant enters an appearance in the above action.

He defends in person (*a*); or

The name of his advocate is

His address for service is (*b*).....

Name of Defendant (*c*)

C.D. of

(*Signed*)

(*d*) Advocate for (*d*) Defendant

I certify that the above memorandum was delivered to me today the day of
....., 20.....

[*L.S.*] Registrar

-
- (a) Strike out whichever of these alternatives is inapplicable.
 - (b) Give the full name, occupation and address of a person within the municipal limits of the town or village in which is situated the Registry in which the action is filed.
 - (c) Or Defendants if appearing by the same advocate in the same action at the same time: See O.16.r.6. In such a case the necessary changes for the plural should be made in the form.
 - (d) (d) Strike out the words between if inapplicable.

Form No.12A
Form of Retainer Given by Defendant (O.16.r.11)

I, (a) of (b) hereby authorise (c) of (d) to defend me in Action No instituted in the Registry of (e), of the District Court of (f)

(g) I have not made any express agreement with the said advocate in regard to his remuneration, but will pay him according to the scales in the Civil Procedure Rules.

or

(g) I have made the following express agreement with the said advocate in regard to his remuneration (*Set out the terms of remuneration agreed upon*).

(Signed) (h)

N.B. - Where the client giving the retainer is illiterate the following attestation must be made:-

“I certify that the contents of this retainer were read out by me to the above named (i) and agreed to by him and that he thereupon affixed his mark thereto in my presence”.

(Signed)

Registrar, Certifying Officer, or two competent witnesses not being advocates clerks (as the case may be).

-
- (a) State name, and (b) place of abode.
 - (c) State name, and (d) business address of advocate retained.
 - (e) Give the name of the Registry in which the action was instituted.
 - (f) Give the name of the District Court.
 - (g) Strike out whichever is not applicable. The client or where he is illiterate, the witness or witnesses should initial the statement in regard to remuneration which is left as forming part of the retainer.
 - (h) Signature of client executing the retainer.
 - (i) Insert name of client giving the retainer.

Note. -The retainer should be stamped as an agreement if it contains any express agreement in regard to the advocate's remuneration.

Form No. 13
Notice of Counter Claim (O.21.r.8)

In the District Court of No of 20.....

Between	A.B.	Plaintiff
	and	
	C.D	Defendant

And by counter claim

Between	C.D (<i>name of original Defendant</i>)
	and
	A.B (<i>name of original Plaintiff</i>)
along with	E.F (<i>name of new party</i>)

To the above named E.F of (a), (b).....

Take notice that C.D of (a), (c)..... has made in his defence to the action brought against him by A.B of (a) a counter claim against you along with the said A.B., which counter claim is to be found within.

-
- (a) State address including name of street and number of premises, if any.
(b) State occupation, if known.
(c) State occupation.

And further take notice that if you do not within ten days after service of this notice enter an appearance in the manner specified below, you will be liable to have judgment given against you in your absence.

Dated

(Signed)

Registrar

N.B. - An appearance may be entered either personally or by advocate by delivering to the Registrar at (d) a memorandum of appearance together with a written statement of the defence made to the counter claim and by delivering at the same time at C.D's address for service which is (e), a duplicate of the memorandum dated, signed and sealed by the Registrar, together with a duplicate of the defence to the counter claim.

-
- (d) State name of Registry in which the action is filed.
(e) This should be the same as on C.D.'s memorandum of appearance.

Form No. 14
Notice of Payment into Court (O.22.r.1)

In the District Court of No of 20.....

Between	A.B. and C.D	Plaintiff Defendant
---------	--------------------	----------------------------

Take notice that the Defendant has paid into court £..... and says that (..... part of) that sum is enough to satisfy the Plaintiff's claim (for and £..... the other part of that sum is enough to satisfy the Plaintiff's claim for) and admits (but denies) liability therefore.

Dated the day of, 20.....

P.Q Advocate for the Defendant, C.D

To Mr X.Y. the Plaintiff's advocate (and to Mr R.S advocate for the Defendant E.F)

*Notes. - (1) Words which are inapplicable should be deleted.
(2) The Registrar's certificate in Form 15 should be appended to or endorsed on this notice.*

Form No. 15
Certificate of Payment into Court (O.22.r.2)

This is to certify that the sum of pounds shillings and piales (£.....) was paid into Court on the day of, 20..... by

Registrar

Dated

Note. - This certificate should be appended to or endorsed on the notice in Form 14.

Form No. 16
Acceptance of Sum Paid into Court (O.22.r.3)

In the District Court of No of 20.....

Between	A.B. and C.D.	Plaintiff Defendant
---------	---------------------	----------------------------

Take notice that the Plaintiff accepts the sum of £..... paid by the Defendant (C.D.) into court in satisfaction of the claim in respect of which it was paid in (and abandons his other claims in this action).

Dated the day of, 20.....

X.Y Plaintiff's Advocate

To Mr P.Q. advocate for the Defendant C.D. (and Mr R.S. advocated for the Defendant E.F)

Note. - Words which are inapplicable should be deleted.

Form No. 17
Confession of Defence (O.23.r.3)

In the District Court of No of 20

Between	A.B. and C.D.	Plaintiff Defendant
---------	---------------------	----------------------------

The Plaintiff confesses the defence stated in the paragraph of the Defendant's defence (*or* the Defendant's further defence).

(Signed)

Form No. 18
Notice to Admit Documents (O.24.r.3)

In the District Court of No of 20.....

Between	A.B. and C.D.	Plaintiff Defendant
---------	---------------------	----------------------------

Take notice that the Plaintiff (*or* Defendant) in this cause proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the Defendant (*or* Plaintiff), his advocate or agent, at, on, between the hours of; and the Defendant (*or* Plaintiff) is hereby required, within six days from the last mentioned hour, to admit that such of the said documents as are specified to the originals were respectively written, signed or executed as they purport respectively to have been; that such as are specified as copies are true copies; and such documents as are stated to have been served, sent, or delivered, were so served, sent, or delivered respectively; saving all just exceptions to the admissibility of all such documents as evidence in this cause.

Dated, etc

(*Signed*)

G.H. *Advocate for Plaintiff (or Defendant)*

To E.F. advocate for Defendant (*or* Plaintiff).

(*Here describe the documents, the manner of doing which may be as follows*):-

<u>Description of Documents</u>	<u>Dates</u>
Originals	Dates
Letter – Defendant to Plaintiff	March 1, 20....
Memorandum of agreement between C.D Captain of the said ship and E.F	January 1, 20....
Bill of exchange for £100 at three Months, drawn by A.B. on and Accepted by C.D. endorsed by E.F and G.H	May 1, 20....

Copies

Letter – Plaintiff of Defendant	January 1, 20...
Notice to produce papers	March 1, 20...
Original or duplicate served, Sent or delivered when how, and by whom.	Sent by General Post, February 2, 20....

Served March 2,
20.... on
Defendants
Advocate by E.F
of

Admission under Notice to admit Documents.

I hereby make the admissions required in the notice appearing overleaf (*or if the admission be of part only of the documents, then limit the admission to them accordingly, and for this purpose number each description of the documents in the notice, thus : so far as the same relates to the several documents therein mentioned marked respectively 1, 2, 5. 7 etc and I refuse to make any other of the admissions required*).

Dated

E.F. Advocate for Defendant (*or Plaintiff*)

N.B. - If the admission is signed by the party himself, it shall be signed before a Registrar, who shall certify the party's signature.

Form No. 19
Notice to Admit Facts (O.24.r.5)

In the District Court of No of 20.....

Between	A.B	Plaintiff
	and	
	C.D	Defendant

Take notice that the Plaintiff (*or Defendant*) in this cause requires the Defendant (*or Plaintiff*) to admit, for the purposes of this cause only, the several facts respectively hereunder specified; and the Defendant (*or Plaintiff*) is hereby required, within eight days from the service of this notice, to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this cause.

Dated, etc.

(Signed)

G.D Advocate for the Plaintiff (*or Defendant*)

To E.F advocate for the Defendant (*or Plaintiff*)

The facts, the admission of which is required, are:-

1. That John Smith died on the 1st January,
2. That he died intestate.
3. That James Smith was his only lawful son.

Form No. 20
Admission of Facts, Pursuant to Notice (O.24.r.5)

In the District Court of No of 20.....

Between	A.B. and C.D.	Plaintiff Defendant
---------	---------------------	----------------------------

The Defendant (*or* Plaintiff) in this cause, for the purposes of this cause only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations (if any) hereunder specified, saving all just exceptions to the admissibility of any such facts, or any of them, as evidence in this cause:

Provided that this admission is made for the purposes of this action only and is not an admission to be used against the Defendant (*or* Plaintiff) on any other occasion, or by anyone other than the Plaintiff (*or* Defendant, *or party requiring the admission*).

Delivered, etc.

(Signed)
E.F Advocate for the Defendant (*or* Plaintiff)

To G.H advocate for the Plaintiff (*or* Defendant)

Qualification or limitations
(if any) subject to which they
are admitted

Facts Admitted

1. That John Smithy dies on the 1st January,
2. That he died intestate.
3. That James Smith was his lawful son.
4. But not that he was his only lawful son.

N.B. - If the admission is signed by the party himself, it shall be signed before a Registrar, who shall certify the party's signature.

Form No. 21
Notice to Produce Documents at Trial (O.24.r.8)

In the District Court of No of 20.....

Between	A.B.	Plaintiff
	and	
	C.D	Defendant

Take notice, that you are hereby required to produce and show to the court on the trial of this all books, papers, letters, copies of letters and other writings and documents in your custody, possession, or power, containing any entry, memorandum, or minute relating to the matters in question in this, and particularly:-

Dated the day of, 20.....

(Signed), of

Advocate for the above named
C.D.

To the above named A.B *or* his advocate.

Form No. 22
Affidavit as to Documents (O.28.r.2)

In the District Court of No of 20.....

Between	A.B.	Plaintiff
	and	
	C.D	Defendant

I, the above named Defendant C.D make oath and say as follows:

1. I have in my possession or power the documents relating to the matters in question in this action set forth and second parts of the First Schedule hereto.
2. I object to produce the said documents set forth in the second part of the said First Schedule hereto (state grounds of objection).
3. I have had, but have not now, in my possession or power the documents relating to the matters in question in this action set forth in the Second Schedule hereto.
4. The last mentioned documents were last in my possession or power on (*state when, and what has become of them, and in whose possession they now are*).
5. According to the best of my knowledge, information and belief, I have not now, and never had in my possession, custody, or power, or in the possession, custody or power of any other person or persons on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document or any other document whatsoever, relating to the matters in question in this suit, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the said First and Second Schedules hereto.

<p align="center">Form No. 23 Notice to Produce Documents for Inspection (O.28.r.7)</p>		
<p>In the District Court of No of 20.....</p>		
Between	A.B.	Plaintiff
	and	
	C.D	Defendant
<p>Take notice that the (Plaintiff or Defendant) requires you to produce for his inspection the following documents referred to in your (statement of claim, or defence, or affidavit, dated the day of, 20.....)</p>		
<p align="center"><i>(Describe documents required)</i></p>		
<p>Dated, etc.</p>		
<p align="right">X.Y Advocate for the</p>		

<p align="center">Form No. 24 Notice to Inspect Documents (O.28.r.8)</p>		
<p>In the District Court of No of 20.....</p>		
Between	A.B.	Plaintiff
	and	
	C.D	Defendant
<p>Take notice that you can inspect the documents mentioned in your notice of the day of, 20..... (*except the deed numbered in that notice) at my office on Thursday next the instant between the hours of 12 and 3 o'clock.</p>		
<p>Dated, etc.</p>		
<p align="center">(Signed) Advocate for the</p>		
<p align="center">_____</p>		
<p>* Any document the inspection of which is refused should be described here. If inspection of all documents asked for is accorded, strike out words between parentheses.</p>		

Form No. 25
Summons for Directions (O.30.r.1)

In the District Court of No of 20....

Between	A.B.	Plaintiff
	and	
	C.D	Defendant

Let all parties concerned attend Judge (a) at (b)
on the day of, 20..... at o'clock in the forenoon
on the hearing of an application on the part of the Plaintiff (or Defendant) to show cause why an
order for directions should not be made in this action as follows:-

Plaintiff Order
(or Defendant) asks for:

- (A) Further and better particulars of (claim, defence, counter claim).
- (B) Discovery and inspection.
- (C) Evidence by affidavit or before Commissioner or Examiner.
- (D) Right of appeal.
- (E) Inspection of property.
- (F) Date of trial.
- (G) Arbitration.
- (H) Costs

Dated the day of, 20....

This summons was taken out by

Advocate for Plaintiff (or Defendant)

To the Defendant (or Plaintiff) and to (name) his/their advocate.

- (a) State name of the Judge taking the application.
- (b) State the town or village.

Form No. 26
Notice for Further Directions (O.30.r.4)

In the District Court of No of 20.....

Between	A.B.	Plaintiff,
	and	
	C.D	Defendant.

Take notice that the above named Defendant intends to apply on the hearing of the summons for
directions (fixed for the day of) for further directions in this action
as to (*here state what is required*).

Form No. 27
Summons to a Witness (O.32.r.5)

In the District Court of No of 20.....

Between	A.B.	Plaintiff,
	and	
	C.D	Defendant.

To (a) of (b)

This is to command you to attend at this Court at on day, the day of, 20...., at the hour of in the forenoon, and so from day to day until the above case is tried “to give evidence on behalf of the Plaintiff (*or* Defendant) and also to bring with you and produce at the time and place aforesaid (*specify documents to be produced*).

Registrar

* Strike out any words after the asterisk which are inapplicable.

- (a) State name of witness.
- (b) State address of witness, including name of street and number of premises, if any

Form No. 28
Notice of Appeal (O.33.r.3)

In the Supreme Court.

or

(Before the President of the District Court).

On appeal from the District Court of, in Action No

or

(On appeal from the Magistrate in District Court Action No)

Between	A.B.	Plaintiff
	and	
	C.D	Defendant

Take notice that the Plaintiff (*or* Defendant, *as the case may be*) hereby appeals from the judgment (or order, as the case may be) given (*or* made) in the above action on the day of, 20....., whereof a copy is attached to this notice.

* And take notice that his appeal is against the whole of the said judgment (*or* order).

* And take notice that his appeal is against so much of the said judgment (*or* order) as adjudged (*or* directed) that, etc. *stating the terms of the part complained of*).

And further take notice that his grounds of appeal and the reasons therefore are (a)
.....

Filed the day of, 20.....

Registrar

(Signed)

Advocate for

* Strike out if not required.

(a) Each ground and the reasons therefore should be stated separately and fully

and shall exchange the interrogatories they propose to administer to their respective witnesses, and shall also within days from the exchange of such interrogatories, exchange copies of the cross-interrogatories intended to be administered to the said witnesses.

4. days previously to the sending out of the said commission, the advocate of the said shall give to the advocate of the said notice in writing of the mail or other conveyance by which the commission is to be sent out.

5. days previously to the examination of any witness on behalf of the said or respectively, notice in writing signed by any one of the Commissioners of the party on whose behalf the witness is to be examined, and stating the time and place of the intended examination, and the names of the witnesses intended to be examined, shall be given to the Commissioners of the other party by delivering the notice to them personally, or by leaving it at their usual place of abode or business, and if the Commissioners of that party neglect to attend pursuant to the notice, then one of the Commissioners of the party on whose behalf the notice is given shall be at liberty to proceed with and take the examination of the witness or witnesses *ex parte*, and adjourn any meeting or meetings, or continue the same, from day to day until all the witnesses intended to be examined by virtue of the notice have been examined, without giving any further or other notice of the subsequent meeting or meetings.

6. In the event of any witness on his examination, cross examination, or re-examination, producing any book, document, letter, paper or writing and refusing, for good cause to be stated in his deposition, to part with the original thereof, then a copy thereof, or extract therefrom, certified by the Commissioners or Commissioner present to be a true and correct copy or extract shall be annexed to the witness's deposition.

7. Each witness to be examined under the commission shall be examined on oath, affirmation, or otherwise in accordance with his religion by or before the said Commissioners or Commissioner.

8. If any one or more of the witnesses do not understand the English language (the interrogatories, cross-interrogatories and *viva voce* questions (if any) being previously translated into the language with which he or they is or are conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters, to be nominated by the Commissioners or Commissioner and to be previously sworn according to his or their several religions by or before the said Commissioners or Commissioner truly to interpret the questions to be put to the witness or witnesses, and his and their answers thereto.

9. The depositions to be taken under and by virtue of the said commission shall be subscribed by the witness or witnesses, and by the Commissioners or Commissioner who shall have taken such depositions.

10. The interrogatories, cross interrogatories and depositions, together with any documents to therein, or certified copies thereof or extracts therefrom, shall be sent to the Registrar of the District Court of on or before the day of, 20....., or such further or other day as may be ordered, enclosed in a cover under the seal or seals of the said Commissioners or Commissioner, and office copies thereof may be given in evidence on the trial of this action by and on behalf of the said and respectively, saving all just exceptions, without any other proof of the absence from this country of the witness or witnesses therein named, than an affidavit of the advocate of the said or respectively, as to his belief in regard to the absence from this country of such witness or witnesses.

11. The trial of this cause is to be stayed until the return of the said commission.

12. The costs of this order and of the commission to be issued in pursuance hereof, and of the interrogatories, cross interrogatories and depositions to be taken thereunder, together with any such document, copy or extract as aforesaid, and official copies thereof, and all other costs incidental thereto, shall be

Dated the day of, 20....

Form No. 31
Commission Thereon (O.37.r.1)

In the District court of No of 20.....

Between A.B Plaintiff,

and

C.D Defendant.

Elizabeth the Second, by the Grace of God, of Great Britain, Ireland and the British Dominions beyond the Seas, Queen, Defender of the Faith:

To, of, and, of Commissioners named by and on behalf of the, and to, of and, of, Commissioners named by and on behalf of the, greeting: Know ye that we in confidence of your prudence and fidelity have appointed you and by these presents give you power and authority to examine on interrogatories and viva voce as hereinafter mentioned witnesses on behalf of the said and respectively at, before you or any two of you, so that one Commissioner only on each side be present and act at the examination. And we command you as follows:

1. Both the said and the said shall be at liberty to examine on interrogatories and *viva voce* on the subject matter thereof or arising out of the answers thereto such witnesses as shall be produced on their behalf, with liberty to the other party to cross examine the said witnesses on cross interrogatories and *viva voce*, the party producing any witness for examination being at liberty to re-examine him *viva voce*; and all such additional *vive voce* questions, whether on examination, cross examination or re-examination, shall be reduced into writing, and with the answers thereto shall be returned with the said commission.
2. Not less than days before the examination of any witness on behalf of either of the said parties, notice in writing, signed by any one of you, the Commissioners of the party on whose behalf the witness is to be examined, and stating the time and place of the intended examination and the names of the witnesses to be examined, shall be given to the Commissioners of the other party by delivering the notice to them, or by leaving it at their usual place of abode or business, and if the Commissioners or Commissioner of that party neglect to attend pursuant to the notice, then one of you, the Commissioners of the party on whose behalf the notice is given, shall be at liberty to proceed with and take the examination of the witness or witnesses ex parte, and adjourn any meeting or meetings, or continue the same from day to day until all the witnesses intended to be examined by virtue of the notice have been examined without giving any further or other notice of the subsequent meeting or meetings.
3. In the event of any witness on his examination, cross examination or re-examination producing any book document, letter paper or writing, and refusing, for good cause to be stated in his deposition, or part with the original thereof, then a copy thereof, or extract therefrom, certified by the Commissioners or Commissioner present and acting to be a true and correct copy or extract shall be annexed to the witness's deposition.
4. Each witness to be examined under this commission shall be examined on oath, affirmation, or otherwise in accordance with his religion by or before the Commissioners or Commission present at the examination.

5. If any one or more of the witnesses do not understand the English language (the interrogatories, cross interrogatories, and *viva voce* questions (if any) being previously translated into the language with which he or they is or arte conversant), then the examination shall be taken in English through the medium of an interpreter or interpreters to be nominated by the Commissioners or Commissioner present at the examination, and to be previously sworn according to his or their several religions by or before the said Commissioners or Commissioner truly to interpret the questions to be put to the witness and his answers thereto.

6. The depositions to be taken under this commission shall be subscribed by the witness or witnesses, and by the Commissioners or Commissioner who shall have taken the depositions.

7. The interrogatories, cross interrogatories and depositions, together with any documents referred to therein, or certified copies thereof or extracts therefrom, shall be sent to the Registrar, District court of on or before the day of, enclosed in a cover under the seal or seals of the Commissioners or Commissioner.

8. Before you or any of you, in any manner, act in the execution hereof you shall severally take the oath hereon endorsed on the Holy Evangelists or otherwise in such other manner as is sanctioned by the form of your several religions and is considered by you respectively to be binding on your respective consciences. In the absence of any other Commissioner, a Commissioner may himself take the oath.

And we give you or any one of your authority to administer such oath to the other or others of you.

Witness my hand.....

This day of, 20.....

Form No. 32

Letter of Request for the Taking of Evidence in a Foreign Country (O.37.r.1)

To the competent Judicial Authority of, in the (province or district or as the case may be).

Whereas a civil action is not pending in the District court of in Cyprus in which A.B (*full name and description*) is Plaintiff and C.D (*full name and description*) is Defendant. And in the said action the Plaintiff claims (*set out the claim as in the writ of summons*).

And whereas it has been represented to the said Court that it is necessary for the purposes of justice and for the due determination of the matters in dispute between the parties that M.N of , X.Y of and W.Z of (*give full names, addresses and descriptions*) should be examined as witnesses upon oath touching such matters:

And it appearing that such witnesses are resident within your jurisdiction:

Now I, L.M, the President of the District Court of, have the honour to request that for the reasons aforesaid and for the assistance of the said Court you will be pleased to summon the said witness(es) to attend at such time and place as you shall appoint before you or such other person as according to your procedure is competent to take the examination of witnesses, and that you will cause such witness(es), to be examined (* upon the interrogatories which accompany this letter of request) *viva voce* touching the said matters in question in the presence of the agents of the Plaintiff and Defendant or such of them as shall, on due notice given, attend such examination.

And I further have the honour to request that you will be pleased to cause (* the answers of the said witness(es) and all additional *viva voce* questions, whether on examination, cross examination or re-examination) the evidence of such witness(es) to be reduced into writing and all books, letters, papers and documents produced upon such examination to be duly marked for identification, and that you will be further please to authenticate such examination by the seal of your tribunal or in such other way as is in accordance with your procedure and to return the same together with (* interrogatories and cross interrogatories, and) a note of the charges and expenses payable in respect of the execution of this request, through the British Consul from whom the same was received for transmission to the District Court of

And I further beg to request that you will cause the said British Consul to be informed of the date and place where the examination is to take place.

Dated the day of, 20....
[Seal of the] (*Signature*)
[District Court]

* Strike out if not the case.

Undertaking for Expenses Incurred in the Taking of Evidence in a Foreign Country
with which there is a Convention (O.37.r.2)

Between A.B Plaintiff,
and
C.D Defendant.

Signature of Advocate for

Order for Taking Evidence Before a British Consul in a Foreign Country (O.37.r.3)

Between	A.B	Plaintiff
	and	
	C.D	Defendant

It is ordered that the British Consul or his deputy at (name of place in the foreign country) be appointed as special examiner for the purpose of taking the examination, cross examination and re-examination, viva voce, on oath or affirmation of M.N of, X.Y of (names and addresses) witnesses on the part of the (Plaintiff or Defendant as the case may be) at (name of place in the foreign country) aforesaid. The examiner shall be at liberty to invite the attendance of the said witnesses and the production of documents, but shall not exercise any compulsory powers. Otherwise such examination shall be taken in accordance with the English procedure. The (Plaintiff's or Defendant's) advocate to give to the (Defendant's or Plaintiff's as the case may be) advocate. days notice in writing of the date on which they propose to send out this order to (name of place in the foreign country) for execution and that days after the service of such notice the advocates for the Plaintiffs and Defendants respectively do exchange the names of their agents at the aforesaid place to whom notice relating to the examination of the said witnesses may be sent. And that days (exclusive of Sunday) prior to the examination of any witness hereunder notice of such examination shall be

given by the agent of the other party (unless such notice be dispensed with). And that the depositions when so taken, together with any documents referred to therein, or certified copies of such documents, or of extracts therefrom, be transmitted by the Examiner, under seal, to the District Court of, on or before the day of, 20....., next, or such further or other day as may be ordered. And that either party be at liberty to read and give such depositions in evidence of the trial of this action, saving all just exceptions. And that the costs of and incident to this application and such examination be costs in the action.

Dated the day of, 20.....

[Seal of the]
[District Court]

(Signature)

Form No. 35
Jurat on Affidavit (O.39.r.10)

Sworn and signed before me on the day of, 20..... at
.....

(Signed) X.Y.

Registrar

Note: If an affidavit is made by two or more persons and they swear at different times, a separate jurat should be written out for each and his name inserted after the word “signed”, viz: “Sworn and signed by the above named A.B”, etc. If, however, all the deponents swear at one time it will be enough to say “Sworn and signed by all above named deponents” etc: see Order 39 r. 11.

Form No. 36
Jurat and Certificate where Deponent Illiterate or Blind (O.39.r.13)

“Sworn and signed before me on the day of, 20....., at
....., I, having first truly, distinctly and audibly read over the contents of this affidavit to the deponent (if the deponent is blind or illiterate, add – he being blind or illiterate, as the case may be. If there be exhibits add – and explained the nature and effect of the exhibits therein referred to), who appeared perfectly to understand the same and made his mark thereto in my presence”.

Form No. 37

Affidavit on Application to Land Registry Officer under Section 101 of the Civil Procedure Law, Cap. 7 (O.42.r.2)

In the District Court of

(Title and number of action)

To the Principal Officer of Land Registration for the District of

I, the above named,, hereby make oath and say as follows:

1. On the day of, 20....., I obtained judgment in the above named action against the above named and duly registered it in the books of the Land Registry Office on the day of, 20.....
2. There is now due to me in respect of the said judgment the sum of £.....
3. On the day of, 20....., I served upon the said a notice in writing whereof the document produced to you is a true copy by (*here state mode of service*).

(Signed)

Sworn before me:

Form No. 38

Notice to Judgment Debtor under Section 101 of the Civil Procedure Law, Cap. 7 (O.42.r.5)

To of

Take notice that there is now due to me the sum of £..... in respect of the judgment obtained by me against you on the day of, 20..... which judgment was duly registered by me in the books of the Land Registry on the day of, 20..... and take notice that if you do not pay the said sum in full together with interest at the rate of per cent up to the day of payment within from the date hereof the property affected by the registration of the said judgement may be sold without further notice to you.

And take further notice that if you dispute the amount owing in respect of the said judgment you must inform the Principal Land Registration Officer at

(Signed)

Dated the day of, 20.....

Form No. 39*

Application to Judge under Section 101 of the Civil Procedure Law, Cap.7 (O.42.r.5)

In the District court of

(Title of Action)

I hereby apply to a Judge of the District court of to determine the amount payable by the above named in respect of the judgment against him in the above mentioned action.

(Signed)

Principal Land Registry Officer

* Form 39A (Writ of Attachment), Form 39B (Writ of Sequestration), Form 39C (Affidavit for writ of possession), Form 39D (Writ of Possession) and Form 39E (Writ of Delivery) were inserted after Form 39 on the 20th May 1954, See *Cyprus Gazette* 1954, Volume II, page 275.

Form No. 39A (a)

Writ of Attachment (O.42A, r.4)

In the District Court of

(Title and number of the action)

To the Deputy Sheriff of and all police officers in Cyprus.

We command you to attach C.D. so as to have him before us in the Court of there to answer to us, as well touching a contempt which he it is alleged has committed against us, as also such other matters as shall be then and there laid to his charge, and further to perform and abide such order as our said Court shall make in his behalf and hereof fail not, and bring this writ with you.

Dated the day of, 20.....

(Signature of Judge)

(a) Form 39A, 39B, 39C, 39D & 39E inserted by Rules of Court 321/1954 – came into force on 20 May 1954

Form No. 39B
Writ of Sequestration (O.42A, r.4)

In the District court of

(Title and number of the action)

To (names of not less than two Commissioners)

GREETING:

Whereas lately in this Court in the above intituled action (or, matter) by a judgment (or order, as the case may be) of our said Court made in the said action (or matter), and bearing date the day of, 20....., it was ordered that the said C.D. should (as the case may be). Know ye, therefore, that we, in confidence of your prudence and fidelity, have given, and by these presents do give to you, full power and authority to enter upon all the immovable property of the said C.D, and to collect, take and sequester into your hands not only all the rents and profits of his said immovable property, but also all his goods, chattels, and moveable property whatsoever; and therefore we command you, that you do at certain proper and convenient days and hours, go to and enter upon all the immovable property of the said C.D, and that you do collect, take and get into your hands not only the rents and profits of his said immovable property, but also his goods, chattels and moveable property, and detain and keep the same under sequestration in your hands until the said C.D. shall (as the case may be) clear his contempt and our said Court make other order to the contrary.

Dated the day of, 20.....

(Signature of Judge)

Form No. 39C

Affidavit in Support of Application for Writ of Possession (O.43A, r.1)

In the District Court of

(Title and number of the action)

I, of hereby make oath and say as follows:-

1. I am the plaintiff (or as the case may be) in the above action in which judgment (or order, was given on the day of, 20..... in my favour for possession of the property hereinafter described, that is to say,

2. A copy of the said judgment (or order) was served on the defendant personally on the day of, 20....., and the same has not been obeyed.

** 3. On the day of, 20..... I sent by prepaid post to A.B and C.D the persons being in actual possession of the said premises or property, a letter setting out the particulars of the said judgment (or order) and asking them to vacate the said premises forthwith (summarise the contents of the letter) and stating that in default of vacating the said premises or of any application by them to the Court for relief or otherwise I would proceed to recover possession upon the said judgment (or order) without further notice.*

** 4. On the day of, 20..... I received from A.B and C.D the letter(s) which is/are annexed hereto and marked.*

5. I am informed and according to the best of my knowledge and information verily believe (state source of information and grounds for belief) that save for the defendant (and) his family and the above named persons served with notice of these proceedings there is no other person who is in actual possession of the whole or any part of the said premises and who would be entitled to apply to the Court for relief or otherwise (or as the case may be). I submit that the defendant (and the above named persons) has/have received sufficient notice of these proceedings to enable him/them to apply to the Court for relief and I crave leave to issue forthwith a writ for recovery of possession of the said premises (and, should a plaintiff so desire, for recovery of the amount due under the said judgment or order).

Sworn etc.

Note: The form should be modified to suit the circumstances of each particular case. When the defendant is the only person in possession, no formal notice is required. Where there are other persons (not parties to the proceedings) in actual possession it is necessary to serve them with such written notice as will give them a reasonable opportunity of applying to the Court.

** Strike out if inapplicable.*

Form No. 39D
Writ of Possession (O.43A, r.1)

In the District court of

(Title and number of the action)

To the Deputy Sheriff of the District of

Whereas by a judgment (or order) of this Court, dated the day of, 20...., it was adjudged (or ordered) that the plaintiff was entitled to possession of the immovable property hereinafter specified, and it was ordered that the defendant should deliver to the plaintiff possession of such property, that is to say,

And whereas the defendant has not obeyed the said judgment (or order);

This is therefore to authorise and require you without delay to give possession of the said property to the plaintiff;

(Add where applicable): And this is further to authorize and require you of the goods and moveable property of the above named defendant, other than those by law exempted from seizure and sale, to levy by seizure and sale the sum of £....., being the amount due under the said judgment (or order), together with interest thereon at the rate of four per cent per annum for the day of, 20.... until the day of sale, and also the sum of £....., for costs allowed under the said judgment (or order), together with £....., the costs for issuing this writ and together also with the costs of execution; And this is further to require you to pay the moneys so levied by you (other than your costs of execution, which you are at liberty to retain out of the said moneys) into the Court (or to the said plaintiff or his advocate.....)

And in what manner you shall have carried out the directions contained in this writ you are to state in writing on the back hereof; and you are to return this writ with such statement thereon to this Court immediately after the execution thereof.

Dated the day of, 20....

(Signature of Judge)

** Strike out parts inapplicable.*

Form No. 39E
Writ of Delivery (O.43B, r.1)

In the District Court of

(Title and number of action)

To the Deputy Sheriff of the District of

This is to authorise and require you without delay to cause the following movable property, namely (specify the movable property which the court has ordered to be recovered of the defendant) to be returned to the above named plaintiff, which the said plaintiff lately recovered against the above named defendant (or which the said defendant was ordered to deliver to the said plaintiff) in this action by a judgment (or order) dated the day of, 20.....

(a) And this is further to authorise and require you, if the above mentioned movable property cannot be found in your district, to distain all the movable and immovable property of the defendant, so that neither the said defendant nor anyone for him do lay hands on the same until the said defendant render to the said plaintiff the said movable property. (a)

(b) And, if the said movable property cannot be found in your district, this is to authorise and require you of the goods and other movable property to the above named defendant, other than those by law exempted from seizure and sale, to levy by seizure and sale the sum of £....., being the assessed value of the movable property ordered by the aforesaid judgment (or order) to be returned by the defendant to he plaintiff. (b)

(c) And this is further to authorise and require you of the goods and movable property of the defendant, other than those by law exempted from seizure and sale, to levy by seizure and sale the sum of £....., being the amount due under the said judgment (or order), together with inserest thereon at the rate of four percent per annum from the day of, 20, until the day of sale, and also the sum of £....., for costs allowed under the said judgment (or order), together with £....., the costs of issuing this writ and together also with the costs of execution; And this is further to require you to pay the moneys so levied by you (other than your costs to require you to pay the moneys so levied by you (other than your costs of execution, which you are at livery to retain out os fhe said moneys) into the Court (or to the said plaintiff or his advocate.....). (c).

And in what manner you shall have carried out the directions contained in this writ you are to state in writing on the back thereof; and you are to return this writ with such statement thereon to this Court immediately after the execution thereof.

Dated the day of, 20.....

(Signature of Judge)

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- Notes:*
- 1. (a)-(a) should be deleted if (b)-(b) will form part of this writ.*
 - 2. (b)-(b) should be deleted if the defendant has not been given the option of retaining the movable property by paying its assessed value.*
 - 3. (c)-(c) Strike out part inapplicable.*

Form No. 40
Bailiff's Book (O.44.r.3)

1. Number and date of writ.
2. Date when received.
3. From whom received.
4. Name and residence of judgment debtor.
5. Name and residence of judgment creditor.
6. Date of levy.
7. Total to be recovered up to the date of levy.
 - (a) Principal sum.
 - (b) Rate of interest and amount.
 - (c) Period of time for which interest to be reckoned.
 - (d) Costs.
 - (e) Mileage fee.
8. Amount actually recovered.
9. Amount of Chairman of the Village Commission's account and his receipt.
10. Amount paid to judgment creditor and his receipt.
11. Amount paid to Treasury Clerk with number and date of his receipt.
12. Amount of surplus (if any) paid to judgment debtor and his receipt.
13. Remarks

Form No. 41

Notice to Judgment Creditor of Third Person's Claim to Goods Seized under a Writ of Execution on Movables (O.44.r.12)

In the District Court of No of 20.....

Between	A.B. and C.D	Plaintiff Defendant
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To A.B. the judgment creditor, or his advocate, Mr

Take notice that the under mentioned property seized under the writ of execution dated the day of, 20..... against C.D the judgment debtor, is claimed by E.F of, as belonging to himself, and that I am of opinion that there is some foundation for the claim.

And take notice that you must, within four days of receiving this notice, either abandon the seizure in writing or furnish security in cash in the sum of £..... in order that I may interplead; and that if you fail to furnish such security within that time I shall withdraw from possession.

Delivered on the day of, 20....

(Signed)
Bailiff or Deputy Sheriff

The property in question is as follows:-

Request to Person in Charge of Hotel or Workshop for Information Whether there is any Claim on Property Seized from Hotel or Workshop (O.44.r.13)

Between A.B Plaintiff,
and
C.D Defendant.

This is to call upon you to inform me forthwith in writing whether there is any claim for hotel dues (or for work done) on the following property, namely, which was seized from the hotel (or workshop) in your charge as belonging to C.D of, under writ of execution dated the day of, 20.....

Bailiff or Deputy Sheriff.

Note: - This notice to be delivered with Form No 43 which should, when delivered, bear the title of the action and date and hour of delivery filled in by the Bailiff.

Claim for Hotel Dues or for Work done on Property Seized (O.44.r.13)

Between A.B. Plaintiff,
and
C.D Defendant.

Pursuant to the request delivered to me on the day of, 20.... at the hour of in the noon, I desire to inform you that there is a claim for £..... on the property seized from the hotel (*or* workshop) in my charge, and that the details of the claim are as follows:-

Bailiff

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Affidavit in Support of Application for Enforcement of Judgment in Newspaper Libel
Action (O.46.r.1)

Between A.B Plaintiff,
and
C.D Defendant.

4. According to the certified copy of the bond attached to the application, M.N of, the person against whom the application is made, is a signatory of a bond given under section 4 (1) (b) of the Newspaper, Nooks and Printing Presses Law, 1934 or under section 3 (1) (b) of the Press Law, Cap 136, as amended by Law 25 of 1951, section 3, with a liability for £.....

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Form No. 46
Application by Summons (O.48.r.2)

In the District Court of No, 20.....

Between	A.B and C.D	Plaintiff, Defendant.
---------	-------------------	------------------------------

Application by A.B of

Let all persons concerned attend the Court at on the day of
....., 20..... at the hour of in the noon, on the hearing of an
application whereby by the above named applicant applies for (a).....

The application is based on (b).....

* The facts relied upon are as follows: (c).....

or

*(The facts relied upon are set forth in the accompanying affidavit by A.B dated
.....)

This application is made by A.B in person (or by E.F advocate for A.B). Address for service:

(Signed)

Filed on the day of, 20.....

Fixed for hearing on the day of, 20..... at o'clock in the
..... noon.

To (d)

Registrar

- (a) Set out order or direction applied for.
- (b) Set out specific section of Law or specific Rule of Court.
- (c) If the application is not required by the rules to be supported by affidavits, the facts relied upon should be stated in the application.
- (d) State name and address of person to be served with the summons; and on form filed in Court give names and addresses of every such person.

* Strike out if not required.

Notice of Intention to Oppose Application Made by Summons (O.48.r.4)

Between A.B Plaintiff,
and
C.D Defendant.

Form No. 48
Application (Trade Marks) (O.53.r.1)

In the matter of the Trade Marks Law, 1951, (and
where the application is in respect of a trade mark already registered,

In re Trade Mark No of A.B)

In the Supreme Court of Cyprus.

Application by X.Y of

1. The application applies for an order directing that –
(Set out the nature of order applied for).
2. The facts on which this application is founded are stated in the accompanying affidavit(s).
3. The applicant relies on *(set out specific section of Law or specific rules relied upon).*
4. The applicant's address for service in Nicosia is
5. It is intended to serve

(Signed) X.Y
Applicant

Filed on

The application is fixed for hearing at on the

Chief Registrar

Form No. 49
Petition for Winding Up of Limited Partnership (O.54.r.2)

* Petition

To the District Court of No

In re

The humble petition of (a)..... of showeth as follows:-

1. The firm of (hereinafter called “the firm”) was, on the day of, 20....., registered under the Partnership Law, Cap 196.

2. The principal place of business of the firm registered under the said law is at (b) and was formerly at

3. The general nature of the business as registered is as follows:-

4. The full name of each of the partners as registered is as follows:-

The said and being registered as general partners and and as limited partners.

5. The sum contributed by each of such limited partners was as follows:-

By the said £

By the said £.....

and the said sums were respectively paid in cash and otherwise to the following extent:-

As to the said sum of £..... the sum of £..... part thereof in cash and the balance (in goods, *or as the case may be*).

As to the said sum of £..... the sum of £..... part thereof in cash and the balance (represented the value of the goodwill of the business acquired by the said firm, *or as the case may be*).

6. The firm was on the day of, 20..... dissolved by (mutual consent, *or as the case may be*)(or has ceased to carry on business, or is carrying on business for the purpose of winding up its affairs); (*or is unable to pay its debts*); (*or in the circumstances, it is just and equitable that the firm should be wound up by the Court*).

Your petitioner(s) therefore humbly pray(s) as follows:-

(1) That the firm may be wound up by the Court, *or*

(2) That such other order may be made in the premises as shall be just.

Note - (c) It is intended to serve this petition on

* Strike out any superfluous words.

(a) Name and residence of all petitioners.

Form No. 51
Originating Summons not Inter Partes (O.55.r.1)

In the District Court of No

In the matter of the trusts of the will of A.B

Let of within seven days after service of this summons on him, enter an appearance to this summons, which is issued upon the application of of for an order that (*state the object of the application*).

This summons was taken out by A.B personally (*or by E.F advocate for A.B*).

(*Signed*)

Filed the day of, 20.....

Registrar

N.B. - An appearance may be entered either personally or by advocate by delivering a memorandum of appearance to the Registrar at and by delivering at the same time a duplicate of such memorandum signed, dated and sealed by the Registrar, at (*address for service of person taking out the summons*).

If the Respondent does not enter appearance within the time and in the manner above mentioned, such order will be made and proceedings taken as the Court or Judge may think just and expedient.

Form No. 52
Amended Title of Proceedings (O.63.r.2)

(*Original Title*)

And by amendment –

(*Set out Amended Title*)

Amended the day of, 20....., pursuant to order dated the of 20.....

Note - Attention is directed to O.25.r.2. Amendments should be made within the time (if any) limited by the order to amend or, if none, within seven days of the order, otherwise the order becomes “ipso facto” void.

Form No. 53
Writ of Summons under Order 65

In the District Court of No

Between	A.B.	Plaintiff.
	and	
	C.D	Defendant.

To C.D of (a), (b)

This is to command you to appear before the Court at (c) on (Mon)day the day of, 20....., at the hour of in the forenoon, for the hearing of an action against you by A.B. of (a)..... (d)

The Plaintiff's claim in the action is set out in the statement of claim overleaf.

The Plaintiff's address for service is (e).....

And take notice that, in default of your appearing before the Court on the day aforesaid, the Plaintiff may proceed in the action and judgment may be given in your absence.

And take notice further that if you intend to dispute the Plaintiff's claim you must, within ten days after service of the writ of summons deliver your defence in writing to the Plaintiff himself or at his address for service and give a duplicate thereof or send the same by registered post to the registrar of the Court at (f).....

Filed and sealed on the (g) day of, 20.....

(Signed)

Registrar

- (a) Give full address, including street and number of premises, if any.
 - (b) State Defendant's occupation, if known.
 - (c) State the town or village in which the court will hear the action.
 - (d) State Plaintiff's occupation.
 - (e) Give the full name, occupation and address of a person within the municipal limits of the town or village in which is situated the Registry in which the action is filed, with whom documents intended for Plaintiff may be left. The town or village meant is that stated in the writ of summons at the end thereof, against the letter (f).
 - (f) State the town or village in the Registry of which the action is filed.
 - (g) The date should be filled in by the Registrar.
- N.B. - In drawing up a writ regard should be had to the provisions governing statements of claim.

~~ANNEX B~~ (a)

~~PART 1—ADVOCATES' FEES IN ACTIONS WITH CLAIMS RELATING TO
NOT MORE THAN £25~~

~~APPENDIX 'B'~~

~~PART 1—ADVOCATES' FEES IN ACTIONS WITH CLAIMS RELATING TO NOT
MORE THAN £25~~ (b)

~~PART 2—ADVOCATES' FEES IN ACTIONS WITH CLAIMS
RELATING TO MORE THAN £25~~(c)

~~PART 2—ADVOCATES' FEES IN ACTIONS WITH CLAIMS RELATING TO MORE
THAN £25.~~ (d)

~~PART 2—ADVOCATES' FEES IN ACTIONS WITH CLAIMS RELATING TO MORE
THAN £25~~ (e)

~~PART 2—ADVOCATES' FEES IN ACTIONS WITH CLAIMS RELATING TO MORE
THAN £25~~

-
- (a) Annex B, Part 1 repealed and replaced by Rules of Court 8/1979 – came into force on 01 February 1979
(b) Appendix B repealed and replaced by Rules of Court 17/2008 – came into force on 28 May 2008
(c) Part 2 repealed and replaced by Rules of Court 8/1979 – came into force on 01 February 1979
(d) Part 2 repealed and replaced by Rules of Court 68/1987 – came into force on 10 September 1986
(e) Part 2 repealed and replaced by Rules of Court 13/1999 – came into force on 22 March 1999

Schedule
APPENDIX B
PART I
ADVOCATES' FEES IN ACTIONS

		Value of the claim							
		Does not exceed €500	Exceeds €500 but not €2,000	Exceeds €2,000 but not €10,000	Exceeds €10,000 but not €50,000	Exceeds €50,000 but not €100,000	Exceeds €100,000 but not €500,000	Exceeds €500,000 but not €2,000,000	Exceeds €2,000,000
		€	€	€	€	€	€	€	€
1. Receiving instructions to sue or defend	from	15.00	31.00	53.00	91.00	140.00	193.00	255.00	347.00
	to	24.00	48.00	96.00	154.00	193.00	267.00	361.00	480.00
2. Preparing writ of summons:- a. Where no statement of claim is filed or the writ of summons is not specially endorsed b. Where the writ is filed with the statement of claim	from	7.00	14.00	24.00	41.00	51.00	70.00	91.00	125.00
	to	12.00	19.00	32.00	53.00	70.00	101.00	132.00	174.00
	from	17.00	34.00	70.00	113.00	166.00	224.00	294.00	427.00
	to	31.00	65.00	116.00	181.00	232.00	335.00	441.00	613.00
3. Entering an appearance	from	5.00	9.00	21.00	32.00	43.00	60.00	73.00	104.00
	to	9.00	14.00	27.00	44.00	60.00	82.00	109.00	152.00
4. Preparing and delivering statement of claim where item 2(b) above does not apply	from	15.00	31.00	63.00	104.00	132.00	185.00	237.00	335.00
	to	27.00	46.00	89.00	144.00	185.00	267.00	347.00	485.00
5.(a) Preparing statement of defence (b) Preparing statement of defence and counter-claim	from	14.00	29.00	55.00	91.00	114.00	161.00	207.00	290.00
	to	22.00	41.00	79.00	125.00	161.00	236.00	304.00	424.00
	from	17.00	39.00	80.00	132.00	162.00	229.00	299.00	429.00
	to	31.00	62.00	109.00	181.00	229.00	335.00	434.00	607.00

6. (a) Preparing a reply to a defence	from			24.00	41.00	51.00	70.00	91.00	125.00
	to			32.00	53.00	70.00	101.00	132.00	181.00
(b) Preparing a reply to a defence and a reply to a counter-claim	from	12.00	24.00	27.00	79.00	99.00	140.00	178.00	248.00
	to	17.00	36.00	68.00	109.00	140.00	202.00	260.00	366.00
7. Preparing a written statement of application and one copy	from	7.00	15.00	32.00	53.00	68.00	91.00	121.00	167.00
	to	14.00	24.00	44.00	72.00	94.00	133.00	174.00	243.00
8. Preparing written objection and one copy	from	7.00	15.00	32.00	53.00	68.00	91.00	121.00	167.00
	to	14.00	24.00	44.00	72.00	94.00	133.00	174.00	243.00
9. Preparing a notice to attend on hearing of application, or action and one copy	from	5.00	7.00	14.00	19.00	24.00	34.00	44.00	62.00
	to	7.00	9.00	17.00	27.00	34.00	51.00	63.00	91.00
10. Attending Court on an ex parte application:									
(a) In the Resident Judge's Court	from	14.00	26.00	51.00	79.00	94.00	113.00	147.00	205.00
	to	21.00	38.00	63.00	101.00	123.00	152.00	196.00	277.00
(b) In the Senior Judges' Court	from	21.00	38.00	73.00	114.00	142.00	167.00	219.00	308.00
	to	31.00	56.00	99.00	152.00	185.00	229.00	299.00	417.00
11. Attending Court on an application by summons:									
(a) If unopposed:									
(i) In the Resident Judge's Court	from	14.00	21.00	51.00	79.00	94.00	113.00	147.00	205.00
	to	21.00	38.00	63.00	101.00	123.00	152.00	196.00	277.00
(ii) In the Senior Judges' Court	from	21.00	38.00	71.00	114.00	142.00	167.00	219.00	308.00
	to	31.00	56.00	99.00	152.00	185.00	229.00	299.00	417.00
(b) If opposed - For every appearance:									
(i) In the Resident Judge's Court	from	29.00	46.00	72.00	96.00	104.00	132.00	167.00	237.00
	to	39.00	75.00	132.00	203.00	246.00	304.00	398.00	554.00
(ii) In the Senior Judges' Court	from	38.00	55.00	116.00	121.00	140.00	174.00	227.00	314.00
	to	60.00	111.00	195.00	304.00	349.00	460.00	595.00	832.00

12. Attending Court for directions to an action fixed on the Court's own motion and directions are given (fees are to be allowed for one attendance for directions only).	from to	31.00 67.00	63.00 126.00	94.00 219.00	133.00 340.00	161.00 410.00	214.00 513.00	294.00 666.00	400.00 1,015.00
13. Attending Court for settlement - as for a hearing. Fees are allowed for one attendance only unless following the first attendance a joint application is made and the Court considers it appropriate to set down the action again for settlement, in which case the fees for the second appearance are to be allowed.									
(i) In the Resident Judge's Court	from to	31.00 67.00	63.00 126.00	94.00 219.00	133.00 340.00	161.00 410.00	214.00 513.00	294.00 666.00	400.00 933.00
(ii) In the Senior Judges' Court	from to	51.00 101.00	75.00 185.00	121.00 326.00	174.00 506.00	202.00 615.00	243.00 762.00	318.00 993.00	314.00 832.00
14. Preparing for a hearing. Fees are allowed for one attendance only.	from to	31.00 67.00	60.00 123.00	85.00 215.00	125.00 338.00	144.00 410.00	176.00 509.00	227.00 660.00	318.00 924.00
15. (a) Preparing for hearing of an application by summons where there is an objection and a hearing takes place (advocates' fees are to be allowed for only one occasion of preparation):									
(i) In the Resident Judge's Court	from to	29.00 39.00	46.00 75.00	72.00 132.00	96.00 203.00	104.00 246.00	132.00 304.00	167.00 398.00	237.00 554.00
(ii) In the Senior Judges' Court	from to	38.00 60.00	55.00 111.00	116.00 195.00	121.00 304.00	140.00 349.00	174.00 460.00	227.00 595.00	314.00 832.00

(b) Preparing for hearing of an ex parte application where a hearing takes place. Advocates' fees are to be allowed for only one occasion of preparation):									
(i) In the Resident Judge's Court	from	14.00	26.00	51.00	79.00	94.00	113.00	147.00	205.00
	to	21.00	38.00	63.00	101.00	123.00	152.00	196.00	277.00
(ii) In the Senior Judges' Court	from	21.00	38.00	73.00	114.00	142.00	167.00	219.00	308.00
	to	31.00	56.00	99.00	152.00	185.00	229.00	299.00	417.00
16. Appearing at a hearing:									
(a) In the Resident Judge's Court	from	31.00	63.00	94.00	133.00	161.00	214.00	294.00	400.00
	to	67.00	126.00	219.00	340.00	410.00	513.00	666.00	933.00
(b) In the Senior Judges' Court	from	51.00	75.00	121.00	174.00	202.00	243.00	318.00	443.00
	to	101.00	185.00	326.00	506.00	615.00	762.00	993.00	1,386.00
17. Appearing at a pre-trial of an appeal	from	31.00	60.00	85.00	125.00	144.00	176.00	227.00	318.00
	to	67.00	123.00	215.00	338.00	408.00	509.00	660.00	924.00
18. (a) Preparing an outline of address for an appellant or respondent (where there is no cross-appeal).	from	51.00	75.00	121.00	174.00	202.00	246.00	318.00	443.00
	to	101.00	185.00	326.00	506.00	615.00	762.00	993.00	1,386.00
(b) Preparing an outline of address for a respondent where there is a cross appeal or where the address contains argument for a cross-appeal and preparing an address for an appellant in reply to the cross-appeal.	from	62.00	92.00	144.00	212.00	239.00	294.00	381.00	533.00
	to	123.00	222.00	390.00	607.00	738.00	914.00	1,189.00	1,668.00

19. Attending Court to hear a deferred judgment:									
(a). In the Resident Judge's Court	from	14.00	43.00	51.00	79.00	94.00	113.00	147.00	205.00
	to	21.00	38.00	63.00	101.00	123.00	152.00	196.00	277.00
(b). In the Senior Judges' Court	from	21.00	38.00	73.00	114.00	142.00	167.00	219.00	308.00
	to	31.00	56.00	99.00	152.00	185.00	229.00	299.00	417.00
20. Attending Court to obtain a judgment by default:									
(a). Without witnesses	from	17.00	36.00	68.00	104.00	125.00	150.00	195.00	273.00
	to	27.00	48.00	85.00	135.00	166.00	203.00	265.00	371.00
(b). With witnesses (the plaintiff and his representative are not deemed to be witnesses)	from	31.00	62.00	114.00	178.00	222.00	260.00	340.00	480.00
	to	46.00	85.00	152.00	237.00	287.00	355.00	461.00	648.00
21. Attending Court to obtain judgment by consent	from	34.00	68.00	133.00	205.00	249.00	301.00	390.00	547.00
	to	53.00	99.00	174.00	268.00	328.00	408.00	526.00	740.00
22. Examining and taking notes of evidence of each witness whose costs are afterwards allowed on taxation	from	7.00	12.00	27.00	43.00	55.00	79.00	99.00	140.00
	to	9.00	19.00	38.00	62.00	79.00	106.00	140.00	195.00

23.(a) Drawing up an affidavit	from	7.00	12.00	24.00	41.00	51.00	70.00	91.00	125.00
	to	9.00	19.00	32.00	53.00	70.00	101.00	132.00	181.00
(b) Drawing up an affidavit in the following cases:	from	14.00	26.00	50.00	82.00	103.00	140.00	181.00	249.00
	to	17.00	36.00	65.00	106.00	140.00	202.00	263.00	361.00
i. Application to issue interim order under any legislation									
ii. Application for permission to seal writ of summons outside the jurisdiction (Order 2, Rule 2)									
iii. Application to serve writ of summons to representative (Order 5, Rule 8)									
iv. Application for substituted service (Order 5, Rule 9)									
v. Application for permission to serve writ of summons outside the jurisdiction (Order 6, Rule 4)									
vi. Application for discovery of documents (Order 28, Rule 1)									
vii. Application for permission to file appeal solely in regard to costs (Order 35, Rule 20)									
viii. Application for setting aside judgment under any rule									
ix. Application to amend pleadings.									
24. Writing a letter before or after an action	from	5.00	7.00	17.00	27.00	32.00	44.00	60.00	82.00
	to	7.00	12.00	21.00	38.00	44.00	68.00	89.00	123.00
25. Applying for summons to witness whose costs are allowed	from	5.00	7.00	17.00	27.00	32.00	44.00	60.00	82.00
	to	7.00	12.00	21.00	38.00	44.00	68.00	89.00	123.00
26. Preparing a notice inter parte	from	5.00	7.00	17.00	27.00	32.00	44.00	60.00	82.00
	to	7.00	12.00	21.00	38.00	44.00	68.00	89.00	123.00

27. Preparing a security bond	from	5.00	7.00	17.00	27.00	32.00	44.00	60.00	82.00
	to	7.00	12.00	21.00	38.00	44.00	68.00	89.00	123.00
28. Preparing a notice of appeal and grounds thereof or preparing a notice to vary judgment (Order 35, Rule 10) and grounds thereof	from	12.00	24.00	48.00	79.00	99.00	140.00	178.00	249.00
	to	17.00	36.00	68.00	109.00	140.00	202.00	260.00	366.00
29. Preparing a bill of costs	from	5.00	12.00	24.00	41.00	51.00	70.00	91.00	125.00
	to	9.00	19.00	32.00	53.00	68.00	101.00	132.00	181.00
30. Attending a Registrar on Taxation	from	9.00	15.00	32.00	51.00	63.00	73.00	99.00	135.00
	to	14.00	26.00	43.00	68.00	84.00	101.00	133.00	185.00
31. Attending Court on review of taxation (a) In the Resident Judge's Court	from	17.00	36.00	68.00	104.00	125.00	150.00	195.00	273.00
	to	27.00	48.00	85.00	135.00	166.00	203.00	265.00	371.00
(b) In the Senior Judges' Court	from	27.00	51.00	99.00	154.00	188.00	224.00	294.00	410.00
	to	39.00	75.00	132.00	203.00	246.00	304.00	398.00	557.00
32. Attending the Registrar if no other provision is made	from	5.00	9.00	17.00	27.00	32.00	38.00	48.00	70.00
	to	7.00	12.00	21.00	34.00	41.00	51.00	68.00	94.00
33. Attending an arbitration: (a) not exceeding three hours	from	31.00	63.00	123.00	193.00	234.00	284.00	366.00	513.00
	to	51.00	94.00	162.00	255.00	308.00	381.00	495.00	694.00
(b) for each additional hour	from	12.00	26.00	51.00	79.00	94.00	113.00	144.00	205.00
	to	21.00	38.00	63.00	101.00	123.00	152.00	196.00	277.00
34. Perusing papers to file appeal: (a) by an advocate who appeared for the litigant in the Court of first instance	from	22.00	41.00	82.00	126.00	157.00	186.00	243.00	340.00
	to	34.00	62.00	109.00	167.00	205.00	255.00	330.00	461.00
(b) by an advocate who did not appear for the litigant in the Court of first instance	from	31.00	63.00	123.00	193.00	234.00	280.00	366.00	513.00
	to	51.00	94.00	162.00	255.00	308.00	337.00	437.00	613.00

35. Perusing papers by the advocate of the appellant to prepare outline of address									
(a) by an advocate who appeared for the appellant in the Court of first instance	from	22.00	41.00	82.00	126.00	157.00	186.00	243.00	340.00
	to	34.00	62.00	109.00	167.00	205.00	255.00	330.00	461.00
(b) by an advocate who did not appear for the appellant in the Court of first instance	from	31.00	63.00	123.00	193.00	234.00	280.00	366.00	513.00
	to	51.00	94.00	162.00	255.00	308.00	337.00	437.00	613.00

36. Where provision is made for Advocates' fees for an appearance before a Court for a hearing, if the hearing is adjourned due to lack of time, fees are allowed on the lower scale unless the Court orders otherwise.
37. Where the action or the appeal is settled on the day of the hearing, the Court may allow the fees provided for the hearing.
38. For the following types of cases the scales of the Advocates' fees are determined as follows:
- For judicial review, the fees for actions between €10.000 - €50.000;
 - For an originating summons the fees for actions between €10.000 - €50.000; and
 - For any other proceedings not otherwise provided for above, the scale of which corresponds to the value of the subject matter as determined by the Court.
39. Unless the Court orders otherwise, the value of the claim is to be determined by reference to the following amounts—
- From commencement of action up to and including filing of the appearance, or judgment by default of appearance by the defendant – the amount claimed on the writ of summons;
 - After entering an appearance up to the judgment – the amount or value of the subject-matter of the action in dispute, as disclosed in the pleadings;
 - In actions for money claims – the amount adjudged or the amount for which the action has been settled;
 - In other actions – the value of the subject-matter of the action actually in dispute between the parties;
 - In Court steps for enforcement of judgement – the amount for which execution is sought;
 - In respect of maintenance orders – the monthly amount fixed by the Court; and
 - In respect of appeals – the amount or the value of the subject-matter of the appeal.
40. The Court may order that the advocates' fees as against his client be based on a different scale than the scale applicable under the previous paragraph.
41. In respect of any judgment by consent, the following must be determined separately:
- The amount awarded;
 - The actual costs; and
 - Advocates' fees.