

CHAPTER 7. CIVIL PROCEDURE.

RULES OF SALE.

RULES MADE UNDER SECTION 98.

23 Revision
Vol. II, 334
34 Gaz. 210
42 Vol. II, 238
43 Vol. II, 110
15 of 44 (now
Cap. 229)
53 Vol. II, 683

42 Vol. II, 23

1. These rules may be cited as the Rules of Sale.

2. All sales of immovable property shall be conducted personally by the qualified mukhtar and carried out in the town or village in which the property is situate unless otherwise provided for by the order of the Court or by special directions of the Principal Land Registry Officer of the District in which it is situate.

3. Every notice of sale shall be prepared and issued by the Land Registry Office of the District in which the property to be sold is situate, and shall be given—

- (a) by posting a notice in the form contained in Appendix A hereto or to the like effect at the town, village or quarter at which the sale is appointed to be held ; and
- (b) by posting a notice in the form contained in Appendix B or to the like effect—
 - (i) at the town, village or quarter in which the property to be sold is situate ;
 - (ii) at the Court House of the Court out of which the writ of sale has issued ;
 - (iii) at such other place, if any, as may be directed by the Court or a Judge or by the Principal Land Registry Officer of the District :

Provided that where the sale is appointed to be held at the town, village or quarter in which the property is situate the notice referred to in (b) (i) need not be posted.

4.—(1) The Principal Land Registry Officer of the District, when fixing the date and place of sale shall pay special attention to the following facts in order to ensure that the property may be sold to the best advantage :—

- (a) the kind of property to be sold ;
- (b) the season of the year.

(2) No property shall be sold unless at least the fifteen days' notice required by law be duly given.

(3) Where it is brought to the notice of the Principal Land Registry Officer of the District that the date fixed for the sale does not allow of the property being sold to the best advantage, he may alter the date of sale provided notice is given to the parties interested and to the public at least seven days prior to the date advertised.

5.—(1) The notice of sale required to be posted under rule 3 (a) shall be sent to the appropriate mukhtar who shall cause such notice to be duly posted at the place where public notices

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are usually posted and forward to the Principal Land Registry Officer of the District a certificate stating the date and particulars of such posting.

(2) The notices of sale required to be posted under rule 3 (b) shall be posted by the Land Registry Office.

6. If it shall appear to the Court or a Judge or to the Principal Land Registry Officer of the District that any notice of the sale other than the posting of the printed notices hereinbefore mentioned ought to be given, or if the creditor, debtor or other person interested in the property to be sold shall desire that any such other notice be given, such other notice may be given at any time either before or after the posting of the printed notices hereinbefore mentioned.

7. Where the creditor, debtor or other person interested in the property shall require any such other notice as is mentioned in rule 6 to be given, he shall be at liberty to do all things necessary for the giving of such notice, subject to the approval of the Principal Land Registry Officer of the District.

8. The Land Registry Officer may defer issuing the printed notices of sale until the expenses to be incurred in carrying out the sale according to the order of the Court or according to the directions of the Principal Land Registry Officer of the District have been paid.

9.—(1) At the hour stated on the auction bill the auctioneer shall commence with the first lot ; he shall declare the amount of the highest bid made to him in writing, together with the name of the bidder ; he shall then call for oral bids and when it is apparent that no further bids are then forthcoming, he shall continue with the next lot on the auction bill in the same manner as with the first and so on with the remaining lots or so many of them as will cover the sum to be raised. He shall then state the highest bids received for each lot, call for further bids for any of the properties and if no bids are forthcoming, he shall declare the highest bidders and close the sale.

(2) In no case shall the auctioneer finally sell more properties than are required to cover the sum to be raised.

(3) Unless otherwise ordered by the Court or a Judge or unless special instructions are given by the Principal Land Registry Officer after application of the mortgagor or judgment debtor, house property will form the last lot to be sold.

(4) The auctioneer shall keep a separate record of all bids made for each particular lot put up for sale and shall attach such records to the auction bill on the completion of sale.

The record of the highest bids shall be signed or marked by the highest bidders and by the auctioneer.

(5) The auctioneer shall not proceed with the sale—

- (a) if at any time before oral bids are received the judgment debtor or mortgagor, or someone on their behalf, shall pay to him such a sum as will cover the debt and all costs ; or
- (b) if at any time during the sale the judgment debtor or mortgagor, or someone on their behalf, shall pay such a sum as with the sum at that moment realized by the sale will cover the debt and all costs.

10.—(1) Biddings by an agent shall be supported by—

- (a) the written authority of the principal for the agent to act in his behalf ; or
- (b) the written statement of the agent declaring that the bidding was made on behalf of the principal named in the statement,

to be furnished to the auctioneer at the close of the sale, when transfer of the property sold may be made direct to the principal :

Provided, however, that if the principal fails to comply with the conditions of rule 11, the agent shall be held to be the highest bidder.

(2) Biddings for minors shall be made by their natural guardians or by a person duly authorized by the District Court, or, in case of Moslems, by the Turkish Family Court.

11. Except when otherwise specified in the printed notices of sale or by special notice of the Principal Land Registry Officer of the District at the time of sale all properties shall be offered for sale on the following conditions :—

- (a) that the person declared to be the highest bidder shall immediately after the biddings have closed pay to the auctioneer—
 - (i) In respect of every lot the bid for which does not exceed ten pounds, the full amount bid ;
 - (ii) In respect of every lot the bid for which exceeds ten pounds, one-fifth of the amount bid, but in no case less than ten pounds ;
 - (iii) In the case where no such payment is required by the notice of sale, the amount due to the auctioneer, in respect of his fees, according to the scale in rule 15,

together with the amount of the fees payable in respect of the registration of the property in the name of the highest bidder.

Judgment creditors may be allowed to accept highest bidders as good for the amount bid, provided they produce to the auctioneer a statement in writing to that effect from the Principal Land Registry Officer of the District ;

- (b) that if the highest bidder shall fail to comply with the provisions of condition (a), the bidding shall thereupon be re-opened, and any loss which may result by reason of any subsequent highest bid falling short of the value of such original highest bid shall be made good by the original highest bidder, together with all expenses incurred in compelling him to make good the same ;
- (c) that the highest bidder shall attend at the Land Registry Office of the District not less than fifteen and not more than twenty-five days after the day of sale and will pay the balance of the purchase money, if any, or so much thereof as he may be required to pay ;
- (d) that the judgment creditor who has accepted a highest bidder as good for the amount bid shall attend at the Deputy Sheriff's office not less than fifteen and not more than twenty-five days after the day of the sale and give a discharge receipt for the sums bid by such highest bidders ;
- (e) that if the highest bidder shall fail to comply with the provisions of condition (c), any sum that has been paid by way of deposit shall be wholly forfeited and applied after deducting the auctioneer's fees in liquidation of the claim in satisfaction of which the sale has been ordered ; that the property may again be put up for sale in the same way as though no previous sale had taken place, to recover the balance still due, and that should the highest bid at the subsequent sale fall short of the amount bid by the highest bidder at the previous sale, the difference shall be made good by him together with all expenses incurred in respect of the subsequent sale and in compelling him to make good the difference.
- (f) that, should the judgment creditor, who has accepted a highest bidder as good for the amount bid, fail to comply with the provisions of condition (d), he shall be liable to the same penalties as the highest bidder under condition (e) ;
- (g) that the liability of the highest bidder or judgment creditor who accepts the highest bidder as good for the amount bid under the foregoing conditions shall not be in any way affected by reason of any proceedings that may be taken against him under the provisions of the Civil Procedure Law, Cap. 7.

12. At the time appointed for the sale the doors of any room in which the sale takes place may, in the discretion of the auctioneer, be closed so that any person present at the commencement of the sale may not leave the room until the person concluding the sale shall have closed the sale and called upon the highest bidder to pay the sum payable under rule 11.

13. On the conclusion of the sale, the auctioneer shall inscribe on a copy of the printed notices of sale the name and place of residence of the highest bidder, together with a statement of the amount of his bidding and of the sum or sums paid by him, and he shall deposit such sums, together with the documents of the sale, at the Land Registry Office within ten days from the day of the sale.

14. The Principal Land Registry Officer in any District is empowered to give any special directions as to the manner and conditions of sale of any property where in his opinion it shall be advisable so to do ; provided that he shall not, in the exercise of such power, direct any sale to be carried out in a manner inconsistent with the Civil Procedure Law, Cap. 7, or any law amending the same.

15. The fees stated in this rule (which shall be deemed to be expenses of the sale) are appointed to be taken by the auctioneer in respect of the matters hereinafter specified, that is to say— 53 Vol. 11,
683.

(1) auction fee on the highest amount bid in respect of each lot of immovable property sold, where such amount—

	£ s. p.
does not exceed £20	- 5 0
exceeds £20 and does not exceed £50 ..	- 10 0
exceeds £50 and does not exceed £100 ..	- 15 0
exceeds £100 and does not exceed £300 ..	1 10 0
exceeds £300 and does not exceed £1,000 ..	One per cent on the high- est amount bid
exceeds £1,000	10 0 0

Provided that, subject to the provisions of paragraph (2) of this rule, in no case shall the auctioneer receive in respect of any lot sold a fee in excess of half the highest amount bid therefor ;

(2) auctioneer's compensation—

- (a) where the fees in respect of all lots sold at any auction amount to less than 5s., a sum which together with such fees shall add up to the sum of 5s.;
- (b) where the auction takes place but no property is sold or where the sale is cancelled without notice of the cancellation by the Land Registry Office being served on the auctioneer personally or by registered post at least two clear days before the date fixed for such sale 5s.

(3) auctioneer's remuneration for travelling (including remuneration for any loss of time spent in travelling), where he resides elsewhere than in the town or village in which the sale is appointed to take place, at the rate of one shilling per mile travelled :

Provided that where the sale is cancelled but the auctioneer, not having received notice of the cancellation as in paragraph (2) of this rule provided, travels or incurs expenses for travelling, he shall be entitled to such remuneration, not exceeding the aforesaid rate, as the Principal Land Registry Officer of the District may determine having regard to the circumstances of the case and to any such actual expenses incurred.

APPENDIX A.

[Rule 3 (a).]

Notice is hereby given that under an Order of the District Court of _____ dated the _____ day of _____, 19____, the interest of _____ of _____ in the under-mentioned properties as registered in his name in the books of the Land Registry Office, will be sold by Public Auction in lots by _____ of _____ at _____ at _____ o'clock on the _____ day of _____ 19____. Biddings in writing may be made pending sale to the above-named Auctioneer.

Lot	Regis- tration No.	Plan and Plot No.	Village	Locality	Particulars of Property		
					Nature	Extent	
						Don.	Ev.

Boundaries	Registered interest offered for sale	Assessed Value	Remarks

The above interest in the properties stated is offered for sale without further warranty as to the existence, nature or extent of the property or of the title of the Judgment Debtor. Unless otherwise specified the sale will be subject to the Rules of Sale.

APPENDIX B.

[Rule 3 (b).]

Notice is hereby given that under the Order of the District Court, of _____ dated the _____ day of _____, 19____, the interest of _____ of _____ in the under-mentioned properties as registered in his name in the books of the Land Registry Office will be sold by Public Auction in _____ lots by _____ of _____ at _____ at _____ o'clock on the _____ day of _____, 19____. Biddings in writing may be made pending sale to the above-named Auctioneer.

Village in which situate	Lands		Trees		Buildings, &c.
	No. of lots	Extent	No. of lots	No. and Class of Trees	

Full details of the properties to be sold and of the conditions of sale may be obtained from the Notice of Sale posted at _____ or from the Auctioneer or at the Land Registry Office of the District.

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Principal Land Registry Officer.

RULES UNDER SECTION 103.

For Rules under section 103 of the Civil Procedure Law, Cap. 7, see the Civil Procedure Rules, Order 42, at page 200.

RULES OF COURT UNDER SECTION 104.

For Rules of Court under sub-section (2) of section 104 of the Civil Procedure Law, Cap. 7, see the Civil Procedure Rules, Order 11, at page 144.

CHAPTER 8.

CIVIL PROCEDURE (RECIPROCAL ENFORCEMENT
OF JUDGMENTS).CIVIL PROCEDURE (RECIPROCAL ENFORCEMENT OF
JUDGMENTS) RULES.*

RULES OF COURT MADE UNDER SECTION 5.

23 Revision,
Vol. II, 971.
E.41A.

1. These Rules of Court may be cited as the Civil Procedure (Reciprocal Enforcement of Judgments) Rules.

2. In these Rules, unless the context otherwise requires—

“The Law” means the Civil Procedure (Reciprocal Enforcement of Judgments) Law, Cap. 8.

“District Court” means the District Court of the District in which the person, or any of the persons, against whom a judgment is sought to be enforced under the Law resides or in which any property of the judgment debtor is or is situate.

E.41A, 1.

3. Any application under section 3 (1) of the Law for leave to have a judgment obtained in a superior Court in any part of Her Majesty's Dominions outside Cyprus to which the Law applies registered in Cyprus shall be made in writing *ex parte* to the District Court provided that the Court may direct that a copy of it be served on the person or persons against whom the judgment is sought to be enforced.

E.41A, 2.

4. The application shall be supported by an affidavit of the facts exhibiting the judgment or a verified or certified or otherwise duly authenticated copy thereof and stating that to the best of the information and belief of the deponent the judgment creditor is entitled to enforce the judgment and the judgment does not fall within any of the cases in which under section 3 (2) of the Law a judgment cannot properly be ordered to be registered.

The affidavit must also, so far as the deponent can, give the full name, title, trade or business and usual or last known place of abode or business of the judgment creditor and judgment debtor respectively.

E.41A, 3.

5. The affidavit and the application shall be intituled—

In the matter of the Civil Procedure (Reciprocal Enforcement of Judgments) Law, Cap. 8,

and

In the matter of a judgment of the (*describing the Court*)
obtained in (*describing the cause or matter*) and dated the
day of _____, 19 ____.

* These Rules do not apply now to judgments obtained in the United Kingdom: See sections 3 and 9 of the Foreign Judgments (Reciprocal Enforcement) Law, Cap. 16, and the Order in Council and Rules made thereunder (*post*, under Cap. 16), which provide for the enforcement of such judgments.

6. If the Court shall require an application to be served it shall (unless otherwise ordered by the Court) be served in the same manner as a writ of summons in an action in a District Court is required to be served. E.41A, 4.

7. An order giving leave to register shall be drawn up and shall state the time within which the judgment debtor is to be entitled to apply to set aside the registration. Such time where the judgment debtor is, or is ordinarily resident, within Cyprus shall ordinarily be fifteen days after service, and when the judgment debtor is or is ordinarily resident out of Cyprus shall ordinarily be the same time as is limited for appearance after service out of the jurisdiction of a copy of a writ of summons or notice thereof. E.41A, 5 & 6.

8. A Register of Judgments ordered to be registered under the Law shall be kept in each District Court by the Registrar. The judgment shall be registered therein in accordance with the order giving leave to register it. E.41A, 7.

9. There shall be entered in the Register the date of the order for registration and of the registration, the name, title, trade or business, and usual or last known place of abode or business of the judgment debtor and judgment creditor and the amount for which the judgment is signed and any special directions in the order for registration as to the registration or execution thereon and the particulars of any execution issuing thereon. E.41A, 8.

10. Notice in writing of the registration of the judgment must be served on the judgment debtor within five days or such other time as the Court shall direct after the order for registration. Such notice shall (in the absence of an order by the Court as to mode of service thereof) be served on the judgment debtor by personal service (with power to order substituted service or service out of the jurisdiction or both) as in the case of a writ of summons, but the Court may at any stage of the proceeding authorize or direct some other mode of service and if it does so the service shall be effected in accordance with such authority or direction. E.41A, 9.

11. The notice of registration shall contain full particulars of the judgment registered and of the order for such registration and shall state the name and address of the judgment creditor or of his advocate on whom and at which service of a notice or application issued by the judgment debtor may be served. E.41A, 10.

The notice shall state that the defendant is entitled, if he has grounds for so doing, to apply to set aside the registration and shall also state the number of days for applying to set aside the registration limited by the order giving leave to register.

12. The party serving the notice shall, within three days at most after such service, indorse on the notice or a copy or duplicate thereof the day of the month and week of the service thereof, otherwise the judgment creditor shall not be at liberty to issue E.41A, 11.

execution of the judgment, and every affidavit of service of such notice shall mention the day on which such indorsement was made. This rule shall apply to substituted as well as other service. The three days limited by this rule may under special circumstances be extended by the Court.

E.41A, 12.

13. The judgment debtor may at any time within the time limited by the order for registration after service on him of the notice of the registration of the judgment apply to the Court to set aside the registration or to suspend execution on the judgment and the Court if satisfied that the case comes within one of the cases in which under section 3 (2) of the Law no judgment can be ordered to be registered or that it is not just or convenient that the judgment should be enforced in Cyprus or for other sufficient reason may order that the registration be set aside or execution on the judgment suspended either unconditionally or on such terms as it thinks fit and either altogether or until such time as it shall direct : provided that the Court may allow the application to be made at any time after the expiration of the time herein mentioned.

E.41A, 14.

14. No execution shall issue on a judgment registered under the Law until after the expiration of the time limited by the order giving leave to register after service on the judgment debtor of notice of the registration thereof. Provided that the Court may at any time order that execution shall be suspended for a longer time.

E.41A, 15.

15. Any party desirous of issuing execution on a judgment registered under the Law must file an affidavit of the service of the notice of registration.

E.41A, 16.

16. A writ of execution on a judgment registered under the Law shall bear on it the words :—

“ The judgment under which the said sum of
herein mentioned became payable has been duly registered
in the District Court of _____ pursuant to
the Civil Procedure (Reciprocal Enforcement of Judgments)
Law, Cap. 8.”

E.41A, 17.

17. Any application under section 4 of the Law for a certified copy of a judgment of a District Court shall be made to the Registrar of the Court on an affidavit made by the judgment creditor or his advocate giving particulars of the judgment and showing that the judgment debtor is resident in some (stating what) part of Her Majesty's Dominions outside Cyprus to which the Law extends and stating to the best of his information and belief the title, trade, business or occupation of the judgment creditor and judgment debtor respectively and their respective usual or last known places of abode or business.

18. Subject to the provisions of the Law and of these Rules every application to the Court and every appeal to the Supreme Court shall be made in the same way and shall be subject to the

same Rules of Court as apply to civil actions. Provided that the Court and the Supreme Court shall in any case have full power to extend any time prescribed by these or any such rules notwithstanding that such time has expired.

Fees.

19. The fees set out in the Appendix to these Rules shall be payable in respect of the registration of judgments under the Law. E.41A, 20.

APPENDIX.

FEES OF COURT.

(Rule 19).

On filing application for leave to register—	£	s.	p.
Where amount of the judgment debt does not exceed £100	1	0	0
Where such amount exceeds £100	1	10	0
On filing an affidavit		3	0
On the order for registration		7	4½
On issuing execution	The same as on a judgment of a District Court.		
Other fees: The same as those prescribed in Appendix A to the Court Fees Order.			

ORDERS MADE UNDER SECTION 6.

The Governor in Council has by order declared that this Law shall extend to judgments obtained in a superior Court in the following parts of Her Majesty's dominions in the like manner as it extends to judgments obtained in a superior Court in the United Kingdom *:—

New South Wales: *See Gazette* 1925, p. 379.

Grenada (Supreme Court): *See Gazette* 1926, p. 311.

* This Law does not apply now to judgments obtained in the United Kingdom. See note at page 116.

CHAPTER 9.

CIVIL WRONGS.

RULES OF COURT MADE UNDER SECTION 64.

For Rules of Court made under sub-section (2) of section 64 of this Law see the Civil Procedure Rules, Order 46, at page 207.