

LAWS OF GUYANA

SUMMARY JURISDICTION (MAGISTRATES) ACT

CHAPTER 3:05

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An Act for the Constitution of Magistrates' Courts; for the Appointment of the Magistrates and other officers thereof, and of Justices of the Peace, and the Regulation of their Duties; for the Regulation of the Jurisdiction, Sittings, and Practice and Procedure thereof; and for other like purposes.

[1ST MARCH, 1894]

Short title.

1. This Act may be cited as the Summary Jurisdiction (Magistrates) Act.

Interpretation.

[14 of 1988]

2. (1) In this Act—

“the court” means a magistrate’s court established under this Act;

“criminal” includes quasi-criminal, and, with reference to matters of jurisdiction, comprehends all those matters not falling within the term “civil”;

“district” means a magisterial district constituted under this Act;

“summary conviction offence” means any offence punishable on summary conviction before the court, and includes any matter in respect of which the court can make an order in the exercise of its summary criminal jurisdiction.

(2) Every reference to a magistrate in this Act (other than in sections 6 and 7) or in any other written law shall, unless the context otherwise requires, also include a reference to the chief magistrate or a principal magistrate or senior magistrate.

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PART I CONSTITUTION OF THE COURTS

Division of Guyana into magisterial districts.

3. The Chancellor may by order—

- (a) divide Guyana, or any portion thereof, into magisterial districts for the purposes of this Act;
- (b) constitute in any part of Guyana a magisterial district or districts for the purposes of this Act;
- (c) distinguish the districts by the names or numbers he thinks proper; and
- (d) vary the limits of any district.

Special provisions as to port of entry.

4. For all purposes of jurisdiction, whether civil or criminal, the waters of any port of entry, as for the time being defined by Act or otherwise, shall be deemed to be within the district in which the port of entry is situate.

District magistrate's court.

5. In each district there shall be and there is hereby established a court, to be called the magistrate's court, with the civil and criminal jurisdiction and other powers hereinafter mentioned.

Presiding officer of the court.
[14 of 1988]

6. The presiding officer of the court shall be a person appointed under this Act as the chief magistrate or as a principal magistrate, senior magistrate, or magistrate and assigned to that court by the Chancellor.

PART II
OFFICERS OF THE COURTS

Magistrates

Number of
magistrates.
[14 of 1988]

7. (1) There shall be a chief magistrate and such number of principal magistrates, senior magistrates and magistrates as may be required for the discharge of the business of the courts established by this Act.

(2) The chief magistrate, a principal magistrate and a senior magistrate shall have and exercise and perform all the functions conferred on a magistrate under this Act or any other written law.

(3) Subject to the other provisions of this Act, and the powers of the Chancellor in this regard, the chief magistrate may allocate the work amongst the courts and transfer any cause or matter pending before any court to any other court, having jurisdiction to entertain such cause or matter, so as to ensure expeditious disposal of such work, cause or matter, and to relieve congestion of work in the courts.

Appointment
of magistrates
with or without
limitation.
[4 of 1972]

8. (1) A person may be appointed—

(a) to be a magistrate in a particular district or districts or in a particular part or parts of a district or districts or to adjudicate upon particular cases or classes of cases; or

(b) to be a magistrate for the whole of Guyana with or without limitation with respect to the cases or classes of cases upon which he may adjudicate.

(2) There may be one or more magistrates appointed to any court.

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Assignment of magistrates and sittings of courts, etc.

9. The Chancellor may assign a magistrate to preside over a particular court or courts or to a court at a particular place or at particular places in the area to which he is appointed and may determine the days and the hours of the sittings of courts and the matters or classes of matters with which particular courts shall deal and generally shall have charge of the administration of the system of courts established by this Act.

Jurisdiction and powers of a magistrate.

10. Subject to any limitation of his jurisdiction under section 8, a magistrate may exercise and administer all the jurisdiction and powers of a magistrate's court in any court within the area of Guyana to which he is appointed.

Residence of magistrate.

11. A magistrate assigned exclusively to the court of a district or to the court at a particular place or particular places within a district shall reside in the district unless exempted by the Chancellor from so doing.

Magistrate not to adjudicate where personally interested.

12. The Chancellor may direct that a particular magistrate shall not adjudicate on a particular cause or matter coming before him because of the magistrate's personal interest in that cause or matter or for any other sufficient reason and shall in any such case assign another magistrate to adjudicate on that cause or matter.

Magistrate a justice of the peace.

13. Every magistrate shall *ex officio* be a justice of the peace for Guyana.

Justices of the Peace

Appointment and removal of justices.

14. (1) The President may, by an instrument under his hand and the public seal, appoint any fit and proper person to be a justice of the peace for Guyana or any portion thereof. Such appointment may be limited as to time.

(2) The President may in like manner, for cause appearing to him sufficient, remove any justice of the peace from office.

(3) Every appointment and removal shall be notified in the *Gazette*.

*Ex officio
justices of the
peace.*

15. The Registrar of the Supreme Court and every district commissioner, assistant district commissioner and clerk of court for the time being shall *ex officio* be a justice of the peace for Guyana.

Publication of
annual list of
justices.

16. In the month of January in every year there shall be published in the *Gazette* a list of all justices of the peace for the time being holding office, and in the list there shall be stated the profession, occupation, or calling, and the place of residence, of each justice.

Justice to be
coroner.

17. Every justice shall be *ex officio* a coroner in and for Guyana or in and for that portion of Guyana for which he is a justice of the peace.

Powers.

18. (1) Subject to the provisions of this and of any other Act, every justice of the peace shall have power to preserve the peace, to suppress riots and affrays, and to disperse all disorderly and tumultuous assemblages, and for any of these purposes to call in the aid and assistance of all citizens of Guyana, who shall be severally bound to obey all lawful commands.

(2) Subject as aforesaid, every justice shall have the same power as a magistrate to issue warrants for the apprehension and commitment for safe custody of persons charged with indictable offences; to remand persons charged with offences, whether punishable on summary conviction or on indictment; to issue search warrants in respect of indictable offences, or in respect of any other offence in which a magistrate has power to issue a search warrant, and to administer oaths in cases allowed by law.

(3) The President may in an instrument appointing a justice of the peace empower him to issue warrants for the apprehension and commitment for safe

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custody of persons charged with offences punishable on summary conviction.

Apprehension by justice.

19. Any justice in whose presence any indictable offence or breach of the peace is committed may either himself apprehend the offender or verbally command any other person to do so; and that person may thereupon follow the offender and, if he flees, carry into effect and execute the command, whether in or out of the view of the justice by whom it was given.

Extent of jurisdiction.

20. The jurisdiction of every justice shall extend throughout Guyana or throughout that portion of Guyana for which he is a justice of the peace.

Clerk of Court and other Officers

Appointment of clerk of court and such other officers as may be required.

21. (1) There shall be a clerk of court for each district who shall be the principal administrative officer for the court of that district and whose office shall be situated in such place as the Chancellor shall specify.

(2) There shall be such other officers of the court as shall be required for the efficient administration of the system of courts established by this Act.

(3) The Chancellor may delegate any of the officers appointed under subsection (2) to perform any of the duties of the clerk of court.

Control of clerks and other officers of the Court.

22. The clerk of court and the other officers of the court shall be under the immediate direction of the magistrate.

Duties.

23. The duties of the clerk of court shall be—

- (a) to attend at every sitting of the court;
- (b) to prepare summonses, warrants,

orders, convictions, recognizances, writs of execution, and other documents and submit them for the signature of the magistrate;

- (c) to make copies of proceedings when required to do so by the magistrate, and to record the judgments, convictions and orders of the court;
- (d) to receive all fees, fines and penalties, and all other moneys paid in respect of proceedings in the court and to keep accounts thereof; and
- (e) to perform any other duties connected with the court assigned to him by the magistrate.

Accounts of clerks.

24. (1) The accounts of the clerk of court shall at all times be fully written up, and shall be submitted to the Registrar of the Supreme Court at least once in every month to be examined by him.

(2) Any person interested shall, on obtaining an order for that purpose from the magistrate, have access at all reasonable times to the books in which the accounts are kept.

(3) Further provisions with respect to the accounting of the clerk of court are contained in Part VI.

Appointment of bailiff.

25. One or more bailiffs may be appointed to each magistrate's court.

Bailiff to be rural constable.

26. A bailiff shall be by virtue of his office a rural constable and shall take the oath as that constable.

Duties.

27. (1) The bailiff shall serve all summonses and orders and execute all writs and other process assigned to

him by the magistrate and obey the orders and directions of the magistrate:

Provided that the magistrate, with the sanction of the Minister responsible for police, may direct the service of summonses in civil causes or matters to be effected, either in whole or in part, by police or rural constables, but the direction may be at any time rescinded in the same manner in which it was made.

(2) Where there are more bailiffs than one, the duties of the office shall be apportioned between them in the manner directed by the magistrate.

Accounting by
bailiff.

28. Every bailiff who receives moneys by virtue of his office shall once in every week, and oftener if required by the magistrate to do so, give to the magistrate or to the clerk of court a full, true, and particular account of all moneys received by him since the last accounting, and of all moneys previously received and accounted for, if any, and of the disposal thereof; and each account shall be filed and kept by the clerk among the records of the court.

When damages
against bailiff
may be
ordered.

29. If any bailiff employed to levy any execution against movable property under the process of the court, by neglect, connivance, or omission, loses the opportunity of levying the execution, then, upon complaint of the party aggrieved by reason of the neglect, connivance, or omission (and the fact alleged being proved, to the satisfaction of the court, on the oath of any credible witness), the magistrate may order the bailiff to pay the damages appearing to have been sustained by the complainant, not exceeding in any case the sum of money for which the execution issued, and the bailiff shall be liable therefor; and, upon demand made and his refusal so to pay and satisfy the damages, payment thereof may be enforced by the ways and means provided by the Summary Jurisdiction (Petty Debt) Act for enforcing a judgment recovered under that Act.

c. 7:01

Assault on
bailiff in
execution of his
duty.
[6 of 1997]

30. Everyone who—

- (a) assaults, obstructs, or resists, a bailiff in the execution of his duty; or
- (b) makes, or attempts to make, any rescue of any movable property, taken in execution under the process of the court;

shall be liable to a fine of nineteen thousand five hundred dollars or to imprisonment for two months.

PART III
JURISDICTION OF THE COURTS

Civil
Jurisdiction.
[4 of 1972]

c. 7:01

Criminal
jurisdiction.
[14 of 1988
15 of 1988]

31. The court in each district shall, in civil causes and matters within that district, have the jurisdiction and powers prescribed in, and shall exercise such jurisdiction and powers in the manner provided by, the Summary Jurisdiction (Petty Debt) Act.

32. (1) Subject to the provisions of this and of any other written law, the court of each district shall, within its district, have full jurisdiction and power—

- (a) to hear and determine all complaints or informations for summary conviction offences, including complaints or informations for the recovery of fines, penalties, or forfeitures not specially assigned by written law to the High Court;
- (b) to receive and inquire into all charges of indictable offences, and to make any orders in respect thereof required by the provisions of any written law for the time being in force in relation

to procedure in respect of indictable offences; and

(c) generally, to do all acts and things, by any written law, law, or usage now or hereafter in force, appertaining to the office of a magistrate, or of a justice of the peace.

(2) All offences and matters cognizable under any written law before any magistrate or justice of the peace committed or arising in or within the limits of any bay, creek, or inlet of the sea or that river or creek; and all offences and matters aforesaid committed or arising on board of any ship, vessel, or boat, beyond the limits aforesaid may be heard and determined by the court of the district off whose shore the ship, vessel, or boat, is at the time of the commission of the offence or of the matter arising as aforesaid, or on or near to the shore of whose district the ship, vessel or boat, after the commission of the offence or the arising of the matter aforesaid, anchors or touches.

(2A) The court may, notwithstanding the provisions of subsections (1) and (2) receive a plea of guilty from any person produced before it in custody in respect of an offence, cognizable under any written law by a magistrate, even though the offence was committed beyond the limits of the jurisdiction of that court, and deal with that person in respect of that offence according to law as if the offence were committed within those limits.

(3) [Repealed by Act No. 15 of 1988]

Extension of jurisdiction under Act relating to employers and servants.
[19 of 1990]

33. Where, under the provisions of any Act relating to employers and servants, a contract is made in one part of Guyana to perform any work or service in another part of Guyana, and a breach of the contract is committed beyond the limits of the district in which the contract was made, the court of that district shall have full jurisdiction and power to hear

and determine any complaint made or information laid for the breach.

Protection and Maintenance of Married Persons

Jurisdiction of
Magistrate's
Court in
matrimonial
proceedings.
[19 of 1990]

c.8:02

34. (1) A married person may apply by way of complaint to the court of the magisterial district in which a conviction has taken place or the cause of the complaint has wholly or partially arisen for an order or orders under section 36 against the other party to the marriage, that is to say that the defendant –

- (a) has been convicted summarily of an aggravated assault upon the complainant within the meaning of section 22 of the Summary Jurisdiction (Offences) Act;
- (b) while knowingly suffering from a venereal disease has insisted on, or has without the complainant being aware of the presence of the venereal disease permitted, sexual intercourse between the complainant and the defendant;
- (c) being a husband, has compelled the complainant to submit herself to prostitution, or has, in the opinion of the court, been guilty of such conduct as was likely to result and has resulted in the complainant submitting herself to prostitution;
- (d) is for the time being an habitual drunkard or a drug addict;
- (e) has deserted the complainant;

- (f) has been guilty of persistent cruelty to the complainant or to any child of the complainant or has wilfully neglected to provide or to make proper contribution towards the reasonable maintenance of the complainant or any infant child of the family who is, or would but for that neglect have been, a dependant of the defendant and whom the defendant is legally bound to maintain; or
- (g) has been convicted upon indictment of an assault upon the complainant and sentenced to pay a fine of more than two hundred and twenty-five dollars or to a term of imprisonment exceeding two months:

Provided that where the complainant is entitled to apply for an order or orders under this section on the ground of the conviction of the defendant upon indictment, the complainant may apply to the court before which the defendant has been convicted and that court, shall for the purposes of this section, become a court of summary jurisdiction and have the power to hear an application and make the order or orders sought.

(2) In considering whether any, and if so what, provision should be included in an order by virtue of paragraph (f) of subsection (1) for payment by one of the parties in respect of a child who is not a child of that party, the court shall have regard to the extent, if any, to which that party had on or after the acceptance of the child as one of the family assumed responsibility for the child's maintenance and to the liability of any person other than a party to the marriage to maintain the child.

Power to make
interim orders

35. (a) The court may, at any time after an application under section 34 for an order of maintenance has been served

for
maintenance.
[19 of 1990]

on the defendant, order that the defendant do pay to the complainant or to the collecting officer or other person acting on the complainant's behalf a weekly sum not exceeding such an amount as might be ordered to be paid under a final order made under section 36, for the maintenance of the complainant and any child or children in the complainant's custody until the final determination of the case by the magistrate or, in the event of an appeal to the Full Court from the decision of the magistrate, by the Full Court:

Provided that where the complainant is the husband the court shall make an order in his favour for his maintenance only where, by reason of impairment of his earning capacity through age, illness or disability of mind or body, it appears to the court reasonable in all the circumstances of the case so to do:

Provided that, pending the making of a final order by the magistrate under section 36, the order directing such payment shall not remain in operation for more than three months from the date on which it was made, but before or after the expiration of such period of three months another order may be made under this section.

(b) Any order made under this section shall be enforced in like manner as if it were a final order of the court made under section 36, and where payments under such an order are to be made to the collecting officer, the provisions of sections 47, 48, 49 and 50 shall apply to such payments and the enforcement thereof in the same manner and to the same extent as if the order under this section was a maintenance order.

Powers of
court.
[19 of 1990
25 of 1997]

Separation
order.

36. (1) The court to which the application under section 34 is made may make an order or orders containing all or any of the following provisions—

(a) that the complainant be no longer bound to cohabit with the defendant

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(a provision which while in force shall have the effect in all respects of a decree of judicial separation);

Custody and maintenance of children.

(b) that the legal custody of any children of the marriage while they are under the age of sixteen years be committed to the complainant and that the defendant shall pay to the complainant or to the collecting officer or other person acting on the complainant's behalf, such weekly sum of not less than five hundred dollars nor more than twenty-five thousand dollars as the court considers just and reasonable having regard to the means of both husband and wife for the maintenance of each such child until the child attains the age of sixteen years, or, where the child is attending any university, college, school or other educational establishment until the child attains the age of eighteen years;

Maintenance of complainant.

(c) that the defendant shall pay to the complainant personally, or for the use of the complainant to the collecting officer or to any other person acting on the complainant's behalf such weekly sum of not less than five hundred dollars nor more than thirty thousand dollars as the court considers just and reasonable having regard to the means of both the husband and wife:

Provided that where the complainant is the husband the court

shall make an order in his favour for his maintenance only where, by reason of the impairment of his earning capacity through age, illness or disability of mind or body, it appears to the court reasonable in all the circumstances of the case so to do;

Costs.

(d) for payment by the complainant or the defendant or both of them of the costs of the court and any reasonable costs of either party as the court thinks right and proper.

(2) Where provision is made by an order under subsection (1) (b) for the custody of any children of the marriage, the order may make such provision as the court thinks fit for access of the husband or wife, as the case may be, to those children.

Variation of
order made
under section
36.
[19 of 1990]

37. Any order made under section 36 either before or after the commencement of this section may be varied, on the application of the husband or wife, so as to include from the date of the variation of the order a provision under section 36(b) for the maintenance of the children of the marriage.

Limitation of
powers.
[19 of 1990]

38. The court hearing a complaint under section 34 shall not make an order under section 36 if it is proved that the complainant has committed an act of adultery, unless the court is satisfied that the defendant has condoned or connived at, or by wilful neglect or misconduct conducted to, that act of adultery.

Variation or
discharge of
order.
[19 of 1990]

39. (1) A magistrate, acting within the magisterial district in which any order under section 36 has been made, may on the application of the husband or wife, and on cause being shown upon fresh evidence to the satisfaction of the court, at any time alter, vary or discharge the order and upon the like application from time to time increase or diminish the

amount of any weekly payment ordered to be made, provided that the amount does not exceed such an amount as might be ordered under section 36.

(2) If any married person upon whose application an order has been made under section 36 commits an act of adultery the order shall upon proof thereof be discharged:

Provided that the magistrate shall not discharge the order by reason of such an act of adultery—

- (a) except at the request of the person who was the defendant to the proceedings in which the order was made; or
- (b) if the magistrate is of the opinion that the person aforesaid has condoned or connived at, or by wilful neglect or misconduct conduced to that act of adultery.

(3) In the event of the order being discharged the magistrate shall, if he considers it proper to do so, make a new order concerning the custody and maintenance of the children of the marriage until each child attains the age of sixteen years:

Provided that where the child is attending any university, college, school or other educational establishment the order for maintenance shall be made to continue until the child attains the age of eighteen years.

(4) In making an order under subsection (3) the court shall have regard to section 36(1)(b) and to the welfare of the children.

Effect of order
while parties

40. No final order made under section 36 shall be enforceable and no liability shall accrue under any such order

reside with each other.
[19 of 1990]

Effect of order upon resumption of cohabitation.
[19 of 1990]

Procedure.
[19 of 1990]
c. 10:02

Where order contains provision as to custody of children.
[19 of 1990]
c. 10:02

Persons under obligation to

while the parties to the marriage reside with each other.

41. Where a party to a marriage with respect to whom a final order has been made under section 36 resumes cohabitation with the other party to the marriage after living apart from the other, the order shall cease to have effect six months after the resumption of such cohabitation.

Enforcement of Orders

42. All applications under section 34 shall be made in accordance with the Summary Jurisdiction (Procedure) Act, and, in case of a conviction of a husband for aggravated assault upon his wife, her application may, by leave of the court, be made by summons to be issued and made returnable immediately upon that conviction; and any order made under section 36 may from time to time be enforced, if the payments required by it to be made or any of them is or are in arrears, by distress, in the manner prescribed in Part IV of that Act:

Provided that where by an order under section 36 it is provided that payment be made to a collecting officer under this Act nothing in this section shall preclude the collecting officer from enforcing such order in the manner provided in this Act.

43. Where an order under section 36 contains a provision committing to the applicant the legal custody of any children of the marriage, a copy of the order may be served upon any person in whose actual custody the children may for the time being be, and thereupon the provision may, without prejudice to any other remedy open to the applicant, be enforced under section 60 of the Summary Jurisdiction (Procedure) Act, as if it were an order of the court requiring that person to give up the children to the applicant.

44. Any person for the time being under an obligation to make payments (including costs) under an order made

make payments
to give notice
of change of
address.
[19 of 1990]

under section 36 shall give notice, to such persons (if any) as may be specified in the order, of any change of place of residence, within seven days thereafter, and any person failing to give such notice without reasonable excuse shall be liable on summary conviction to a fine of six hundred and fifty dollars.

Order may be
refused in
certain cases.
[19 of 1990]

45. If in the opinion of a magistrate the matters in question between the parties or any of them may be more conveniently dealt with by the High Court, he may refuse to make an order under section 36, and in that case no appeal shall lie from his decision:

Provided that the High Court or a judge thereof may, by order in any proceeding in that Court relating to or comprising the same subject matter as the application so refused, or any part thereof, direct the magistrate to rehear and determine that matter.

Collecting
officer.
[19 of 1990]

46. The Chancellor may appoint the Clerk of Court or any other officer of the court appointed under section 24(2) to be the collecting officer in a magisterial district for the purposes of this Act.

Provision in
maintenance
order.

47. (a) A magistrate may, where he is satisfied that it is desirable so to do, provide in a maintenance order—

- (i) at the time such order is made;
- (ii) on an *ex parte* application by either party to the marriage to vary such order at any time after the making of such order,

that all payments made under the maintenance order be made to the collecting officer of the district in which such order is made, and thereupon all payments thereunder shall be made to the collecting officer and not otherwise.

- (b) Payment of the amount so ordered

shall be made to the collecting officer in person, or by letter sent by registered post addressed to the collecting officer and posted in time to be delivered to him, on the day appointed for payment:

Provided that no collecting officer shall refuse to receive payment of money tendered to him in person, or received through the post, before or after the day appointed for payment.

- (c) The collecting officer shall receive all payments made to him under this Act and shall make payment to the husband or wife or to such other person as is named in the maintenance order of the sum directed to be paid thereunder, or such part thereof as he receives, without any deduction therefrom.
- (d) Where it is provided by a maintenance order that payment be made to the collecting officer, the husband or wife or such other person as is named in the maintenance order shall thereupon state to the collecting officer her or his full postal address.
- (e) Payment shall be made by the collecting officer—
 - (i) where the husband or wife or other person named in the maintenance order resides in the town or village in which the office of the collecting officer is situate, directly to the husband

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Summary Jurisdiction (Magistrates)

or wife or other person at the office of the collecting officer;

(ii)(A) in all other cases, by sending fortnightly to the postmaster of the post office designated by the husband or wife or other person as aforesaid an original order for payment specifying the amount to be paid and the person to whom payment is to be made.

(B) The person entitled to payment shall attend at the post office, present the duplicate order and sign the receipt on the original and duplicate orders in the presence of the postmaster who shall thereupon pay the amount of the order to the person named herein.

(C) It shall be the duty of the postmaster to forward received accounts to the Postmaster General for transmission to the Accountant General who shall in due course recover from the collecting officer the amounts so paid.

Issue of

48. (a) Where any payment due to a collecting

warrant for
arrears.
[19 of 1990]

officer under a maintenance order is at any time fourteen clear days in arrear, the magistrate may, on *ex parte* application by the collecting officer, issue a warrant directing the sum due under such order or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, to be recovered by distress and sale of the goods and chattels of the defaulting party.

- (b) If upon the return of such warrant it shall appear that no sufficient distress can be had, the magistrate may issue a warrant to bring the defaulting party before him, unless such sum and costs be sooner paid, and if the defaulting party neglects or refuses without reasonable cause to make payment of the sum so due together with such costs, the magistrate may commit the defaulting party to prison for any period not exceeding three months unless such sum and costs, together with the costs of commitment, be sooner paid.
- (c) Where a magistrate commits a defaulting party to prison under paragraph (b), no arrears shall, unless the magistrate otherwise directs, accrue under the order during the time that the defaulting party is in prison.

Collecting
officer to be
notified.

49. (a) Where by the maintenance order it is provided that payment thereunder be made to the collecting officer, and the husband or the wife to whom the order relates or such other person as is named in the maintenance order changes his or her place of residence, he or she shall, within seven days thereafter, give notice of such change to the collecting officer.

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- (b) Any person who without reasonable excuse fails to give such notice of change of place of residence shall be liable on summary conviction to a fine of six hundred and fifty dollars.

Attachment of
pension or
income.
[19 of 1990]

50. (a) Where there is any pension or income payable to the husband or wife and capable of being attached, the magistrate of the district in which a maintenance order has been made, before or after the commencement of this section, against the husband or wife may at any time—

- (i) where the husband or wife has without reasonable cause made a default under the order; and
- (ii) after giving the husband or wife an opportunity of being heard;

order that such an amount each week as is specified in the maintenance order or any part of such amount be attached and paid to the collecting officer.

- (b) Such order shall be sufficient authority to the person by whom such pension or income is payable, to make the payment so ordered, and the receipt of the collecting officer shall be a good discharge to such person to the extent of the amount so paid.

Proceedings for
enforcing
payment
maybe brought
at any time.
c. 10:02
[19 of 1990]

51. Proceedings for enforcing the payment of sums due under an order made under section 36 may be brought at any time, and section 6 of the Summary Jurisdiction (Procedure) Act shall not apply to such proceedings.

Regulations.
Forms.

52. The Chancellor with the approval of the Minister

responsible for finance may make regulations and prescribe forms for carrying into effect the provisions of sections 47, 48 and 50.

Appeal.
[19 of 1990]

c. 3:04

When poor
relief given to
married
woman or
married man.
[10 of 1990]
c. 36:02
c.45:03

Definitions.
[19 of 1990]

53. Save as is hereinbefore provided, an appeal shall lie from any order, or the refusal of any order, by a magistrate under section 36 to the High Court, and the appeal shall be regulated in all respects by the Summary Jurisdiction (Appeals) Act.

54. Where a married woman or married man has received poor relief under the provisions of the Poor Relief Act, the poor law commissioners shall be entitled to recover from her husband or his wife the amount of that relief, and the amount may be recovered under the Maintenance Act, a married woman or married man being for that purpose deemed a person entitled to be maintained by her husband or his wife within the meaning of that Act.

55. In section 34 the expression "habitual drunkard" means a person who, not being amenable to any jurisdiction in lunacy, is notwithstanding, by reason of—

- (a) the habitual intemperate drinking of intoxicating liquor; or
- (b) the habitual taking or using, except upon medical advice, of opium or other narcotic drugs within the meaning of the Narcotic Drugs and Psychotropic Substances (Control) Act—

at times dangerous to himself or to others, or incapable of managing himself, and his affairs; and the expression "maintenance order" means an order made under section 36, 37, or 39(3) for the maintenance of the wife, husband or of the children of the marriage, as the case may be.

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Proceedings by
or against an
officer of the
court.

56. Subject to section 12, any civil or criminal proceeding by or against any officer of a magistrate's court for any offence or matter cognizable by that court may be brought in the court of any adjoining district, and the last mentioned court shall have full jurisdiction and power in the matter of the proceeding.

Administration
of oaths.

57. Every magistrate and justice of the peace is hereby authorised to administer all oaths required to be taken before him in the exercise of any of the jurisdictions and powers conferred upon him by this or any other written law and those oaths may also be administered by the clerk of the court under the direction and in the presence of the magistrate.

PART IV SITTINGS OF THE COURTS

Sittings of the
court generally.

58. (1) The Chancellor may by notice appoint the times and places for the sittings of the courts and may in like manner alter any of those times or places.

(2) Every notice shall be published in the *Gazette*, and shall take effect on the publication thereof or at any other time mentioned therein.

(3) A copy of any notice aforesaid shall be posted up in a conspicuous place in every court room of the district to which it relates.

Nature of
business at any
sitting.

59. At any sitting of the court both civil and criminal causes and matters may be heard, determined, and dealt with, or either one or the other.

Adjournment
of the court.

60. (1) The magistrate may adjourn the court from day to day or to any convenient day.

(2) If the magistrate is not present at the time and place appointed for any sitting of the court, the clerk of court, or such other officer of the court as may be directed by the

magistrate, may, by public oral notice, adjourn the sitting until the time communicated to him by the magistrate, and, in the absence of that communication, to a convenient time; and all persons bound to be present at the sitting so adjourned shall be equally bound to be present at the time appointed by the notice.

(3) In the absence of the notice and of any notification to the contrary, those persons shall be bound to be present at the next succeeding time appointed by order in council as aforesaid or otherwise for the sitting of the court in the same place.

Adjournment over holiday.

61. When any day appointed for the sitting or adjourned sitting of the court falls on a public holiday, the magistrate shall in that case, if practicable, attend and transact the business appointed to be heard thereat on the day (not being a public holiday) next after that day.

Change of place of hearing.

62. Subject to section 58, the court shall be held only at a place appointed by notice for the sitting of the court; but, on the application of either party, or otherwise, the hearing of a case to be taken at one of those places may, in the discretion of the magistrate, be taken at another in the district.

Preservation of order at sitting of the court.

63. The Commissioner of Police shall detail one or more police constable(s) to attend at every sitting of the court, for the purpose of preserving order and carrying out the directions of the magistrate.

Punishment of person guilty of misconduct before the court.
[6 of 1997]

64. (1) Everyone who wilfully insults a magistrate, or is guilty of any other grave misconduct during the hearing of any cause or matter, whether civil or criminal, may, on a verbal order of the magistrate, be removed, by force if necessary, from the court, and may further be detained, under a warrant for that purpose, in the nearest lock-up or place of detention for any time, not later than the rising of the court on the same day, the magistrate thinks right.

(2) The person may further, either alone or in addition to the removal, or removal and detention, as the case may be, be summarily ordered by the magistrate to pay, either forthwith or within a specified time, a fine of four thousand eight hundred and seventy five dollars, and, in default of payment, to be imprisoned for any term not exceeding seven days, or to be imprisoned for any term not exceeding seven days, unless sooner discharged by the magistrate.

(3) Any judge of the High Court may, on an application made in a summary manner, order the total or partial remission, or the repayment, of any fine so inflicted, or the release of the person at once, or at any time before the expiration of his sentence, if the judge is satisfied that the applicant was not guilty of the alleged misconduct or that the punishment awarded for it was excessive.

PART V
PRACTICE AND PROCEDURE OF THE COURTS

In civil
jurisdiction.
c. 7:01

65. (a) The practice and procedure of the court in its civil jurisdiction shall be regulated by the Summary Jurisdiction (Petty Debt) Act and by any other written law relating thereto.

In criminal
jurisdiction.
c. 10:02

(b) The practice and procedure of the court in its criminal jurisdiction shall be regulated, in respect of summary conviction offences, by the Summary Jurisdiction (Procedure) Act, and by any other written law relating thereto and in respect of indictable offences, by any written law relating to those offences.

Procedure in
interpleader.

66. When a claim is made to any movable property taken in execution under the process, whether civil or criminal, of the court, the procedure shall be as prescribed in the

c. 7:01

Summary Jurisdiction (Petty Debt) Act.

Completion by magistrate of process begun by his predecessor.

67. (1) Where a magistrate has issued any summons or warrant, or otherwise taken or commenced any proceeding or matter, whether civil or criminal, under any authority however conferred, and subsequently ceases to act as magistrate, the person in whose hands the summons or warrant is may execute or serve it in the same manner, as if the magistrate who issued it had not ceased so to act; and any successor of the magistrate, or any person acting for the magistrate, may hear, determine, execute, enforce, and carry to completion, any proceeding or matter so commenced.

(2) When a magistrate has completed hearing any proceeding or matter whether civil or criminal under any authority however conferred and subsequently ceases to act as a magistrate or has been transferred from that district or is otherwise unable to deliver judgment, a judgment in the proceeding or matter written by him may be read by any other magistrate and entered into the minute book of the court.

(3) A judgment so read shall have effect as if delivered by the magistrate hearing the proceeding or matter.

Process of magistrate valid throughout Guyana.
[4 of 1972]

68. (1) All summonses, warrants, orders, judgments, writs of execution, or other process or proceedings, whether civil or criminal, issued or taken by or by the authority of any magistrate respecting any matter within his jurisdiction shall have full force and effect, and may be served or executed, anywhere within Guyana by a bailiff of the court, by the police or other constable to whom they are directed, or by any other police or other constable, as the case may be.

Issue of process.

(2) All summonses, warrants, orders, convictions, and recognisances, and all other process, whether civil or criminal, shall be issued or made under the hand of the magistrate; and the signature of the magistrate may be affixed by means of a stamp or facsimile.

Duty of constables to obey magistrates.

69. All police and other constables are hereby authorised and required to obey the warrants, orders and directions of the magistrate in the exercise of his criminal jurisdiction, and, so far as obedience may be authorised and required by any written law in that behalf, of his civil jurisdiction.

PART VI MISCELLANEOUS PROVISIONS

Fees and Costs

Tables of fees and costs.
Schedule.

70. (1) The fees and costs set forth in the tables in the Schedule may be demanded and received by the clerk of every magistrate's court for and in respect of the several matters therein mentioned. In the absence of the clerk, or if there is no clerk, they may be demanded and received by the magistrate.

(2) The fees and costs, or any of them, including amounts for service of process, may, from time to time, be annulled or altered by an order of the Minister responsible for finance, and other fees and costs and amounts may in like manner be fixed and imposed.

(3) Every order shall be published in the *Gazette*, and shall take effect on the publication thereof or at any other time mentioned therein.

Payment of fees and costs.
[3 of 1937]

71. All fees and costs payable under or by virtue of this Act shall be paid in money unless otherwise specially provided for under this or any Act for the time being in force.

Fees on affidavits of service.

72. In the case of an affidavit of service of process, no fee shall be payable on the execution thereof, but the fee shall be payable as and when the affidavit is tendered in evidence.

Pre-payment of

73. (1) All fees and costs payable under or by virtue of

fees and costs. this Act shall in the first instance be paid by the party applying for the summons, warrant, or other process or document, in respect whereof they are payable, but they shall be costs in the cause or matter in which they are paid:

Provided that—

- (a) no fees shall be payable in any case in which the magistrate or justice of the peace endorses on the plaint, information, or complaint, that the case is proper to be brought by the public body or officer prosecuting as concerning the public interest, or that it is a fit case for the remission of fees on account of the poverty of the party; and
- (b) in that case the fees and costs shall, in the discretion of the magistrate, be recoverable from the other party if the decision is given against him.

Exemption.

(2) No court fees, nor fees payable to any officer of the court, shall be taken under the Schedule, or any order of the Minister responsible for finance made under section 70, where they are payable by any government department, but they shall, nevertheless, be taken as paid for the purpose of assessing any costs which the court directs to be paid.

Magistrate and
clerk to be
under audit
regulations.

c. 73:01

74. (1) Every magistrate and every clerk of a magistrate's court shall be subject to the rules and regulations for keeping and auditing the public accounts of Guyana and for the guidance and control of public officers in charge of or dealing with public moneys now in force or which may hereafter be in force under the Financial Administration and Audit Act or any other Act.

Regulations.

75. The Minister may make regulations for the proper

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[3 of 1957
4 of 1972]

All moneys received in magistrates' courts subject to foregoing provisions.

carrying out of the provisions of this Act.

76. Sections 70 to 75 (inclusive) shall apply to all moneys received by the clerk of a magistrate's court, under this or any other Act, whether the moneys are fees, costs, fines, forfeitures, penalties, or money paid into court for any purpose, or received or recovered under or by virtue of any process of execution or distress.

Protection of Magistrate

Protection of magistrate.
c. 5:07

77. In the exercise of his jurisdiction, whether civil or criminal, a magistrate shall be deemed to be a justice of the peace within the meaning of the Justices Protection Act.

Rules of Practice

Rules of practice and procedure.
[41 of 1957]

78. (1) The Chief Justice may appoint any three or more magistrates to be a committee for the purpose of making rules, including forms, for regulating the practice and procedure of the courts in matters not provided for by this or any other Act relating thereto.

(2) The rules shall be subject to the approval of the National Assembly, who may add to, alter, or amend them.

s. 70
O. 24/1986

SCHEDEULE

TABLES OF FEES AND COSTS

TABLE A

*Fees and costs payable in respect of proceedings for recovery
of petty debts and petty damages*

	\$	c
1. Preparing plaint		
2. Filing the plaint, counterclaim or set-off, and, (if necessary) filling up the summons to the defendant (or plaintiff) where the amount of the value of the article sought to be recovered—		
(a) does not exceed \$50.....		
(b) exceeds \$50 but does not exceed \$100.....		
(c) exceeds \$100 but does not exceed \$150.....		
(d) exceeds \$150 but does not exceed \$200.....		
(e) exceeds \$200 but does not exceed \$250.....		
(f) exceeds \$250 but does not exceed \$300.....		
(g) exceeds \$300 but does not exceed \$350.....		
(h) exceeds \$350 but does not exceed \$400.....		
(i) exceeds \$400 but does not exceed \$450.....		
(j) exceeds \$450 but does not exceed \$500.....		
(k) exceeds \$500.....		
3. Judgment summons—		
(a) Filing praecipe for issue of judgment summons on any original judgment or order.....		
(b) Filing same on an order for payment by instalments.....		
4. Service of any summons in an action, or judgment summons upon the debtor, or summons upon a garnishee or judgment debtor		

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- in garnishee proceedings or upon an execution debtor in proceedings to obtain particulars of his interest under a lease
5. Preparing summons to witness (where necessary) and service thereof
6. On tendering in evidence any affidavit or return of service of process.....
7. Preparing (where necessary) and issuing writ of execution or writ of delivery including levy and sale of delivery thereunder, or any fugitive warrant, or upon endorsement of a writ of execution with a garnishment order
.....
8. Expenses of execution—
- (a) For the daily keep of each horse, mule or head of horned cattle taken in execution, not exceeding.....
- (b) For the daily keep of each head of other kinds of livestock, not exceeding
.....
- (c) Cartage and portage not exceeding the rates payable under the scale prescribed by any tariff made by any lawful authority in the town or district, or where there is no such tariff, such reasonable charge as the Clerk of Court may allow.
- (d) Petition for order of execution in case of levy or immovable property and other thereon, including printed copy of petition and order thereon.....

(e) Act of levy, inventory, and advertisement of day of sale.

(f) Commission on amount of proceeds of sale of any property, moveable or immovable – three per cent

(Distance money shall not be charged but the marshal shall receive his actual travelling expenses, plus five dollars for every twenty-four hours of absence.)

9. Judgment or other –

(a) Drawing any judgment or order of the Court where necessary or directed

(b) Copy of any judgment or order or jacket containing judgment or other

(c) Certificate of judgment or under rule 7 of Part XXIV of the rules

10. Filing any special case

11. For each form of a process

12. Filing any statutory or other application (in writing) including any affidavit in support thereof (where necessary) or filing any affidavit alone for which a filing or other fee has not been prescribed by the Act under which the application is filed

13. Copy of evidence or of any document per page of 120 words each

14. Upon sending any special case submitting any question of law for the decision of a judge

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II. COUNSEL'S COSTS

(To be awarded in accordance with the Summary Jurisdiction (Civil Procedure) Rules

1. Instructions for and drawing any plaint or counterclaim or particulars of defence to plaint or counterclaim where the amount or the value of the article sought to be recovered–

- (a) does not exceed \$200
- (b) exceeds \$200 but does not exceed \$400
- (c) exceeds \$400 but does not exceed \$600
- (d) exceeds \$600 but does not exceed \$800
- (e) exceeds \$800 but does not exceed \$1,000
- (f) exceeds \$1,000

2. Instructions for and drawing any application in writing (when same could not be verbally made) or notice of application including any necessary affidavit in support, where the amount or the value of the article sought to be recovered–

- (a) does not exceed \$750, not exceeding

- (b) exceeds \$750, not exceeding

3. Instructions for and drawing any affidavit or notice including service thereof, not exceeding

4. Instructions for and drawing any notice to produce documents for inspection, inspecting and taking copies of all such documents, not exceeding

5. Preparing copies of process for service under rule 7 Part XXIV of the rules per folio of 120 words each

6. Preparing copies or verified copies of any documents necessary for use in any proceedings per folio of 120 words each

7. Making or opposing application for discovery of document, or other application in writing (for all work done in connection therewith and only where the court or a magistrate considers the same necessary) not exceeding

8. Costs of the day to opposite party awarded on postponement or adjournment of action or matter at party's request or by reason of his default, not exceeding

9. Obtaining judgment by consent or by default where the amount or the value of the article sought to be removed–

- (a) does not exceed \$400
- (b) exceeds \$400 but does not exceed \$600
- (c) exceeds \$600 but does not exceed \$800
- (d) exceeds \$800 but does not exceed \$1,000
- (e) exceeds 1,000

Provided that the court may allow a fee exceeding the above fees but not more than \$45.00 in any case involving appearance in court.

10. Appearance conducting or defending action in court a fee not exceeding 10 per cent on the amount removed by a successful claimant or on the value of the property in dispute or on the amount claimed or the value of the property in dispute in the case of costs awarded against a claimant:

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Provided that in any case of special difficulty or importance the court may allow a fee exceeding the fee which may be allowed hereunder by not more than \$150.00

11. Fee for appearance in court and for all other services in any proceedings in aid of execution, not exceeding

12. Fee for appearance in court in supporting or opposing an application for commitment of judgment debtor, not exceeding

13. Town Council or Village Appraisement Appeals–

(a) Instructions to enter appeal, not to exceed

(b) drawing and filing plaint on appeal to

(c) Attendance in court of counsel supporting or opposing the appeal

(d) In any special or extraordinary circumstances, fees to counsel instructed by attorney-at-law may be allowed, if in the opinion of the court any point of law of exceptional difficulty is involved, provided always that the sum involved in the appeals exceeds

(Provided that where the valuation of the property the subject matter of the assessment has been reduced by a sum not amounting to \$2,500 no costs exceeding \$75.00 shall be allowed to the appellant.)

III. GENERAL

With respect to any matter not provided for in

this Table, the court or a magistrate may award for the services of counsel such reasonable fee, commensurate with the services performed, not exceeding \$150.00, as it or he shall deem just.

TABLE B

Fees and costs payable in respect of proceedings in relation to summary conviction offences

	\$	c
1. Preparing complaint or information		
2. Preparing each summons including filing complaint or information other than a summons hereinafter mentioned in item 9.		
3. Preparing each warrant		
4. Each copy of a conviction or order		
5. Each certificate of dismissal		
6. Copy of evidence or of any document, per page of 120 words.		
7. For removal of property taken in execution, the reasonable expenses actually incurred and paid.		
8. Service of summons on each defendant		
9. Preparing and serving of summons on each witness.		
10. For executing any warrant of commitment.		

11. Costs of either of the parties under section 36 (d) of the Summary Jurisdiction (magistrates) Act, Cap. 3:05, the proper allowance for witnesses, and in addition for professional assistance, a sum not exceeding

TABLE C

*Remuneration of witnesses in both Civil and
Criminal proceedings*

Each person in the following classes, for each day that person attends, or is travelling to attend, or to return from, the Court, provided the person is not in receipt of any salary or wages as a public officer or servant in Guyana, shall be remunerated as follows—

1. Medical and legal practitioners, ministers of religion, civil, mechanical and electrical engineers and persons professionally qualified in other branches of engineering, registered Dentists, Chartered Accountants and persons registered as public auditors under the Companies Act and other persons professionally qualified but not otherwise specified in this Schedule

2. Every merchant, attorney, director or manager of a mercantile firm, estate proprietor, estate manager or attorney

3. Every architect, surveyor, building contractor, chemist and druggist, auctioneer, manufacturer's agent, master of a sea-going vessel or other person similarly employed

4. Every mercantile clerk, shop or store keeper, master tradesman, estate overseer, mate

of a sea-going vessel or other person similarly employed

5. Every shop assistant, provision farmer, tradesman, stevedore porter, estate superintendent or other person similarly employed

6. Every pedlar, store porter, chauffeur, seamstress, labourer on a timber grant, balata grant, placer or mining claim, or other person similarly employed

7. Every domestic servant, agricultural labourer, gardener, huckster, groom or other person similarly employed

8. Every person between the ages of 6 and 16

9. Every person being the wife or

10. Every person belonging to any class not specified

11. For qualifying to give evidence and for attendance in court of expert scientific or other witness such sum as may be fixed by the court, not exceeding \$200.00 in any summary case, and not exceeding \$50.00 at the preliminary inquiry in an indictable case.

Note. (i) In criminal proceedings a witness in class 1 or 2 who resides within the boundaries of the City of Georgetown, or within the boundaries of the town of New Amsterdam, or within 1 mile of the Court House at Suddie shall not receive any remuneration unless he satisfies the magistrate that he has incurred loss by attending the court.

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(ii) In all cases a witness (including a public officer or servant when attending as a witness in a matter not arising out of his official duties) shall be entitled to such actual travelling and hotel expenses (where necessary) as the magistrate shall in each case allow.

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[Subsidiary]

Magisterial Districts (Boundaries) Order

SUBSIDIARY LEGISLATION

O. 9/1951
16/1956

MAGISTERIAL DISTRICTS (BOUNDARIES) ORDER

made under section 3

Citation.

1. This Order may be cited as the Magisterial Districts (Boundaries) Order.

Magisterial

Districts varied

2. The limits of the several Magisterial Districts into which Guyana is divided are hereby varied and shall, as from the 1st April, 1951, be as defined in the Schedule.

[O. 16/1956]

SCHEDULE

1. THE COURANTYNE MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the Atlantic Ocean;

On the west by the watershed between the Courantyne and Berbice Rivers from the 4th parallel of north latitude to the source of the Canje River; thence by the Canje River to the “Old Port Mourant Water Path”; thence by the Old Port Mourant Water Path to the western boundary of Plantation Port Mourant; thence along the western boundary of Plantation Port Mourant to the

Atlantic Ocean.

On the east by the Courantyne River as far south as the 4th parallel of north latitude;

On the south by the 4th parallel of north latitude.

2. THE BERBICE MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the Atlantic Ocean;

On the south by the 4th parallel of north latitude from the point of intersection with the eastern boundary to the point of intersection with the watershed between the Berbice and Essequibo Rivers;

On the east by the eastern boundary of Plantation Rose Hall on the Courantyne Coast to the back boundary, thence along the Old Port Mourant Water Path to the Canje River, thence along the Canje River to its source; thence by the watershed, between the Berbice and Courantyne Rivers to the 4th parallel of north latitude;

On the west by the watershed between the Berbice and Essequibo Rivers to the source of the Demerara River; thence by the watershed of the tributaries on the right bank of the Demerara River to the source of the Warababaru Creek; thence by the Warababaru Creek to its junction with the Ituni River; thence by the Ituni River to its source; thence by the watershed of the tributaries on the right bank of the Demerara River to a point due west of the source of the Abari River; thence by an imaginary straight line to the source of the Abari River; thence by the Abari River to the Atlantic Ocean.

3. THE EAST DEMERARA MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the Atlantic Ocean;

On the south by an imaginary straight line running due west from the source of the Abary River to the point of intersection with the watershed of the tributaries on the right bank of the Demerara River;

On the east by the Abary River to its source;

On the west by the watershed of the tributaries on the right bank of the Demerara River, from the source of the Abary River to the source of the Hauraruni River; thence by an imaginary straight line to the south-eastern corner of Timehri Field; thence by the eastern and northern boundaries of Timehri Field to the south-eastern corner of Plantation Soesdyke; thence by the eastern boundaries of Plantations Soesdyke and DeHeuvel to the north-eastern corner of Plantation DeHeuvel; thence by an imaginary straight line to the junction of the New Cut of the Lamaha Canal with Sand Creek; thence by the Lamaha Canal to the point of intersection with the side-line dam between Plantations Bel Air and Sophia; thence by the aforesaid side-line dam to the Atlantic Ocean.

4. THE GEORGETOWN MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the Atlantic Ocean;

On the south by the right bank of the Hauraruni River from its source to its confluence with the Demerara River; thence by an imaginary straight line in a north-westerly direction across the Demerara River to the mouth of the

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Magisterial Districts (Boundaries) Order

Kamuni River;

On the east by the side-line dam between Plantations Bel Air and Sophia to the point of intersection with the Lamaha Canal; thence by the Lamaha Canal to the junction of the New Cut with Sand Creek; thence by an imaginary straight line to the north-eastern corner of Plantation DeHeuvel; thence by the eastern boundaries of Plantations DeHeuvel and Soesdyke to the northern boundary of Timehri Field; thence by the northern and eastern boundaries of Timehri Field to the south-eastern corner of Timehri Field; thence by an imaginary straight line to the source of the Hauraruni River;

On the west by the left bank of the Demerara River from the mouth of the Kamuni River to the Atlantic Ocean.

5. THE WEST DEMERARA MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the Atlantic Ocean;

On the south by the 5th parallel of north latitude from the point of intersection with the eastern boundary to the point of intersection with the right bank of the Essequibo River;

On the east by the left bank of the Demerara River from its mouth to its junction with the Kamuni River; thence by an imaginary straight line running in a south-easterly direction across the Demerara River to the mouth of the Hauraruni River; thence by the right bank of the Hauraruni River to its source; thence by the watershed of the tributaries on the right bank of the Demerara River to the source of the Ituni River; thence by the Warababaru Creek to its source; thence by the watershed of the tributaries on

the right bank of the Demerara River to the 5th parallel of north latitude;

On the west by the right bank of the Essequibo River from the 5th parallel of north latitude to the mouth of the Anarika River; thence by the Anarika River to its source; thence by watershed of the tributaries on the right bank of the Essequibo River to the source of the Bonasika River; thence by the Bonasika River to its junction with the Essequibo River; thence by the right bank of the Essequibo River to the Atlantic Ocean.

6. THE ESSEQUIBO MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the boundary between Guyana and Venezuela from the mount of the Wenamu River to the source of the Akarabisi River; thence by the watershed between the Cuyuni River and the Barama and Waini Rivers to the source of the Pomeroon River; thence by the watershed between the Waini and the Pomeroon and Wakapau Rivers to the source of an unnamed tributary of the Manawarin River which runs in a south-westerly direction as shown on the 1913 map of Guyana; thence by the said unnamed tributary to the Manawarin River; thence by the Manawarin River to the Atlantic Ocean;

On the south by the 5th parallel of north latitude from the point of intersection with the eastern boundary to the point of intersection with the boundary between Guyana and Brazil; thence by the said boundary to the Mount Roraima;

On the east by the Atlantic Ocean and the right bank of the Essequibo River to the Bonasika River; thence by the Bonasika River to its source; thence by the watershed of the tributaries on the right bank of the Essequibo River to the

source of the Anarika River; thence by the Anarika River to its junction with the Essequibo River; thence by the right bank of the Essequibo River to the 5th parallel of north latitude;

On the west by the boundary between Guyana and Venezuela from Mount Roraima to the mouth of the Wenamu River.

7. THE NORTH-WEST MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the Atlantic Ocean;

On the south by the watershed between the Cuyuni River and the Waini and Barama Rivers from the source of the Pomeroon River to the source of the Akarabisi River;

On the east by the Moruka River from its mouth to the junction with the Manawarin River; thence by the Manawarin River to an unnamed tributary which runs in a south-westerly direction as shown in the 1913 map of Guyana; thence by the said unnamed tributary to its source; thence by the watershed between the Waini River and the Pomeroon and Wakapau Rivers to the source of the Pomeroon River;

On the west by the boundary between Guyana and Venezuela from the source of the Akarabisi River to the Atlantic Ocean.

8. THE RUPUNUNI MAGISTERIAL DISTRICT

That part of Guyana bounded as follows –

On the north by the 5th parallel of north latitude from the point of intersection with the boundary between

Guyana and Brazil to the point of intersection with the watershed of the tributaries on the right bank of the Demerara River;

On the south by the boundary between Guyana and Brazil;

On the east by the watershed of the tributaries on the right bank of the Demerara River to the source of the Demerara River; thence by the watershed between the Essequibo and Berbice Rivers to the point of intersection with the 4th parallel of north latitude; thence by the 4th parallel of north latitude to the Courantyne River; thence by the boundary between Guyana and Surinam;

On the west by the boundary between Guyana and Brazil.

Reg. 5/1950

MAINTENANCE REGULATIONS

made under section 52

Citation.

1. These Regulations may be cited as the Maintenance Regulations.

Collecting
officer to
notify husband
of direction.

2. Where subsequent to the making of maintenance order a magistrate on the *ex parte* application of the wife or other person named in the maintenance order directs that all payments becoming due under such order be made to the collecting officer, such officer shall send to the husband by registered post notice of such direction.

Copy of order
of attachment
to payer of

3. Where an order is made under section 50 of the Act attaching any pension or income a copy of such order certified by the clerk of the court shall be sent by registered

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Maintenance Regulations

pension.

post to the person by whom such pension or income is payable and thereupon such person shall pay the amount ordered to the collecting officer; such payments to be made at such times as such pension or income shall be payable.

Issue of receipt.

4. The collecting officer shall issue a receipt from a book of printed duplicate receipts to every person making any payment under the Act and such receipt shall set out the name of the person by whom such payment shall be made, the amount paid, the date of such payment and the date upon which the period in respect of which such payment became due.

Signing of receipt.

5. Where the collecting officer makes payment direct to the wife or other person named in the maintenance order he shall, at the time of making such payment, require the wife or other person named in the order to sign a receipt for the amount so paid, in a book of receipts to be kept by the collecting officer.

Payment under section 42.

6. (1) Where the collecting officer makes payment to the wife or other person named in the order under section 47 (e) of the Act he shall make out in triplicate in a book to be kept by him an order to the postmaster at the Post Office where payment is to be made specifying the amount to be paid to such person. The collecting officer shall then forward by registered post to such postmaster the original of such order and shall at the same time send the duplicate thereof by registered post to the person to whom payment is to be made.

(2) On payment of an order in accordance with section 47 (e) of the Act the postmaster shall account for it in the same manner as a Treasury payment under the head "Deposits, Maintenance Act". The postmaster shall retain the original order in support of the payment and post the duplicate

on the same day to the collecting officer who shall attach it to the triplicate order to which it relates.

(3) The collecting officer shall pay to the Accountant General all amounts collected under the Act in respect of which orders have been issued to postmasters and he shall account for such payments in the same manner as in the case of general revenue. A statement giving the number of each payment order, the post office to which it was sent, the name of each payee and the amount payable shall accompany every payment made to the Accountant General.

Cash book.

7. The collecting officer shall keep a cash book in which he shall enter forthwith all amounts received by him and all payments made by him under the Act and shall balance the same upon the last day of each calendar month.

Ledger.

8. The collecting officer shall also keep a ledger in which he shall open an account in respect of each proceeding in which an order shall have been made for payment to him and he shall post to such ledger at the end of each day all payments which shall have been made to or by him, each such account to be headed in the name of the proceeding, that is to say, "versus" together with the date of the order and the particulars thereof.

Entries.

9. Each entry in the cash book shall set out, in addition to amount received or paid, the name of the proceeding, the name of the person making or receiving payment and the folio of the ledger to which such payment shall have been posted; and each entry in the ledger set out the folio of the cash book from which such entry shall have been posted.

Application
for warrant for
arrears.

10. Where any payment to be made to the collecting

officer is fourteen clear days in arrears the collecting officer shall make application forthwith to the magisterial for the issue of a warrant under section 48 of the Act and it shall not be necessary that notice of such application be given to the person in default.

Unclaimed
order.

11. Where an original order has been forwarded to a postmaster and has been unclaimed for a period of three months from the date of issue the postmaster shall endorse on it the fact that the order is unclaimed and shall return it to the collecting officer.

Recording of
return of
unclaimed
order.

12. (1) Where an unclaimed original order is returned to a collecting officer he shall record the fact that payment has not been claimed on the triplicate order relating thereto and shall thereupon make out a transfer voucher debiting the head "Deposits, Maintenance Act" and crediting the head "Unclaimed Deposits, Maintenance Act", attach the unclaimed original order thereto and forward it to the Accountant General.

(2) Where any money paid to a collecting officer is in his possession for a period of six months he shall forward it to the Accountant General accompanied by a transfer voucher, accounting as in paragraph (1).

Refund of
moneys
deposited with
Accountant
General.

13. Where any unclaimed orders or moneys have been deposited with the Accountant General under the last preceding regulation and a claim for payment in respect thereof is subsequently made to the collecting officer he shall issue a voucher headed "Unclaimed Deposits, Maintenance Act" showing the applicant as payee. The particulars of the deposit shall be filled in on the face of the voucher and the magistrate shall certify the correctness of the refund by signing the voucher as "Head of Department".

Provided that where any money deposited with the Accountant General remains unclaimed for more than two years from the date of deposit it may be refunded to the person from whom it was originally collected or paid into revenue if such person has since died or left Guyana or his whereabouts are unknown.

Forms.

14. The forms set forth in the Schedule or forms to the like effect may be used in the matters to which they apply.

SCHEDULE

FORM 1

APPLICATION EX PARTE UNDER SECTION 47 OF THE SUMMARY JURISDICTION (MAGISTRATES) ACT

Guyana

In the magistrate's court for the.....Magisterial District.

The application of.....of.....who saith that by a maintenance order made at the magistrate's court holden at.....on the.....day of.....20....., was found guilty of.....and ordered to pay to her the sum of \$.....per week for the maintenance of herself andchildren.

And the said.....now prays that it may be ordered that all payments becoming due under such order be made to the collecting officer for the.....Magisterial District from and after the.....day of.....20.....

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Maintenance Regulations

(*Signed*).....

Applicant

Exhibited before me this.....day of.....20.....

(*Signed*).....

Magistrate

.....Magisterial District

FORM 2

**NOTICE TO HUSBAND OF ORDER TO PAY TO THE
COLLECTING OFFICER**

Guyana

In the magistrate's court for the.....Magisterial District.
To.....

Take notice that whereas by a maintenance order made at the magistrate's court holden at.....on the.....day of.....20....., you were found guilty of.....and ordered to pay to her the sum of.....a week for the maintenance of herself and.....children.

Now upon the application of the said.....it is ordered that all payments becoming due under such order be made to the collecting officer for the.....Magisterial District from and after the.....day of.....20.....

Dated the.....day of.....20....., at.....

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[Subsidiary]

Maintenance Regulations

(Signed).....
Collecting Officer

.....Magisterial District

FORM 3

COMPLAINT FOR ATTACHMENT OF PENSION OR INCOME

Guyana

In the magistrate's court for the.....Magisterial District.

The complaint of.....of.....made and taken on oath before me, the undersigned magistrate for the said Magisterial District the.....day of.....20...., who saith that by a maintenance order made at the magistrate's court holden at.....on the.....day of.....20...., was found guilty of.....and ordered to pay to the complainant the sum of.....a week;

And the said complainant further saith that the said.....has without reasonable cause made default under the said order and there is now due thereunder the sum of.....being the amount of arrears for.....week payments;

And the complainant further saith that there is payable to the said.....a certain pension (income) capable of being attached, namely.*

And the complainant therefore prays that an order be made

* Set out particulars of pension or income.

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Maintenance Regulations

that the sum of [†] or such part thereof as the court may order may each week be attached out of the said pension (income) and paid to the collecting officer for the said Magisterial District.

Taken and sworn to before me this.....day of.....
20....., at.....in the.....Magisterial District.

(Signed).....
Magistrate

FORM 4

SUMMONS TO ATTACH PENSION OR INCOME

Guyana

In the magistrate's court for the.....Magisterial District.
To.....of.....

Whereas complaint has been made upon oath before me on the.....day of.....20....., that by a maintenance order made at the magistrate's court for the.....Magisterial District, holden at.....on the.....day of.....
20....., at.....in the.....Magisterial District.

(Signed).....
Magistrate

[†] Insert amount of weekly sum payable under maintenance order.

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FORM 5

ORDER TO ATTACH PENSION OR INCOME

Guyana

In the magistrate's court for the.....Magisterial District.

Whereas complaint has been made by.....of.....
that by a maintenance order made at the.....magistrate's
court holden at.....on the.....day of.....20.....,
.....was found guilty of.....and ordered to pay
to.....the sum of.....a week for the maintenance of
herself and.....children and that he has without
reasonable cause made default under the said order and there
is now due thereunder the sum of.....being the amount
of arrears for.....weeks payments and that there is
payable to the said.....a certain pension (income)
capable of being attached, namely,

After giving the said.....an opportunity of being
heard it is adjudged that the said complaint is true and it is
ordered that the sum of.....each week be attached out of the
said pension (income) and paid to the collecting officer for
the.....Magisterial District.

Dated this.....day of.....20.....

(Signed).....
Magistrate

.....Magisterial District

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FORM 6

**FORM OF RECEIPT TO BE GIVEN BY COLLECTING
OFFICER**

No.....

In the magistrate's court for the.....Magisterial District.

.....V.....

Received from.....this.....day of.....20.....,
the sum of.....being amount due under a maintenance
order in the above matter in respect of.....weeks payments
ending.....day of.....20.....

(Signed).....

Collecting Officer
.....Magisterial District

FORM 7

**FORM OF RECEIPT TO BE GIVEN TO THE COLLECTING
OFFICER**

No.....

In the magistrate's court for the.....Magisterial District.

.....V.....

Received from.....this.....day of.....20.....,
from the collecting officer for the.....Magisterial District the
sum of.....being amount due under a maintenance order
in the above matter in respect of.....weeks payments
ending.....day of.....20.....

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(*Signed*).....

FORM 8

FORM OF ORDER FOR PAYMENT BY POSTMASTER
(to be made out in triplicate)

No.....

In the magistrate's court for the.....Magisterial District.

.....v.....

To the postmaster at.....

Pay to.....the sum of.....being amount due under a
maintenance order in the above matter in respect of.....
weeks payments ending.....20.....

(*Signed*).....

Collecting Officer

.....Magisterial District

Received payment of the above sum this.....day
of.....20.....

(*Signed*).....

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FORM 9

APPLICATION FOR WARRANT OF DISTRESS

Guyana

In the magistrate's court for the.....Magisterial District.

Whereas by a maintenance order made at the magistrate's court of the.....Magisterial District, holden at.....on the.....day of.....20....,of.....was found guilty of.....and ordered to pay to the collecting officer for the said.....Magisterial District the sum of.....a week for the maintenance of the said.....and.....children.

And whereas the said.....has made default under the said order and there is now due thereunder the sum of.....being the amount of arrears for.....weeks payments ending.....day of.....20.....

I,....., collecting officer for the said Magisterial District, do hereby pray that a warrant may issue directing that the said sum of.....due under such order together with the costs attending such warrant be recovered by distress and sale of the goods and chattels of the said.....

Dated the.....day of.....20.....

(Signed).....

Collecting Officer

.....Magisterial District

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FORM 10

WARRANT OF DISTRESS ON APPLICATION OF COLLECTING OFFICER

Guyana

In the magistrate's court for the.....Magisterial District.

To Police (or) Constable.

Whereas by a maintenance order made at the magistrate's court for the.....Magisterial District holden at.....at.....on the.....day of.....20...,of....., was found guilty of.....and ordered to pay to the collecting officer for the said Magisterial District the sum of.....for the maintenance of the said.....and.....children.

And whereas the said.....has made default under the said order and there is due thereunder the sum of.....being amount of arrears for.....weeks payments ending.....20.....

And whereas the said collecting officer has applied that a warrant may issue directing that the said last mentioned sum together with the costs attending such warrant be recovered by distress and sale of goods and chattels of the said.....

This is to command you forthwith to make distress of the goods and chattels of the said.....and if within the space of five days after the making of such distress the said sum of.....together with the reasonable charges of taking and keeping the said distress shall not be paid then that you do sell the said goods and chattels so by you distrained and do pay the money arising from such sale unto the said collecting officer that he may pay and apply the same as by law directed and

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may render the surplus, if any, on demand the said.....

Given under my hand at.....in the.....Magisterial

District this.....day of.....20.....

(Signed).....

Magistrate

FORM 11

WARRANT OF ARREST WHERE NO SUFFICIENT DISTRESS

Guyana

In the magistrate's court for the.....Magisterial District.

To Police (or) Constable.

Whereas by a maintenance order made at the magistrate's court for the.....Magisterial District holden at..... was found guilty of.....on the.....day of.....20....., and ordered to pay to the collecting officer of the said Magisterial District the sum of.....for the maintenance of the said.....and.....children.

And whereas the said.....has made default under the said order and there is due thereunder the sum of.....being amount of arrears for.....weeks payments ending.....20.....

And whereas on the.....day of.....20....., a

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warrant was issued to.....commanding him to levy the said sum of.....by distress and sale of the goods and chattels of the said.....but no sufficient distress whereon to levy the said sum could be found.

This is to therefore to command you forthwith to apprehend the said.....and bring him before the said magistrate's court to be holden at.....to answer the premises unless the sum above-mentioned together with all costs be sooner paid.

Given under my hand at.....in the.....Magisterial District this.....day of.....20.....

Signed).....
Magistrate

FORM 12

WARRANT OF COMMITMENT AFTER APPREHENSION

Guyana

In the magistrate's court for the.....Magisterial District.

To Police (or) Constable and to the Keeper of.....Prison.

Whereas by a maintenance order made at the magistrate's court holden at.....on the.....day of.....20.....,of.....was found guilty of.....and ordered to pay to the collecting officer of the said Magisterial District the sum of.....a week for the maintenance of the said.....and.....children.

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And whereas the said.....has made default under the said order and there is due thereunder the sum of.....and it appears by the return to a warrant of distress that no sufficient distress whereon to levy the said sum and the costs attending such warrant could be found and the said.....have been brought before the said magistrate's court helden at.....on the.....day of.....20....., has neglected (refused) without reasonable cause to make payment of the said sum so due together with such costs.

This is to command you the said constable to take the saidand him safely to convey to the.....Prison, and there deliver him to the Keeper thereof together with this warrant.

And I do hereby command you the said Keeper to receive him the said.....there to be imprisoned for the space of.....from the date hereof unless the sum above-mentioned together with all costs and charges shall be sooner paid.

And for so doing this shall be your sufficient warrant.

Given under my hand at.....in the.....Magisterial District this.....day of.....20.....

Signed).....

MONEY REGULATIONS

ARRANGEMENT OF REGULATIONS

REGULATION

I. ACCOUNTS

1. Citation.
2. (1) Records.
(2) Revenue.
3. (1) Payments to the State, fines, etc;
(2) Fines not paid at the time imposed.
(3) Prisoners committed to prison in default of payments of fine

II. PAYMENT OF FEES AND COSTS

4. Fees and costs to be paid in money.
5. No money to be collected in respect of free process.
6. Receipts to be made out for all money received.
7. Receipts to be made out in prescribed forms.
8. Magistrates to check correctness of fees and costs.

III. CASE JACKETS

9. Procedure for dealing with case jackets.
10. Forms of case jackets.
11. Summons in civil proceedings.
12. Name of magistrate to appear on duplicate summonses.
13. Custody of documents.
14. Responsibility for case jackets.
15. Responsibility for cases called on incorrect days.

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Summary Jurisdiction (Magistrates) Money Regulations

REGULATION

IV. RECEIPT AND RECOVERY OF MONEY UNDER WRITS OF EXECUTION OR DISTRESS WARRANTS

16. Custody of writs and warrants.
17. Writs sent to another district.
18. (1) Issue of writs to bailiff by clerk of the court.
 - (2) Action to be recorded on writs of bailiff.
 - (3) Execution of writs.
19. Payment of moneys to suitors.
20. (1) Records to be kept by clerk of the court.
 - (2) Receipt and suitors.
21. Withdrawal of writs or warrants.
22. Bailiff's writ and warrant book.
23. Usage of bailiff's writ and warrant book.
24. Payments to clerk by bailiff on account of writs or warrants.
25. Check to be made to bailiff's writ and warrant book by clerk of the court.
26. (1) Spent and withdrawn writs.
 - (2) Cancellation of entries of spent writs in clerk's writ book.
27. Action on writs from other districts.

V. MONEYS PAID INTO COURT UNDER A JUDGEMENT ORDER OR OTHERWISE

28. Payment of moneys paid in under a judgement order or otherwise.

VI. DELIVERY OF SUMMONSES TO POLICE FOR SERVICE

29. Delivery of summonses to police for service.

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Summary Jurisdiction (Magistrates) Money Regulations

REGULATION

VII. BOOKS AND FORMS OF ACCOUNT

30. Books and forms of account.

SCHEDULE – Books and Forms required to be kept in Magistrates' Courts.

Reg. 4/3/1931
1/6/1931
22/11/1937
18/1960
17/1983

SUMMARY JURISDICTION (MAGISTRATES) MONEY REGULATIONS

made under section 75

I. ACCOUNTS

Citation. 1. These Rules may be cited as the Summary Jurisdiction (Magistrates) Money Regulations.

Records. 2. (1) All records of the courts are to be kept at the court houses, and are not to be removed except with the leave, first obtained, of the magistrate.

Revenue. (2) All revenue shall be received at the court or at the clerk's office.

Payments to
the State; fines,
etc. 3. (1) Entries of all fines imposed, licences received, and recognisances estreated, and other payments to the State, ordered by the magistrate, shall be entered by the magistrate and clerk in separate books, which shall be open to inspection by the Accountant General, or by any officer authorized by him in writing, or by an audit officer.

Fines not paid at the time imposed.

(2) In every case where the fine has not been paid at the time Fines not imposed, the magistrate shall note the reason of such non-payment against the entry of the fine in his fine book, and the limit of time within which such fine is to be paid.

Prisoners committed to prison in default of payment of fine.

(3) The magistrate shall every month compare with his fine book the return forwarded to him by the prison authorities in order that he may ascertain if all prisoners committed to prison by him in default of payment of fines have been duly lodged in prison.

Fees and costs to be paid in money.
[Reg.
22/11/1937]
c. 3:05

4. In accordance with the provisions of section 71 of the Summary Jurisdiction (Magistrates) Act, all fees and costs shall be collected in money except where otherwise specifically provided by any Act.

No money to be collected in respect of free process.
[Reg.
22/11/1937]

5. No money shall be collected in respect of any document or instrument which is by law ordered to be free of costs or in respect of any process issued free by the magistrate. In all such cases the exemption from costs and the reason for such exemption shall be noted by the magistrate on such document, instrument or process.

Receipts to be made out for all money received.
[Reg.
22/11/1937]

6. Receipts shall be made out for all fees and costs received at magistrate's courts.

Receipts to be made out in prescribed forms.
[Reg. 22/11/

7. Receipts shall be made out on the prescribed forms in triplicate copies the original of which shall be handed to the payer and the duplicate attached to the case jacket or process in respect of which the fees and costs have been paid.

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Summary Jurisdiction (Magistrates) Money Regulations

1937
17/1963]

The triplicate copy shall be retained in the receipt book:

Provided that where the Minister responsible for finance so directs, receipts shall be made out by mechanical means in the form set out as Form 5A in the Appendix of the Summary Jurisdiction (Civil Procedure) Rules. The portion of the said form marked "A" shall be delivered to the payer and the portion marked "B" shall be attached to the case jacket or process in respect of which the fees and costs have been paid.

Magistrates to check correctness of fees and costs.
[Reg.
22/11/1937]

8. It shall be the duty of the magistrate to check the correctness of the fees and costs as indicated by the duplicate copy of the receipt attached to the case jacket or process in respect of all matters coming before him.

III. CASE JACKETS

Procedure for dealing with case jackets.

9. Case jackets shall be made out by an officer or clerk of the court (except that in criminal cases it shall be permissible for the police to make out the same where such cases are instituted and prosecuted by the police) and no alteration or erasure shall be made therein or in any filed document except by the magistrate or by a duly authorised officer or clerk of the court.

Forms of case jackets.
Forms A and B.
c. 61:01

10. The outside jacket or cover of the proceedings in every case, except distress warrants, and all process under the Landlord and Tenant Act (issued under a special procedure with special numbers) shall be in the Form A, for civil, and in the Form B for criminal cases, which shall bear consecutive numbers respectively.

Summons in civil proceedings.
c. 7:01

11. Subject to the provisions of Part II of the Summary Jurisdiction (Petty Debt) Act, summonses in civil proceedings shall be made out in duplicate and one copy thereof shall be filed in the case jacket with a copy of the

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plaint.

Name of magistrate to appear on duplicate summonses.

12. Such filed copy need not be signed by the magistrate personally but his name should be written thereon by the clerk of the court, after the magistrate has signed the summonses for service.

Custody of documents.

13. No case jacket, magistrate's note book, or other document of record shall be taken out of the court or allowed out of the possession of the magistrate or the clerk having charge of the same, nor shall any copy thereof be made or extract taken therefrom except as provided by law.

Responsibility for case jackets.

14. The civil and criminal clerks shall be primarily responsible for all civil and criminal case jackets respectively, and shall be liable to pay all fees collectible on any case jackets not accounted for by them. They shall before handing over to any of the other clerks any case jackets, to be dealt with in the ordinary course of business, obtain receipts for same from such other clerk, and shall see that all case jackets are in due course returned to them correctly, and if not so correctly returned, they shall immediately report in writing to the clerk of the court. Any clerk failing satisfactorily to account for any case jacket handed over to him as aforesaid shall be liable to pay all fees collectible thereon.

Responsibility for cases called on incorrect days.

15. In every instance where a case through some error, misunderstanding or other cause is called on, or carried over to a day other than its correct date of hearing, the clerk or clerks or bailiff incorrect days, responsible for the same may be required to pay any or all costs occasioned thereby, and may be further charged with dereliction of duty.

IV. RECEIPT AND RECOVERY OF MONEYS UNDER WRITS OF EXECUTION OR DISTRESS WARRANTS

Custody of
writs and
warrants.

Writs sent to
another
district.
[Reg. 18/1960]

Issue of writs
to bailiff by
clerk of the
court.

Action to be
recorded on
writs by bailiff.

Execution of
writs.

16. The clerk of the court shall be responsible for the custody of all writs and warrants issued in his court, and shall keep the same filed in numerical order and in a locked press.

17. (1) If a writ is sent for execution to another district, the clerk of the court shall fill in the place to which such writ has been sent and shall account for its absence by a receipt from the clerk of the [Reg. district to which such writ has been forwarded for execution.

(2) Any writ or warrant sent for execution to another district or from one police station to another shall be sent by registered post.

18. (1) The clerk of the court shall issue to the bailiff each writ when the execution thereof is about to take place and shall endorse thereon the date on which such writ is issued. The bailiff shall forthwith take action on such writ and immediately thereafter shall return the writ to the clerk whether the writ has been satisfied or not.

(2) The bailiff shall endorse on the writ what action has been taken on the writ, i.e., in the case of goods levied on, the particulars of the levy, or, if cash is received, state the fact, and if no effects, state this and the date of the return of the writ.

(3) The bailiff shall not take longer than one week in the process of execution after which time the writ must be returned to the clerk of the court with the reason for its non-execution stated thereon.

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Payment of
money to
suitors.

[Reg. 1/6/1931]

19. On no account shall the bailiff pay moneys to suitors; this shall be done by the clerk to whom the bailiff will pay the gross amount realised whether there is a surplus or not.

Records to be
kept by clerk
of the court.

20. (1) The clerk of the court shall keep separate books to be called the clerk's writ book, the clerk's house rent book, and the clerk's distress warrant book, in which he shall take receipts for all moneys paid out by him to suitors in respect of distress warrants and writs, with the dates of such payments, and shall enter in the respective books every writ or warrant numbered consecutively year by year. The entries shall show—

- (a) the dates when the writs or warrants are given out and returned, with such short remarks as will show the result of the bailiff's action on the writ or warrant;
- (b) the amount recoverable;
- (c) the date of judgement or order;
- (d) any moneys received and paid to the person or persons entitled thereto, together with the date of such payment, the receipts of such persons being taken therein;
- (e) the number of the writ or warrant and names of the parties;

Receipts from
suitors.

(2) To facilitate audit, the number of the receipt from suitors when such a receipt is taken, shall be entered in the distress warrant book, writ book, or house rent warrant book for the purpose of reference.

Withdrawal of
writs or
warrants.

21. When a writ or warrant is "withdrawn" a certificate to that effect should be obtained, if possible, from the party withdrawing, and such certificate shall be entered in the writ or warrant book.

Bailiff's writ
and warrant
book.

22. The bailiff shall keep a book to be called the bailiff's writ and warrant book, in which every writ or warrant received by him from the clerk shall be entered.

Usage of
bailiff's writ
and warrant
book.

23. This book shall show—

- (a) the number of the writ or warrant (as numbered by the clerk) and the parties thereto;
- (b) the amount thereof;
- (c) the date of judgement or order;
- (d) the dates of every receipt from or return to the clerk thereof;
- (e) what action has been taken—the same as is necessary for him to endorse on the writ or warrant (see rule 18(2)).

Payment to
clerk by bailiff
on account of
writs or
warrants.

24. Where moneys are paid over to the clerk of the court by the bailiff on account of writs or warrants, the writ and warrant book kept by the bailiff shall be produced and the clerk shall enter his acknowledgment of the receipt of the money in the said books.

Check to be
made of
bailiff's writ
and warrant
book by clerk
of the court.

25. The clerk of the court shall check the bailiff's writ and warrant book at least once a month, and may at any time call upon the bailiff to produce any writ or warrant whether action has been taken on it and or not.

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Spent and withdrawn writs.

26. (1) Every writ that is spent or those that are cancelled or withdrawn or have been fully executed, shall be cancelled by the magistrate in such a manner as to show at a glance that such writs are no longer operative.

Cancellation of entries of spent writs in clerk's writ book.

(2) The magistrate shall also cancel the entries of such writs in the clerk's writ book, by drawing his pen across the entries and initialing and dating the same.

Action on writs from other districts.

27. With regard to writs received from other districts the following rules shall be carried out –

- (a) The clerk of the court shall, without delay, bring to the magistrate's notice any writ received by him from another district.
- (b) The magistrate shall initial the writ, and the clerk, on his instruction, shall give it to the bailiff for execution.
- (c) The clerk, immediately on receipt of the writ from another district, shall acknowledge receipt of such writ.
- (d) The return of the writ shall be brought to the magistrate's notice and he shall satisfy himself that the writ is properly returned to the district from which it came, and that the proceeds of the execution are duly paid over and a receipt taken therefor.
- (e) The writ received and dealt with shall be entered in the clerk's writ book in accordance with the above rules, and the clerk shall enter the date of the receipt and return of the writ in the bailiff's writ and warrant book.

- (f) If the levy prove abortive, or if it is no longer desired to have the writ executed in the district to which it has been sent, the writ shall be returned to the district from which it came before it can be executed in a third district.
- (g) Writs shall not remain in the district other than that where issued for a longer period than one month.

V. MONEYS PAID INTO COURT UNDER A JUDGEMENT ORDER OR OTHERWISE

Payment of moneys paid in under a judgement order or otherwise.

28. Moneys paid into a court under a judgement order or otherwise shall be paid out —

- (a) to plaintiffs on production of the plain filing voucher and to defendants on production of the summons in the action or on such other evidence of their identity as shall be required by the clerk of the court;
- (b) it may be paid out to the barrister or solicitor representing such party in the action on production of a written authority signed by the party to whom the money is due or to which his mark has been affixed in the presence of two witnesses; or
- (c) where the party to whom the money is due resides out of the district he may send to the clerk of the court by post or otherwise the plaint filing voucher (or in the case of a defendant

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the summons) and a receipt duly stamped where necessary with a request that the money may be transmitted to him by post, and the clerk of the court may then send by registered post to such person a crossed cheque or post office order for the amount less the cost of the remittance—but such remittance shall be made in all respects at the risk of the person at whose request it is made.

VI. DELIVERY OF SUMMONSES TO POLICE FOR SERVICE

Delivery of summonses to police for service.

29. All summonses delivered to the police for service shall be listed by the clerk of the court and a receipt taken for same from the member of the force to whom they are handed.

VII. BOOKS AND FORMS OF ACCOUNT

Books and forms of account.

30. The books and forms mentioned in the Schedule shall be the books and forms of account to be used in magistrates' courts.

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SCHEDULE

BOOKS AND FORMS REQUIRED TO BE KEPT IN MAGISTRATES' COURTS

1. Criminal Record Book	A record of all criminal cases adjudicated upon.
2. Civil Record Book	A record of all civil cases adjudicated upon.
3. General Cash Book	A Day Book in which every cash transaction is entered.
4. Magistrate's Fine Book	A record kept by magistrate of all fines, etc., imposed. The entries should be made at the time the fines are imposed.
5. General Counterfoil Receipt Book	From which receipts must be given out for all moneys received by the clerk.
6. Disbursement Receipt Book	For costs and other moneys, other than writs, paid out by the clerk of the court to suitors; no counterfoils.
7. Writ Receipt Book	In which receipts will be taken by the clerk of the court from suitors for all moneys paid out to them on account of distress warrants or writs.
8. Clerk's Distress Warrant Book	
9. Clerk's Writ Book	
10. Clerk's House Rent Warrant Book	
11. Bailiff's Writ and Warrant Book	
12. Licence Book	A notification to the district commissioner of licences paid.
13. Marriage of Indian Labour Book	
14. Clerk's Fee Book	
15. Clerk's Register of Minutes	Section 106 (1), Chapter c. 10:02.

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Summary Jurisdiction (Civil Procedure) Rules.

CIVIL PROCEDURE RULES

ARRANGEMENT OF RULES

RULE

PRELIMINARY

1. Citation.
2. (1) Interpretation.
- (2) Meaning of expression, "the court or a magistrate".

PART I

OFFICERS

3. The filing of documents delivered to the clerk.
4. Submission for signature, of all summonses, etc.
5. Delivery of summons and copy.
6. Copies of documents, how made.
7. Execution and service of warrants, writ, etc., to be expeditious.
8. The return of service to summonses.
9. The return of "non-served" summonses.
10. The re-delivery of "non-served" summonses to the clerk and the entry in a "non-served" list.
11. The making of appointment for the bailiff to execute process.
12. Acknowledgment of payments and deposits.
13. Money received under process to be entered thereon and be paid to clerk within 24 hours.

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Summary Jurisdiction (Civil Procedure) Rules.

RULE

PART II

PARTIES

I. *Generally*

1. Persons may be joined as plaintiffs who claim relief jointly, severally, or in the alternative in respect of the same transaction, when common question of law or fact arises.
2. Action in name of wrong plaintiff.
3. Persons may be joined as defendants against whom relief claimed jointly, severally, or in the alternative.
4. All defendants joined need not be interested in all the relief asked for.
5. All or any of the persons liable under any one contract may be joined.
6. Where plaintiff in doubt from whom he is entitled to redress.
7. Where parties numerous, one or more may sue to be sued, or defend for the benefit of all.
8. Where defendant desires to defend on behalf of others.
9. (1) Misjoinder or non-joinder of parties.
(2) Service of summons and copy of plaint on added defendant.
10. Trustee, executors, and others may sue without joining parties beneficially interested.
11. Change of defendant.

II. *Person Under Disability*

12. Infants.
13. Married women.
14. Lunatics and persons of unsound mind.

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Summary Jurisdiction (Civil Procedure) Rules.

RULE

15. Persons under disability, how consents can be given.

III. *Partners*

16. Co-partners may sue or be sued in the name of their firm.
17. Application for names of firm in action by firm.
18. Where co-partner sue or are sued other than in the name of their firm.
19. Where one person carries on business in name other than his own.

PART III

JOINDER OF CAUSES OF ACTION

1. Joinder of causes of action generally.
2. Claims by or against husband and wife.
3. Claims by or against executor or administrator.
4. Joint and separate claims by plaintiff's.
5. Separate hearings may be ordered.

PART IV

COMMENCEMENT OF ACTION

1. Actions to be commenced by plaint.
2. Where partners sue or partners or persons carrying on business, etc., are sued in firm's name.
3. Where registered company is defendant.
4. Capacity in which plaintiff sues or the defendant is sued to be stated in plaint.
5. Particulars to be stated in plaint, etc., where assignee

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RULE

sues.

6. Infant to sue by next friend.
7. Liability of next friend for costs.
8. Infant commencing action without next friend, where necessary.
9. Married woman suing.
10. Person of unsound mind suing.

PART V

THE PLAINT AND ITS CONTENTS

1. The plaint and its particulars.
2. Particulars of several causes of action.
3. Abandonment of excess of claim over \$500.
4. Where defendant is a female.
5. Copies of plaint to be tendered.
6. Particulars in action by money lenders under the Moneylenders Act.
7. Stated or settled account.
8. Claim against government.
9. Demand for further and better particulars.
10. Order for further and better particulars.
11. Plaintiff to deliver such particulars to all defendants.
12. Disallowance of costs for insufficient particulars.
13. Security for costs where plaintiff does not reside in Guyana.
14. Person temporarily resident only may be required to give security.

PART VI

PLAINT RECEIPT AND SUMMONS. SERVICE

1. Plaintiff receipt.
2. The summons to appear.

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RULE

3. Period between entry of plaint and return day.
4. (1) Amending the summons in case of non-service from misstatement of particulars.
(2) The non-served list.
5. Successive summonses.
6. Where summons left at residence or last or most usual place of abode or place of business of defendant and he does not appear.
7. Procedure where court satisfied that service did not reach knowledge of defendant.
8. Acceptance of service by counsel.
9. Service of infant.
10. Service on lunatic or person of unsound mind.
11. Service on partners.
12. Service where person carries on business in name other than his own.
13. Return of service under rules 11 and 12 to state in what capacity served.
14. Form of return or affidavit of service.
15. Where husband and wife are defendants.
16. Service where defendant is on board ship.
17. Service on worker residing in hostel, etc.
18. Service where defendant employed in mental hospital or prison.
19. Service under the Mining Act.
20. Service on registered Friendly Society.
21. Service where violence threatened.
22. Service of summons on corporation, etc.
23. Judgment against defendant in default, reserving right against other defendant in default or not.
24. Penalty for causing service on wrong person.

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RULE

PART VII

APPOINTMENT OF GUARDIANS *ad litem* TO INFANTS OR PERSONS OF UNSOUND MIND

1. Appointment of guardian *ad litem* to defendant appearing on face of proceedings to be an infant or person of unsound mind. (1) Time for making appointment of guardian *ad litem*.
2. Appointment of guardian *ad litem* to defendant ascertained to be an infant or a person of unsound mind.
3. Entry of appointment on summons, etc.
4. Limitation of liability of guardian for costs.
5. Power to set aside judgment against infant or person of unsound mind where no guardian appointed.
6. Guardian *ad litem* with reference to proceedings under judgment or order.

PART VIII

CONSOLIDATION OF ACTIONS OR STAY OF PROCEEDINGS

Transfers

1. Consolidation of separate actions which may have been joined in one.
2. Stay of actions for same cause against several defendants till judgment given in selected action.
3. Applications under preceding rules.
4. Court may impose terms.
5. Where judgment in favour of defendant in selected

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RULE

- action.
6. Where judgment given against defendant in selected action.
 7. Stay of actions for same cause against several defendants till judgment given in selected action.
 8. Transfer of actions commenced in different courts.
 9. Procedure when application for transfer is applied for.
 10. Order as to costs on transfer.
 11. Transmission of the proceedings to court to which transfer is made.
 12. Costs of transfer.

PART IX

DISCONTINUANCE, CONFESSION, ADMISSION, AND PAYMENT INTO OR OUT OF COURT

1. Discontinuance of action or withdrawal of part of claim.
2. Stay of subsequent action till costs of action discontinued or claim withdrawn are paid.
3. (1) Defendant's admission of liability in whole or in part of claim but disputing the time or mode of payment.
(2) Authentication and service of such admission.
4. Notice of such admission to plaintiff.
5. Plaintiff's election to accept admitted amount and offer of payment.
6. Entry of judgment in case of acceptance under last preceding rule.
7. Plaintiff's objection to mode of payment.
8. Plaintiff's objection to the amount admitted and the offer of payment.
9. Procedure where plaintiff objects to both amount admitted and offer of payment; or to time and mode of payment only.

RULE

10. Penalty for failure to give required notice.
11. Admission by letter addressed to court.
12. Agreement as to amount of debt and terms of payment.
13. Agreement as to amount of costs.
14. Entering judgment thereon.
15. Admission of truth of plaintiff's statement.
16. Admission by any party.
17. Notice to admit specific facts.
18. Evidence of admissions.
19. Payment into court without a denial of liability.
20. Payment into court with a denial of liability.
21. Clerk's notice to plaintiff of payment into court with denial of liability.
22. Payment into court at time less than two clear days before the return day.
23. Plaintiff's right to proceed in case of payment in less than two clear days or without costs.
24. Acceptance of amount paid in satisfaction of claim.
25. Provisions as to costs on payment into court without denial of liability.
26. Provisions as to costs on payment into court with a defence of tender.
27. Payment into court by one or some of several defendants sued jointly.
28. Payment by plaintiff in answer to counter-claim.
29. Fees and costs in payment of amount admitted after deducting set-off or counter-claim.
30. Money paid in with denial of liability.
31. Payment to plaintiff instead of into court.
32. Discretion of court as to costs when money paid into court less than two days.
33. Payment out of court.
34. Settlement, compromise or discharge in case of an infant or person of unsound mind.

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RULE

PART X

DEFENCE AND COUNTER-CLAIM

1. Particulars of the grounds of defence.
2. Further and better particulars of the grounds of defence.
3. The particulars in cases of defences of —
 - (1) Infancy.
 - (2) Coverture.
 - (3) Statute.
 - (4) Tender.
 - (5) Void or voidable transaction.
 - (6) Condition precedent unperformed.
 - (7) Contract.
4. General denial insufficient.
5. Specific denials necessary in actions.
 - (1) Upon bills of exchange.
 - (2) For goods bargained and sold, etc.
 - (3) For money received to use of plaintiff.
 - (4) For money paid at defendant's request.
 - (5) Instituted by personal representative, etc.
6. Denial as to damages unnecessary.
7. Statement in lieu of particulars of grounds of defence.
8. Where plaintiff sues on behalf of others.
9. Special defences.
10. Power to permit defendant to plead special defence although he has not given the prescribed notice.
11. Mode of communicating the prescribed notice.
12. Payment into court with defence of tender.
13. Set-off and counter-claim.
14. Misjoinder of plaintiff not to defeat counter-claim.
15. Particulars of counter-claim.

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RULE

16. Fees to be paid on counter-claim.
17. Particulars of defence to counter-claim.
18. Where counter-claim affects other persons.
19. Counter-claim may be proceeded with although action discontinued, etc.
20. Power to enter judgment for balance between claim and counter-claim.
 
21. Payment into court with respect to counter-claim.
22. Defences to counter-claim.

PART XI

THIRD-PARTY PROCEDURE

1. Third-party notice.
2. Application for leave.
3. Form and issue of notice.
4. Effect of notice.
5. At hearing.
6. Co-defendant's third-party procedure.
7. Costs.
8. Counter-claim.

PART XII

**APPLICATIONS, INTERLOCUTORY PROCEEDINGS,
AND APPEALS**

1. Mode of making applications generally.
2. Postponement of hearing on account of interlocutory application.
3. (1) Application for order that loss of Bill shall not be set up.
 (3) Form of the indemnity.
4. Dancing licences, etc.

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RULE

5. Proof of compliance with law.
6. Special licence.
7. Notice to police of application for special licence.
8. Filing of copy of licence.
9. Registration of club.
10. Proof of compliance with law.
11. Filing of copies.
12. Divorce proceedings under Indian Labour Act.
13. Applications affecting Immigrants' property.
14. Application for compensation under the Acquisition of Lands for Public Purposes Act.
15. Application for inserting baptismal name or for correcting entry in Register.
16. Mode of application.
17. Application to inspect Banker's Books.
18. The Friendly Societies Act, settlement of disputes.
19. Application for relief or other order.
20. Appeal against appraisement of property in village and country districts.
21. Appeal from appraisement under Tax Act.
22. Costs to be awarded in terms of Schedule to the Act.
23. Viva voce evidence.
24. Defence based on right to be relieved of a *prima facie* case of liability.
25. Order for sale of perishable articles, etc.
26. Order for detention, preservation, etc.
27. Penalty for neglect or refusal to obey or for obstructing execution of order.
28. Power to examine witnesses on any application.

PART XIII

AMENDMENT

1. Where party wrongly sues or is sued in representative

RULE

- character.
2. Where party wrongly sues or is sued in his own right.
 3. Insufficient name or description of a plaintiff or defendant.
 4. Where all defendants have not been served.
 5. Abandonment of part of claim. Amendment or particulars. Costs.
 6. Amendment of particulars where plaintiff is entitled to more than amount claimed.
 7. Clerical mistakes and accidental omissions.

PART XIV

DISCOVERY AND INSPECTION

1. Discovery of documents.
2. Objection to discover documents.
3. Order for production of particular document or documents.
4. Inspection of documents referred to in particulars, notices, or affidavits.
5. Notice under preceding rule.
6. Notice fixing time for inspection of documents pursuant to notice to produce documents.
7. Order for inspection.
8. (1) Verified copies.
(2) Privilege.
9. Inquiry as to present or past possession of specified documents.
10. Non-compliance with order.
11. Penalty for non-compliance with order.
12. Security for costs of discovery.
13. Notice of payment into court of costs of discovery or of dispensing therewith.
14. Payment out of costs paid in on application to discover documents.

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RULE

15. Costs lodged on application to discover to be repaid to party lodging same, unless he is ordered to pay costs of discovery.
16. Order to apply to infants.

PART XV

CHANGE OF PARTIES

1. When action not to abate.
2. Proceedings on change of plaintiff's title before judgment.
3. Notification of change of plaintiff's title before judgment to the defendant.
4. Provision for cases where change affects more actions than one.
5. Proceedings on change of defendant's title.
6. Copy of summons to be served on proposed defendant in certain cases.
7. Change or transmission of interest.
8. Notice of order of change or transmission of interest.
9. Application to discharge or vary order by person not already a party.
10. Where person entitled to proceed on death of plaintiff or defendant fails to do so.
11. Alteration of records on change of parties.

PART XVI

ARBITRATION

1. Form of application for arbitration.
2. Form of order for arbitration.
3. Appointment of umpire.

RULE

4. Filling up the place of arbitrator or umpire who shall die, etc.
5. Form of award.
6. Powers of the arbitrators or umpire.
7. Reservation of question of law by court or magistrate.
8. Compelling attendance of witnesses.
9. Remuneration of arbitrators and umpire.

PART XVII

EVIDENCE, HEARING, JUDGMENT

1. Power to order particular facts to be proved by affidavit, or witness to be examined by examiner.
2. Notice to inspect and admit document proposed to be put in evidence.
3. Notice to admit or produce.
4. Costs of notice to admit or produce.
5. Documents produced from proper custody to be read without proof unless objected to.
6. Examination of witnesses before trial.
7. Order under Pawnbroking Act.
8. Affidavits to be expressed in the first person.
9. Sources of knowledge to be stated.
10. Costs of affidavit of unnecessary matter.
11. Affidavits, how to be intituled.
12. Affidavit to show on whose behalf filed.
13. Costs of affidavits when disallowed.
14. Form of jurat when there are several deponents.
15. Filing of affidavits.
16. Affidavits not to be filed if sworn before party's solicitor.
17. Erasure, blotting, interlineation, etc., in affidavits.
18. Illiterate or blind deponent.
19. Use of defective affidavit.

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RULE

20. Affidavits of service.
21. Inspection of property by the court or magistrate and the costs thereof.
22. Hearing of action.
23. (1) No evidence of facts admitted.
(2) The defendant to begin in certain cases.
24. Application for judgment.
25. Points of law may be raised on the proceedings.
26. Dismissal of action.
27. Striking out of plaint or giving judgment against defendant where no reasonable cause of action or answer disclosed.
28. Consent to judgment.
29. Power to proceed *ex parte*.
30. Procedure for obtaining judgment *ex parte*.
31. Judgment payable by instalments.
32. Order suspending judgment, etc.
33. Judgment for specific performance.
34. Form of judgment against married woman.
35. Drawing up of judgments or orders.
36. Court may direct judgment or order to be drawn up.

PART XVIII

SPECIAL CASE

1. Special case by consent.
2. Special case by order before hearing.
3. Submission of questions of law to judge in Workmen's Compensation cases.
4. Special case to be typewritten.

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COSTS

1. Taxation of costs.
2. Disallowance of costs for improper or vexatious or unnecessary proceeding.
3. Proceeding when costs disallowed.
4. Costs of discovery of documents.
5. Allowances to witnesses.
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7. Apportionment of allowance to witnesses.
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2. New hearing on particular question.
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4. Application for new hearing.
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4. Inventory and notice of sale of goods levied under execution.
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6. Stay in proceedings issued without leave after administration order.
7. Execution for delivery of goods.
8. Penalty for disobeying order of the court or a magistrate for delivery of goods.
9. Writs of delivery.
10. Application for leave to issue process on change of parties after judgment, etc.
11. Deceased's property bound by execution.
12. Landlord's claim.
13. Debtor's interest in lease.
14. Garnishee proceedings.
15. Discretion to withhold attachment in case of hardship.
16. Mode of enforcing payment by garnishee.
17. Discharge of garnishee.
18. Payment into court.
19. Costs of garnishee proceedings.

PART XXII

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1. Stake-holder's interpleader.
2. Application a plaint.
3. The feigned issue between the parties.
4. Bailiff's interpleader.
5. Notice by execution creditor of admission of claim or to withdraw from possession.
6. Execution creditor's admission of claimant's title.
7. The nature of the claim in certain events.
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10. Summary disposal of interpleader claim.
11. Question of law.
12. Sale of goods claimed under bill of sale or otherwise.

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**PROCEEDINGS BY AND AGAINST EXECUTORS AND
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1. Costs where executor or administrator plaintiff fails.
2. Non-appearance of executor or administrator plaintiff or defendant.
3. Form of judgment where executor or administrator defendant does not appear or appears and admits his character and plaintiff's demand.
4. Form of judgment where executor or administrator defendant admits his character, but denies plaintiff's demand.
5. Form of judgment where such a defendant admits his character, denies the demand, and alleges an administration of assets.
6. Form of judgment where such a defendant admits his character, denies the demand, alleges administration and plaintiff proves the demand, etc.
7. Form of judgment where such a defendant admits his character and plaintiff's demand, alleges administration but fails to prove it.
8. Form of judgment where such a defendant admits his character and plaintiff's demand, alleges administration and proves it.
9. Form of judgment to levy upon assets, *quando acciderint*.
10. Executor or administrator required to pay sum of money into court in certain circumstances.
11. Plaintiff's costs where executor or administrator fails as

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- to any of his defences.
12. Forms of judgment against executor or administrator in various circumstances.

PART XXIV

JUDGMENT SUMMONS

1. Judgment summons to be served personally.
2. *Praecept* to be accompanied by affidavit proving facts showing *prima facie* ability to pay debt.
3. Form of judgment summons.
4. Mode of serving judgment summons.
5. Time for appeal to expire.
6. Judgment summons against a firm.
7. Judgment summons issuing out of court other than that in which judgment was obtained.
8. Procedure in case of proceedings in court other than court in which judgment obtained.
9. Memorandum of result to be sent to court in which judgment obtained.
10. Witnesses and their expenses.
11. Orders which may be made.
12. Proof of means to pay instalment.
13. Suspending the order of commitment.
14. Date, duration and extension of warrant of commitment.
15. All costs to accumulate.
16. Fee to counsel.
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1. Landlord's claim for rent.
2. Replevy proceedings.
3. Satisfaction of judgment where rent and deposit for security made.
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SECURITY

1. Security by bond, etc.
2. Affidavit of sufficiency.
3. Execution of bond.
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GENERAL AND MISCELLANEOUS PROVISIONS

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2. Authority to represent parties.
3. Reference of account to clerk.
4. Imposition of fine for non-appearance, etc., of witness.
5. Committal for contempt of court.
6. (1) Applications for issue of process to be in writing.

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- (2) The process to be prepared by party requiring it.
- 7. (1) Party may act by counsel or agent.
 - (2) Address for service.
 - (3) Service of interlocutory proceedings.
- 8. Alternative service on party.
- 9. Enlargement of time prescribed by the rules.
- 10. Furnishing copies of documents.
- 11. Notices to be in writing.
- 12. Proceedings to be in proper form.
- 13. Alleging notice of any fact, etc.
- 14. Lost documents.
- 15. Proceedings in rem.
- 16. Non-compliance with rules.
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APPENDIX—Forms.

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R. 20/7/
1939
7/1963

**SUMMARY JURISDICTION (CIVIL PROCEDURE)
RULES**

made under section 78

CIVIL PROCEDURE

Citation.

- 1.** These Rules may be cited as the Summary Jurisdiction (Civil Procedure) Rules.

PRELIMINARY

Interpretation.

- 2. (1)** In these Rules—

c. 7:01

“action” means every proceeding in the court which may be commenced by plaint under section 8 of the Summary Jurisdiction (Petty Debt) Act or under any Act, or under these Rules;

“authorised process-server” with reference to the service of any summons of the court means any person who has authority or who may be authorised, to serve summonses under the Act;

“bailiff” means any bailiff appointed under the Act;

“clerk” means any clerk of the court appointed under the Act or any person performing the duties of the clerk;

“court” means a magistrate’s court established in a district by virtue of the Act;

“day of hearing” means the day which the court or a magistrate, subject to the provisions of the Act, appoints for the hearing of the action or matter;

“execution creditor” means a judgement creditor in whose

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favour a writ of execution or other process to enforce a judgement or order has been issued or taken;

“execution debtor” means a judgement debtor against whom a writ of execution or other process to enforce a judgement or order has been issued or taken;

“form” means Form in the Appendix;

“judge” means a judge of the High Court;

“judgement” means the final decision of the court in any action;

“judgement creditor” means the person in whose favour any judgement or order is enforceable and includes the legal personal representative or assignee of that person;

“judgement debtor” means the person against whom any judgement or order is enforceable and includes the legal personal representative of that person;

“magistrate” means a magistrate appointed under the Act;

“matter” means every proceeding in the court which may be commenced as prescribed otherwise than by plaint;

“month” means calendar month;

“order” means the final decision of the court or a magistrate and also any decision of the court other than a final decision in any action and includes the decision of a magistrate in any interlocutory application;

“Registrar” means the Registrar of the Supreme Court;

“return day” means the original day appointed in any summons or other proceeding for the appearance of the

defendant, or any other day originally fixed for the hearing of any action or matter;

“Schedule to the Act” includes any tables of fees and costs or any of them in the Schedule for the time being in force under section 70 of the Act;

Meaning of expression "the court or a magistrate".

(2) Whenever in these Rules it is provided that any jurisdiction, authority or power may be exercised by “the court or a magistrate” the same may be exercised and performed either by a magistrate sitting in chambers or in open court and for the purpose of exercising such jurisdiction “the court” shall mean the magistrate sitting in open court, and “the magistrate” shall mean the magistrate sitting in chambers.

c. 7:01

(3) The terms defined in section 2 of the Summary Jurisdiction (Petty Debt) Act shall have the same meanings in these Rules as in that Act.

PART I

OFFICERS

The filing of documents delivered to the clerk.

1. (1) The clerk shall file in the proper jackets all documents delivered to him in any action or matter, and shall identify every such jacket by the corresponding number of the cause entered in the Record Book of Causes and all documents so filed shall be distinguished from one another by a distinctive letter of the alphabet and a note thereof shall be made on the case jacket.

(2) The clerk shall preserve all such jackets in a suitable locked press when they are not in use, and he shall not permit any jackets to remain outside such press overnight or to be at any time within the reach or in the custody of any

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person except a person having lawful business therewith.

Submission for
signature, of
all summonses,
etc.

2. (1) The clerk shall submit, or cause to be submitted, for the signature of the magistrate all summonses, warrants, orders, judgments, writs, or other process forthwith after the plaints are entered or the summonses, warrants, orders, judgments, writs, or other process are applied for.

(2) The accuracy of all warrants, writs, orders of committal and other documents for signature shall be vouched by the clerk himself or by some subordinate officer whom the clerk may delegate to check and vouch the same, and the clerk or such officer shall initial the process at the top on the right-hand side thereof prior to the signature of the magistrate being sought on any such process.

(3) The clerk shall require the proper party to lodge with him as many copies of a summons, warrant, order, or notice as shall be necessary to give effect to any written law regulating the service of process of the court, and where by these rules any plaint, counter-claim or particulars are required in connection with any summons he shall see that a copy of such plaint, counter-claim or particulars is annexed to every copy of such summons. Such plaint, counter-claim or particulars shall be deemed to be part of the summons.

Delivery of
summons and
copy.

3. The clerk shall deliver to the head bailiff where there exists more delivery of than one bailiff, or where there is only one bailiff to that bailiff or to an authorised process-server, all summonses together with an adequate number of copies thereof for effecting service, and the head or other bailiff deputed by him or the process-server shall in manner prescribed by law serve all summonses so delivered to him and shall make due return thereof in the proper form in accordance with any provisions for the time being in force relating to service of summonses.

Execution of warrants, writs, orders, etc., by bailiff.

4. The clerk shall deliver to the head bailiff, where there exists more than one bailiff, or where there is only one bailiff to that bailiff, all warrants, writs, or other process for the execution of the judgement or order of the court, and the head or other bailiff deputed by him shall in the manner prescribed by law levy or effect execution as directed by any such warrant, writ, or other process and in accordance with any provisions for the time being in force relating thereto.

Copies of documents, how made.

c. 3:04

5. Subject to these Rules, copies of all minutes of evidence, proceedings, or documents in the custody of the court or its officers shall be prepared by the clerk for any party entitled to receive the same, upon pre-payment of the costs of such copies. A copy of any minutes of evidence, proceedings, or record in a case heard before the court, other than a copy thereof required to be transmitted to the Registrar under the Summary Jurisdiction (Appeals) Act, shall not be given off to any person except with the consent of the magistrate.

Execution and service of warrants, writs, etc., to be expeditious.

6. The bailiff or other authorised process-server shall execute or serve as expeditiously as possible, every warrant, writ, order, summons or other process which he is by law authorised to execute or serve and which has been delivered to him by the clerk or the head bailiff for that purpose

The return of service to summonses.

c. 7:01

7. (1) If the service of a summons has been personal, the bailiff or other authorised process-server who served the same shall make return of the fact of such service in the manner prescribed by any law.

(2) If the service has not been personal, he shall deliver to the clerk the return of service of every summons which has been served, and also the summons when not served as well as all endorsed copies of non-served summonses, and make such a return by the prescribed form as will disclose that section 11 of the Summary Jurisdiction

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(Petty Debt) Act has been complied with.

(3) In every case of service of a summons, the bailiff or other authorised process-server shall state in the return the time and place where service was effected.

The return of "non- served" summonses.

8. If the summons has not been served, the bailiff or other authorised process-server shall endorse on a copy thereof the reason for the non- service; and the endorsement shall be signed by the bailiff or other authorised process-server.

The redelivery of "non- served" summonses to the clerk and the entry in a "non- served" list.

9. (1) The bailiff or other authorised process-server shall deliver to the clerk the return of service of every summons which has been served, and also the summons when not served as well as all endorsed copies of non-served summonses, and all returns of service, non-served summonses and endorsed copies thereof shall be filed by the clerk in the proper jacket, unless the return day has been extended by the magistrate.

(2) The clerk shall enter into a "non-served list" all summonses which from any cause whatsoever have not been served upon the defendant and the reason for the summons not being served shall be stated in the list.

(3) When a summons has been entered into the "non-served list" no further steps shall be taken to serve the same unless the party at whose instance the summons was issued makes satisfactory arrangements with the clerk for effecting service, and if the clerk is satisfied that there is reasonable likelihood of service of the summons being effected he may again deliver the summons to the bailiff or other authorised process-server for service.

The making of appointment for the bailiff to

10. Every person desiring the execution of a writ, warrant, order, The making or other process of the court shall

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execute process.

apply to the head bailiff in the Georgetown Magisterial District, and elsewhere to the clerk, for an appointment with a bailiff, and the head bailiff or clerk shall fix a day for the execution of that process and shall enter or cause to be entered in a Bailiff's Appointment Book, the hour, day, month, and year of the application, the names of the parties to the process, the name of the applicant, the date of the appointment, the hour when the bailiff left office to keep that appointment and the hour of his return to office. The bailiff detailed to execute any such process shall himself enter in the appropriate column of that book the result of his visit and any other remark which may be proper.

Acknowledgment of payments and deposits.

11. Whenever money is paid into or deposited in court, whether before or after judgement, an acknowledgment in writing of such payment or deposit shall be given by the clerk.

Money received process to be entered thereon And to be paid to clerk within 24 hours.

12. Every bailiff levying or receiving any money by virtue of the process of the court shall forthwith enter in ink on the face of the process, at the foot or in the margin thereof, the amount levied or received, and shall sign the entry, and shall, within twenty-four hours of the receipt of such money, pay over the same to the clerk who shall endorse on the process a memorandum of having received the same.

PART II

PARTIES

I. Generally

Persons may be joined as plaintiffs who claim relief

1. All persons may be joined as plaintiffs in one action in whom any right to relief in respect of or arising out of the same transaction or series of transactions is alleged to

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jointly severally or in the alternative in the respect of the same transaction, when common question of law or fact arises.

exist, whether jointly, severally, or in the alternative, where, if such person brought separate actions, any common question of law or fact would arise:

Provided that if upon the application of any defendant it appears in respect of that such joinder may embarrass or delay the hearing, the court or a magistrate may order separate hearings or make such other order as when may be expedient. And judgement 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 magistrate in disposing of the case shall otherwise direct.

Action in name of wrong plaintiff.

2. Where an action or matter has been commenced in the name of the wrong person as plaintiff or otherwise, or where it is doubtful whether it has commenced in the name of the right person, the court or the magistrate 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 so to do, order any other person to be substituted or added as plaintiff or otherwise upon such terms as may be just.

Person may be joined as defendants against whom relief claimed jointly, severally, or in the alternative.

3. 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 judgement 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.

All defendants joined need not be interested in all the relief asked for.

4. 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 magistrate 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.

All or any of the persons liable under any one contract may be joined.

Where plaintiff in doubt from whom he is entitled to redress.

Where parties numerous, one or more may sue or be sued, or defend for the benefit of all.

Where defendant desires to defend on behalf of others

Form 1.

Form 2.

5. 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.

6. Where the plaintiff is in doubt as to the person from whom he is entitled to redress, he may 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.

7. Where there are numerous persons having the same interest in one action or matter, one or more of such persons may sue or be sued, or may be authorised by the court or magistrate before or at the trial, to defend in such action or matter, on behalf or for the benefit of all parties so interested

8. When a defendant desires to defend on behalf or for the benefit of others having the same interest, he shall apply to the court or a magistrate for leave so to defend, on an affidavit of the facts upon which he relies to obtain such leave, together with the names, addresses, and occupations of such persons; and the court may thereupon make an order for the defendant so to defend, and the names of the persons as to whom such order is made shall be added to that defendant, in the plaint, Record Book of Causes, and other proceedings; and a copy of such order, with a copy of the summons particulars in the action, and a notice in Form 1, shall be served personally upon each of such persons, and a notice shall be sent to the plaintiff in accordance with Form 2:

Provided that the plaintiff or any of the persons whose

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names have been so added may at the hearing object to the defendant defending on behalf of all or any of the persons as to whom such order has been made, and the court or a magistrate may thereupon, if it or he thinks fit, strike the names of all or any of such persons out of the proceedings, and order the defendant to pay such costs as it or he may think fit.

Misjoiner or
non-joinder of
parties.

9. (1) No action or matter shall be defeated by reason of the misjoiner or non-joinder of parties, and the court may in every action 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 magistrate may, at any stage of the proceedings, either upon or without the application of either party, and on such terms as may be just, order that the names of any parties improperly joined, whether as plaintiffs or defendants, be struck out, and that the names of any parties whether as 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 action 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 person whose name is so added as defendant shall be served with a summons together with a copy of the plaint annexed, and a copy of every document filed in the proceedings up to the date of service which may affect him, and the proceedings against such person shall be deemed to have begun only on the service of such summons.

Service of
summons and
copy of plaint
on added
defendant.

(2) Where a defendant or defendants are added, the plaintiff, Service of shall, unless otherwise ordered by the court or a magistrate, leave with the clerk a sufficient number of copies of the plaint amended as directed by the court or a magistrate and of copies of every document filed in the proceedings up to the date of service which may affect the

added defendant or defendants for service upon the added defendant or defendants and for the return of such service, and service shall be effected in the same manner as service may lawfully be effected on an original defendant.

Trustees,
executors, and
others may sue
or be sued
without joining
parties
beneficially
interested.

Change of
defendant

10. 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.

11. Where a person other than the defendant appears at the hearing and admits that he is the person whom the plaintiff intended to charge, or ought to have charged, his name may be substituted for that of the defendant, if the plaintiff consents; and thereupon the action shall proceed in all respects as if such person had been originally named in the summons; and the costs of the person originally named as defendant shall be in the discretion of the court.

II. Persons Under Disability

Infants.

c. 7:01

12. Infants may sue as plaintiffs by their next friends and may defend by their guardians appointed for that purpose; but nothing herein contained shall affect the right of any infant to sue as if he were of full age in the cases enumerated in section 6 of the Summary Jurisdiction (Petty Debt) Act.

Married
women.
c. 45:04

Lunatics and
persons of
unsound mind.

13. Married women may sue and be sued as provided by the Married Persons (Property) Act.

14. Lunatics or persons of unsound mind not so found by inquisition may respectively sue as plaintiffs in any

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action by their committees or next friends, and may in like manner defend any action by their committees or guardians appointed for that purpose.

Persons under disability, how consents can be given.

15. In any action or matter to which an infant or person of an unsound mind, whether so found by inquisition or not, or person under any other disability, is a party. Any consent as to the mode of taking evidence or as to any other procedure given by the next friend, guardian committee or any other person acting on behalf of the person under disability shall, with the consent of the court, have the same force and effect as if such party were under no disability and had given such consent:

Provided that no such consent by any committee of the lunatic shall be valid as between him and the lunatic unless given with the sanction of the High Court.

III. *Partners*

Co-partners may sue or be sued in the name of their firm.

16. (1) Any two or more persons claiming or being liable as Co-partners, and carrying on business within Guyana, may sue or may be sued in the names of the respective firms, if any, in which such persons were co-partners at the time of the accruing of the cause of action.

(2) Where the plaintiffs sue or the defendants are sued in the name of their firm in accordance with this rule, the plaint and all subsequent proceedings shall state that the plaintiffs are suing or the defendants sued as a firm.

(3) In any such case, on application by any party to the action, the court or a magistrate may order that a statement of the names and places of residence of the persons who were at the time of the accruing of the cause of action co-

partners in any such firm be furnished in such manner, and verified on oath or otherwise, as the court or a magistrate may direct.

Application for names of firm in action by firm.

17. Where an action is brought by partners in the name of their firm, the plaintiffs shall, on demand made in writing by or on behalf of any defendant, forthwith send by post to the defendant so applying and to the clerk the names and places of residence of all the persons constituting the firm on whose behalf the action is brought. And if the plaintiffs 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 magistrate may direct, or the court at the hearing may adjourn the hearing on such terms as it may think fit. 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 plaint. But the proceedings shall, nevertheless, continue in the name of the firm.

Where co-partners sue or are sued other than in the name of their firm.

18. Where an action is brought by or against any two or more named persons claiming or being liable as co-partners, and carrying on business in Guyana, such action shall not be deemed to be an action in the name of the firm within the meaning of these Rules, unless the plaintiffs sue or the defendants are sued in the name of their firm, and are stated to be suing or to be sued as a firm, but shall be deemed to be an action by or against the individuals named as plaintiffs or defendants; and service shall be effected, judgement entered, and execution issued accordingly.

Where one person carries on business in name other than his own.

19. Any person carrying on business in a name or style other than his own name may sue or 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 the provisions of this Part relating to proceedings against firms shall apply.

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PART III

JOINDER OF CAUSES OF ACTION

Joinder of
causes of action
generally.

1. A plaintiff may unite in the same action several causes of action without leave of the court:

Provided that the total amount claimed does not exceed the sum which may be recovered in the court.

Claims by or
against
husband and
wife.

2. Claims by or against husband and wife may be joined with claims by or against either of them separately.

Claims by or
against
executor or
administrator.

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.

Joint and
separate
claims by
plaintiffs.

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

Separate
hearings may
be ordered.

5. If at any time it appears or is made to appear to the court or a magistrate that any causes of action united or claims joined in any action cannot be conveniently heard and disposed of together, the court or a magistrate may order separate hearings or may exclude any such cause of action or claim, and may order the proceedings to be amended accordingly, and may make such order as to costs as may be just.

PART IV

COMMENCEMENT OF ACTION

Actions to be
commenced by
plaint.

1. All proceedings authorised to be commenced in a magistrate's court by or under any Act shall, except when otherwise provided therein or by these Rules, be commenced by lodging a plaint with the clerk, and shall be called actions.

Where partners
sue or partners
or persons
carrying on
business, etc..
are sued in firm
name.

2. Where partners sue or are sued in the name of their firm, or a person carrying on business in a name or style other than his own name sues or is sued in such name or style, pursuant to rule 16 and rule 19 of Part II, it shall be stated in the plaint that the plaintiffs are suing or the defendants are sued as a firm, or by such name or style.

Where
registered
company is
defendant.
c. 89:01

3. Where a company registered under the Companies Act is a defendant, the plaint shall give an address for service, described as company is "being the registered office of the Company".

Capacity in
which plaintiff
sues or the
defendant is
sued to be
stated in plaint.

4. If the plaintiff sues, or the defendant or any of the defendants is sued, in a representative capacity, it shall be stated in the plaint in what capacity the plaintiff sues or the defendant is sued.

Particulars to
be stated in
plaint, etc.,
where assignee
sues.

5. Where an assignee of a debt or other legal chose in action sues, the fact that he is such assignee, and the name, address, and description of the assignor, shall be stated in the plaint, summons, and other proceedings.

Infant to sue by
next friend.

6. Where an infant desires to commence an action (other than for infant to sue wages, or piece-work, or for work as a servant), or is a claimant in an interpleader proceeding, he shall sue by a next friend, and the full names, occupation or description, and residence or place of business of the next

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Form 3.

friend shall be stated in the plaint; and such next friend shall, at the time of entering the plaint, either attend at the office of the clerk and in his presence give an undertaking in Form 3, to be responsible for costs, or transmit such an undertaking to the clerk; and if such undertaking is not given at the office of the clerk, it shall be attested by a notary public, a commissioner for oaths to affidavits, or a justice of the peace to whom the person giving the undertaking is personally known.

Liability of
next friend for
costs.

7. The plaint shall not be filed until such undertaking has been given. On its being given it shall be filed with the clerk, and the action or interpleader proceeding shall proceed in the name of the infant by such next friend. On entering into the undertaking, the next friend shall be liable for costs in the same manner and to the same extent as if he were himself the plaintiff; and if the infant fails in or discontinues his action or proceedings, an order for the payment of costs may be made against the next friend, whether any order for costs is or is not made against the infant; and proceedings may be taken on the order for the recovery of such costs as for the recovery of a judgement debt.

Infant
commencing
action without
next friend,
where
necessary.

8. Where an infant commences as an adult without a next friend an action in which a next friend is required, the court may, on the application of either party, and on such terms as the court shall think just, appoint a next friend; or it may order the action to be struck out.

Married
woman suing.

9. Where a plaint is entered or a claim in an interpleader proceeding is made by a married woman in which her husband is not joined, she shall state the name, and, so far as she can, the address and description of her husband.

Person of
unsound mind
suing.

10. Where a plaint is entered, or a claim in an interpleader proceeding is made by or on behalf of a person of

unsound mind not so found by inquisition, he shall sue by a next friend; and the provisions of rules 6 and 7 of this Part as to an infant suing by a next friend shall apply to a person of unsound mind so suing.

PART V

THE PLAINT AND ITS CONTENTS

The plaintiff and its particulars.

1. (1)

- (a) the full names, occupation or description, and residence or place of business of the plaintiff and if the plaintiff is a female, a statement whether she is single, married, or a widow, and if she is married, the full names of her husband, and, if the plaintiff is an infant required to sue by a next friend, the particulars required by rule 6 of Part IV;
- (b) the surname of the defendant, his general occupation or description, and his residence or place of business, and (where known) his full names, the name of the street in which his residence or place of business is situate, and the number of the house;
- (c) a statement whether the defendant is a male or female, and (if known) whether of full age or not, and if a female, whether she is married, single, or a widow:

Provided that if these facts are not

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known, the plaint may be filed and the summons issued and served without their being stated;

- (d) a short statement of all the material facts constituting the cause of action relied upon in ordinary clear and concise language without repetition and in such a manner as to enable a person of common understanding to know what is intended with such particulars of the plaintiff's claim or demand, with dates and items if necessary, or of any alleged injuries suffered, or of any alleged special damages sustained, or of the defendant's alleged wrongdoing, as will enable the defendant to learn precisely the case which he has to meet and prevent surprise at the hearing;
- (e) the pecuniary or other demand or remedy which the plaintiff seeks to establish or obtain.

(2) When it is stated in the plaint that the plaintiff sues or that the defendant is sued in any representative capacity, such representative capacity shall not in any case be in issue, unless the same is expressly denied.

(3) Where the interested plaintiff is illiterate and unable to furnish the plaint in writing, the plaint shall be prepared by the clerk.

(4) If the plaint is entered by counsel he shall state therein his name and place of business.

Particulars of several causes of action.

2. (1) Where a plaintiff seeks to obtain payment, or satisfaction, or relief, redress, or remedy, upon more than one cause of action or claim, he shall state —

- (a) his causes of action or claims separately;
- (b) in his particulars the grounds of each cause of action or claim separately;
- (c) the payment or satisfaction, relief, redress, or remedy he claims in respect of each cause of action or claim separately.

(2) The same rule shall apply where the defendant relies upon several grounds of defence, set-off, or counter-claim founded upon separate and distinct facts.

Abandonment of excess of claim over \$500.

3. Where the claim or demand exceeds the amount which may be recovered in the court, and the plaintiff desires to abandon the excess, the abandonment of the excess shall be entered at the end of the claim over particulars.

Where defendant is a female.

4. Where a claim is made against a married woman or a widow, where the particulars shall state whether the claim is in respect of a contract or tort before coverture, or (in the case of a widow) in respect of a contract or tort since the determination of the coverture.

Copies of plaint to be tendered.

5. The plaintiff when entering the plaint, shall tender therewith two copies thereof for every different defendant named in the plaint. He shall also, where so required by these Rules or by the court or a magistrate, file an additional copy for the use of the court.

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Particulars in
actions by
moneylenders
under the
Moneylenders
Act. c. 91:05

6. Where a moneylender within the meaning of the Moneylenders Act seeks to recover money lent or interest on money lent or both or to enforce any promissory note or agreement made or security taken in respect of money lent, he shall in his particulars state—

- (a) the date on which the loan was made;
- (b) the amount actually lent to the borrower;
- (c) the rate per cent *per annum* of interest charged;
- (d) the amount (if any) charged for expenses, inquiries, fines, bonus, premium renewals, or other charges;
- (e) the date of the promissory note, or of any contract or memorandum in writing of the contract relating to the money lent;
- (f) the date and place when and where the moneylending business involved in the action was carried out;
- (g) the security (if any) taken for the money in the course of his business as a moneylender;
- (h) the amount of every payment already received by the moneylender in respect of the loan and the date on which such payment was made;
- (i) whether there has been any statement

or settlement of account, or any agreement purporting to close previous dealings and create new obligations;

- (j) the amount of every sum due to the moneylender but unpaid;
- (k) the amount of interest accrued due and unpaid on every such sum.

Stated or
settled account.

7. In every case in which the cause of action is a stated or settled account, the same shall be alleged with particulars.

Claim against
government.
c. 3:02

8. The statement of claim by which proceedings against the Government may be instituted pursuant to section 38 of the High Court Act shall contain all the particulars required by rule 1 (a), (d) and (e) of this Part.

Demand for
further and
better
particulars.

9. In any action the defendant may, at any time before the day of hearing, give notice to the plaintiff that he requires further particulars of the plaintiff's claim or demand, and the plaintiff shall, within two clear days of service of such notice, deliver to the defendant full particulars of his claim, and of the relief remedy to which he claims to be entitled, and shall within the same time file a copy thereof with the clerk who shall place the same in the proper jacket.

Order for
further and
better
particulars.

10. If the plaintiff fails to comply with such notice or complies therewith insufficiently, the court or a magistrate may, before or at the hearing, if satisfied that the defendant is thereby prejudiced in his defence, order the plaintiff to deliver to the defendant full particulars and to tender to the clerk a copy thereof, and may adjourn the action, and stay all proceedings therein until such order has been complied with, and the court may order the action to be dismissed unless

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such order is complied with within such further time as the court may order, and may make such order as to costs as the court may think fit.

Plaintiff to deliver such particulars to all defendants.

11. The plaintiff shall deliver such particulars to every defendant named in the plaint even though all such defendants have not given notice to the plaintiff requiring further particulars.

Disallowance of costs for insufficient particulars.

12. If in the opinion of the court any particulars in a plaint signed by a counsel are insufficient, the costs of entering the plaint by counsel shall not be allowed unless the court otherwise orders.

Security for costs where plaintiff does not reside in Guyana.

13. Where it appears on the plaint in any action or matter, or in any interpleader proceedings, that the plaintiff does not reside in Guyana, the summons shall not be issued until security for costs, by deposit of money or otherwise, has been given to the satisfaction of the clerk. Where the plaint is entered through counsel, an under-taking by him, in Form 4, to be responsible for the costs shall be sufficient. If the plaintiff fails in or discontinues his action, matter, or interpleader proceedings, and does not pay the amount of any costs ordered to be paid by him to the defendant, the same proceedings may be taken by writ of execution for the recovery of the amount of such costs from him, or from his counsel if the latter has given the undertaking, as for the recovery of a judgment debt.

Person temporarily resident only may be required to give security.

14. A person ordinarily resident out of Guyana may be ordered to give such security or undertaking as in the last preceding rule mentioned, though he may be temporarily resident in Guyana.

PART VI

PLAINT RECEIPT AND SUMMONS

Service

Plaint receipt.

[R. 7/1963]

Form 5A.

Form 5B.

The summons

to appear.

Form 6.

Period between
entry of plaint
and return day.

c. 7:01

Amending the
summons in
case of non-
service from
mis-statement
of particulars.

The non-
served list.

1. At the time of entering a plaint the clerk or any assistant officer shall give to the plaintiff a receipt in accordance with Form 5A, or Form 5B, according as may be directed by the Minister responsible for Finance.

2. A summons to appear to a plaint shall be in accordance with Form 6 and shall be dated of the day on which the plaint was entered, and the date thereof shall be the commencement of the action.

3. Unless with the leave of the magistrate, the return day stated in the summons to appear, shall be a day not less than seven clear days after the date of entering the plaint, and service shall be effected in accordance with section 11 of the Summary Jurisdiction (Petty Debt) Act.

4. (1) Where a summons to appear has not been served by reason of the plaintiff having misstated or insufficiently stated any of the particulars as to the name, residence, or place of business, or occupation or description of the defendant, or of the defendant having before the entry of the plaint removed from the address given therein, the summons may be amended as to such particulars at any time which will allow the summons to be served in sufficient time before the return day.

(2) Provided nevertheless that if the bailiff or other process-server ascertains in sufficient time before the return day, and before the summons has been entered in the non-served list, the defendant's address, he shall without any amendment of the summons effect service thereof on the

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defendant and insert the new address in the return of service made by him.

Successive summonses.

5. (1) Subject to this rule, where a summons to appear has not been served in sufficient time before the return day successive summonses may be issued without entering a new plaint.

(2) Unless the magistrate otherwise directs, a successive summons shall not be issued in any case in which the non-service has been caused by the fact of the plaintiff having misstated or insufficiently stated any of the particulars as to the name, residence, or place of business, or occupation or description of the defendant or of the defendant having before the entry of the plaint removed from the address given on the entry thereof.

(3) A successive summons shall bear in red ink the same date and number as the summons first issued.

(4) Where a summons to appear has not been served by reason of the defendant having after entry of the plaint removed from his residence or changed his place of business, a successive summons may be issued if there is not sufficient time before the return day to enable the summons to be duly served upon the defendant at the new address.

Where summons left at residence or last or most usual place of abode or place of business of defendant and he does not appear.

6. Where by the return of service it appears that service was effected by delivering the summons to some person apparently not less than sixteen years old at the residence of the defendant, or at his last or most usual place of abode, or at his place of business, and the defendant does not appear on the return day, the action shall not abode or proceed if the court is satisfied, on the evidence before it, that the business of service of such summons did not come to the knowledge of the defendant before the return day.

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Procedure where court satisfied that service did not reach knowledge of defendant.

Acceptance of service by counsel.

Service on infant.

Service on lunatic or person of unsound mind.

Service on partners.

7. In the case mentioned in the last preceding rule the court may either order the action to be struck out or order a successive summons to issue or, if in doubt whether the summons has come to the defendant's knowledge, may adjourn the action to a future day for further knowledge evidence, as to it may seem just. The court may direct notice of any adjournment, with a copy of the summons and plaint, to be served on the defendant.

8. Where counsel represents that he is authorised to accept service on behalf of a defendant, it shall be sufficient service to deliver the summons to him, provided that he shall at the time of such delivery endorse upon the copy of the summons retained by the bailiff or other authorised process-server, a memorandum that he accepts service thereof on behalf of such defendant, and that he is authorised so to do.

9. Where an infant is defendant, service on his father or guardian, or (if none) on the person with whom the infant resides or under whose care he is, shall, unless the court otherwise orders, be deemed good service on the infant:

Provided that the court or a magistrate may order that service made or to be made on the infant himself shall be deemed good service.

10. Where a lunatic or a person of unsound mind not so found by inquisition is a defendant, service on the committee (if any) of the lunatic, or (if none) on the person with whom the person of unsound mind, resides or under whose care he is, shall, unless the court otherwise orders, be deemed good service on such defendant.

11. Where persons are sued as partners in the name of their firm, Service on the summons shall be served either upon any one or more of the partners, or at the principal place of the partnership business in Guyana upon any person

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having or appearing to have at the time of service the control or management of the business there, and, subject to these rules, such service shall be deemed good service on the firm so sued, whether any of the members thereof are out of Guyana or not, and no leave to issue a summons against the members of the firm out of Guyana 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 the action, the summons shall be served upon every person in Guyana sought to be made liable.

Service where person carries on business in name other than his own.

12. Where a person carrying on business in a name or style other than his own name is sued in such name or style as if it were a firm name, the summons may be served either upon such person, or at the principal place of business of such person upon any person having or appearing to have at the time of service the control or management of the business there; and, subject to these Rules, such service shall be deemed good service on the person so sued.

Return of service under rules 11 and 12 to state in what capacity served.

13. Where a summons is served under either of the last two preceding rules, the return or affidavit of service shall state whether the person served was served as partner or as the person carrying on the business, or as a person having or appearing to have the control or management of the business or in both characters.

Form of return or affidavit of service.
c. 7:01

14. The return or affidavit of service shall be in accordance with the forms required by the Summary Jurisdiction (Petty Debt) Act, or any other Act relating thereto.

Where husband and wife are defendants.

15. Where husband and wife are both defendants, they shall both be served, unless the court or a magistrate otherwise orders.

Service where defendant is on

16. (1) Where a defendant is living or serving on

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board ship. board any ship or vessel, other than a ship or vessel belonging to the Guyana Defence Force, it shall be sufficient service to deliver the summons to the person on board who is, at the time of such service, apparently in charge of the ship or vessel.

(2) Where service is to be effected on board any ship or vessel, the bailiff or other authorised process-server, shall, on request produce a certificate of his appointment signed by a magistrate to enable him to gain access thereto for the purpose of effecting such service.

Service on
worker residing
in hostel, etc.

17. Where a defendant is residing in any hostel or other similar institution for workers, it shall be sufficient service to deliver the summons to the superintendent or any person appearing to be the head officer in charge thereof.

Service where
defendant
employed in
mental hospital
or prison.

18. Where the defendant is employed and dwells in any mental hospital, or in any common gaol or house of correction, it shall be sufficient service to deliver the summons to the superintendent, keeper, gate-keeper, or lodge-keeper of the hospital, gaol, or house of correction.

Service under
the Mining Act.
c. 65:01

19. In proceedings by a servant within the meaning of the Mining Service Act, service of process with respect to proceedings for the recovery of salary or wages for working on a claim may be effected as provided by Act.

Service on
registered
Friendly
Society.
c. 36:04

20. In the case of a society registered under the Friendly Societies Act, service of process shall be effected on the secretary or on any member of the Committee of Management as provided by section 48 of the said Act.

Service where
violence
threatened.

21. Where a bailiff is prevented by the threats or violence of the defendant, or of any other person in concert with him, from personally serving the summons, it shall be sufficient service to leave such summons as near to the

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defendant as practicable.

Service of
summons on
corporation,
etc.

22. In the absence of any statutory provision regulating the service of process, service on a corporation aggregate may be made on the Mayor or other head officer, or on the Town Clerk, clerk, treasurer, etc. or secretary of such corporation, and when by any written law, provision is made for service of any summons or other process upon any corporation, or upon any body or number of persons, whether corporate or unincorporate, a summons may be served in the manner so provided.

Judgment
against
defendant in
default,
reserving right
against other
defendant in
default or not.

23. Where two or more persons are made defendants whether as jointly or as severally liable, the plaintiff may have judgment against any one or more of the defendants in default, and may issue execution thereon, without prejudice to his right to proceed with the action against any other defendant or defendants whether served or not served, and if served, whether in default or not in default.

Penalty for
causing service
on wrong
person.

24. Where service of a summons of any kind has been effected upon the wrong person by reason of any faulty or insufficient name, address, or description of the person upon whom such service was intended to be effected, and that wrong person has appeared in court in obedience to that summons, the court or magistrate may at any time order the party who was responsible for the service on the wrong person to pay the reasonable expenses for travelling to court and otherwise indemnify him for any loss sustained by his obedience to the said summons. Any sum so ordered to be paid may be recovered by the issue of a writ of execution against the goods of the person who caused the service upon the wrong person to be made.

PART VII

Appointment
of guardian *ad
litem* to
defendant
appearing on
face of
proceedings to
be an infant or
person of
unsound mind.

Time for
making
appointment
of guardian
ad litem.

Form 7.

Form 8.

**APPOINTMENT OF GUARDIANS *AD LITEM* TO
INFANTS OR PERSONS OF UNSOUND MIND**

1. Where it appears on the face of the proceedings that any defendant to an action or matter is an infant or a person of unsound mind not so found by inquisition, the following provisions shall apply —

- (a) At any time after the service of the summons, a guardian *ad litem* to such infant or person of unsound mind may be appointed by the court or a magistrate on application made to it or him on behalf of such infant or person of unsound mind, on affidavit in accordance with Form 7 in the Appendix, accompanied by a written consent of the proposed guardian to act as such guardian.
- (b) Where such appointment is made, the clerk shall forthwith send notice of such appointment to the plaintiff, in accordance with Form 8 in the Appendix.
- (c) Where no application for a guardian *ad litem* is made on behalf of the infant or person of unsound mind up to the day of hearing the clerk shall notify to the court and to the plaintiff that no such application has been made.
- (d) The plaintiff shall in the circumstances mentioned in the last

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preceding paragraph, before proceeding further with the action or matter against such infant or person of unsound mind, apply *ex parte* to the court or a magistrate for an order that the clerk be assigned guardian *ad litem* of such defendant, by whom he may appear and defend, and, if necessary, for a postponement of the hearing :

Provided that the magistrate shall have the power, at any time before the hearing and prior or subsequent to any appointment of the clerk as guardian *ad litem*, to appoint any other person willing to act to be guardian *ad litem* of the infant defendant.

- (e) Every order appointing the clerk guardian *ad litem* shall be drawn up and served upon the infant defendant unless the infant defendant is present in court when the order is made.

Appointment
of guardian *ad
litem* to
defendant
ascertained to
be an infant or
person of
unsound mind.

2. Where it does not appear on the face of the proceedings, but is made to appear in the course of the proceedings, that any defendant to an action or matter is an infant or a person of unsound mind not so found by inquisition, the following provisions shall apply—

- (a) If on any defendant appearing at the hearing it appears that such defendant is an infant, and such defendant names a person as his guardian who then assents so to act, such person shall be appointed

Form 9.
Form 10.

guardian accordingly; but if the defendant does not name a guardian, the court may appoint as guardian any person in court who is willing to act as such guardian; or in default of any such person the court may appoint the clerk to act as guardian; and the action or matter shall thenceforth proceed as if the infant had named a guardian, and the order by which the guardian is appointed shall, if drawn up, be in accordance with one of the Forms 9 and 10 in the Appendix which is appropriate to the case.

(b) In any other case, on its being made to appear that any defendant is an infant or person of unsound mind not so found by inquisition, a guardian *ad litem* to such defendant may be appointed on application made on behalf of such defendant in accordance with paragraphs (1) and (2) of the last preceding rule; and if no such application is made a guardian *ad litem* may be appointed in the manner provided by paragraphs 3 and 4 of the same rule.

Entry of
appointment
on summons,
etc.

3. Where a guardian is appointed under either of the last two preceding rules, such appointment shall be entered on the plaint, in the Record Book of Causes and on all subsequent proceedings. Etc.

Limitation of
liability of
guardian for

4. A guardian *ad litem* to an infant or person of unsound mind not so found by inquisition shall not be

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costs.

personally liable to any costs not occasioned by his personal negligence or misconduct.

Power to set aside judgment against infant or person of unsound mind where no guardian appointed.

5. Where judgment has been obtained or an order made against a defendant who was at the time an infant or person of unsound mind not so found by inquisition, without a guardian *ad litem* having been appointed to such defendant, the court may set aside such judgment or order and may order a new hearing or make such other as may be just.

Guardian *ad litem* with reference to proceedings under judgment or order.

6. At any time during the proceedings under any judgment or order, the court may, if it thinks fit, require a guardian *ad litem* to be appointed for any infant or person of unsound mind not so found by inquisition who has been served with notice of such judgment or order.

PART VIII

CONSOLIDATION OF ACTIONS OR STAY OF PROCEEDINGS

Transfers

Consolidation of separate actions which may have been joined in one.

1. Actions or matters pending in the same court may be consolidated by order of the court or a magistrate with or without application by the parties.

Stay of actions for same cause against several defendants till judgment given in selected action.

2. Where several actions are brought by different plaintiffs against the same defendant in the same court for or in respect of causes of action arising out of the same breach of contract, wrong, or other circumstances, the defendant may, on filing an undertaking to be bound so far as his liability in the said several actions is concerned by the decision in such one of the said actions as may be selected by the court or a magistrate, apply to the court or a magistrate for an order to

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stay the proceedings in the actions other than the one so selected, until judgment is given in such selected action.

Applications under preceding rule.

3. Applications under the two preceding rules shall be made upon notice to the opposite parties to be affected by any order made thereon.

Court may impose terms.

4. Upon the hearing of any application for consolidation of actions or for stay of proceedings the court or a magistrate may impose such terms and conditions and make such order in the matter as may be just.

Where judgment in favour of defendant in selected action.

5. If judgment in a selected action under rule 2 of this Part is given in favour of the defendant, the defendant shall be entitled to his costs up to the date of the order staying proceedings against every other plaintiff whose action is stayed, unless such plaintiff gives the clerk notice in writing to set down his action for hearing. On such judgment being given, the clerk shall forthwith send to every other plaintiff a notice in accordance with Form 11 in the Appendix, and if any such plaintiff within fourteen days from the date of such notice gives to the clerk notice in writing to set down his action for hearing, the clerk shall obtain from the magistrate the appointment of a day for the hearing, and send to both plaintiff and defendant notice of the day so appointed at least seven clear days before such day.

Form 11.

Where judgement given against defendant in selected action.

6. If judgment in a selected action is given in favour

of the plaintiff, where the plaintiffs in the actions stayed shall be at liberty to proceed for the purpose of ascertaining and recovering their debts or damages and defendant in costs. On such judgment being given, the clerk shall forthwith send to each such plaintiff a notice in accordance with Form 12 in the Appendix, and a plaintiff desiring to proceed shall within fourteen days from the date of such notice give to the clerk notice in writing to set down his action for hearing, and on receipt of such notice the clerk shall obtain from the magistrate the appointment of a day for the hearing, and send

Form 12.

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to both plaintiff and defendant notice of the day so appointed at least seven clear days before such day.

Stay of action
for same cause
against several
defendants till
judgment
given in
selected action.

7. Where several actions of contract are brought by the same plaintiffs against several defendants in the same court, and the event of the said actions depends on the finding of the court on some question common to all the said actions, the court may at any time select one of such actions for trial, and stay the proceedings in all the other actions until the judgment in the action so selected is given; but after judgment in such selected action, unless the plaintiff and the defendants in the other actions, or any of them, submit to have judgment passed and entered therein in accordance with the judgment in the action so selected, such other actions shall proceed in the same manner as if they had not been stayed; and on receipt of notice from the plaintiff or defendant in any such action to set down the action for hearing, the clerk shall obtain from the magistrate the appointment of a day for the hearing, and send to both plaintiff and defendant notice of the day so appointed at least seven clear days before such day.

Transfer of
actions
commenced in
different
courts.

8. Where actions are commenced in different courts by parties in the same interest, upon application by any of the parties any action may be transferred to the court in which the first plaint was entered, different and shall there be proceeded with in the same way in all respects as if it had been commenced in that court.

Procedure
when
application for
transfer is
applied for.
c. 7:01

9. The party applying for a transfer of an action under section 27 of the Summary Jurisdiction (Petty Debt) Act or under the last preceding rule shall give to the clerk of the court in which the action for transfer is or matter is pending, and to all parties who may be affected by the application, at least two clear days' notice in writing of the intended application, but the court or a magistrate may at any time, by consent of all parties, or without such consent if it or he thinks fit, order a transfer, although this rule has not been complied with.

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Order as to costs on transfer.

10. The court or a magistrate ordering the transfer may make such order as to the costs incurred before or occasioned by such transfer as it or he may think fit.

Transmission of the proceeding to court to which transfer is made.

11. When any order transferring an action is made, the clerk of the court ordering the transfer shall transmit to the clerk of the court to which the action has been transferred a certified copy of the plaint and of every other document in the action and the latter clerk shall send to all the parties notice of the day fixed for the hearing by the court to which the transfer has been made.

Costs of transfer.

12. The ultimate costs of such transferred action shall be in the discretion of the court to which the action has been transferred.

PART IX

DISCONTINUANCE, CONFESSiON, ADMISSION, AND PAYMENT INTO OR OUT OF COURT

Discontinuance of action or withdrawal of part of claim.

1. If the plaintiff desires to discontinue any action or matter against all or any of the parties thereto, or to withdraw any part of his alleged cause of complaint, he shall give notice in writing thereof to the clerk and to every party as to whom he so desires to discontinue or withdraw; and after the receipt of such notice any such party may apply to the court or a magistrate to tax his costs incurred before the receipt of the notice, or if the action or matter be not wholly discontinued, his costs incurred before the receipt of the notice in relation to the matter so withdrawn, and if the court or a magistrate thinks fit, judgment may be entered for such costs:

Provided that if the action is not wholly discontinued as against the party so obtaining the judgment for costs, execution shall not issue on that judgment before the action is disposed of, except by leave of the court.

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Stay of subsequent action till costs of action discontinued or claim withdrawn are paid.

2. Discontinuance or withdrawal under the last preceding rule shall not be a defence to any subsequent action; but if after such discontinuance or withdrawal a subsequent action is brought for the same or substantially the same cause of action before the payment of the costs in the last preceding rule mentioned, the court may, if it thinks fit, order either that any such subsequent action be stayed until such costs have been paid or be struck out, and may in either case order the plaintiff to pay the costs of the subsequent action to the defendant

Defendant's admission of liability in whole or in part of claim but disputing the time or mode of payment.

3. (1) A defendant who admits his liability for the whole or part of any claim, but desires the decision of the court as to the time and liability in mode of payment thereof, may sign an admission in writing stating whole or in therein that he offers to pay the amount admitted within a time or by instalments to be specified in the admission.

Authentication and service of such admission.

(2) The admission shall be signed by the defendant or his counsel and shall be delivered to the clerk two clear days at least before the return day:

Provided that if the admission is not so delivered it may be delivered at any time before or when the action is called on, subject however to an order by the court for payment by the defendant of any costs properly incurred by the plaintiff in consequence of the admission not having been delivered in due time.

Notice of such admission to plaintiff.
Form 13A.
Form 13B.

4. The clerk shall, as soon as reasonable after the receipt of the admission (if it is delivered in time for his so doing) send notice thereof to the plaintiff in accordance with one of the Forms 13A and 13B in the Appendix which is appropriate to the case.

Plaintiff's election to

5. If the plaintiff in the case of admission of part only of the claim elects to accept the amount admitted in

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accept admitted amount and offer of payment.

satisfaction of his claim, and to accept the mode of payment offered by the defendant, or in case of admitted admission of the whole claim elects to accept the mode of payment, he shall send notice of acceptance to the clerk and to the defendant not later than on the day immediately preceding the return day or he may attend on the return day and accept the admission and offer, or the offer, as the case may be, without giving such notice.

Entry of judgment in case of acceptance under last preceding rule.

6. In any such case of acceptance as aforesaid, the court may, on the return day, whether the parties or either of them attend or not, enter judgment for the amount admitted and for costs and payment acceptance shall be ordered to be made in accordance with the offer of the defendant.

Plaintiff's objection to mode of payment.

7. If the plaintiff in case of admission of part only of the claim elects to accept the amount admitted in satisfaction of his claim, but objects to the time or mode of payment offered by the defendant or, in the case of admission of the whole claim, objects to the time or mode of payment, he should send notice in that behalf to the clerk and the defendant not later than on the day immediately preceding the return day, or he may attend on the return day and notify the same.

Plaintiff's objection to the amount admitted and the offer of payment.

8. If the plaintiff in the case of admission of part only of the claim objects to accept the amount admitted by the defendant and the offer of payment in satisfaction of his claim, he should send notice in that behalf to the clerk and to the defendant not later than on the day immediately preceding the return day, or he may attend on the return day and notify the same.

Procedure where plaintiff objects to the amount admitted and offer of

9. In the case where objection is taken to the amount admitted as well as to the mode of payment offered the action shall be dealt with in the ordinary way; in any other case (except the case mentioned in rules 5 and 6 of this Part) the

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payment, or to time and mode of payment only.

court shall, on the return day or any other day to which the hearing of the action may be adjourned, give judgment for the amount admitted with costs, and decide any question as to the time and mode of payment thereof, subject always to section 34 of the Summary Jurisdiction (Petty Debt) Act.

Penalty for failure to give required notice.

10. The court may order any party who failed to give any notice required by these Rules to be given by him to pay any costs which have been occasioned by his failure to give such notice at the time when the same ought to have been first given.

Admission by letter addressed to court.

11. Where a defendant does not appear on the return day and has not signed an admission in accordance with the preceding rules, the court may accept as an admission of the claim or any part thereof, any letter addressed to the court and purporting to be written by or on behalf of the defendant, if the court is satisfied that such letter was in fact written by or by the authority of the defendant; and a note that such letter was accepted as an admission shall be entered in the minute book.

Agreement as to amount of debt and terms of payment.
Form 14.

12. If the plaintiff and the defendant in any action can agree as to the amount payable in respect of the claim and the terms and conditions upon which the amount is to be paid, they may sign an agreement in accordance with Form 14 in the Appendix and deliver the same to the clerk.

Agreement as to amount of costs.

13. The parties to any agreement referred to in the last preceding rule may also agree as to the amount of the costs to be paid by the defendant, subject to the approval of the court or a magistrate, and the amount of any court fees included therein shall be stated separately in the agreement.

Entering judgment thereon.

14. The court or a magistrate may, on any such agreement being delivered to the clerk, enter judgment for the amount agreed upon and the costs agreed upon and

approved, and order payment of the same upon the terms and conditions mentioned in the agreement, or if the amounts of the costs have not been agreed upon and approved, may enter judgment for the amount agreed upon and the costs properly incurred by the plaintiff in relation to that amount, and order payment of the same on the terms and conditions mentioned in the agreement.

Admission of
truth of
plaintiff's
statement.
Form 15.

15. Where a defendant desires to admit the truth of the statements in the plaintiff's particulars, and to submit to the judgment of the court thereon, he may sign an admission in accordance with Form 15 in the Appendix. Such admission shall be filed two clear days at least before the return day, and the clerk shall forthwith transmit a notice thereof to the plaintiff who shall not, unless the court otherwise orders, be allowed any costs incurred after the service upon him of such notice of such admission in relation to the proof of the matter so admitted:

Provided that the plaintiff shall be entitled, notwithstanding such admission, to any necessary costs for attending on the return day to obtain his judgment and costs.

Admission by
any party.

16. Any party to an action or matter may give notice in writing to any other party that he admits the truth of the whole or any part of the case or claim of such other party, and no costs incurred after the receipt of such notice in respect of the proof of any matters admitted therein shall be allowed; but the costs of any steps taken prior to the receipt of such notice may be allowed, if the court or a magistrate is of opinion that they were not taken unnecessarily or prematurely.

Notice to admit
specific facts.
Form 16.

17. Any party may by notice in writing in accordance with Form 16 in the Appendix, at any time not later than four clear days before the day of hearing, call on any other party to admit, for the purposes of the action, matter, or issue only, any specific fact or facts mentioned in such notice. And in case

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Form 17.

of refusal or neglect to admit the same by the delivery of a written admission of the fact or facts as aforesaid in accordance with Form 17 not less than two days clear before the day of hearing, the costs of proving such fact or facts shall be paid by the party so neglecting or refusing, whatever the result of the action, matter, or issue may be, unless at the hearing the court certifies that the refusal to admit was reasonable, or unless the court at any time otherwise orders:

Provided that:

- (a) any admission made in pursuance of such notice shall be deemed to be made only for the purposes of the particular action 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 notice;
- (b) the court may at any time allow any party to amend or withdraw any admission so made on such terms as may be just.

Evidence of admission.

18. An affidavit of the due signature of any admissions made in pursuance of these Rules, shall be *prima facie* evidence of such admissions, if evidence thereof be required

Payment into court without a denial of liability.

19. A defendant in any action or matter may pay into court without a denial of liability at least two clear days before the return day such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment; and every such payment shall be taken to admit *pro tanto* the plaintiff's claim. Notice of such payment shall be

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communicated by the clerk to the plaintiff in manner provided by section 13(2) of the Summary Jurisdiction (Petty Debt) Act. Any sum so paid into court shall be paid to the plaintiff, but if the plaintiff shall elect to proceed and shall recover no further sum in the action than shall have been so paid into court, he shall pay to the defendant the costs incurred by the defendant in the said action after such payment. Such costs shall be settled by the court, and an order shall thereupon be made by the court for the payment by the plaintiff of those costs with or without any compensation which the court may award under subsection (3) of the aforesaid section.

Payment into court with a denial of liability.

Form 18.

20. A defendant who desires to pay money into court with a denial of liability in respect of the plaintiff's claim shall pay the same two clear days at least before the return day and in such case shall at the time of paying the money into court deliver to the clerk a notice in accordance with Form 18, stating his name and address, and further stating that notwithstanding such payment the defendant denies his liability; the defendant shall also pay into court in respect of the costs (if any) a sum proportionate to the amount paid in respect of the claim, unless the payment into court is made under a defence of tender, in which case he may make such payment without costs.

Clerk's notice to plaintiff of payment into court with denial of liability.

Payment into court at time less than two clear days before the return day.

21. The clerk shall, within twenty-four hours from the time of any payment made pursuant to the last preceding rule, send to the plaintiff notice thereof; he shall also send therewith a copy of the notice prescribed by the last preceding rule.

22. The defendant may also at any time less than two clear days before the return day pay money into court, and notice thereof shall be given by the clerk to the plaintiff in accordance with rule 19 of this Part; but the defendant shall not in that case be permitted, except by leave of the court, to give a notice denying liability at the time of such payment.

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Plaintiff's right
to proceed in
case of
payment in less
than two clear
days without
costs.

23. When money is paid into court less than two clear days before the return day, or when it is in any case paid in without costs, the plaintiff, if he does not elect to accept the money so paid in satisfaction, may proceed as if no such payment had been made, and, unless otherwise orders, he shall be entitled to costs on such sum as he may recover, whether such sum be less than the sum paid into court or not.

Acceptance of
amount paid in
satisfaction of
claim.

24. (1) If the plaintiff elects to accept in satisfaction of his claim the money paid into court by the defendant, whether the same has been paid in due time or not, or with or without costs, or with or without a notice of denial of liability, he shall send to the clerk and to the defendant, or leave at the office of the clerk or at the defendant's dwelling or place of business or at the address for service of his counsel a written notice in accordance with Form 19 in the Appendix, stating such acceptance, within such reasonable time before the return day as the time of payment by the defendant will permit.

(2) Thereupon the action shall abate, except as herein provided, and the plaintiff shall not be liable to any costs incurred by the defendant after receiving such notice.

(3) In any case, the court may, in its discretion, order the defendant to pay such costs, beyond the costs (if any) paid into court by the defendant, as the plaintiff may have properly incurred before the receipt of notice of payment into court, and in attending the court to obtain the order for the same.

(4) If the plaintiff intends to apply for such costs, he shall give notice of his intention in his notice of acceptance of the sum paid in, in accordance with Form 19, or where the time for payment into court by the defendant does not permit of notice of acceptance being given, the plaintiff may apply for such costs without giving such notice.

Form 19.

(5) Where the plaintiff has not given notice of acceptance in accordance with paragraph (1), he may nevertheless accept the money paid into court at any time before the case is called on and opened, subject to the payment of any costs that may have been reasonably incurred by the defendant since the date of payment into court, and which may be allowed by the court.

(6) In default of acceptance by the plaintiff the action may proceed.

Provisions as to costs on payment into court without denial of liability.

25. Where not less than two clear days before the return day money is paid into court without a denial of liability (except with a defence of tender) and the action proceeds, the following provisions as to costs shall apply—

(a) If the plaintiff recovers an amount in excess of the amount paid into court, he shall, unless the court otherwise orders, be entitled to costs on the amount of the excess and judgment shall be entered only for the amount of such excess together with costs applicable to the total amount recovered, and in any such case the words "in addition to the sum of \$ paid into court by the defendant" shall be added to the judgment entered.

(b) If the plaintiff fails to recover any sum in excess of the amount so paid into court, section 13 of the Summary Jurisdiction (Petty Debt) Act and rule 19 of this Part shall apply. The defendant's costs shall be assessed with reference to the amount remaining in dispute after the date of

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Provisions as
to costs on
payment into
court with a
defence of
tender.

the payment into court.

26. Where a defendant pays money into court under a defence of tender and the action proceeds the following provisions as to costs shall apply—

- (a) If there is no dispute as to the amount of the plaintiff's claim and the question of tender is the sole issue between the parties and it is decided against the defendant, the plaintiff shall be entitled to costs of the action based on the amount paid into court.
- (b) If there is no dispute as to the amount of the plaintiff's claim and the question of tender is the sole issue between the parties and it is decided against the plaintiff, the action shall be dismissed and the defendant shall be entitled to costs of the action allowed on the amount claimed by the plaintiff.
- (c) If any part of the plaintiff's claim is in dispute and the admitted part of the claim has been paid in, the plaintiff shall, if he recovers an amount in excess of the sum paid into court, be entitled to have judgment entered only for the amount of such excess but the sum paid into court shall be included for the purpose of calculating the amount on which any costs allowed to the plaintiff are to be charged and in any such case the words "in addition to the sum of \$

paid into court by the defendant" shall be added to the judgment entered. If the plaintiff recovers no greater sum than that paid in and the tender has been proved, the action shall be dismissed and the defendant shall be entitled to costs of the action on the amount claimed by the plaintiff.

- (d) If the plaintiff accepts the sum so paid in satisfaction of his claim under a defence of tender, he shall not be entitled to take out of court the amount so accepted, nor to any costs, without the order of the court or a magistrate; and the court or a magistrate may make such order as may be just to the costs of either party, and may order any costs awarded to the defendant to be deducted from such amount and paid to the defendant.
- (e) Subject to paragraph (d), money paid into court under a defence of tender shall be paid out to the plaintiff after the issue of tender has been decided.

Payment into
court by one or
some of several
defendants
sued jointly.

27. When in an action against two or more defendants money is paid into court by one or some but not all of them in respect of a cause of action for which the defendants are sued jointly, and the plaintiff elects to accept the sum so paid in, he shall in addition to giving the notice required by rule 24 (1) of this Part, give notice to the other defendants of having accepted the money so paid in and thereupon all further proceedings in respect of the joint cause of action, except as to costs, shall be stayed, and the court or a

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magistrate may, upon application by any party, make such order as may appear to be just as to the costs of the plaintiff and of the defendants (other than the defendant or defendants who has or have made the payment into court) incurred in respect of the cause of action satisfied by such payment. If the plaintiff does not accept the money so paid in by one or some but not all of the several defendants in respect of a joint cause of action, but proceeds to the hearing and recovers no more than the amount paid into court, the court may make such order as may appear to be just in respect of the costs of the joint cause of action as between the plaintiff and the defendants other than the defendant or defendants who has or have made the payment into court.

Payment by plaintiff in answer to counter-claim.

28. A plaintiff may, in answer to a counter-claim, pay money into court in satisfaction thereof, subject to the like conditions as to costs and otherwise as upon payment into court by a defendant.

Fees and costs in payment of amount admitted after deducting set-off or counter-claim.

29. Where a defendant pays into court any sum admitted by him to be due, after deducting any amount claimed by him as a set-off or counter-claim, he shall pay into court in respect of the costs (if any) a sum proportionate to the amount paid in respect of the plaintiff's claim.

Money paid in with denial of liability.

30. Where a defendant pays into court a sum less than the sum claimed, with a notice of denial of liability, and the plaintiff does not accept the same in satisfaction of his claim, the money shall not be paid out until the hearing and judgment; and if the plaintiff recovers less than the amount paid into court, the balance of such amount shall be repaid to the defendant, unless the court otherwise orders, and the court may order any costs awarded to the defendant to be set-off against the amount recovered by the plaintiff; and if the defendant succeeds, the whole amount paid into court shall be repaid to him, unless the court otherwise orders.

Payment to
plaintiff
instead of into
court.

Form 19.

31. Where money is paid to the plaintiff instead of being paid into court, the following provisions shall apply—

- (a) If the plaintiff accepts the money so paid in satisfaction of his claim, he shall send to the clerk and to the defendant notice of such acceptance in accordance with rule 24 (1) of this Part.
- (b) Thereupon the action shall abate, except as herein provided, and the plaintiff shall not be liable to any costs incurred by the defendant after receiving such notice.
- (c) In any such case, the court may, in its discretion order the defendant to pay such costs, beyond the costs (if any) paid to the plaintiff by the defendant, as the plaintiff may have properly incurred before the receipt of the money so paid, and in attending the court to obtain the order for the same.
- (d) If the plaintiff intends to apply for such costs, he shall give notice of his intention in accordance with Form 19 in the Appendix as required by rule 24 (4) of this Part, or where the time of payment to the plaintiff by the defendant does not permit of notice of acceptance being given, the plaintiff may apply for such costs without giving such notice.
- (e) Where the plaintiff has not given

Form 19.

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notice of acceptance in accordance with paragraph (a), he may nevertheless accept the money paid to him at any time before the case is called on and opened, subject to the payment of any costs which have been reasonably incurred by the defendant since the date of payment, and which may be allowed by the court.

(f) In default of acceptance by the plaintiff the action may proceed.

Discretion of court as to costs when money paid into court less than two days.

32. Where the payment to the plaintiff is made not less than two clear days before the return day and the action proceeds, the costs after the date of payment to the plaintiff shall be awarded in such into court manner as the court may think fit.

Payment out of court.

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33. Money paid into court, whether under a judgment or order or otherwise, shall be paid out to the plaintiff pursuant to section 13 (3) of the Summary Jurisdiction (Petty Debt) Act and these Rules and on proof to the satisfaction of the clerk that the person applying for the same is entitled or authorised to receive the same.

Settlement, compromise or discharge in case of an infant or person of unsound mind.

34. (1) No settlement or compromise or acceptance of money paid into court before or at or after the hearing of any action or matter in which money or damages is or are claimed by or on behalf of an infant or a person of unsound mind not so found by inquisition shall be valid without the sanction of the court or a magistrate, and no money shall in any circumstances whatsoever be paid by the opposite party in any such action or matter to the next friend of the plaintiff or the plaintiff's counsel unless the court or a magistrate shall so direct. All money or damages in any such action or matter shall be paid into court and may, subject to such payment to

counsel as may be directed by the court or a magistrate, be invested or be paid from time to time out of court to such person as the court or a magistrate may direct to be held and applied for the benefit of the infant or person of unsound mind in such manner as the court or a magistrate may direct.

(2) Payment of any money or damages contrary to this rule shall not operate as a discharge of the liability of the party so paying the money or damages.

(3) This rule shall not apply where an infant sues as if he were of full age for money due to him as wages or piece work or for work as a servant pursuant to section 6 of the Summary Jurisdiction (Petty Debt) Act.

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PART X

DEFENCE AND COUNTER-CLAIM

Particulars of
the grounds of
defence.

Form 20.

Further and
better
particulars of
the ground of
defence.

1. In every action in which the defendant seeks to set up a defence, he shall on the return day or at such later date as the court or a magistrate may appoint give to the clerk and to the plaintiff, in writing or verbally as the court or a magistrate may direct, particulars (with dates and items if necessary) of the grounds of his defence. If the particulars are directed to be given in writing they shall be drawn in accordance with Form 20.

2. (1) A plaintiff may at any time before the day of hearing by written demand require the defendant to deliver further and better particulars than those already given under rule 1 of this Part and if the grounds of defendant fails to comply with such demand within two clear days of the service thereof upon him (if the date of making the written demand permits of such compliance before the day of hearing), or complies therewith insufficiently, the court may if satisfied that the plaintiff is thereby prejudiced—

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(a) order further and better particulars than those already delivered; or

(b) adjourn the hearing of the action; and may make such order as to costs as may seem just.

(2) The provisions of this rule shall, *mutatis mutandis*, apply to a defence to a counter-claim.

(3) If a defendant, or with respect to a counter-claim a plaintiff, fails to comply with any order of the court under this rule, he may be debarred from defending altogether or only be allowed to defend on such terms as the court may think fit.

(4) A copy of any further and better particulars delivered to a plaintiff under a demand of the plaintiff or an order of the court shall be filed with the clerk.

The particulars
in cases of
defences of –

3. The defendant shall furnish the following particulars in the several respective cases—

Infancy.

(a) Where the defence is infancy—the full names and description of the father and mother of the alleged infant in the case of a legitimate birth, or otherwise the full name and description of his mother, and in either case the place and date of birth.

Covverture.

(b) Where the defence is coverture—the full names of the defendant's husband and his address and description as far as known, and the place and date of her marriage.

- Written law.
- (c) Where the defence is based upon a written law—the written law cited by the short title, the chapter or year thereof, the section relied upon and the result of proceedings (if any) taken under the written law which are alleged to constitute the defence.
- Tender.
- (d) Where the defence is tender—the amount, date, place and manner of such tender.
- Void or voidable transaction.
- (e) Where the defence is that the claim is not maintainable or that the transaction is either void or voidable in point of law—all such grounds of defence as if not raised would be likely to take the opposite party by surprise, e.g., fraud, misrepresentation, duress, estoppel, statute of limitation, release, payment, performance, illegality (either by written law or common law), statute of frauds, contributory negligence, or inevitable accident
- Condition precedent unperformed.
- (f) Where the defence is that a condition precedent has not been performed or has not occurred – the parties to, and the terms of the condition, the manner in which the same was created, and whether verbally or in writing.
- Contract.
- (g) Where the defence sets up any contract or other document in answer to the plaintiff's claim—the date and the place of making thereof, the parties thereto, and the effect of the

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contents material to the issue.

General denial
insufficient.

4. It shall not be sufficient for a defendant in his defence to deny generally the claims or grounds in the plaint, or for a plaintiff in his defence to a counter-claim to deny generally the claims or grounds in the counter-claim, but each party shall deal specifically with each allegation of fact of which he does not admit the truth, except damages, and shall state clearly and specifically the ground or grounds upon which he relies by way of defence.

Specific denials
necessary in
actions.

5. A defence in denial in the several respective cases following shall specifically deny such matters of fact from which the liability of the defendant is alleged to arise, that is to say—

Upon bills of
exchange.

(a) In actions upon bills of exchange, promissory notes or cheques—the drawing, making, endorsing, accepting, presenting, exchange, or notice of dishonour of the bill or note.

For goods
bargained and
sold, etc.

(b) In actions for goods bargained and sold, or sold and delivered—the order or contract, the delivery or the amount claimed.

For money
received to use
of plaintiff.

(c) In actions for money received by the defendant for the use of the plaintiff—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.

For money
paid at
defendant's
request.

(d) In actions for money paid by the plaintiff to another person for the

defendant at the defendant's request—the payment of the money, the existence of those facts which are alleged request, to make such payment by the plaintiff a payment for the defendant, or at the request of the defendant.

Instituted by personal representative, etc.

(e) In actions instituted by an alleged personal representative or by a trustee whether in insolvency or otherwise, or by a person, in any other representative capacity, or by an alleged co-partner—the fact of such representative capacity, trusteeship, or co-partnership as the case may be.

Denial as to damages unnecessary.

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

Statement in lieu of particulars of grounds of defence.

7. A defendant in any action or matter may obtain the leave of the court to file in lieu of the particulars of the grounds of his defence a statement disclaiming any interest in the subject-matter thereof, or admitting or denying any of the statements in the plaintiff's particulars, or raising any question of law on such statements without admitting the truth thereof; or he may state concisely any new fact or document upon which he intends to rely as a defence, or which he intends to bring to the notice of the court; and a copy of such statement shall be delivered to the plaintiff within twenty-four hours after such leave has been granted:

Provided always, that in exercising its discretion as to costs the court shall consider the fact of a defendant having or not having availed himself of the powers given by this rule. This rule shall apply to a plaintiff who is defendant by counter-claim.

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Where plaintiff
sues on behalf
of others.

8. Where a plaintiff sues on behalf of or for the benefit of others having the same interest, the defendant may avail himself of any defence in respect of each of the persons in whose behalf or for whose benefit the plaintiff so sues which he would have had against such persons if he had been plaintiff.

Special
defences.

9. The notice of the five special defences, namely, set-off, counter claim, infancy, statute of limitation, and discharge under any written law relating to bankruptcy or insolvency, pleadable under section 12 of the Summary Jurisdiction (Petty Debt) Act and the defence of coverture shall be in accordance with Form 21 in the Appendix and together with all particulars thereof shall be given by the defendant to the clerk within four days after the service of the summons on the defendant.

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Form 21.

Power to
permit
defendant to
plead special
defence
although he
has not given
the prescribed
notice.

10. Where the defendant does not give to the clerk the prescribed notice of the special defence he desires to rely upon, or gives that notice after the prescribed time and the plaintiff does not consent to permit the defendant to avail himself of that defence, the court may, nevertheless, on such terms as it may think fit, adjourn the hearing either to enable the defendant to give the prescribed notice immediately, if he has not yet done so, or to enable the plaintiff to consider the special defence.

Mode of
communicating the
prescribed
notice.

11. The mode of communicating to the plaintiff the prescribed notice of a special defence shall be by serving on him or on his counsel a copy of the notice referred to in rule 9 of this Part with an intimation by the clerk at the foot thereof that the defendant has filed notice of the special defence with the clerk.

Payment into
court with
defence of

12. Where the defence is a tender, such defence shall not be available unless, before stating such defence, the

tender.

defendant makes payment into court (which may be without costs) of the amount alleged to have been tendered.

Set-off and counter-claim.

13. A defendant in an action may set-off, or set up by way of counter-claim against the claims of the plaintiff, any right or claim counter- cognizable in the court, whether such set-off or claim sound in damages or not, and such set-off or counter-claim shall have the same effect as a cross action so as to enable the court to pronounce a final judgment in the same action, both on the original and on the cross claim.

Mis-joinder of plaintiff not to defeat counter-claim.

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

Particulars of counter-claim.

15. A counter-claim or set-off shall contain the same facts and particulars as a plaint under rule 1 of Part V of these rules, so far as those facts and particulars have not been already stated in the plaint.

Fees to be paid on counter-claim.

16. Where a counter-claim or set-off is made against the claim of the plaintiff, the defendant shall pay in respect thereof the amount of the fees payable under the Schedule to the Act according to the amount of the counter-claim or set-off.

Particulars of defence to counter-claim.

17. In answering a counter-claim the plaintiff shall be subject to rules 1,2, 3,4 and 5 of this Part, so far as the same is applicable, and the plaintiff shall be entitled to plead any of the special defences mentioned in rule 9 of this Part.

Where counter-claim affects other persons.

18. Where a defendant by his defence sets up any counter-claim which raises questions between himself and the

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plaintiff along with any other person, he may apply to the court under rule 9 of Part II to add the name of such person as a party to the counter-claim and that rule and the other provisions of Part II and rule 17 of this Part shall apply to a person so made defendant to a counter-claim in the same manner as they apply to a person made defendant to an action, or to a plaintiff made defendant to a counter-claim.

Counter-claim
may be
proceeded
with although
action
discontinued,
etc.

19. 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.

Power to enter
judgment for
balance
between claim
and counter-
claim.

20. Where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance, or may otherwise adjudge to the defendant such relief as he may be entitled to upon the merits of the case.

Payment into
court with
respect to
counter-claim.

21. A plaintiff may in respect of a counter-claim pay money into court in satisfaction of the whole or part thereof, subject to the like conditions and rules as in the case of a payment into court by a defendant.

Defences to
counter-claim.

22. A plaintiff in respect to a counter-claim by a defendant shall be entitled to take all defences, special or otherwise which are open to a defendant in an action.

PART XI

THIRD-PARTY PROCEDURE

Third-party
notice.

1. Where in any action a defendant claims as against any person not already a party to the action (in these Rules

called the third party) —

- (a) that he is entitled to contribution or indemnity, or 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
- (b) that any question or issue relating to or connected with the same 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 defendant but as between the plaintiff and defendant and the third party or between any or either of them,

the court or a magistrate may give leave to the defendant to issue a “third-party notice”.

Application for
leave.

Form 22.

2. Application for such leave to issue such notice, if not made pursuant to rule 1 (d) of Part XII, shall be in accordance with Form 22 and shall be made *ex parte* supported by affidavit stating the nature and grounds of the claim in the action, or the nature and extent of any relief or remedy sought, the facts out of which the claim against the third party arises, and the name and address of the third party.

Form and issue
of notice.

Form 23.

3. The notice shall be in accordance with Form 23, with such necessary variations as circumstances may require, and shall state the nature and grounds of the claim or the nature and extent of any relief claimed. It shall be served on

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the third party within two clear days from the date of the order granting leave and shall call upon him to appear on the day of hearing.

Effect of notice.

4. (1) 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 shall be subject to the same liabilities as if he had been duly served with a summons in the ordinary way by the defendant.

(2) A defendant shall, at the time of serving upon the third party the notice referred to in rule 3 of this Part, also serve upon him a true copy of the plaint and other proceedings in the action up to that date.

At hearing.

5. At the hearing of the action the court may enter such judgment as the nature of the case requires 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.

Co-defendant's
third-party
procedure.

Form 23.

6. Where one defendant as against another defendant to the action makes any of the claims set out in rule 1 (a) and (b) of this Part, he may serve upon the other defendant the notice in Form 23 without leave of the court, and the same procedure shall thereupon be adopted for the determination of such claim, question or issue between the defendants as would have been adopted against such other defendant, if such other defendant were a third party; but nothing herein shall prejudice the rights of the plaintiff against any defendant in the action.

Costs.

7. The court 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.

Counter-claim.

8. In this Part the words “plaintiff” and “defendant” respectively shall include a plaintiff and a defendant to a counter-claim.

PART XII

APPLICATIONS, INTERLOCUTORY PROCEEDINGS,

AND APPEALS

Mode of
making
applications
generally.

1. Where by any written law or by these Rules an application is expressly or by reasonable intendment directed to be made to the court or to a magistrate, then subject to the particular written law or any particular rule applicable thereto, and so far as they shall not be inconsistent therewith, the following provisions shall apply —

Form 24.

- (a) The application shall be made either in or out of the court in accordance with Form 24 and, subject to any special provision as to notice, may be made either *ex parte* or on notice in writing. If made on notice, a true copy of the said application shall be served on every party to be affected thereby not later than two clear days prior to the hearing of the application, unless the court or the magistrate gives leave for shorter notice.
- (b) No affidavit in support shall be necessary, but the court or magistrate

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may adjourn the hearing of the application and order affidavits in support or in opposition to be filed; in every such case a copy of every affidavit in support or in opposition shall be served by the party filing the same on every party to be affected by the application.

- (c) The court or a magistrate upon the hearing or the adjourned hearing of the application may make an order absolute in the first instance, or to be absolute at any time to be ordered by it or him unless cause be shown to the contrary, or make such other order or give such directions as may be just.
- (d) Every application in a pending action may be made to the court verbally on the return day or on the day of hearing and if the application is to be made on affidavit, the applicant shall there and then tender the affidavit to the court and deliver a copy thereof to the opposite party. If such application is to be made upon notice to the opposite party, the verbal intimation to the court in the hearing of the opposite party that the application is being made shall be deemed such notice.
- (e) Every application in a pending action not made on the return day or on the day of hearing shall be in writing to the court or a magistrate, and if the

application is to be made on affidavit, the applicant shall file notice of the application together with the affidavit with the clerk at least two clear days before the application is to be heard and on the day of filing the same shall deliver to the opposite party a true copy of the notice of application and of the affidavit.

- (f) The appointment of a time for the hearing of every application made in writing shall be made by the clerk after consultation with the magistrate, and where the application is one to be made upon notice, the day and hour so appointed shall be inserted by the applicant in the notice of application before the same is filed and in the true copy of the notice before it is served upon the opposite party.
- (g) The costs of and incidental to any application shall be in the discretion of the court or a magistrate.

Postponement
of hearing on
account of
interlocutory
application.

2. Where in any action interlocutory proceedings are contemplated or pending which cannot be concluded in time to enable the parties to prepare for the hearing of such action on the day fixed for the same, the court or a magistrate may, upon application of any party and upon being satisfied that such interlocutory proceedings are necessary and proper, postpone such hearing upon such terms as to costs or otherwise as may be just, and if postponement is made in the absence of the other party, that other party shall be notified thereof.

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Application
for order that
loss of bill shall
not be set up.
c. 90:13

3. (1) An application made under section 71 of the Bills of Exchange Act, in an action or proceeding upon a bill for an order that the loss of the instrument shall not be set up, may be made to the court at any time before the hearing of the action, on notice in writing and shall be supported by affidavit, a copy of which shall be served with the notice. If the application be not so made, it may, by leave of the court to be obtained in a summary manner, be made at the hearing.

(2) The court shall take into account any offer of indemnity proved to have been made on behalf of the applicant and may grant the application upon such terms as to payment of costs by the applicant, postponement of the trial and otherwise, as may be just.

Form of the
indemnity.
Form 25.

(3) Any indemnity ordered to be given by the plaintiff in any such action or proceeding shall be given in favour of the defendant and shall be in accordance with Form 25. Such indemnity shall be delivered to the clerk and shall if judgment is entered for the plaintiff be preserved by the clerk for the period of four years from the date of such judgment, but in case the indemnity becomes legally enforceable against the plaintiff, the defendant may apply to the court or a magistrate for an order that the indemnity be delivered up to him by the clerk in order that he may enforce it against the plaintiff.

Dancing
licences, etc.
c. 23:03
Form 26.

4. Every application for a licence to keep or use a place for public dancing, singing, music, or other public entertainment of the like kind pursuant to the Music and Dancing Licences Act, or for the transfer of such a licence, shall be in accordance with Form 26 and shall set forth the following particulars, that is to say—

(a) the name, address, and occupation of the applicant;

- (b) the situation and description of the land on which the house, room, garden, or other place is located;
- (c) the dimensions of the house, room, or other place it is proposed to keep or use for all or any of the purposes aforesaid;
- (d) the number of doors, exits, and the nature of the appliances for the prevention and fighting of fires;
- (e) the means of illuminating the "place";
- (f) the maximum number of persons which it is proposed to accommodate in the "place";
- (g) the distance between the "place" in respect of which the licence is sought and the nearest "place" in respect whereof a licence for the like purpose is in existence;
- (h) the distance between the "place" in respect of which the licence is sought, and the nearest church, school, licensed spirit shop, hospital, or other institution for the sick or infirm;
- (i) whether the place has ever been previously licensed for the purposes of the above-mentioned Act or whether a licence for the like purpose has ever been refused in respect of such a place;

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c. 82:21
c. 82:24
c. 23:03

- (j) whether the applicant has ever been convicted of any offence against the Intoxicating Liquor Licensing Act, the Spirits Act, or the Music and Dancing Licences Act.

Proof of
compliance
with law.
c. 23:03

5. The applicant shall prove by affidavit filed prior to the hearing of the application that section 6 (2) of the Music and Dancing Licences Act has been complied with, and he shall produce with his affidavit copies of the daily newspaper in which the notice of his intention to apply for a licence or for the transfer of a licence has been advertised. The affidavit shall also verify the particulars required by rule 4 of this Part.

Special licence.
c. 23:03

6. No temporary licence under section 13 of the Music and Dancing Licences Act shall be made unless the application therefor has been lodged with the clerk not less than forty-eight hours prior to the date for which the licence is required. The magistrate may in any special case for good cause shown grant a temporary licence notwithstanding that the application therefor may have been made later than the time fixed by this rule.

Notice to
police of
application for
special licence.

7. Notice of every application for a temporary licence to use a place for any such public entertainment shall be given to the chief officer of police in the district in which the entertainment is to be held in order that he may make thereon any observation he may think proper.

Filing of copy
of licence.

8. A copy of every licence granted, transferred or renewed by the magistrate shall be filed by the clerk and another copy thereof shall be forwarded to the chief officer of police of the police district in which the "place" is situate.

Registration of
club.
c. 82:26

9. An application for a certificate of registration of a club or for the renewal of such a certificate under the Registration of Clubs Act shall be in accordance with Form 27

Form 27. and shall set out the following particulars, that is to say—

- (a) the name, address, and occupation of the applicant;
- (b) the description and size of the premises in which the club is to be located and the name and address of the owner thereof;
- (c) the name, nature, and object of the club;
- (d) the present number of the members of the club;
- (e) the location of the nearest spirit shop;
- (f) whether any of the officers of the club has been convicted of any offence under the Intoxicating Liquor Licences Act, the Spirits Act, or the Registration of Clubs Act.

c. 82:21
c. 82:24
c. 82:26

Proof of
compliance
with law.
c. 82:26

10. The applicant shall prove by affidavit filed prior to the hearing of the application that the provisions of the Registration of Clubs Act, required to be complied with before the grant of the application, have been complied with, and he shall produce such other evidence of compliance therewith as the magistrate may require. The affidavit shall also verify the particulars required by rule 9 of this Part.

Filing of
copies.

11. A copy of every certificate of registration or renewal of a certificate of registration granted by the magistrate shall be filed by the clerk, and another copy thereof shall be forwarded to the chief officer of police of the police district in which the club is situate.

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Divorce
proceedings
under Indian
Labour Act.
c. 98:02
Form 28.

12. (1) An application for an order dissolving the marriage subsisting between immigrants under the Indian Labour Act shall be in accordance with Form 28 and shall set out the following particulars, that is to say—

- (a) the correct name as registered under the Indian Labour Act and description, address, and occupation of the applicant;
- (b) the correct name as registered under the Indian Labour Act and description, address, and occupation of the respondent;
- (c) the place of the husband's domicile;
- (d) the date and place of the marriage;
- (e) the locality of the last matrimonial home at which the spouses cohabited;
- (f) the misconduct alleged against the respondent, with such particulars relating to the date, place, and circumstances as would enable the respondent to learn the precise case against him and prevent surprise at the hearing;
- (g) whether any proceedings have ever been taken by either spouse against the other under the Summary Jurisdiction (Magistrates) Act or the Matrimonial Causes Act.

c. 3:05
c. 45:02

(2) The application shall state that there is not any collusion or connivance between the applicant and the

respondent.

c. 98:02

(3) A copy of the application shall be served upon the respondent annexed to the summons directed to be served by section 152 (2) of the Indian Labour Act.

Applications
affecting
immigrants'
property.
c. 98:02

13. Applications under sections 145, 146, and 147 of the Indian Labour Act shall set forth the names, addresses, and occupations of the spouses, the facts to establish the alleged desertion or the discontinuance of co-habitation, and a detailed list of the wife's earnings and property, or the property to which the applicant is entitled.

Application
for
compensation
under the
Acquisition of
Lands for
Public
Purposes Act.
c. 62:05

14. (1) The application which the Commissioner of Lands may make to a magistrate pursuant to section 26 of the Acquisition of Lands for Public Purposes Act, shall be in the form of a plaint and a copy of such plaint shall be attached to the summons which shall be served in the same manner as a plaint is served in any ordinary action.

(2) The plaint shall contain the following particulars—

- (a) the situation of the land, with its description in terms of some chart, plan, or diagram of a sworn land surveyor, if there is any in existence;
- (b) the mode and purposes of occupation of the land and the manner in which severance of the particular land to be acquired will affect any land remaining in the occupation of the owner;
- (c) the crops (if any) on the land and the number of permanent trees of economic value therein, and the

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number and size of any building or erections thereon which will have to be removed from the land;

- (d) the facts which the High Court pursuant to section 18 of the said Act, may take into consideration in determining claims for compensation;
- (e) the amount of the compensation claimed.

(3) When the question of compensation has by order of the High Court been referred to a magistrate pursuant to section 27 of the said Act, the Commissioner of Lands shall file with the order of reference, a plaint containing the particulars required by paragraph (2) of this rule.

Application for
inserting
baptismal
name or for
correcting
entry in
Register.
c. 44:01
Form 29.
Form 30.

15. The statement of the circumstances of the case to the magistrate contemplated by sections 34 and 35 of the Registration of Births and Deaths Act, or the giving of information to the magistrate under name or for section 43 thereof shall be made in accordance with one or other of Forms 29 and 30 for a written authority to procure the certificate according to Form 3 of the Act, or for an order directing the Registrar to correct an error of a birth or death in a register.

Mode of
application.

16. An application referred to in the last preceding rule shall set out the names, addresses and occupations of every material party and the full facts and circumstances of the case. Where the application is made under sections 34 and 35 aforesaid, the statement of the circumstances shall be verified by affidavit and the magistrate shall grant his written authority without further hearing. Where the application is to correct any erroneous entry in the register under section 43 of the said Act, the proceedings shall be heard and determined upon the *viva voce* evidence of the persons directed to be

Application to
inspect
Banker's
Books.
c. 5:03

examined by the said Act.

17. (1) An application under section 12 (1) of the Evidence Act shall be made *ex parte* and shall be supported by affidavit showing—

- (a) the nature of the proceedings;
- (b) the necessity for the inspection and for the copies;
- (c) that the entries of which inspection is sought will be admissible in evidence at the hearing of the action or matter;
- (d) the period over which it is proposed that inspection should extend.

(2) An order may be made by the court or a magistrate upon any such application in every case in which the entries sought to be inspected would have been admissible at common law, and notwithstanding that the accounts are kept in the name or names of a person or persons other than the parties to the action or matter.

(3) The court or a magistrate may, in any case in which it or he thinks fit, order that notice of the application shall be served upon the banker and upon every other person to be affected by the order.

The Friendly
Societies Act,
settlement of
disputes.
c. 36:04

18. (1) Any dispute referred to the court under paragraph (c), or any application to hear and determine a dispute under paragraph (d), of section 47 of the Friendly Societies Act shall be so referred by plaint and summons in the ordinary way.

(2) In proceedings commenced pursuant to the last preceding paragraph, the claiming or aggrieved member (or other person) shall be the plaintiff and the society shall be

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defendants.

(3) An application under section 47 of the said Act for the enforcement of a decision on a dispute given by any authority other than the court, shall be commenced by plaint and summons in the ordinary way in which the party to the dispute entitled or claiming to be entitled to the benefit of such decision shall be plaintiff, and the party against whom such decision is given shall be defendant.

Application for relief or other order.

19. (1) Application pursuant to the said Act for relief or other order by any person dissatisfied with the provision made for satisfying his claim, either under the proviso (b) of section 25 in case of the amalgamation or transfer of engagements or under section 55 (g) (iv) in the case of dissolution of any society, shall be made by plaint and summons in the ordinary way, in which the person so dissatisfied shall be plaintiff and the society shall be defendants.

(2) Particulars of demand shall be filed in all cases of disputes and with every application, stating concisely the nature of the dispute referred, and the relief or order which the plaintiff claims.

Appeal from
appraisement
under Tax Act.
c. 80:01

20. The statement required by section 20 (4) of the Tax Act to be lodged with the clerk on an appeal from the appraisement of the annual rental value of any store, shop, room, shed, stall, yard, wharf, office or counting house (hereinafter called the premises) for the purpose of charging the licence duty imposed by the said section shall set out the following particulars—

(a) the number of the lot (if any) and the street, and the town, village, plantation or other district on which the premises are situated;

- (b) the amount of the appraisement for payment of taxes or rates of the lot on which any such premises stand, by any municipal, village or other lawful authority;
- (c) the amount of the rent actually being paid, if the premises are hired from another person;
- (d) the dimensions of the premises and the state and condition of the same;
- (e) the nature of the business which is being carried on or it is proposed to carry on in the premises;
- (f) the approximate total value of the stock in trade kept or proposed to be kept in such premises;
- (g) the annual rental value which the plaintiff considers ought to be taxed in respect of the premises.

Costs to be awarded in terms of Schedule to the Act.

21. In any proceedings under the last four preceding rules, the court or a magistrate may order costs to be taxed in accordance with the scale of costs in the Schedule to the Act, or may award as costs thereof such lump sum as may be deemed commensurate with the value of the work done and services rendered.

Viva voce evidence.

22. The applications referred to in rules 4, 9, 12, 13, 14, 18 and 20 of this Part may be heard upon *viva voce* evidence in court.

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Defence based
on right to be
relieved of a
prima facie case
of liability.

23. When by any contract a *prima facie* case of liability is established and there is alleged as matter of defence a right to be relieved wholly or partially from such liability, the court or a magistrate may make an order for the preservation or *interim* custody of the subject-matter of the litigation, or may order that the amount in dispute be brought into court or otherwise secured.

Order for sale
of perishable
articles, etc.

24. The court or a magistrate may, upon the application of any party to any action or matter, make any order for the sale by any person named in such order, and in such manner and on such terms as the court may think desirable, of any goods, wares, or merchandise which may be of perishable nature or likely to injure from keeping, or which incur charges for food or keep, or which for any other just and sufficient reason it may be desirable to have sold at once.

Order for
detention,
preservation,
etc.

25. The court may upon the application of any party to an action or matter, and upon such terms as may be just, make any order for the detention, preservation, inspection, surveying, measuring, or weighing of any property or thing being the subject of such action or matter, or as to which any question may arise therein, and may for all or any of the purposes aforesaid authorise any persons to enter upon or into any land or building in the possession of any party to such action or matter, and authorise any samples to be taken, or any observation, plan, or model to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence.

Penalty for
neglect or
refusal to obey
or for
obstructing
execution of
order.

26. Every person who refuses or neglects to obey, or who obstructs the execution of any order made under any of the last three preceding rules shall from time to time be guilty of an offence for every such neglect or refusal or obstruction as he shall be guilty of after every fresh copy of the order shall have been personally served upon him, and upon conviction thereof under the Summary Jurisdiction Acts shall be liable to

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a penalty not exceeding twenty-four dollars for every such neglect or refusal or obstruction.

Power to
examine
witnesses on
any
application.
c. 5:03

27. On the hearing of any application made to the court or a magistrate under any Act or these Rules, witnesses may be examined *viva voce* in accordance with the Evidence Act.

Where party
wrongly sues
or is sued in
representative
character.

1. Where a party sues or is sued in a representative character but it appears that he ought to have sued or been sued in his own right, the court may, at the instance of either party, on such terms as may be just, amend the proceedings accordingly; and thereupon the action shall proceed, in all respects, as if the proper description of the party had been given in the plaint.

Where party
wrongly sues
or is sued in
his own right.

2. Where a party sues or is sued in his own right, but it appears that he ought to have sued or been sued in a representative character, the court may, at the instance of either party, on such terms as may be just, amend the proceedings accordingly; and thereupon the action shall proceed in all respects, as if the proper description of the party had been given in the plaint.

Insufficient
name or
description of a
plaintiff or
defendant.

3. Where the name or description of a plaintiff or a defendant in the plaint is insufficient or incorrect, it may be amended at the instance of either party by order of the court, on such terms as may be just; and thereupon the action shall proceed, in all respects, as if the name and description had been originally such as it appears after the amendment has been made.

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Where all defendants have not been served.

4. Where two or more persons are made defendants, and some of them have not been served, then, subject and without prejudice to rule 23 of Part VI, the names of the defendants who have not been served may, at the instance of either party, be struck out by order of the court, on such terms as may be just; and thereupon the action shall proceed, in all respects, as if the parties whose names have not been struck out had alone been made defendants; or the action may be adjourned for service upon any defendant not served.

Abandonment of part of claim.
Amendment of particulars.
Costs.

5. The plaintiff may at any time before an action or matter is called on for hearing, or in opening his case when called on, abandon any part of his claim, and such abandonment shall be entered on the particulars (if any) and in the minute book:

Provided that if the defendant succeeds the court may allow him such costs as he would have been entitled to on the amount originally claimed; and in any case the court may allow the defendant any costs properly incurred by him in respect of that part of the plaintiff's claim which is abandoned.

Amendment of particulars where plaintiff is entitled to more than amount claimed.

6. Where it appears that a plaintiff is entitled to recover an amount larger than that mentioned in the particulars, but not exceeding the amount which may be recovered in the court, he may, by leave of the court, and on payment of the difference (if any) between the fees payable on the amount so mentioned and those payable on the larger amount, amend his particulars so as to claim such larger amount, and thereupon judgment shall be entered for same.

Clerical mistakes and accidental omissions.

7. Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the court or a magistrate.

PART XIV

DISCOVERY AND INSPECTION

Discovery of documents.

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

Provided that the discovery shall not be ordered when and so far as the court or a magistrate is of the opinion that it is not necessary for disposing fairly of the action or matter, or for saving costs. If an order is made it shall be drawn up by the clerk and served by the applicant on the party against whom the order is made. Such order shall be in accordance with Form 31, and shall specify the time within which the affidavit in answer is to be filed.

Form 31.

Objection to discover documents.

Form 32.

Order for production of particular document or documents.

2. The affidavit to be made by a party against whom such order as is mentioned in the last preceding rule has been made, shall specify which, if any, of the documents therein mentioned he objects to produce, and on what grounds, and it shall be in accordance with Form 32, with such variations as circumstances may require. Such affidavit shall be delivered to the clerk and a copy thereof served on the party who obtains the order within the time named in the order.

3. The court or a magistrate may, at any time during the pendency of an action or matter, order the production upon oath, by any party thereto, of such of the documents in his possession or power relating to any question in such

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action or matter as the court or a magistrate may direct; and the court or a magistrate may deal with such documents, when produced, in such manner as may be just.

Inspection of documents referred to in particulars, notices, or affidavits.

4. Any party to an action or matter may at any time give notice in writing to any other party in whose particulars, notices, or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, and to permit him to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such action or matter, unless he satisfies the court that such document relates only to his own title, he being a defendant to the action or matter, or that he had some other cause or excuse which the court deems sufficient for not complying with such notice, in which case the court may allow the same to be put in evidence on such terms as to costs and otherwise as the court may think fit.

Notice under preceding rule.
Form 33.

5. Notice to any party to produce any documents under the last preceding rule shall be in accordance with Form 33 with such variations as circumstances may require.

Notice fixing time for inspection of documents pursuant to notice to produce documents.

6. The party to whom such notice is given shall, within two days of the receipt of such notice, if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in rule 2 of this Part, or if any of the documents referred to in such notice have not been set forth by him in any such affidavit, then within four days from the receipt of such notice, deliver to the party giving the same 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 counsel, or in the case of bankers' books or other books of account, or books in constant use for the purposes of any trade or business, or in case the party is not acting by counsel, at their usual place of custody, and stating which, (if any) of

Form 34. the documents he objects to produce, and on what grounds. Such notice shall be in accordance with Form 34, with such variations as circumstances may require.

Order for inspection. 7. (1) If any party served with a notice under rule 4 of this Part omits to give such notice of a time for inspection, or objects to give inspection, or offers inspection elsewhere than is provided by the last preceding rule, the court or a magistrate may, on the application of the party desiring it, make an order for inspection at such place and in such manner as the court or a magistrate may think fit:

Provided that the order shall not be made when and so far as the court or a magistrate is of the opinion that it is not necessary either for disposing fairly of the action or matter, or for saving costs.

(2) Any application to inspect documents, except such as are referred to in particulars, notices, or affidavits of the party against whom the application is made, or disclosed in his affidavit of documents, 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 the possession or power of the other party. The court or a magistrate shall not make an order for inspection of such documents when and so far as the court or a magistrate is of opinion that it is not necessary either for disposing fairly of the action or matter, or for saving costs.

Verified copies.

8. (1) Where inspection of any business books is applied for, the court or a magistrate may, if it thinks fit, instead of ordering inspection of the original books, order a copy of any entries therein to be furnished and verified by the affidavit of some person who has examined the copy with the original entries, and such affidavit shall state whether or not there are in the original book any and what erasures, interlineations or alterations:

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Provided that notwithstanding that such copy has been supplied, the court or a magistrate may order the inspection or production in court or before a magistrate of the book from which the copy was made.

Privilege.

(2) Where on an application for an order for inspection privilege is claimed for any document, the court or a magistrate may inspect the document for the purpose of deciding as to the validity of the claim of privilege.

Inquiry as to present or past possession of specified documents.

9. The court may, on the application of any party to an action or matter at any time, and whether an affidavit of documents shall or shall not have been already 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 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 action or matter, or to some or one of them.

Non-compliance with order.

10. If any party fails to comply with any order made pursuant to this Part, he shall, if a plaintiff, be liable to have his action stayed until the order is complied with, or dismissed for want of prosecution, and, if a defendant, either be debarred from defending altogether, or only be allowed to defend on such terms as the court may think fit; and the party applying for the discovery or inspection may apply to the court or a magistrate for an order to that effect and an order may be made accordingly.

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Penalty for non-compliance.

11. Every party who without just cause or excuse, the proof whereof shall lie on him, refuses or neglects to comply with any order of the court made under this Part shall be guilty of a separate offence on every day during which he shall refuse or neglect to comply therewith and, on conviction under the Summary Jurisdiction Acts, shall be liable to a fine of twenty-four dollars for every such offence.

Security for costs of discovery.

12. Any party seeking discovery of documents may be ordered upon making the application for discovery to pay into court the sum of two dollars and forty cents or any less or additional sum as the court or a magistrate may direct as security for the costs of the opposite party incurred in connection with the application.

Notice of payment into court of costs of discovery or of dispensing therewith.

13. An order for discovery shall state the amount ordered to be paid into court, or that payment into court is dispensed with; and where payment into court is ordered the party seeking discovery shall, with his order for discovery of documents, serve a copy of the receipt for the payment into court, and the party from whom discovery is sought shall not be bound to answer or make discovery unless and until the said copy has been served.

Payment out of costs paid in on application to discover documents.

14. If on any application for discovery of documents it is ordered that the costs of the application be paid by the party seeking such discovery to the party against whom the order is sought, the clerk shall, after the action or matter has been finally disposed of, pay out to the latter party the amount of the costs allowed him on such application and to the party who sought discovery any balance remaining after payment of such costs.

Costs lodged on application to discover to be repaid to party lodging same, unless he

15. Unless the court or a magistrate otherwise orders the amount paid in as security for costs by a party seeking an order for discovery shall after the action or matter has been finally disposed of be paid to be out to the party by whom the same was paid in, except in the event of his being ordered to

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is ordered to pay costs of discovery.

pay costs of any kind, in which case the amount in court shall be appropriated towards payment of such costs, and any balance remaining shall be paid out to the party who sought discovery.

This part to apply to infants.

16. This Part shall apply to infant plaintiffs and infant defendants and their next friends and guardians *ad litem*.

PART XV

CHANGE OF PARTIES

When action not to abate.

1. An action or matter shall not become abated by reason of the marriage, deaths or bankruptcy of any of the parties, if the cause of action survives or continues, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*; and whether the cause of action survives or not, there shall be no abatement by reason of the death of either party between the finding of the issues of fact and the judgment, but judgment may in such case be entered, notwithstanding the death.

Proceedings on change of plaintiff's title before judgment.

Form 35.

Notification of change of plaintiff's title

2. Where, by reason of any event occurring after the commencement of any action or matter, there shall be any assignment, creation, change, transmission, or devolution of the interest, estate, or title of any plaintiff in such action or matter before judgment, the person to or upon whom such interest, estate, or title, has come or devolved may deliver to the clerk a notice thereof in accordance with Form 35, with his name and address together with an affidavit of the truth of the facts stated in such notice.

3. The clerk shall cause a copy of such notice to be served upon the defendant in the action or matter, and he

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before
judgement to
the defendant.
Form 36.

shall cause a further notice to be served upon the defendant in accordance with Form 36 stating that unless upon the day named therein he appears and shows cause against the same, the person to whom or upon whom such interest, estate, or title has come or devolved will be substituted for or made a joint plaintiff with the plaintiff named in the original plaint; and unless cause is so shown such person may be added or substituted as plaintiff accordingly.

Provision for
cases where
change affects
more actions
than one.
Form 37.

4. Where, by reason of one and the same event, any person becomes entitled to give notice under the last preceding rule in more actions or matters than one, such person may give in accordance with Form 37, one notice only in respect of all or any of such actions or matters specifying in a schedule to such notice all the action and matters in respect of which such notice is given; and in serving a copy of such notice on any defendant in any such action or matter, it shall be sufficient to set forth such part only of such notice as affects such defendant, without setting forth the rest of such notice.

Proceedings on
change of
defendant's
title.

Form 35.

Form 36.

Copy of
summons to be
served on

5. Where, by reason of any event occurring after the commencement of any action or matter, there shall be any assignment, creation, change, transmission, or devolution of the liability, interest, estate, or title of any defendant in such action or matter before judgment, the plaintiff or the defendant or the person to or upon whom such liability, interest, estate, or title has come or devolved, may in like manner give notice thereof to the clerk in accordance with rule 2 of this Part, together with an affidavit of the truth of the facts stated in such notice; and the clerk shall take proceedings thereon similar to those prescribed in rule 3 of this Part; and a defendant may be substituted or added, as the case may be, in manner similar to that provided in the last mentioned rule for the substitution or addition of a plaintiff.

6. Where the notice mentioned in the last preceding rule is given by any person other than the person proposed to be substituted or added as a defendant, a copy of the plaint in

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proposed defendant in certain cases.

the action shall be annexed to the notice to be served on the person proposed to be substituted or added as a defendant, and such notice and plaint shall be served on such person, according to the rules applicable to the service of the summons in an action, seven clear days at least before the day fixed for the hearing, and the hearing shall be adjourned for such time as may be necessary to enable such notice and plaint to be so served.

Change or transmission of interest.

7. Where, in any case not provided for in the preceding rules, it becomes necessary or desirable, by reason of any event occurring after the commencement of any action 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 any action or matter, 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 parties may be obtained, before or at the trial, on application to the court or a magistrate upon an allegation of such change or transmission of interest or liability, or of such person interested having come into existence.

Notice of order of change or transmission of interest.

8. An order obtained as in the last preceding rule mentioned shall, unless the court or a magistrate otherwise directs, be served upon the continuing parties, and also upon each new party, unless the person making the application be himself the only new party, according to the rules as to service of ordinary summonses, seven clear days at least before any further proceedings are taken in the action or matter; and in the case of a person who is not already a party, a copy of the plaint or application in the action or matter, and a notice in Form 38 shall be annexed to the order and served therewith. The order shall from the time of such service, subject nevertheless to the next following rule, be binding on the persons served therewith; and every person served therewith,

Form 38.

who is not already a party to the action or matter shall be bound to appear in the same manner as if he had been served with a summons. Such order of adjournment shall be made as shall be necessary to give effect to this rule.

Application to
discharge or
vary order by
person not
already a
party.

9. Where any person not already a party to the action or matter is served with such order as is mentioned in the last two preceding rules, such person may on or before the day fixed for the hearing of the action by person apply to the court to discharge or vary such order.

Where person
entitled to
proceed on
death of
plaintiff or
defendant fails
to do so.

10. When the plaintiff or defendant in an action 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 action death of or matter may be continued) may apply to the court or a magistrate for an order directing the plaintiff (or the person entitled to proceed) to do so. To proceed within such time as may be ordered; and in default of such proceeding the action or matter may be struck out, and the court or a magistrate may award costs to the defendant, or (as the case may be) to the person against whom the action or matter might be continued, in the same manner as in other cases of striking out; and in such case, if the plaintiff has died, execution may be issued for such costs on an application for leave to issue execution in manner provided by rule 10 of Part XXI.

Alteration of
records on
change of
parties.

11. Where a plaintiff or a defendant is substituted or added under any of the foregoing rules, the Record Book of Causes shall be altered and all subsequent proceedings shall be carried on under the altered title.

PART XVI

ARBITRATION

Form of

1. An application for reference to arbitration under

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application for arbitration.
c. 7:01
Form 39.

section 26 of the Summary Jurisdiction (Petty Debt) Act may be made orally during the hearing of any action or matter and otherwise in writing in Form 39 at any time before final judgment.

Form of order for arbitration.
Form 40.

2. The order referring the action or other matter to arbitration shall be in Form 40 and shall name the arbitrator or arbitrators and set forth specifically the matters in difference between the parties which they are to determine and fix a time within which the arbitrator or arbitrators shall make their award, which time the court or a magistrate may from time to time enlarge.

Appointment of umpire.

3. In case of difference of opinion between the arbitrators, the court or a magistrate may appoint an umpire upon notification to it or him made by the arbitrators or either of them of the fact that the difference exists. The court or a magistrate may fix a time within which the umpire shall make his award and may likewise from time to time enlarge that time

Filling up the place of arbitrator or umpire who shall die, etc.

4. If any arbitrator or umpire shall die or become incapable of acting in the reference or shall refuse to act, the court or a magistrate may appoint a new arbitrator or umpire in place of the person so dying, becoming incapable of acting, or refusing to act.

Form of award.
Form 41.

5. The award shall be in writing in Form 41, and shall find conclusively in the matters referred to, and may not find on the contingency of any matter of fact being afterwards substantiated. When several matters are referred, it shall find severally as to each of such matters.

Powers of the arbitrators or umpire.

6. The arbitrators or umpire acting under any order of reference shall, unless the contrary intention appears, have power—

(a) to administer oaths or take the

affirmations of the parties and witnesses appearing; and

- (b) to correct in an award any clerical mistake or error arising from any accidental slip or omission.

Reservation of question of law by court or magistrate.

7. The court or a magistrate may upon reference of any matter of fact to an arbitrator or arbitrators reserve any question of law for its or his own decision, and any judgment based upon the award of an arbitrator or arbitrators shall be framed and entered in accordance with the determination by the court or a magistrate of any such question of law.

Compelling attendance of witnesses.

8. (1) Witnesses may be summoned to give evidence before the arbitrator or arbitrators or the umpire and be examined in the same manner as if the action or matter had remained for determination by the court, and a magistrate shall issue all summonses for witnesses required in connection with the reference in the same manner and form as if the court were hearing and determining the action or matter.

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(2) Sections 11, 15 and 16 of the Summary Jurisdiction (Petty Debt) Act and these Rules shall apply to a witness whom it is desired to bring before an arbitrator or arbitrators or umpire or to examine as they do to a witness summoned to appear before the court.

Remuneration of arbitrators and umpire.

9. The remuneration to be paid to any arbitrator or arbitrators or umpire shall be determined by the court or a magistrate who shall have power to determine by which party it shall be ultimately borne, and may award such remuneration as costs against such party, whether a successful party or not. Any such award may be enforced against the party directed to pay the same by a writ of execution.

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PART XVII

EVIDENCE, HEARING, JUDGMENT

Power to order particular facts to be proved by affidavit, or witness to be examined by examiner.

1. The court or a magistrate 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, on such conditions as it or he may think reasonable, or that any witness whose attendance in court ought for some sufficient cause be dispensed with be examined by interrogatories or otherwise before an examiner:

Provided that, where it appears to the court or a magistrate 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 authorising the evidence of such witness to be given by affidavit.

Notice to inspect and admit document proposed to be put in evidence.

2. (1) Where a party desires to give in evidence any document, he may, not less than three clear days before the day of hearing give notice to any other party in the action or matter who is competent to make admissions requiring him to inspect such document and to admit that it is an original and was written, signed or executed as it purports to have been, or that it is a true copy if it purports to be such, or that it was served, sent or delivered as it is stated to have been served, sent or delivered; and if such other party does not within two days after receiving such notice make such admission, any expense of proving any of the said facts at the hearing shall be paid by him, whatever may be the result, unless the court otherwise orders; and no costs of proving any document or any of the said facts shall be allowed unless such notice has been given, except in cases where, in the opinion of the court at the hearing, the omission to give such notice has been a saving of expense.

Form 42. (2) An admission of any document or documents or facts under paragraph (1) of this rule shall be in Form 42.

Notice
to admit or
produce.
Form 43.
Form 44.

3. (1) Notices to admit, or to produce documents at the hearing shall be respectively in Forms 43 and 44, with such variations as circumstances may require.

Costs of notice
to admit or
produce.

(2) An affidavit of the party or his counsel, or of some person in the permanent and exclusive employ of either of them, of the service of any notice to admit or produce, shall in all cases be sufficient evidence of the service of the notice, and of the time when it was served.

4. If a notice to admit, or to produce documents at the hearing, comprises documents which are not necessary, the costs occasioned thereby shall be borne by the party giving such notice.

Documents
produced from
proper custody
to be read
without proof
unless objected
to.

5. (1) Where any documents which would, if duly proved, be admissible in evidence are produced to the court from proper custody they shall be read without further proof, if in the opinion of the court they appear genuine, and if no objection is taken thereto; and if the admission of any documents so produced is objected to, the court may adjourn the hearing for the proof of the documents, and the party objecting shall pay the costs caused by such objection, in case the documents shall afterwards be proved, unless the court otherwise orders.

(2) Proper custody" is the keeping of some person who on the supposition of the authenticity of the document, would reasonably be expected to have them.

Examination of
witnesses
before trial.

6. The court may, in any action or matter where it appears necessary for the purposes of justice, make an order for the examination upon oath before the court or any officer of the court or any other person, and at any place in Guyana, of any witness or person, and may empower any party to any

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such action or matter to give such deposition in evidence therein on such terms, if any, as the court may direct.

Order under
Pawnbroking
Act.
c. 91:09

7. An order made under section 41 (1) of the Pawnbroking Act for the attendance before a magistrate and for the production of any books and papers relating to the pawnbroking business shall be binding upon the manager or other person having charge of that business and shall be complied with immediately, and the person so directed to attend may be examined on oath as if he had been summoned as a witness in the ordinary way.

Affidavits to be
expressed in
the first
person.

8. All affidavits shall be expressed in the first person, and shall be drawn up in paragraphs and numbered.

Sources of
knowledge to
be stated.

9. All affidavits shall state the deponent's occupation, quality, and place of residence, and also what facts and circumstances deposed to are within the deponent's own knowledge, and his means of knowledge, and what facts and circumstances deposed to are known to or believed by him by reason of information derived from other sources than his own knowledge, and what such sources are.

Costs of
affidavit of
unnecessary
matter.

10. The costs of every affidavit which unnecessarily sets forth matters of hearsay, or argumentative matter, or copies of or extracts from documents, shall be paid by the party filing the same.

Affidavits how
to be intituled.

11. Every affidavit shall be intituled in the action 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; and the costs occasioned by any unnecessary prolixity in any such title shall be disallowed by the court or the magistrate.

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Affidavit to show on whose behalf filed.

12. It shall be stated in a note at the foot of every affidavit filed on whose behalf it is so filed, and such note shall be copied on every office or other copy furnished to a party.

Costs of affidavits when disallowed.

13. The costs of affidavits not in conformity with the preceding rules shall be disallowed unless the court otherwise directs.

Form of jurat when there are several deponents.

14. In every affidavit made by two or more deponents the names of the several persons 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 "abovenamed" deponents.

Filing of affidavits.

15. Before any affidavit is used it shall be filed in the office of the clerk; but this rule shall not hinder the court or a magistrate from making an order in an urgent case upon the undertaking of the applicant to file any affidavit sworn before the making of such order.

Affidavits not to be filed if sworn before party's solicitor.

16. No affidavit shall be filed if it has been sworn before a commissioner who was, at the time of the swearing of the same, the solicitor acting for the party on whose behalf such affidavit is to be used, or the agent, correspondent, partner, or clerk of such solicitor, or who is the party himself.

Erasure, blotting, interlineation etc., in affidavits.

17. No affidavit or other document shall be filed or used in any action or matter, unless the court or magistrate otherwise orders, which is blotted so as to obliterate any word, or which is illegibly written, or so altered as to cause it to be illegible, or in the body or jurat of which there is any interlineation, alteration, or erasure, unless the person before whom the same is sworn has duly initialled such interlineation or alteration, and in the case of an erasure, has rewritten and signed in the margin of the affidavit or document the words or figures appearing to be written on the

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erasure, or which is so imperfect on the face thereof by reason of having blanks thereon or otherwise that it cannot easily be read or understood.

Illiterate or
blind
deponent.

18. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind, the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, and 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 the magistrate is satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent.

Use of
defective
affidavit.

19. The court or the magistrate may receive an affidavit sworn for the purpose of being used in any action 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.

Affidavits of
service.

20. Affidavits of service, when required, shall state when, where, how, and by whom service was effected.

Inspection of
property by the
court or
magistrate and
the costs
thereof.

21. The court or a magistrate may, with or without any application, inspect any property or thing concerning which any question may arise in any action or matter. The expenses of any inspection under this rule shall be paid in the first instance by the party on whose application such inspection is made, or if the inspection is made without such application, by the party, who, in the opinion of the court, ought to bear such expenses in the circumstances of the case.

Hearing of
action.

22. An action or matter may be heard and determined on the return day if the court considers it just and convenient so to do.

No evidence of facts admitted.

23. (1) It shall not be necessary for any party to give evidence in proof of any fact or matter which has been admitted by the opposite party before or at the hearing of the action.

The defendant to begin in certain cases.

(2) If the defendant admits all the allegations of fact in the plaint, but sets up any matter by which in law he claims to be entitled to judgment notwithstanding such admission, the plaintiff and his witnesses shall be deemed to have been heard by the court in proof of the said allegations and the court may proceed to hear the defendant and any witnesses he examines and any evidence he adduces in his defence:

Provided that in such case the plaintiff shall be at liberty without leave of the court to give evidence and examine witnesses in reply.

Application for judgment.

24. Any party may at any stage of the hearing of an action or matter apply to the court for such judgment or order as upon any admissions of the opposite party or any facts proved up to that stage of the hearing he may be entitled to, without waiting for the conclusion of the case of the plaintiff or of the defendant, and the court or a magistrate may upon such application make such order or give such judgment, as may be just.

Points of law may be raised on the proceedings.

25. Any party shall be entitled at any stage of the proceedings to raise any point of law which appears on the face of the plaint or in a defendant's answer or defence, or particulars of defence, and any point so raised shall be disposed of by the court or a magistrate on the application of either party at any time before or at the hearing.

Dismissal of action.

26. If, in the opinion of the court or a magistrate, the decision of such point of law substantially disposes of the whole action or any distinct cause of action, ground of

defence, set-off, or counter-claim, the court or a magistrate may thereupon dismiss the action or make such other order therein as may be just.

Striking out of
plaint or giving
judgment
against
defendant
where no
reasonable
cause of action
or answer
disclosed.

27. The court or a magistrate may order any plaint to be struck out on the ground that it discloses no reasonable cause of action, or may order judgment to be entered for the plaintiff against the defendant on the ground that the answer or defence discloses no reasonable ground of defence.

Consent to
judgment.
c. 7:01
Form 45.

28. The consent to judgment referred to in section 13 (1) of the Summary Jurisdiction (Petty Debt) Act shall be in Form 45, and the defendant's signature, or mark in the case of a person unable to write his signature, shall be attested by two credible witnesses, by a justice of the peace, or a notary public, or by the clerk, to every one of whom the defendant must be personally known.

Power to
proceed *ex
parte*.

29. If the court is not satisfied that the signature or mark is that of the defendant, it may proceed to judgment *ex parte* in the absence of the defendant.

Procedure for
obtaining
judgment *ex
parte*.

30. (1) Where the plaintiff seeks to recover a debt or liquidated demand in money payable by the defendant arising upon any contract, expressed or implied, (as for instance, on a bill of exchange, promissory note, or cheque or other simple contract debt), or on a bond or contract under seal for payment of a liquidated amount of money, or on a written law where the sum sought to be recovered is a fixed sum or in the nature of a debt other than a penalty, or on a guarantee, whether under seal or not, where the claim against the principal is in respect of a debt or liquidated demand, the hearing and determination of the cause on the part of the plaintiff only in the absence of the defendant referred to in

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section 20 of the Summary Jurisdiction (Petty Debt) Act may in the discretion of the court be upon evidence by affidavit.

(2) If there is no appearance of the defendant when he is called in court and there is due proof of service of the summons, the court may put down the case for an affidavit by the plaintiff or by any other person who can swear positively to the facts, verifying the cause of action, and the amount claimed and stating that he has personal knowledge of the transaction and that in his belief there is no defence to the action.

Form 46.

(3) The affidavit which shall be in Form 46 shall be delivered to the clerk who shall forthwith file the same and judgment shall be entered thereupon by the court or a magistrate at any time after the filing thereof.

Judgment
payable by
instalments.
c. 7:01

31. Where the amount of any judgment is, under section 34 of the Summary Jurisdiction (Petty Debt) Act, ordered to be paid at any time, or at times, or by instalments, the failure to pay at any such time, or at one of such times, or by any such instalment, or the issue of execution against the judgment debtor on any other judgment shall render the whole judgment or the entire balance then due thereon payable at the moment of such failure, or issue of such execution, and any informal order stating that a judgment is entered "on the usual conditions" shall have this effect.

Order
suspending
judgment, etc.
c. 7:01
Form 47.

32. The order suspending judgment or execution, or for the discharge of a debtor under section 42 of the Summary Jurisdiction (Petty Debt) Act shall be in Form 47 and may be made upon such evidence by affidavit or otherwise as the magistrate may think fit.

Judgment for
specific
performance.
c. 90:10

33. The judgment or decree of the court for specific performance of a contract to deliver specific or ascertained goods under section 52 of the Sale of Goods Act, shall be in

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Form 48. Form 48 and may be enforced in like manner as a judgment or order for the recovery of any chattel or thing pursuant to section 24 of the Summary Jurisdiction (Petty Debt) Act is enforced under rule 7 of Part XXI.

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Form of judgment against married woman. Form 49.

34. (1) Where judgment is given against a married woman or against a widow or a divorced woman in respect of a contract or tort before or during coverture, such judgment shall be expressed on the married case jacket in terms of Form 49 with such additions and variations as the circumstances of the case may make necessary. If so directed by the court or a magistrate, the judgment shall be formally drawn up in the said Form.

(2) Where a married woman plaintiff has been ordered to pay any costs or compensation to the opposite party the judgment shall be expressed on the case jacket in terms of the form applicable in the circumstances of the case to a judgment against a married woman who is a defendant.

Drawing up of judgments or orders. c. 7:01

35. Subject to the Summary Jurisdiction (Petty Debt) Act, and save as is otherwise specifically provided by any Act or these Rules, no formal judgment or order in any action or matter need be drawn up, but it shall be sufficient evidence that the judgment or order was made and of the contents thereof, if a concise minute of the judgment or order is entered on the jacket in which the proceedings in the action or matter are filed and signed by the magistrate.

Court may direct judgment or order to be drawn up. Form 50.

36. (1) The court or a magistrate may on the application of either party or without such application, direct that a judgment or order be formally drawn up, and in that case the clerk shall draw up the formal judgment or order in Form 50, and file the same after authentication thereof by the signature of the magistrate.

(2) Any person may apply to the clerk for a

certified copy of such judgment or order.

PART XVIII

SPECIAL CASE

Special case by
consent.

1. The parties to any action 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 therefrom if proved at a hearing.

Special case by
order before
hearing.

2. If it appears to the court or a magistrate, that there is in any action 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 heard, or before any reference is made to an arbitrator or arbitrators, the court or a magistrate 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 a magistrate may deem expedient, and all such further proceedings as the decision of such questions of law may render unnecessary may thereupon be stayed.

Submission of
questions of
law to judge in
Workmen's
Compensation
cases.
Cap. 111

3. (1) Where under section 39 of the Workmen's Compensation Ordinance a magistrate submits any question of law for the decision of a judge, such submission shall be in the form of a special case.

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(2) The case shall be intituled in the matter of the Act and of the application for compensation or for determination of the question arising out of an accident, and shall be divided into paragraphs numbered consecutively, and shall state concisely such facts and documents as may be necessary to enable the judge to decide the questions of law raised thereby. Upon the argument of the case the judge and the parties shall be at liberty to refer to the whole contents of such documents, and the judge shall be at liberty to draw from the facts and documents stated in the case any inference, whether of fact or of law, which might have been drawn therefrom if proved at the hearing of an application.

(3) The case shall be signed by the magistrate and sent to the Registrar, who shall transmit the same to a judge.

(4) The clerk shall on application and at the cost of any party, furnish him with a certified copy of the case.

(5) On a day and at an hour fixed by the judge of which notice shall be given by the Registrar to the parties, they shall appear before the judge on the hearing of the case.

(6) The judge may remit the case to the magistrate for re-statement or further statement.

(7) On the hearing of the case the judge shall, after deciding the question submitted to him, remit the case with a memorandum of his decision to the magistrate for him to proceed thereon in accordance with the decision and the judge shall have power to direct the manner in which the costs of the special case shall be borne finally.

Special case to
be typewritten.

4. Every special case shall be typewritten and signed by the several parties or their counsel and shall be lodged by the plaintiff with the clerk.

PART XIX

COSTS

Taxation of costs.

1. (1) The costs of and incidental to any action or matter may be directed to be taxed and when so directed the amount thereof shall be ascertained by the clerk within fourteen days from the date of the judgment or order on a bill presented by the party entitled to deliver the same and submitted to the court or a magistrate for approval, and when approved shall be deemed to be taxed.

(2) When costs are directed to be taxed they shall be taxed in accordance with the scale of costs set forth in the Schedule to the Act. The party entitled to recover such costs shall within seven days from the date of the judgment or order, or such further time as may be allowed by the court or a magistrate, deliver a bill of costs to the opposite party, and file a copy thereof with the clerk.

(3) The court or a magistrate may in any case in which it appears just to do so, instead of directing the costs of any action or matter to be taxed, either at the time of pronouncing judgment or at any time thereafter, fix a lump sum as the costs of and incidental to the action or matter to be paid to the party entitled by the judgment or order to receive costs. In fixing the amount of any such lump sum the court or a magistrate shall have regard to the probable sum to which the costs, if taxed, would amount.

Disallowance of costs for improper or vexatious or unnecessary proceeding.

2. The court or a magistrate may, at the hearing of any action or matter, and whether the same is objected to or not, direct the costs of any affidavit, evidence, notice, or other proceeding, or any part thereof, which is improper, vexatious, unnecessary, or contains vexatious or unnecessary matter, or is of unnecessary length, or is caused by misconduct or

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negligence, to be disallowed; and in such case the party whose costs are to be disallowed shall pay the costs occasioned thereby to the other parties.

Proceeding
when costs
disallowed.

3. In any case in which under the last preceding rule or any other rule or by the order of a court or a magistrate, or otherwise, a party entitled to receive costs is liable to pay costs to any other party, the court or a magistrate, or the clerk if directed so to do by the court or a magistrate, may assess the costs such party is so liable to pay and may adjust the same by way of deduction or set-off, or may delay the allowance of the costs such party is entitled to receive, until he has paid or tendered the costs he is liable to pay, or may allow the costs to be paid, and direct payment thereof, and the same may be recovered by the party entitled thereto in the same manner as costs ordered to be paid may be recovered.

Costs of
discovery of
documents.

4. In every action or matter the costs of discovery of documents as provided for in rules 1 and 9 of Part XIV, which may be ordered to be secured in the first instance in accordance with rule 12 of Part XIV by the party seeking such discovery, shall be allowed as part of his costs, where, and only where, such discovery appears to the court or a magistrate at the hearing or at any other time, to have been reasonably asked for.

Allowances to
witnesses.

5. Allowances may be made to witnesses, and in the discretion of the court or a magistrate to plaintiffs and defendants, if personally attending the court, for the cost of travelling to and from the court and for their attendance at court, according to the Schedule to the Act.

Special
allowance for
hotel expenses.

6. In any special case there may be allowed to any witness, and to the plaintiff or defendant if personally attending the court, for hotel expenses, the sum actually and reasonably paid by them, or any less sum as the court or a magistrate may think fit.

Apportionment of allowance to witnesses.

7. If witnesses attend in more than one action or matter they shall be allowed in any one action or matter a proportionate part only of their allowances.

Allowance to witnesses not examined.

8. The costs of witnesses, whether they have been examined or not, may, unless otherwise ordered, be allowed.

Costs connected with plans, etc.

9. (1) Persons who prepare plans, drawings, charts, or models for the purpose of illustration, or who make tracings and copies of any plans, drawings, charts, or models, and who, if called at the hearing, etc. prove only the correctness of such plans, drawings, charts, models, tracings, or copies shall not be entitled to allowances as expert and scientific witnesses, but shall be allowed in addition to the allowance which may be made to them as ordinary witnesses, such sum as the court or a magistrate may direct for the preparation of such plans, drawings, charts, models, tracings, and copies not exceeding the amount mentioned in the Schedule to the Act:

Provided that the party intending to prepare any plans, drawings, charts, models, tracings, or copies shall, before incurring any expense in respect of the same, serve on the opposite party notice of his intention to do so, and unless the opposite party within three clear days after receipt of such notice admit in writing the fact or facts capable of being proved by such plans, drawings, charts, models, tracings, or copies, the party giving such notice may proceed with the preparation and making of all such plans, drawings, charts, models, tracings, or copies.

Form 51.

(2) The notice to the opposite party shall be in Form 51 and shall set forth particulars of the matters and features proposed to be shown on such plans, drawings, charts, or models and shall also state in the form of short statements the matters of fact which the party giving the

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notice

(3) The court may, in any case in which it appears just, direct that any party on whom any such notice has been served and who neglects or refuses to make any admissions required by the notice pay the costs of preparing and making any plans, drawings, charts, models, tracings, or copies, although that party may have succeeded in the action or matter.

(4) The costs of preparing and making any such drawings, charts, models, tracings, and copies, may be allowed to the party producing them without calling the person preparing or making them, if the party producing them gives to the opposite party the notice provided in paragraph (2), and the opposite party refuses to make the admissions required by such notice but states that he has no objection to the party giving the notice putting in evidence at the hearing all or any of such drawings, charts, models, tracings, and copies without calling the person preparing or making the same, subject to all just exceptions and objections.

Costs for
qualifying to
give evidence.

10. The court or a magistrate may allow costs for qualifying to give evidence by, and for the attendance in court of any expert, scientific, or other witnesses, or any member of the medical profession.

PART XX

NEW HEARING

Application for
new hearing.
c. 7:01

1. (1) An application under section 20 of the Summary Jurisdiction (Petty Debt) Act or under rule 5 of Part VII to set aside any judgment given or the execution thereupon and for a new hearing shall be made to the court or a magistrate within fourteen days after the hearing of the

action or such further time as the court or a magistrate may allow. The application shall be dealt with, if possible, by the magistrate who entered judgment against the defendant.

(2) In any case in which the judgment has been obtained in accordance with rule 30 of Part XVII, the application shall be supported by an affidavit of merits.

(3) Unless the court or a magistrate otherwise orders, a defendant applying for an order to set aside a judgment obtained in the absence of the defendant, shall upon the making of the order, pay to the plaintiff all the costs thrown away by reason of the hearing becoming abortive (including the costs of the application) and the amount of all such costs shall be fixed in the order, if drawn up.

(4) No order for a new hearing under this rule shall become operative until all such costs have been paid and the receipt for the payment thereof presented to the clerk who shall forthwith endorse on the order the hour, day, and date of such presentation.

New hearing
on particular
question.

2. A new hearing may be ordered under this Part on any one question, without interfering with the decision upon any other question.

Restoration of
action or
matter struck
out.
c. 7:01

3. When any action or matter has been struck out under section 19 of the Summary Jurisdiction (Petty Debt) Act, the court or a magistrate may, at any time within seven days from the date of striking out, order such action or matter to be restored to the list for hearing either on the same day or on any subsequent day, and may set aside any order awarding costs to the opposite party which may have been made, upon such terms as to payment of costs of the day, adjournment of hearing, notice to the opposite party, and otherwise, as may be just.

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for new
hearing.
c. 7:01

4. An application under section 32 of the Summary Jurisdiction Application for (Petty Debt) Act for a new hearing may be made at the same sitting of the court at which the action was heard, if both parties be present, or not more than twenty-eight clear days after the date of the termination of the action of which a new hearing is desired.

Mode of
making
application.
Form 52.

5. When it is intended to make any application contemplated in rules 1, 3 and 4 of this Part at a subsequent sitting of the court, the applicant shall deliver to the clerk a notice of application in Form 52 and serve on the opposite party a copy of such notice containing the date of hearing of the application.

Affidavit in
support.
c. 7:01

6. (1) Every application under section 32 of the Summary Jurisdiction (Petty Debt) Act shall be supported by affidavit verifying the facts upon which the defendant relies and a copy of the affidavit shall be served with the notice in writing upon the opposite party.

(2) The person making the application shall obtain from the clerk the appointment of a day for the hearing of the application, which day shall not be less than three clear days after the service of the notice.

Application
for new
hearing not a
stay of
execution.

7. No application for a new hearing shall operate as a stay of execution unless the court or a magistrate otherwise orders; and if any money paid into court under any execution or order in the action has not been paid out at the time when the application is made, the clerk shall retain the same to abide the event of the application, or until the court or a magistrate shall otherwise order. And if the application is not proceeded with, the money shall, if required, be paid over to the party in whose favour execution was issued or the order was made, unless the court or a magistrate otherwise orders.

PART XXI

EXECUTION

Execution on
judgment
against a firm.

1. (1) Where a judgment or order is against a firm, execution may issue in the manner following—

- (a) against the property of the partnership;
- (b) against any person who has admitted before the court in the proceedings in which the judgment or order was obtained that he was a partner at the time of the accruing of the cause of action, or who has been adjudged to be liable as a partner;
- (c) against any person who was individually served with the summons as a partner or a person sought to be made liable and, if there was a hearing, who failed to appear at the hearing.

(2) If the party who has obtained the judgment or order claims to be entitled to issue execution against any other person as a member of the firm, he may, after giving to such person two clear days' notice of his intention, apply to the court or a magistrate for leave so to do; and the court or a magistrate in the district in which the judgment was given may give such leave if the liability is not disputed, or, if such liability is disputed, may order that the liability of such person be tried and determined in an action to be commenced by plaint and summons in the ordinary way.

(3) Except as against any property of the

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partnership, a judgment against a firm shall not render liable; release, or otherwise affect any member thereof who was out of Guyana when the summons was issued.

Withdrawal of
execution by
execution
creditor.

2. (1) Where an execution creditor requests the bailiff in writing to withdraw from possession, the execution creditor shall be deemed to have abandoned the execution, and the bailiff shall return the writ of execution as withdrawn by order of the execution creditor, and the execution creditor shall not be entitled to require the writ of execution to be re-issued, unless the request is made—

(a) under rule 6 of Part XXII, in consequence of a claim having been made to the goods seized under rule 5 of that Part, in which case execution shall be deemed to be abandoned in respect only of the goods so claimed; or in pursuance of an arrangement between the execution creditor and the execution debtor and communicated to the bailiff, that the bailiff shall be at liberty to re-enter.

(b) in pursuance of an arrangement between the execution creditor and the execution debtor and communicated to the bailiff, that the bailiff shall be at liberty to re-enter.

(2) Nothing in this rule shall prejudice any right of the execution creditor to apply for a fresh warrant to be issued.

Costs of writs.

3. Except as otherwise provided by these Rules, the costs of writs of execution, whether executed or unexecuted or

unproductive, shall be allowed against the execution debtor, unless the magistrate otherwise directs.

Inventory and notice of sale of goods levied under execution.

4. Where goods taken in execution are removed, the bailiff shall give to the execution debtor a sufficient inventory of the goods so removed, and such inventory shall contain at the foot thereof a notice of the time when and place where such goods will be sold. It shall be served on the execution debtor at the time of, or immediately after, the removal of the goods.

Account of sale under execution.

5. Where goods are sold in execution, the bailiff shall, on the request of the execution debtor, furnish him with a detailed account in writing of the sale, and of the application of the proceeds thereof.

Stay of proceedings issued without leave after administration order.

Form 53.
c. 12:21

6. Where after a writ of execution has issued against the goods of a debtor, the debtor files in the court out of which the warrant was issued an affidavit in accordance with Form 53, stating that an order for the administration of his estate (called an administration order) has been made under the provisions of the Insolvency Act, and that the debt in respect of which the writ issued has been notified to the court in which the administration order was made, and that the judgment creditor has not obtained leave to proceed from that court, annexing to such affidavit a certificate from the Registrar of the court in which the administration order was made, and forthwith upon such affidavit being so filed, gives notice to the judgment creditor of the filing thereof, further proceedings under the execution shall be stayed.

Execution for delivery of goods.
c. 7:01

7. Where a judgment or order is for the recovery of any chattel or thing other than money, pursuant to section 24 of the Summary Jurisdiction (Petty Debt) Act, the court or a magistrate may, upon the c. 7:01 application of the plaintiff, order in default of delivery that a writ shall issue for the delivery of the property, without giving the defendant the

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option of retaining the same upon payment of the value thereof, and that if the property cannot be found, and unless the court or a magistrate otherwise orders, the bailiff shall distrain the defendant by all his goods and chattels till the defendant delivers the property; or at the option of the plaintiff, that the bailiff shall cause to be made of the defendant's goods the assessed value, if any, of the chattel or thing.

Penalty for
disobeying
order of the
court or a
magistrate for
delivery of
goods.

Writs of
delivery.
Form 54.
Form 55.
Form 56.
Form 57.

Application for
leave to issue
process on
change of
parties after
judgment, etc.

8. The defendant shall obey every order of the court for the delivery of the chattel or thing recovered in an action, and in default of compliance therewith shall be guilty of an offence and on conviction under the Summary Jurisdiction Acts shall be liable to a fine of seventy-five dollars.

9. Writs of delivery shall be in Forms 54,55,56, and 57; and when a writ of delivery is issued, the plaintiff shall, either by the same writ or a separate writ of execution, be entitled to have made of the defendant's goods, any damages and costs awarded.

10. (1) Where any change has taken place after judgment, by death, assignment, insolvency, or otherwise, in the parties entitled to take proceedings to enforce a judgment or order, or in the parties liable to such proceedings, the person alleging himself to be entitled to enforce the judgment or order may apply to the court or a magistrate in the district in which the judgment was given for leave to issue execution accordingly.

(2) If satisfied that the party so applying is entitled to issue execution, the court or a magistrate may 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 and determined in the ordinary way in which any question in an action may be tried and determined, and in either case the court or a magistrate may impose such terms as to costs or

otherwise as shall be just.

Form 58.
Form 59.

(3) Application for leave to issue execution under this rule shall be made in one of the Forms 58 and 59, with the necessary variations, and shall be supported by an affidavit of facts made by or on behalf of the party applying—

- (a) stating the date of the judgment, the amount of the original debt, and the amount still remaining due;
- (b) showing that the applicant is entitled to issue execution, that is, that there has been no change of parties or devolution of interest, or if any such, the precise nature of it;
- (c) setting out the ground of the liability of the person against whom it is desired to issue execution.

(4) Where a judgment creditor has died or has become an insolvent, or there has been an assignment of a judgment debt, the application shall be made *ex parte*, and notice of any order thereon served on the party liable to the proceedings; but where a judgment debtor has died, notice of the application shall be served on the legal personal representative of the deceased judgment debtor who shall be entitled to be heard thereon.

Deceased's
property
bound by
execution.

c. 12:01

11. Execution issued by leave under rule 10 hereof against the legal personal representative of a deceased judgment debtor shall bind all the property and estate which by law devolved upon and vested in such personal representative by virtue of his office, and may be levied against such property and estate, subject to the Deceased Persons Estates' Act, in the same manner and to the same

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Landlord's
claim.
c. 7:01
Form 60.

extent as c. 12:01 if the deceased judgment debtor were alive.

12. (1) The claim of a landlord under section 50 (2) of the Summary Jurisdiction (Petty Debt) Act to any rent shall be in Form 60.

(2) Notice of the landlord's claim shall be served by the bailiff on the execution creditor and the execution debtor.

Debtor's
interest in
lease.
c. 7:01

13. (1) When it is desired to sell the right, title, and interest in and to the land comprised within a lease existing in favour of the owner of a house or other building on leased land pursuant to section 50 of the Summary Jurisdiction (Petty Debt) Act, the execution creditor shall supply the bailiff with a general description and particulars of the right, title, and interest of the execution debtor under that lease so as to show the residue of the term then unexpired in favour of the defendant, the parcels affected, the rent reserved, and the other terms of the said lease.

(2) Where the execution creditor is unable from want of knowledge of the facts affecting any lease to supply the general description and particulars of the right, title, and interest of the execution debtor, he shall after causing the house or building to be seized and taken in execution apply for the issue of a summons out of the court requiring the execution debtor to appear before the court or a magistrate to be examined on oath concerning his right, title, and interest in and to the land on which the house or other building of the execution debtor stands. The application shall be made in the proceedings in which the writ of execution was issued by filing a statement of the facts, and a copy of that statement shall be annexed to a summons which shall be served on the execution debtor in the same manner in which a summons in an ordinary action is served. The general description and particulars of the execution debtor's right, title, and interest obtained from such examination shall be added to the

description of the house or other building and included in any advertisement of sale thereof.

(3) The summons shall require the execution debtor to appear to give evidence and to produce all deeds, contracts, letters, and other documents and papers in the possession of the execution debtor relating to his right, title, and interest in the land affected, and in default of so doing, the execution debtor shall be guilty of an offence in respect of his disobedience to every such summons to appear and give evidence and produce documents and upon conviction under the Summary Jurisdiction Acts shall be liable to a fine of seventy-five dollars.

c. 7:01

(4) Any other person may be summoned as a witness to give evidence and to produce documents at the hearing of any such application in manner prescribed by section 15 of the Summary Jurisdiction (Petty Debt) Act.

(5) The costs of any proceedings under this rule shall be added to the costs of the execution.

Garnishee
proceedings.

c. 7:01

14. (1) Where a judgment creditor who has obtained a judgment or order for the recovery or payment of money has procured the issue of a writ of execution for enforcing such judgment or order and desires the bailiff under section 44 (c) of the Summary Jurisdiction (Petty Debt) Act to attach any salary, wages, or other sum of money due to the judgment debtor, he shall deliver to the bailiff an affidavit stating that the judgment has been recovered or an order made, and that it is still unsatisfied, and to what amount, and that any other person in Guyana (hereinafter called the garnishee) is indebted to the judgment debtor in respect of any salary, wages, or other sum of money, giving particulars of the garnishee's indebtedness to the judgment debtor.

(2) The bailiff upon receipt of such affidavit shall

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endorse thereon an application to the court or a magistrate for a summons to be served upon the garnishee and the judgment debtor requiring them to appear before the court or a magistrate to show cause why the garnishee should not pay to the bailiff the debt due from him to such judgment debtor, or so much thereof as may be sufficient to satisfy the judgment or order, together with the costs of the garnishee proceedings.

(3) Service of the summons upon the garnishee shall bind such salary, wages or other sum of money in the garnishee's hands.

(4) A copy of the affidavit shall be attached to the summons so issued and on payment of the proper fees for service the summons shall be served upon the garnishee and the judgment debtor, and the proceedings shall continue in the same manner as if a plaint attached to the summons had been served upon defendants in any ordinary action.

(5) The provisions of sections 15 to 22 (inclusive) of the c. 7:01 Summary Jurisdiction (Petty Debt) Act shall, *mutatis mutandis*, apply to garnishee proceedings.

c. 7:01

Discretion to withhold attachment in case of hardship.

15. Subject to the provisions of any written law exempting the salary, wages, or other sum of money due to a judgment debtor from attachment, the court or a magistrate may, in its or his discretion, determine whether any salary, wages, or other sum of money due by a garnishee to a judgment debtor, and what amount thereof, ought to be attached by the bailiff and in every case the court or a magistrate shall take into consideration any hardship which will be caused to a judgment debtor and his family by the attachment of his salary, wages, or other sum of money due to him by the garnishee.

Mode of enforcing payment by

16. An order that any salary, wages, or other sum of money due by the garnishee to the judgment debtor shall be endorsed on the writ of execution issued against the judgment

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garnishee.

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debtor and under such endorsed writ of execution the bailiff may seize and take any movable property belonging to the garnishee which might have been seized and taken if the writ of execution had been originally issued against him, and the said endorsed writ of execution shall for all purposes of the Summary Jurisdiction (Petty Debt) Act be deemed to be a writ of execution issued against the garnishee for the sum of money directed by the order to be paid by the garnishee.

Discharge of
garnishee.

17. Payment by the garnishee of a sum of money under an order that any salary, wages, or other sum of money due to a judgment debtor shall be attached shall have the effect of discharging the indebtedness of the garnishee to the judgment debtor *pro tanto*.

Payment into
court.

18. The garnishee may pay into court any salary, wages, or other payment sum of money due from him to the judgment debtor at any time after the receipt of the summons mentioned in rule 14 of this Part and in such case he shall not be liable to pay any of the costs of the proceedings.

Costs of
garnishee
proceedings.

19. The costs of any application for attachment of any salary, or wages, or other sum of money due by a garnishee to a judgment garnishee debtor shall be in the discretion of the court or a magistrate, and all court fees and other disbursements shall be payable in the first instance by the judgment creditor.

PART XXII

INTERPLEADER

Stakeholder's
interpleader.
c. 7:01

1. (1) The application referred to in section 55 (1) of the Summary Jurisdiction (Petty Debt) Act shall be intituled

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in the action and shall state therein —

- (a) the name, address, and occupation of the third party who has sued or is expected to sue him in respect of the subject-matter of the action;
- (b) that he (the defendant) does not claim any interest in the subject-matter of the action but that the right thereto belongs to that third party;
- (c) that he (the defendant) does not collude with that third party;
- (d) that he is willing to pay or transfer the subject-matter into court or to dispose of it as the court or a magistrate may direct;
- (e) the facts (with necessary dates and other particulars) upon which he alleges that the third party acquired the right to the subject-matter of the action;
- (f) all such other matters as the defendant would have been bound to state in his plaint if he were a plaintiff in an action.

(2) Such application shall be in Form 61 with the necessary variations.

Application a
plaint.
c. 7:01

2. The application shall be deemed a plaint under section 8 of the Summary Jurisdiction (Petty Debt) Act and these Rules and all rules applicable to the plaint in an

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ordinary action shall apply thereto and a copy thereof shall be attached to the summons to the third party which shall be served as an ordinary summons.

The feigned issue between the parties.

3. On the appearance of the third party in court he shall state whether he has any interest in the subject-matter of the original action, and, if so, the nature and particulars thereof, and the court shall frame the feigned issue between the third party as plaintiff and the defendant in the original action as defendant and proceed in a summary way to hear and determine the action.

Bailiff's interpleader.
c. 7:01
Form 62.

Form 63.

c. 7:01

4. (1) The claim to any movable property taken in execution under section 56 of the Summary Jurisdiction (Petty Debt) Act shall be in Form 62 and may be made at any time before the sale of the property seized. It shall be lodged with the bailiff, and notice thereof in Form 63 shall be served by the bailiff upon the party on whose behalf the writ was issued.

(2) Within seven days after compliance by the claimant with section 57 of the Summary Jurisdiction (Petty Debt) Act, the bailiff or the party on whose behalf the writ was issued, shall apply to the court for the issue of a summons pursuant to section 56 (2) thereof.

Notice by execution creditor of admission of claim or to

(3) The claim shall be deemed a plaint under section 8 of the Summary Jurisdiction (Petty Debt) Act and these Rules, and all rules applicable to the plaint in an ordinary action shall apply thereto and a copy thereof shall be attached to the summons to the party making the claim and the party on whose behalf the writ of execution was issued.

5. (1) If within four days after receiving the notice mentioned in paragraph (1) of the last preceding rule the party on whose behalf the writ was issued gives notice to the bailiff that he admits the title of the claimant to the goods and

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withdraw from possession.

chattels, or in writing requests the bailiff to withdraw from possession, he shall only be liable to pay the bailiff any fees and expenses incurred by the bailiff prior to the receipt of such notice and remaining unpaid and the magistrate may, if he thinks fit, on application by the bailiff in a summary manner make an order for payment of any such fees or expenses by the person on whose behalf the writ was issued to the bailiff. Any such application shall be made upon three clear days' notice in writing to the execution creditor of the intention of the bailiff to make such application.

(2) The court or a magistrate shall adjudicate upon the claim of the bailiff for fees or expenses and may make such order therein as he may think fit, and an order to pay fees and expenses to the bailiff may be enforced against the party on whose behalf the writ was issued as if it were a judgment in an ordinary action.

(3) Nothing in these Rules shall be construed as depriving the claimant of any right of action for trespass to goods or otherwise which he may be entitled to, or as depriving the bailiff of the right to demand prepayment of fees and expenses.

Execution creditor's admission of claimant's title.

6. Where the execution creditor gives notice in due time to the bailiff, as directed by rule 5 of this Part that he admits the title of claimant to the goods and chattels, or requests the bailiff to withdraw from possession, the bailiff may thereupon withdraw from possession.

The nature of the claim in certain events.

7. Where the claimant has deposited the value of the amount of the goods claimed, or has given security for the value of the goods claimed in the manner prescribed by rule 9 of this Part, or where the goods have been sold and the proceeds are in the hands of the bailiff, the claim shall be for a declaration that the goods seized were at the time of the seizure thereof the property of the claimant and shall also

pray that the amount deposited, or the proceeds in the hands of the bailiff be paid out to the claimant, or that the bond in security for the value of the goods be declared void as the case may be.

Claim for damages may be made.

8. The claimant may include in his claim a demand for such damages not exceeding the sum of \$500 as he may be entitled to for trespass.

This security for the value of the goods.
Form 64.

9. The manner of giving security for the value of the goods claimed shall be by bond in favour of the party on whose behalf the writ was issued and the bond shall be in Form 64 and shall be approved by the magistrate.

Summary disposal of interpleader claim.

10. The court or a magistrate may, with the consent of both parties or on the request of any one party if having regard to the small value of the subject-matter in dispute it seems desirable so to do, dispose of the merits of the claim without a summons and decide the same in a summary manner and on such terms as may be just, provided that all the parties are present.

Question of law.

11. Where the determination of the interpleader depends upon a question of law, and the facts are not in dispute, the court or a magistrate may determine the matter by deciding the question of law, or may order that a special case be stated for the opinion of the court under Part XVIII.

Sale of goods claimed under bill of sale or otherwise.

12. (1) Where goods or chattels have been seized in execution under process of the court, and any claimant alleges that he is entitled to such goods or chattels under a bill of sale by way of security for a debt, or as owner or under a hire-purchase agreement or otherwise, the court or a magistrate may, upon application made either by the judgment creditor or by the claimant on notice to all parties whose interests may be affected, order a sale of the whole or part thereof, and may direct the application of the proceeds of such sale in such

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manner and upon such terms as may be just. The bailiff shall sell the goods or chattels pursuant to any such order and, after deducting the expenses of the sale, shall pay the balance into court to be applied in accordance with the order of the court.

(2) No such order for the sale of such goods shall be made upon the application of the judgment creditor otherwise than at a reserved price not being less than the sum then due to the claimant under any such bill of sale or hire-purchase agreement and the interest (if any) thereon, unless with the consent of the claimant.

Form 65.

(3) An order for sale under this rule shall be in Form 65 with such modifications as may be necessary and as the court or a magistrate shall direct.

(4) The costs of an application for sale under this rule shall be borne out of the proceeds of the sale paid into court or as between the parties to the application as the court or a magistrate shall direct.

PART XXIII

PROCEEDINGS BY AND AGAINST EXECUTORS AND ADMINISTRATORS

Costs where executor or administrator plaintiff fails.

1. In actions by executors or administrators, if the plaintiff fails, the costs shall, unless the court otherwise orders, be awarded in favour executor or of the defendant, and shall be levied *de bonis propriis*.

Non-appearance of executor or administrator

2. Where an executor or administrator, does not appear on the day of hearing, sections 19 and 20 of the appearance of Summary Jurisdiction (Petty Debt) Act shall

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plaintiff or defendant.
c. 7:01

apply respectively, subject to the rules applicable to executors or administrators suing or sued.

Form of judgment where executor or administrator defendant does not appear or appears and admits his character and plaintiff's demand.
Form 67.

3. Where a defendant sued as an executor or administrator does not appear at the hearing, or admits his representative character and the plaintiff's demand and does not deny assets, the judgment shall be that the demand and costs shall be levied *de bonis testatoris, si, etc., et si non*, as to the costs, *de bonis propriis*.

Form of judgment where executor or administrator defendant admits his character, but denies plaintiff's demand.
Form 68.

4. Where a defendant sued as executor or administrator admits his representative character, and only denies the demand, if the plaintiff proves the demand the judgment shall be that the demand and costs shall be levied *de bonis testatoris, si, etc., et si non*, as to the defendant costs, *de bonis propriis*.

Form of judgment where such a defendant admits his character, denies the demand, and alleges and administration of assets.
Form 69.

5. Where such defendant admits his representative character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves his demand, and the defendant proves the administration alleged, the judgment shall be to levy the costs of proving the demand *de bonis testatoris, si, etc., et si non, de bonis propriis*; and as to the demand, judgement of assets *quando acciderint*; and the plaintiff shall pay the defendant's costs of proving the administration of assets, unless the court otherwise orders.

Form of judgment

6. Where such defendant admits his representative

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where such a defendant admits his character, denies the demand, alleges administration and plaintiff proves the demand, etc.
Form 70.

character, but denies the demand, and alleges a total or partial administration of assets, and the plaintiff proves the demand, but the defendant does not prove the administration alleged, the judgment shall be to levy the amount of the demand, if such amount of assets is shown to have come to them, and costs, *de bonis testatoris, si, etc. et si non*, as to the costs, *de bonis propriis*, and as to the residue of the demand, if any, judgment of assets, *quando acciderint*.

Form of judgment where such a defendant admits his character and plaintiff's demand, alleges administration and proves it.
Form 71.

7. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of assets, and proves the administration alleged, the judgment shall be of assets, *quando acciderint*, and the plaintiff shall pay the defendant's costs of proving the administration of assets, unless the court otherwise orders.

Form of judgment where such a defendant admits his character and plaintiff's demand, alleges administration but fails to prove it.
Form 72.

8. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of assets, but does not prove the administration alleged, and has not established any other ground of defence, the judgment shall be to levy the amount of the demand, if such amount of assets is shown to have come to the hands of the defendant, or such amount as is shown to have come to them, and costs, *de bonis testatoris, si, etc., et si non*, as to the costs, *de bonis propriis* and as to the residue of the demand, if any, judgment of assets *quando acciderint*.

Form of judgement to levy upon assets, *quando acciderint*.
Form 66.

9. Where judgment has been given against an executor or administrator that the amount be levied upon assets of the deceased, *quando acciderint*, the plaintiff may issue a summons in Form 66; and if it appears that the assets have come to the hands of the executor or administrator since

the judgment, the court or a magistrate may order that the debt, damages, and costs be levied *de bonis testatoris, si, etc., et si non*, as to costs, *de bonis propriis*.

Executor or administrator required to pay sum of money into court in certain circumstances.

Plaintiff's costs where executor or administrator fails as to any of his defences.

Forms of judgment against executor or administrator in various circumstances.
Forms 67 to 72.
Form 73.

10. Where a defendant admits his representative character and the plaintiff's demand, and that he is chargeable with any sum in respect of assets, he shall pay such sum into court, subject to the rules relating to payment into court in other cases.

11. In actions against executors or administrators for which provision is not hereinbefore specially made, if the defendant fails as to any of his defences, the judgment shall, unless the court otherwise orders, be for the plaintiff as to his costs of disproving such defence, and such costs shall be levied *de bonis testatoris, si, etc., et si non de bonis propriis*.

12. A judgment drawn up under this Part shall be in one of the Forms 67 to 72 (inclusive) which the circumstances of the case fit, and a writ of execution against the goods and chattels which were the property of a testator or intestate in his lifetime and which came to the hands of a defendant executor or administrator to be administered, shall be in Form 73 with such variations as the circumstances of the case may require, regard being had to the foregoing rules.

PART XXIV

JUDGMENT SUMMONS

Judgment summons to be served personally.
c. 12:20

1. (1) No order of commitment under the Debtors Act shall be made unless a summons to appear and be examined on oath, hereinafter called a judgment summons, has been served upon the judgment debtor personally.

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Form 74. (2) A person requiring a judgment summons to be issued shall file a *praecipe* in Form 74, stating the full names and address of or otherwise sufficiently identifying every person against whom it is to be issued. Where the name or address of any such person as given in the *praecipe* differs from the name or address as given in the judgment or order, both descriptions shall be inserted in the judgment summons, and in the order of commitment (if any) as follows:

"C.D., of (name and address as given in the praecipe), sued as A.D., of (name and address as given in the judgment or order)."

(3) Where a judgment has been given or an order made against two or more persons, the person entitled to enforce the judgment or order may require a judgment summons to be issued against all or any one or more of the persons liable under the judgment or order.

Praecipe to be accompanied by affidavit proving facts showing prima facie ability to pay debt.

2. (1) A person filing a *praecipe* for a judgment summons shall lodge therewith an affidavit by the judgment creditor or some other person who has personal knowledge of the facts setting forth the material facts of the case, and a judgment summons shall not be issued unless the magistrate is satisfied that the evidence afforded by such affidavit, if uncontradicted, would justify the making of an order of commitment against the debtor. The affidavit shall state –

- (a) the date and amount of the judgment or order, and the court in which it was obtained, and the instalments (if any) by which it was ordered to be paid with the date of the order for payment by instalments;
- (b) the occupation, employment, or business of the judgment debtor;

- (c) whether the judgment debtor has means other than from such occupation, employment, or business;
- (d) whether the judgment debtor is unmarried or is married and has children, and if so, how many children he has and their respective ages and earning powers;
- (e) the sort of residence in which the judgment debtor lives and the apparent monthly rental thereof.

If these facts are not known it shall be stated that the deponent does not know them.

(2) A copy of the affidavit shall be annexed to the judgment summons, and served therewith.

(3) In the case of proceedings for a judgment summons against a firm or person carrying on business in any name, the affidavit required by rule 6 of this Part shall be combined with the affidavit required by this rule with such modifications as may be necessary in the circumstances of the case.

Form of
judgment
summons.
Form 75.
Form 76.

3. (1) A judgment summons shall be in such one of the Forms 75 and 76 as shall be applicable to the circumstances of the case and may be issued either by the court in which the judgment was obtained or by the court in the magisterial district in which either the judgment creditor or the judgment debtor then resides or carries on business or is employed. It shall be served not less than five clear days before the day on which the judgment debtor is required to appear.

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Form 77.

(2) A judgment summons shall be deemed to be a summons to a witness within the meaning of sections 15 and 16 of the Summary Jurisdiction (Petty Debt) Act, and a memorandum in Form 77 shall be printed at the foot of or annexed to the summons.

Mode of
serving
judgment
summons.
c. 7:01

4. (1) A judgment summons shall be served personally in the same manner in which an ordinary summons to appear is served personally under the Summary Jurisdiction (Petty Debt) Act or other statute making provision for the service of an ordinary summons.

c. 7:01

(2) If it is made to appear on oath to a court or to a magistrate that prompt personal service is for some good reason impracticable, and that delay is likely to render the application of no effect, the court or a magistrate may make such order for substituted service under section 11(2) of the Summary Jurisdiction (Petty Debt) Act or such other service as the court or a magistrate may think fit.

c. 7:01

(3) The service of a judgment summons shall, when effected out of the magisterial district for which it is issued, be proved by affidavit of the bailiff or other process-server in accordance with section 61 of the Summary Jurisdiction (Petty Debt) Act.

Time for
appeal to
expire.

5. No judgment summons shall be issued before the time for lodging an appeal against the judgment has expired.

Judgment
summons
against a firm.

6. (1) Where a judgment or order is against a firm, or against a person carrying on business in any name other than his own in such other name, and the person entitled to enforce the judgment or order desires to do so by judgment summons against any person whom he alleges to be liable under the judgment or order as a partner in or the sole member of the firm, or as the person carrying on business in

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such other name as aforesaid, he shall file an affidavit, together with a copy thereof, in such one of the Forms 78 and 79 as shall be applicable, directed to the person alleged to be liable as aforesaid, and a certified copy of the said affidavit shall be annexed to such judgment summons and served therewith.

Form 78. (2) The judgment summons under this rule shall be in Form 80.

Form 79. (3) If such person does not appear on the return day of the judgment summons, he shall be deemed to admit his liability as a partner in or the sole member of the firm, or as the person carrying on business in such other name as aforesaid, to pay the amount due and payable under the judgment or order. But if such person appears and denies liability, the court may decide the question to be tried and determined in an action to be commenced by plaint and summons in the ordinary way.

Judgment summons issuing out of court other than that in which judgment was obtained.
Form 81.

7. Where a judgment creditor desires to apply for a judgment summons to a court other than the court in which the judgment or order was obtained, he shall obtain from the clerk of the court in which the judgment or order was obtained, a certificate of the judgment or order in the action and of every order for the payment thereof by instalments in Form 81 and enter the same with his application. The certificate shall state the date on which the last payment into court (if any) has been made.

Procedure in case of proceedings in court other than court in which judgment obtained.
Form 81.

8. (1) A party desiring to apply for a judgment summons to a court other than the court in which the judgment or order was obtained shall deliver or cause to be delivered to the clerk of the court to which he is applying –

(a) a certificate in Form 81 of the judgment or order which it is sought

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to enforce by judgment summons, and of every order for the payment by instalments made against the judgment debtor on the original judgment or order;

- (b) a *praecipe* in accordance with rule 1 (2) of this Part and the necessary affidavits in support and the copies thereof for service;
- (c) the fees payable upon the issue of judgment summons; and
- (d) in case delivery is made to the clerk by post, an envelope addressed to himself with sufficient postage stamps thereon.

(2) Upon the receipt of the above the clerk shall file the documents and a judgment summons shall be issued, and thereafter the proceedings shall continue as if the judgment summons had been issued by the court in which the judgment or order was obtained.

(3) The clerk shall forward in the addressed envelope the plaint note of the issue of the summons showing the date of issue and of the day on which the summons is to be heard.

Memorandum
of result to be
sent to court in
which
judgment
obtained.

9. Where a judgment summons is heard in a magistrate's court other than that in which the judgment or order was obtained, a memorandum of the result of such hearing shall be sent by the clerk to the clerk of the court in which the judgment or order was obtained, and shall be filed by such last-mentioned clerk in the proper jacket.

Witnesses and
their expenses.

10. (1) Witnesses may be summoned to prove the means of a judgment debtor in the same manner as witnesses are summoned to give evidence upon the hearing of a plaint; and the expenses of any person examined, whether summoned or not, may, subject to these rules, be allowed in accordance with the Schedule to the Act.

(2) Where the judgment debtor does not appear at the hearing, or pays into court the amount in payment of which he has made default, expenses paid to him with the judgment summons, or with a summons to appear as a witness, may, if the court or a magistrate so directs, be allowed as expenses of a witness.

(3) Where the judgment debtor appears at the hearing, expenses so paid to him or lodged for him with the clerk, may, if the court or the magistrate so directs and subject to rule 11 of this Part, be allowed as expenses of a witness in any case in which the costs of witnesses may be allowed under these Rules:

Provided that if the judgment debtor appears at the hearing and an order of commitment is not made, the court or a magistrate may allow to the judgment debtor his proper costs (including an allowance for loss of time) as upon attendance by a defendant at a hearing in court, and any such expenses lodged or costs allowed to the judgment debtor may be set-off against the debt due by the judgment creditor.

Orders which
may be made.

c. 6:04

11. (1) If on the hearing of a judgment summons the court is of the opinion that an order of commitment ought not to be made, the court may refuse to make any order, or may for the purposes of section 4 of the Debtor's Act make a fresh order for payment of the amount remaining due and unpaid under the judgement or order, either at a specified time or by instalments, but in such case no costs shall be allowed the judgment creditor.

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(2) If an order is made for payment of the debt or any unpaid portion thereof by instalments, or at a specified time an application to commit the judgment debtor to prison may thereafter be made for default in payment either of the whole debt or of any instalment thereof so ordered to be paid.

Proof of means
to pay
instalment.

12. An order for commitment on an application under paragraph (2) of the last preceding rule shall not be made for default in payment of the whole debt or an instalment or instalments of a debt unless the judgment creditor satisfies the court that since the order to pay the debt at a specified time or by instalments the judgment debtor has or has had the means to pay the whole debt or the instalment or instalments in respect whereof he has made default.

Suspending
the order of
commitment.

13. (1) If any order of commitment is made, the court or a magistrate may direct the execution of the warrant to be suspended to enable the debtor to pay into court by instalments or otherwise the amount in respect of the non-payment of which the order was made.

Form 82.
Form 83.

(2) A warrant of commitment shall be in such one of Forms 82 and 83 as shall be applicable to the circumstances of the case.

Date, duration
and extension
of warrant of
commitment.

14. A warrant of commitment shall, on whatever day it may be issued from the clerk's office, bear the date of the day on which the order of commitment was made, and shall, if unexecuted, remain in force for one year only from and exclusive of such date, unless renewed in manner hereinafter provided; but the court or a magistrate may at any time before or after the expiration of such year, extend the time within which the warrant may be executed for any time not exceeding one year from the date on which it would otherwise have ceased to be in force. Any extension of a warrant of commitment shall be endorsed on the order of

commitment as follows:

“The time during which this warrant is to remain in force was on the day of extended by leave of the Court for from the day of “

Magistrate.

All costs to accumulate.

15. The costs awarded by the court to the judgment creditor in any judgment summons proceeding shall be added to the amount of the judgment and costs then enforceable against the judgment debtor and subsequent proceedings may be taken by judgment summons to enforce payment of the judgment and all such accumulated costs.

Fee to counsel.

16. Subject to any provisions made under the Act for allowing a fee to counsel on an application for an order of commitment, the court or a magistrate may allow in addition to any other costs properly incurred by the judgment creditor, a fee in respect of the appearance of counsel in accordance with the Schedule to the Act.

Payment to bailiff before delivery into custody.

17. (1) Where a warrant of commitment has been issued against a judgment debtor, he may at any time before he is delivered into the custody of the keeper of a prison pay the bailiff having the warrant of commitment the full amount endorsed thereon as payable to ensure his discharge, and the bailiff on receipt of such amount shall forthwith discharge the judgment debtor and deliver the amount so paid together with the warrant to the clerk.

(2) All costs lawfully incurred by the judgment creditor in enforcing an order shall, unless the court otherwise orders, be deemed to be due in pursuance of the order.

Payment to gaoler after delivery into

18. Where a judgment debtor is in the custody of any gaoler under a warrant of commitment, he may pay to the

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custody.

gaoler the full amount endorsed on the warrant as that payable to ensure the discharge of the judgment debtor from such custody, and on receipt of that amount and all costs incurred in enforcing the order, the gaoler shall discharge the judgment debtor and transmit the amount received and a certificate of such payment and discharge to the clerk.

Judgment debtor made insolvent after proceedings taken by judgment summons.
Form 53.

19. (1) Where before or during the hearing of a judgment summons or after the making of an order of commitment against a judgment debtor, or while a judgment debtor is in custody under a warrant of commitment, the judgment debtor satisfies the court or a magistrate that a receiving order has been made for the protection of his estate, or that he has been adjudicated an insolvent and that the debt in respect of which the judgment summons was issued or the order of commitment made is provable in insolvency, or that if a writ of execution had been issued against the goods of the debtor he would have been entitled to a stay of execution under rule 6 of Part XXI, no order of commitment shall be made, and if made, no warrant of commitment shall be issued, and if issued and not executed it shall be recalled, and if the judgment debtor is in custody he shall be discharged out of custody upon an order of the court or a magistrate.

(2) Notice of any such proceeding shall be given to the judgment creditor.

PART XXV

CLAIM FOR RENT, REPLEVIN, AND THE RECOVERY OF TENEMENTS

Landlord's
claim for rent.
c. 61:01
Form 84.

1. The claim for rent under section 22 of the Landlord and Tenant Act shall be in Form 84 and the particulars of the claim therein set out shall include –

- (a) the name, address, and occupation of the landlord and the tenant;
- (b) the situation of the premises or lands;
- (c) the nature of the tenancy, the amount of the rent, the time at which the same is payable and whether the tenancy was created verbally or in writing;
- (d) the term or terms in respect of which rent is alleged to be in arrear or due;
- (e) the sum actually in arrears and the date at which it fell in arrears.

Replevy
proceedings.
c. 61:01
Form 85.
Form 86.

2. (1) The notice of replevy and the recognisance referred to in section 27 of the Landlord and Tenant Act shall be respectively in Forms 85 and 86.

Form 87.

(2) In case a recognisance is entered into for the due and effective prosecution of the action, it shall be approved by the magistrate.

(3) The bailiff shall forthwith give notice to the distrainer in Form 87 of the preliminary proceedings taken by the tenant or owner of goods distrained, and within seven days after compliance by the replevisor with section 27 (2) of the said Act he shall commence proceedings by plaint in the usual form against the landlord claiming a declaration either that no rent was in arrear or due from the tenant to the landlord at the time of the seizure of the goods or that the goods seized were otherwise wrongfully distrained, and the court may assess any damages to which the replevisor may be entitled in respect of the wrongful distraint if proved.

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(4) The plaintiff shall specify and describe in the particulars the several goods and chattels taken and the restraint of which the replevisor complains, the expenses of the levy, the special damage (if any) suffered by the replevisor and all the other particulars required by rule 1 of Part V and the action of replevin shall be tried in the same manner as other actions.

Satisfaction of
judgment
where rent and
deposit for
security made.

c. 61:01

3. When the amount of rent alleged to be due and the sum of five dollars as security for costs have been deposited, the court shall order the amount to be refunded to the replevisor in case he shall succeed in his action, and if the defendant shall succeed in the action the court shall order any judgment and costs awarded pursuant to section 27 (4) of the Landlord and Tenant Act to be satisfied out of the sum so deposited. Any balance of the amount deposited remaining after payment of the defendant's judgment and costs shall be paid out to the replevisor.

Satisfaction of
judgment
where
recognisance
entered into.

c. 61:01

4. When a recognisance is entered into in lieu of deposit, the bailiff shall deliver the same to the clerk for preservation. If the replevisor succeeds in the action the recognisance shall be re-delivered to him by the clerk. If the defendant succeed in the action, the court or a magistrate shall order either at the time of giving judgment or at any time thereafter that the recognisance be estreated and that the replevisor and his surety jointly and severally pay to the defendant the amount of any judgment and costs awarded pursuant to section 27 (4) of the Landlord and Tenant Act. An order of the court or a magistrate that a specific sum be recovered by the defendant from the replevisor or his surety shall be deemed a judgment of the court as well against the surety as against the replevisor and shall be enforced by a writ of execution as in the case of an ordinary judgment against either the replevisor or his surety or both of them.

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Safeguarding
tenants'
growing crops.
c. 61:01

5. Where under section 46 (2) of the Landlord and Tenant Act possession is claimed of a tenement consisting of land, the complaint shall state whether there are growing crops thereon which have been planted by the tenant or by any one from whom he derives his interest, and the estimated value of such crops.

PART XXVI

SECURITY

Security by
bond, etc.

1. Where a party proposes to give a bond or recognisance by way of security, he shall serve, by post or otherwise, on the opposite party and the clerk at his office, notice of the proposed sureties in Form 88; and the clerk shall notify both parties of the day and hour on which the magistrate will hear the objections, if any, to the proposed surety.

Affidavit of
sufficiency.

Form 89.

2. The magistrate may require the party proposing to give the bond or recognisance and/or his surety to make an affidavit of their sufficiency in Form 89, unless the opposite party in writing dispenses with such affidavit.

Execution of
bond.

3. The bond or recognisance shall be executed in the presence of the magistrate or the clerk.

Deposit in lieu
of bond, etc.

4. Where a party makes a deposit of money in lieu of giving a bond or recognisance, he shall forthwith give notice to the opposite party, by post or otherwise, of such deposit having been made.

Bond to be
deposited.

5. In all cases where the security is by bond or recognisance, the bond or recognisance shall be given in favour of the party or persons in whose interest the security

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required, but the bond or recognisance shall be deposited with the clerk until the action is finally disposed of.

Disposal of
bond

6. The clerk shall deal with the bond or recognisance so deposited in such manner as the court or a magistrate may direct.

PART XXVII

GENERAL AND MISCELLANEOUS PROVISIONS

Fugee warrant.
c. 7:01
Form 90.

1. (1) A warrant for the apprehension of a defendant issued under section 14 of the Summary Jurisdiction (Petty Debt) Act shall be in Form 90 with such variations as the circumstances may require and shall be made upon affidavit and *ex parte*.

Form 91.

(2) The affidavit shall be in Form 91, and shall disclose –

- (a) Whether the defendant ordinarily resides in Guyana;
- (b) the cause of action, the amount claimed, and the jurisdiction of the court to entertain proceedings to recover the same;
- (c) the facts from which probable cause for believing that the defendant is about to quit Guyana unless he is apprehended may be inferred, and the date when such facts came to the knowledge of the deponent;
- (d) whether the defendant has any

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Authority to
represent
parties.
c. 7:01
Form 92.

Reference of
account to
clerk.
c. 7:01

Imposition of
fine for non-
appearance,
etc., of witness.
c. 7:01

Form 93.

property, movable or immovable in Guyana;

- (e) the place of the defendant's residence and the place and nature of the defendant's employment.

2. The authority in writing to appear and represent a plaintiff or defendant at the hearing of an action or matter pursuant to section 18 of the Summary Jurisdiction (Petty Debt) Act shall be in Form 92.

3. Upon reference by the court or a magistrate of any matter of account to the clerk under section 25 of the Summary Jurisdiction (Petty Debt) Act, the clerk shall report upon the matter referred to him within seven days or such enlargement of that period as the court or a magistrate may grant. The matter of account shall be set forth in proper form in the report which shall show the result which the order of reference shall direct to be shown therein.

4. With respect to an order made under section 16 (1) of the Summary Jurisdiction (Petty Debt) Act imposing a fine for refusal or neglect of any person to do any one or more of the several acts or things therein specified, the following provisions shall apply –

- (a) The order shall be made in Form 93.

- (b) Payment for the fine thereby imposed may be enforced by a writ of execution in like manner as a judgment of the court is enforceable under section 37 of the said Act.

- (c) In default or in lieu of recovery under a writ of execution the fine may be

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c. 10:02

enforced by imprisonment of such person for any period not exceeding the period which under section 38 of the Summary Jurisdiction (Procedure) Act may be imposed in respect of default of payment of a fine adjudged to be paid on summary conviction.

- (d) Where the person summoned refuses or neglects to appear and give evidence, the clerk shall, before the court or a magistrate imposes the fine, give a written notice to the person summoned requiring him to show cause in person before the court or a magistrate on a day to be named therein why a fine shall not be imposed on him, and if the said person does not appear before the court on that day, the court or a magistrate may proceed *ex parte* and impose such fine as it or he thinks fit. On appearance of such person the court or a magistrate may, after considering the cause (if any) shown, make such order either imposing a fine upon or excusing the person summoned for his neglect or refusal as it or he may think fit in the circumstances.
- (e) In any other case of refusal or neglect within the provisions of section 16 (1), the court or a magistrate may impose the fine without further notice to the person refusing or neglecting to do the act or thing mentioned in the said

Committal for
contempt of
court.
Form 94.

Applications
for issue of
process to be in
writing.

The process to
be prepared by
party requiring
it.

subsection.

5. An order committing a person to prison or imposing a fine for any offence mentioned in section 64 of the Act shall be in Form 94, and the warrant of commitment in default of payment of any fine so imposed shall be in the appropriate form prescribed for the like purpose by the Summary Jurisdiction Acts.

6. (1) Every application for the issue of any process out of the court shall be in writing signed by the person entitled to such process.

(2) Every person who delivers or files with the clerk any document to lead to the issue of process out of the court shall at the same time deliver or file therewith a sufficient number of copies of the process correctly prepared for issue, and where service thereof is to be effected on other persons, the necessary copies for the return of service.

(3) "Document to lead to the issue of process" includes a plaint, *praecipe* for a witness summons, *praecipe* for a writ of execution or a warrant of delivery or a landlord's claim for distress for rent in arrears, or for possession, *praecipe* for issue of judgment summons or warrant of commitment, and every other document upon the filing or lodging of which with the clerk a process is to issue out of the court.

(4) Forms of the appropriate process to be issued shall be obtained from the clerk and the person requiring the same shall pay therefor the fee prescribed in the Schedule to the Act.

(5) When the document to lead to the issue of process is not prepared by counsel, the appropriate process shall be prepared by the clerk.

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Party may act
by counsel or
agent.

7. (1) Where by these Rules any act may be done by any party such act may be done either in person or by his counsel, or by an agent where it can legally be done by a counsel or an agent.

Address for
service.

(2) Where any party sues or defends by a legal practitioner the plaint and particulars of defence and other documents shall be signed by the legal practitioner in his own name and he shall state thereon his place of business which shall be deemed that party's address for service in accordance with these Rules, where service is not required to be effected personally on the party to be served.

Service of
interlocutory
proceedings.

(3) Except where personal service upon a party is required, service of any notice, order, document, or other proceeding between the entering of the plaint and final judgment in any matter may be made by delivering such notice, order, document, or other proceeding to the counsel acting for a party, or by leaving the same at the address for service with some other person ordinarily employed at such address and explaining to him the nature and import thereof.

Alternative
service on
party.

8. Any notice, proceeding, or document required by any Act or by these Rules to be served on any party, and as to which no mode of service is prescribed by that Act or by these Rules, may also be served by delivering the same to the person on whom it is to be served, or at the residence or place of business of such party, or by leaving the same with some other person at the last or most usual place of abode of that party and explaining in the last-mentioned case to that other person the nature and import of the document and requesting him to deliver it to the party to be served therewith without delay.

Enlargement of
time prescribed
by the rules.

9. (1) Subject to these Rules, parties may by consent enlarge or abridge any of the times fixed by these Rules for taking any step or filing any document, or giving any notice in

any action or matter. Where such consent cannot be obtained, either party may apply to the court or a magistrate, on notice to the non-consenting party, for an order to effect the object sought to have been obtained with the consent of such party, and such order may be made although the application for the order is not made until after the expiration of the time allowed or appointed, and on such terms as to costs or otherwise, as the court may direct.

(2) Nothing in this rule shall authorize the enlargement or abridgement of any time fixed by an order of the court or a magistrate for any purpose whatsoever.

Furnishing copies of documents.

10. Subject to the provisions of these Rules as to the entry of the plaint or the delivery of particulars or other documents to the clerk in those cases in which any documents are directed to be entered or delivered to the clerk, the party required to enter or deliver the same shall hand in as many copies as there are parties to be served (including copies necessary for the return of service) with the names, addresses, and occupations, or descriptions of such parties, and where so required by any of these Rules or by the court or a magistrate, an additional copy for the use of the court.

Notices to be in writing.

11. All notices required by these Rules shall be in writing, unless expressly authorized by these Rules or by the court to be given orally.

Proceedings to be in proper form.

12. All proceedings and documents shall be in forms similar to the forms in the Appendix, where the same are applicable, and in cases where such forms are not applicable or where no forms are provided, parties shall frame the proceedings or documents, using as guides the forms ordinarily used under the County Court Rules, 1888 – 1936, in England.

Alleging notice of any fact, etc.

13. Where it is material to allege notice to any person

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

Lost documents.

14. In the event of any warrant, order, or other document issued by the court being lost or destroyed, a duplicate thereof may be issued from time to time upon proof to the satisfaction of the magistrate of such loss or destruction.

Proceedings *in rem*.

15. Where under any law any plantation, lot of land or building is proceeded against, the plaintiff may proceed against the proprietor or representative thereof without naming the proprietor or representative.

Non-compliance with rules.

16. 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 shall so direct, but such proceedings may be set aside either wholly or in part as irregular, or may be amended or otherwise dealt with in such manner and upon such terms as the court or a magistrate may think fit.

Application to set aside proceedings.

17. Application to set aside proceedings for irregularity may be made to the court or a magistrate, but shall not be allowed unless made within a reasonable time or if the party applying has taken any fresh step after knowledge of the irregularity.

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APPENDIX

Part II, r.8

FORM 1

Guyana

NOTICE TO PERSONS ON WHOSE BEHALF DEFENDANT HAS OBTAINED LEAVE TO DEFEND

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

Take notice, that the above-named defendant has obtained an order, a copy of the summons in the above action is served herewith, for leave to defend the above action on your behalf or for your benefit as well as on his own behalf. You may, if you think fit, object at the trial to the defendant defending on behalf of all or any of such persons. The affidavit on which the above-mentioned order was made is filed at the office of the Court and may be inspected by you.

Dated this.....day of.....20.....

(*Signed*).....

Clerk of the Court

To E.F. of.....

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part II, r.8

FORM 2

Guyana

**NOTICE TO PLAINTIFF THAT DEFENDANT DEFENDS ON
BEHALF OF OTHERS**

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
versus
C.D. of....., Defendant

Take notice, that the above-named defendant has obtained an order for leave to defend the above action on behalf of or for the benefit of (state names of persons as in order), as well as on his own behalf. You may, if you think fit, object at the trial to the defendant defending on behalf of all or any of such persons. The affidavit on which the above-mentioned order was made is filed at the office of the Court and may be inspected by you.

Dated this.....day of.....20.....

(Signed).....

Clerk of the Court

To the above-named plaintiff.

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Summary Jurisdiction (Civil Procedure) Rules

Part IV, r.6

FORM 3

Guyana

**UNDERTAKING BY NEXT FRIEND OF INFANT TO BE
RESPONSIBLE FOR DEFENDANTS COSTS**

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

I, the undersigned E.F., of....., being the next
friend of A.B., who is an infant, and who is desirous of
entering a plaint in this Court against C.D. of.....hereby
undertake to be responsible for the costs of the said C.D. in
such action, in the manner following:

namely, if the said A.B. fail to pay to the said C.D., when and
in such manner as the Court shall order, all such costs of such
action as the Court shall direct him to pay to the said C.D., I
will forthwith pay the same to the said.....

Dated this.....day of.....20.....

(Signed) F.E.

Attested by me.....

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Clerk
or
A notary public
or
A commissioner for oaths
or
A justice of the peace,

to whom the said E.F. is personally known.

FORM 4

Part V, r.13

Guyana

UNDERTAKING BY COUNSEL TO BE RESPONSIBLE FOR COSTS

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

As Counsel for the above-named plaintiff, I hereby
undertake to be personally responsible for any costs which the
said plaintiff may be ordered to pay to the defendant in this
action.

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Dated this.....day of.....20.....

(Signed).....

Counsel for the Plaintiff

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Summary Jurisdiction (Civil Procedure) Rules

Part VI, r.1

No.	FORM 5A RECEIPT	
	SCHEDULE	
	1. Complaint of Plaintiff.....	Date of hearing..... 20.....
	2. Witness Summons
	3. Writ	versus
	4.Warrant	Received the sum of..... dollars..... cents for the purpose set out in the attached Schedule.
	5. Affidavit for proving process
	6. Copy of document of proceedings
	7. * Clerk of the Court
	N.B. – The public are requested to present this voucher when any information is required relative to the case mentioned thereon. It is of importance that the date of hearing, which means the return day for all proceedings should be inserted in this form.	

* other matters

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Summary Jurisdiction (Civil Procedure) Rules

Part VI, r.1

FORM 5B

RECEIPT

Georgetown Magisterial District

B.

Date of Hearing..... Nature of Process.....

The Amount Printed Below Has Been Paid

A.

Date	Receipt No.	Case No.	Amount
------	-------------	----------	--------

Georgetown Magisterial District

Date of Hearing..... Nature of Process.....

Part VI, r.2

FORM 6

Summary Jurisdiction (Petty Debt) Act, Chapter 7:01

Guyana

SUMMONS TO DEFENDANT

In the.....Magistrate's Court.

CIVIL JURISDICTION

Plaint No.

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

....., Plaintiff
versus
....., Defendant

To.....of.....

You are hereby summoned to be and appear at.....
o'clock,.....m., on.....day, the.....day of.....
.....20....., at.....before the said Court, to
answer in an action brought against you by.....a copy
of whose claim is hereto annexed; and take notice that in
default of your so doing, the said.....may proceed to
judgment and execution against you.

Dated this.....day of.....20.....

(Signed).....
Magistrate

.....Magisterial District

Part VII, r.1(1)

FORM 7

AFFIDAVIT ON APPLICATION ON BEHALF OF INFANT OR PERSON OF UNSOUND MIND FOR APPOINTMENT OF GUARDIAN *AD LITEM*

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

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Summary Jurisdiction (Civil Procedure) Rules

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

I,of....., make oath and say as follows –

1. The summons in this action (or matter) was served on the defendant C.D., on the.....day of.....20.....
2. The defendant C.D., is an infant (or a person of unsound mind not so found by inquisition).
3. E.F., of.....is a fit and proper person to act as guardian *ad litem* of the above-named defendant C.D., and has no interest in the matters in question in this action (or matter) adverse to that of the defendant, C.D., and the consent of the said E.F. to act as such guardian is hereto annexed.

Sworn, etc.

FORM OF CONSENT TO BE ANNEXED TO AFFIDAVIT

I, E.F., of....., consent to act as guardian *ad litem* of C.D., an infant (or person of unsound mind not so found by inquisition) a defendant in this action (or matter) and I authorize M.....to defend this action (or matter).

.....
Signature of Guardian

ORDER APPOINTING GUARDIAN *ad litem*

In the Magistrate's Court of the.....Magisterial District holden at.....

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

On the application of.....and on reading the foregoing affidavit filed on the.....day of.....20....., and the consent of..... It is ordered that the said E.F. ofbe appointed to act as guardian *ad litem* of the defendant C.D. an infant (or person of unsound mind not so found by inquisition).

Dated this.....day of.....20.....

(Signed).....
Magistrate

Part VII, r.1(2)

FORM 8

Guyana

NOTICE TO PLAINTIFF OF APPOINTMENT OF GUARDIAN AD LITEM

In the Magistrate's Court of the.....Magisterial District.

CIVIL JURISDICTION

A.B. of....., Plaintiff
and

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

C.D. of....., Defendant

Take notice, that the summons in this action (or matter) was served on the.....day of.....20....., on the defendant C.D., who is an infant (or a person of unsound mind not so found by inquisition), and that E.F., of.....has been appointed to act as guardian *ad litem* of the said defendant.

Dated this.....day of.....20.....

(Signed).....

Clerk of the Court

VII, r.2(1)

FORM 9

Guyana

ORDER APPOINTING GUARDIAN *AD LITEM* NAMED BY INFANT DEFENDANT APPEARING AT THE HEARING

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

Whereas now at the trial of this action (or matter) the defendant C.D., being an infant appears here in Court and

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names E.F. of....., to act as his guardian, who now assents to act as such guardian;

It is ordered that the said E.F. be, and he is hereby appointed to be, guardian of the said defendant to act on his behalf in this action (or matter).

(Signed).....

Magistrate

.....Magisterial District

FORM 10

Part VII, r.2(1)

Guyana

ORDER APPOINTING GUARDIAN AD LITEM OF INFANT DEFENDANT APPEARING AT THE HEARING AND NOT NAMING A GUARDIAN

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

Whereas now at the trial of this action (or matter) the defendant C.D. being an infant, appears here in Court and does not name a guardian;

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It is ordered that G.H., of.....(or the clerk of this Court), be, and he is hereby appointed to be, guardian of the said defendant to act on his behalf in this action (or matter).

(Signed).....
Magistrate

.....Magisterial District

Part VIII, r.5

FORM 11

Guyana

NOTICE TO OTHER PLAINTIFFS OF JUDGMENT IN SELECTED ACTION

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant
And

Plaint No.....

Between E.F. of....., Plaintiff
and
C.D. of....., Defendant

Whereas by order made on the.....day of.....

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20....., it was ordered that all proceedings in the above-mentioned action of E.F. v. C.D. should be stayed until judgment should have been given in the above-mentioned action of A.B. v. C.D.

Now I hereby give you notice that on the.....day of.....20....., judgment was given in the said action of A.B. v. C.D. in favour of the defendant.

And I further give you notice that the said defendant will be entitled to his costs of the above-mentioned action of E.F. v. C.D. up to the date of the said order of the.....day of.....20....., unless you, the said E.F. shall on or before the.....day of.....20....(fourteen days from the date of this notice) give to me or send to my office written notice to set down your action of E.F. v. C.D. for hearing.

Dated this.....day of.....20.....

(Signed).....
Clerk of the Court

To the above-named plaintiff, E.F.

Part VIII, r.6

FORM 12

Guyana

NOTICE TO OTHER PLAINTIFFS OF JUDGMENT IN SELECTED ACTION

In the Magistrate's Court of the.....Magisterial District holden at.....

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Summary Jurisdiction (Civil Procedure) Rules

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant
and

Plaint No.....

Between E.F. of....., Plaintiff
and
C.D. of....., Defendant

Whereas by order made on the.....day of.....
20....., it was ordered that all proceedings in the above-
mentioned action of E.F. v. C.D. should be stayed until
judgment should have been given in the above-mentioned
action of A.B. v. C.D.

Now I hereby give you notice that on the.....day
of.....20....., judgment was given in the said action
of A.B. v. C.D. in favour of the defendant.

And I further give you notice that you will be at liberty to
proceed with your action of E.F. v. C.D. for the purpose of
ascertaining and recovering your debt (or damages) and costs,
and that if you desire so to proceed, you must on or before
the.....day of.....20....(fourteen days from the
date of this notice) give to me or send to my office written
notice to set down your action of E.F. v. C.D. for hearing.

Dated this.....day of.....20.....

(Signed).....
Clerk of the Court

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To the above-named plaintiff, E.F.

Part IX, r.4

FORM 13A

Guyana

NOTICE TO PLAINTIFF OF ADMISSION OF WHOLE CLAIM

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice –

1. The defendant has delivered an admission that
\$.....the amount claimed by you is due from him to
you, but he desires the decision of the Court as to the time and
mode of payment thereof.

2. The defendant offers to pay the said sum of
\$.....on the.....day of.....20.....(or
by instalments of \$.....per month).

3. If you accept the mode of payment offered by the
defendant, you should, within such reasonable time before the
return day as time will permit, send notice of acceptance to

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me and to the defendant but you may give such notice at any time before the return day. In either case it will not be necessary for you to attend the Court on the day of hearing of the action, and judgment will then be entered for the amount admitted and costs, and payment will be ordered to be made in accordance with the offer of the defendant. In any other case the action will proceed and you must attend the Court on the return day.

Dated this.....day of.....20.....
To the plaintiff.

(Signed).....
Clerk of the Court

Part IX, r.4

FORM 13B

Guyana

NOTICE TO PLAINTIFF OF ADMISSION OF PART OF CLAIM

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice –

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1. The defendant has delivered an admission that the sum of \$..... part of the amount claimed by you is due from him to you, but he desires the decision of the Court as to the time and mode of payment thereof.
2. The defendant offers to pay the said sum of \$.....on the.....day of.....20.....(or by instalments of \$.....per month).
3. If you accept the amount admitted in satisfaction of your claim, abandoning the balance, and accept the mode of payment offered by the defendant, you should within such reasonable time before the return day as time may permit, send notice of acceptance to me and to the defendant, but you may send or give such notice at any time before the return day. In either case it will not be necessary for you to attend the Court on the day of hearing of the action, and judgment will then be entered for the amount admitted and costs, and payment will be ordered to be made in accordance with the offer of the defendant.
4. If you object to accept the amount admitted in satisfaction of your claim, or if accepting the amount admitted you object to the mode of payment offered by the defendant, you should within such reasonable time before the return day as time may permit, send notice of objection to the amount admitted or the offer of payment as the case may be to me and to the defendant, but you may give your notice at any time before the return day or attend on the return day and notify the same and in any such case the action will be dealt with as if a notice in that behalf had been given in due time.
5. If you object to accept the amount admitted and the mode of payment offered in satisfaction of your claim, the action will be dealt with on the return day in the ordinary way.

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Dated this.....day of.....20.....
To the Plaintiff.

(Signed).....
Clerk of the Court

Part IX, r.12, 13

FORM 14

**AGREEMENT AS TO AMOUNT OF CLAIM AND MODE OF
PAYMENT**

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and

C.D. of....., Defendant

We, the Plaintiff and Defendant, do hereby agree that the
amount of claim due from Defendant to the Plaintiff in
\$....., and that the same (with \$.....for costs
amounting together to the sum of \$.....) shall be
paid in the manner following, viz. –

Dated this.....day of.....20.....

.....
Signatures of Plaintiff and Defendant

LAWS OF GUYANA

260 **Cap. 3:05** *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

Part IX, r.15

FORM 15

DEFENDANTS ADMISSION

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

I, the undersigned defendant, admit the truth of the allegations in the plaint, and hereby submit to the judgment of the Court thereon.

(Signed) C.D.
Defendant

FORM 16

Part IX, r.17

Guyana

NOTICE TO ADMIT FACTS

In the Magistrate's Court of the.....Magisterial District holden at.....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice that the plaintiff (or defendant) in this action requires the defendant (or plaintiff) to admit, for the purposes of this action only, the several facts respectively hereunder specified; and the defendant (or plaintiff) is hereby required, not later than two clear days before the day fixed for the hearing to admit the said several facts, saving all just exceptions to the admissibility of such facts as evidence in this action.

Dated this.....day of.....20.....

(Signed) G.D.
Counsel for the plaintiff
(or defendant)

To E, Counsel for the defendant (or plaintiff).

The facts, the admission of which is required, are –

1. That John Smith died on the 1st of January, 1890.
 2. That he died intestate.
 3. That James Smith was his only lawful son.
 4. That James Smith died on the 1st April, 1896.
 5. That James Smith was never married.
-

LAWS OF GUYANA

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

ADMISSION OF FACTS PURSUANT TO NOTICE

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

The defendant (or plaintiff) in this action, for the purposes of this action only, hereby admits the several facts respectively hereunder specified, subject to the qualifications or limitations, if any, hereunder specified, saving all just exceptions to the admissibility of such facts, or any of them, as evidence in this action.

Provided that this admission is made for the purposes of this action only, and is not an admission to be used against the defendant (or plaintiff) on any other occasion, or by any one other than the plaintiff (or defendant or party requiring the admission).

Dated this.....day of.....20.....

(Signed) E.F.
Counsel for the defendant
(or plaintiff)

To G.H., Counsel for the plaintiff (or a defendant)

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Facts admitted	Qualifications or limitations, if any, subject to which they are admitted
1. That John Smith died on the 1 st of January, 1890	1.Nil.....
2. That he died intestate	2.Nil.....
3. That James Smith was his lawful son	3. But not that he was his only lawful son
4. That James Smith is dead ...	4. But not that he died on the 1 st of April, 1896
5. That James Smith never was married	5.Nil.....

Part IX, r.20

FORM 18

Guyana

NOTICE OF PAYMENT INTO COURT WITH DENIAL OF LIABILITY

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

LAWS OF GUYANA

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Take notice that the above-named defendant (or C.D.) one of the above-named defendants has paid into Court, the sum of \$.....in satisfaction of the whole of the plaintiff's claim herein or of so much of the plaintiff's claim as relates to (here describe the part of the claim or cause of action in respect of costs (or on tender).

And further take notice that notwithstanding such payment the defendant denies his liability.

And further take notice, that the address of the said defendant is as follows (state the address).

Dated this.....day of.....20.....

(*Signed*).....
Defendant (or his Counsel)

To the Clerk of the Court and to A.B., the above-named plaintiff.

FORM 19

Part IX, r.24 (1)
and (4)

NOTICE OF ACCEPTANCE OF SUM PAID INTO COURT OR TO PLAINTIFF

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

265

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice, that the plaintiff accepts the sum of \$..... paid by the defendant into Court (or to the plaintiff) in satisfaction of the claim in respect of which it is paid in.

But the plaintiff will apply to the Magistrate on.....
the.....day of.....20...., at.....o'clock
in the.....noon, for an order directing the defendant to pay the costs (beyond the costs paid into Court) properly incurred by the plaintiff before the receipt of notice of payment into Court (or before the receipt of the said sum of \$.....) and in attending the Court to obtain such order.

Dated this.....day of.....20.....

(Signed).....

Plaintiff

To the Clerk of the Court and to the defendant.

Part X, r.1

FORM 20

Guyana

PARTICULARS OF DEFENCE TO ACTION OR COUNTER CLAIM

In the Magistrate's Court of the.....Magisterial

LAWS OF GUYANA

266 Cap. 3:05 *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

District holden at.....

CIVIL JURISDICTION

Plaint No.

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

General. 1. The defendant denies the allegations in paragraphs.....as fully as if they were set out herein *verbatim* and traversed *seriatim*.

Goods sold. 2. The defendant never bought the goods set out in the particulars of the plaint or any other goods, at the times therein alleged or at any other time.

Contributory negligence. 3. The plaintiff was guilty of contributory negligence as follows –

(Set out briefly the facts which it is alleged constituted contributory negligence.)

Promissory note. 4. The defendant denies that he made the promissory note sued on [or, the defendant admits that he made the promissory note sued on, but says that the plaintiff (or his endorser) gave no consideration therefor, or that the plaintiff (or his endorser) procured the making of the said promissory note by fraud as follows (set out briefly the facts constituting the fraud)].

Dog bite. 5. The defendant denies that he was the owner of the dog in question (or that the said dog was accustomed to attack or bite mankind, or that defendant knew of the disposition of the said dog).

lord and tenant
Damage case. 6. (a) The defendant denies that the stairway in question

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

was defective or that it broke or that the plaintiff sustained injury as alleged or at all.

- (b) If the stairway was defective (which is denied) the defendant had no notice thereof.

Master and servant.

7. (a) The defendant never employed the plaintiff as a cook or at all.

- (b) The defendant never dismissed the plaintiff [or defendant dismissed the plaintiff for misconduct consisting of (state concisely the grounds of dismissal)].

[N.B. – These illustrations are not necessarily adequate or binding and particulars in compliance with the rules must be provided.]

Part X, r.9

FORM 21

Guyana

NOTICE OF SPECIAL DEFENCE

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
versus

LAWS OF GUYANA

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

C.D. of....., Defendant

1. SET-OFF OR COUNTER-CLAIM

Take notice that the defendant intends at the hearing of this action to claim a set-off (or set up a counter-claim) against the plaintiff's demand, the particulars whereof are as follows –

(Here set out the particulars)

Dated this.....day of.....20....

(*Signed*).....

Defendant (or his Counsel)

To the Clerk of the Court and to the plaintiff.

2. OTHER SPECIAL DEFENCES

Take notice that the defendant intends at the hearing of this action to give in evidence and rely upon the following ground of defence, namely –

(a) *Infancy*

That the defendant was an infant within the age of twenty-one years when the supposed claim arose (or the supposed contract or agreement was made), and that he was born as he believes at.....in the County of.....on the.....day of.....20....

(b) *Statute of Limitation*

That the claim for which the defendant is summoned is barred by the Limitation Act (Cap. 7:02) (here set out the section thereof on which the defendant relies).

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(c) Discharge in Insolvency or Bankruptcy

That the defendant is a discharged bankrupt and obtained his order of discharge from the High Court on the.....day of.....20.....

(d) Coverture

That the defendant is now (or was at the time when the supposed claim arose, or the supposed contract or agreement was made), the wife of.....of.....and that she was married to him at.....in the County of.....on the.....day of.....20..., and that he resides at.....in the County of.....

(Signed).....
Defendant (or his Counsel)

To the Clerk of the Court and to the plaintiff.

Part XI, r.2

FORM 22

Guyana

APPLICATION FOR LEAVE TO ISSUE THIRD-PARTY NOTICE

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

A.B. of....., Plaintiff
versus
C.D. of....., Defendant

The Defendant hereby applies *ex parte* for leave to issue a "third-party" notice to.....bringing him in as a third party to this action on the following grounds, namely –

(State concisely the grounds of the claim against the third party in terms of Rule 1 (a) or (b) of Part XI of the Rules.)

Dated this.....day of.....20....

(Signed).....
Defendant (or his Counsel)

Note. – This application must be supported by affidavit.

Part XI, r.3

FORM 23

NOTICE BY DEFENDANT TO THIRD PARTY

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

To X.Y., of (address and description).

Take notice that this action has been brought by the plaintiff against the defendant (as surety for M.N., upon a bond conditional for payment of \$.....and interest to the plaintiff).

The defendant claims to be entitled to contribution from you to the extent of one-half of any sum which the plaintiff may recover against him, on the ground that you are his co-surety under the said bond, (or also surety for the said M.N., in respect of the said matter, under another bond made by you in favour of the said plaintiff, dated the.....day of.....20....).

(Or, as acceptor of a bill of exchange for \$.....dated the.....day of.....20...., drawn by you upon and accepted by the defendant, and payable three months after date.)

(Or, the defendant claims to be indemnified by you against liability under the said bill on the ground that it was accepted for your accommodation.)

(Or, to recover damages for a breach of contract for the sale and delivery to the plaintiff for 2,000 bags of rice.)

The defendant claims to be indemnified by you against liability in respect of the said contract, or any breach thereof, on the ground that it was made by him on your behalf and as your agent.

And take notice that if you wish to dispute the plaintiff's claim in this action as against the defendant or your liability to the defendant you must appear at this Court on the return day of the summons in this action, (or on the day of hearing fixed for.....day the.....day of.....20....) a copy of which summons is hereto annexed.

In default of your so appearing you will be deemed to

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

admit the validity of any judgment obtained against the defendant in this action whether obtained by consent or otherwise, and your own liability to contribute or indemnify to the extent here claimed.

(*Signed*) C.D.

Defendant

(*or Signed*) L.M.

Counsel for the Defendant

Part XII, r.1(1)

FORM 24

Guyana

GENERAL FORM OF APPLICATION

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

Take notice that the plaintiff (or defendant) hereby applies to the Court (or a Magistrate) for (here set out the order sought) on the grounds following:

- (1)
- (2)
- (3)

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(4)

Dated this.....day of.....20....

(Signed).....

Plaintiff or Defendant or
his Counsel

Part XII, r.3(3)

FORM 25

Guyana

INDEMNITY RESPECTING LOST INSTRUMENT

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Whereas the defendant, on the.....day of.....20...,
at.....made in favour of the plaintiff (or.....) a
certain promissory note payable to bearer (or to order) on
demand (or.....months after date) for the sum of
\$..... (or accepted a bill of exchange for the sum of
\$.....payable to.....thirty days after sight) (and,
if so, the said promissory note or bill of exchange was duly
endorsed in favour of the plaintiff):

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

c. 90:13

And whereas the said promissory note (or bill of Exchange) has been lost and the Court pursuant to section 71 of the Bills of Exchange Act on the application of the plaintiff has ordered that the loss of the instrument shall not be set up provided an indemnity be given to the defendant to the satisfaction of the Court against the claims of any other person upon the instrument in question:

Now therefore these presents witness that pursuant to the said order the plaintiff (and.....as surety for the plaintiff) hereby promises the defendant that if any claim be made upon the defendant in respect of the said promissory note (or bill of exchange) and the defendant becomes legally liable to pay such claim the plaintiff (and.....as surety) will forthwith pay and discharge the same and will keep the defendant and his legal personal representatives and assigns indemnified against all actions, proceedings, claims and demands whatsoever by any person and all costs and expenses in connection therewith.

In witness whereof the said plaintiff and (.....the surety) and the defendant have signed these presents at.....in the County of.....in the presence of the subscribing witnesses.

Witnesses –

- | | |
|----------|----------|
| 1. | 1. |
| 2. | 2. |
| | 3. |
-

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XII, r.4

FORM 26

Guyana

**APPLICATION FOR LICENCE TO KEEP PLACE FOR
PUBLIC DANCING, SINGING, MUSIC OR OTHER
ENTERTAINMENT**

In the Magistrate's Court of the.....Magisterial District holden at.....

In the matter of the Music and Dancing Licences Act, Cap. 23:03

Application is hereby made by and on behalf of.....for a licence (or the transfer or the renewal of a licence) to keep or use the place hereinafter described for public entertainment of the like kind pursuant to the above-mentioned Act. The particulars of this application are:

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

- sought and the nearest "place" in respect whereof a licence for the like purpose is in existence
- (8) The distance between the "place" in respect of which the licence is sought, and the nearest church, school, licensed spirit shop, hospital or other institution for the sick or infirm
- (9) Whether the place has ever been previously licensed for the purposes of the above-named Act, or whether a licence for the like purpose has ever been refused in respect of such "place"
- (10) Whether the applicant has ever been convicted of any offence against the Intoxicating Liquor Licensing Act, the Spirits Act or the Music and Dancing Licenses Act

Dated this.....day of.....20.....

(*Signed*).....

Applicant

Part XII, r.9

FORM 27

Guyana

APPLICATION FOR A CERTIFICATE OF REGISTRATION OF A CLUB, OR FOR THE RENEWAL THEREOF

In the Magistrate's Court of the.....Magisterial District holden at.....

In the matter of the Registration of Clubs Act, Cap. 82:26

LAWS OF GUYANA

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Application is hereby made by and on behalf of.....of.....for a certificate (or the renewal of a certificate) of registration of the.....Club pursuant to the Registration of Clubs Act. The particulars of this application are:

Dated this..... day of 20.....

(Signed).....

Part XII, r.12

FORM 28

Guyana

APPLICATION FOR ORDER DISSOLVING INDIAN LABOUR MARRIAGE

L.R.O. 1/2012

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

In the matter of the Indian Labour Act, Cap. 98:02, section.....

Plaint No.....

A.B. of....., Applicant

versus

C.D. of....., Respondent

1. The applicant and the respondent were lawfully married on the.....day of.....20..., at.....

2. Thereafter they lived and cohabited at divers places in Guyana, the last being.....

3. The domicile of the said.....(husband) is.....

4. On the.....days of.....20...., (or during the months of.....20....) at.....the respondent committed adultery with.....(or with a person unknown to the applicant) or.....was guilty of malicious desertion (set out concisely the facts of such malicious desertion). (The facts as to adultery or malicious desertion must be set out as in a petition for dissolution of marriage.)

5. No proceedings have ever been taken by either spouse against the other under the Summary Jurisdiction (Magistrates) Act or the Matrimonial Causes Act.

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(Or proceedings have been taken by.....against..... under the.....Act and resulted in.....)

6. There is no collusion or connivance between the applicant and respondent.

Wherefore the applicant prays that the said marriage be dissolved.

Dated the.....day of.....20.....

(Signed).....

Applicant

N.B. – In describing the parties in the application, the correct name as registered under the Indian Labour Act and description, address and occupation must be given.

Part XII, r.15

FORM 29

Guyana

APPLICATION UNDER SECTIONS 34 AND 35 OF THE REGISTRATION OF BIRTHS AND DEATHS ACT CAP. 44:01

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

In the matter of the
Registration of Births and
Deaths Act, Cap. 44:01.

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

And in the matter of
(name of person with
respect to whose name
in the Birth Register the
application is made).

1. The above-named.....was born on the.....day
of.....20....., at.....in the County of.....
and the said birth was duly registered as appears from the
Extract from the Register of Births in Division.....and
on such registration was given the name of.....(or no
name).

2. The said.....was baptized on the.....day
of.....20....., at.....Church by.....and
at such baptism was given the name of.....

3. The said (minister baptizing the said person) is now
(state whether alive and if so where he is now residing).

4. The applicant desires that the said name given in
baptism be entered in the Birth Register.

Accordingly the applicant prays that authority in writing
be granted to procure the certificate according to Form 3 of
the above-named Act.

Dated the.....day of.....20.....

(Signed).....
Applicant

Note. – This application must be verified by affidavit.

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XII, r.15

FORM 30

Guyana

**APPLICATION UNDER SECTION 43 OF THE
REGISTRATION OF BIRTHS AND DEATHS ACT TO
CORRECT ERRONEOUS ENTRY IN THE BIRTH REGISTER**

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

In the matter of the Registration of Births and Deaths Act, Cap. 44:01.

And in the matter of [here set out the name of the person with respect to whom the erroneous entry is made in the register.]

1. The above-named.....was born on the.....day of.....20...., at.....and his birth was duly registered on the.....day of.....20...., as appears from the Extract from the Register of Births in Division.....

[In case of a death set out the fact similarly.]

2. The following error was made upon the said registration.

[Set out the matters in respect of which the error was made and the correction required to be made.]

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

3. The applicant proposes to examine the following persons.

[Set out the names of the party responsible for the said error and of any other person whom the applicant proposes to examine pursuant to the said Act.]

Accordingly the applicant prays that an order be made directing the Registrar to correct the said error in the Birth (or Death) Register.

Dated this.....day of.....20.....

(Signed).....
Applicant

Part XIV, r.1

FORM 31

Guyana

ORDER FOR AFFIDAVIT AS TO DOCUMENTS

In the Magistrate's Court of the.....Magisterial District holden at.....

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Upon hearing.....It is ordered that on payment by the.....of the sum of.....into Court (or

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

without security given by the.....) the.....do within.....days from the service of this order (add where payment into Court) upon him, answer on affidavit stating what documents are or have been in his possession or power relating to the matters in question in this action, and return such affidavit to the clerk for filing and forthwith thereafter deliver a copy thereof to the....., and that the costs of this application be (state what order as to costs was made).

Dated this.....day of.....20....

(Signed).....

Magistrate

Part XIV, r.2

FORM 32

Guyana

AFFIDAVIT AS TO DOCUMENTS

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

I, the above-named [plaintiff or defendant as the case may be] make oath and say as follows –

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

1. I have in my possession or power the documents relating to the matters in question in this action set forth in the second part of the said first Schedule hereto.
 2. I object to produce the said document (or documents) set forth in the second part of the said first Schedule hereto.
 3. That [here state upon what grounds the objection is made and verify the facts as far as may be].
 4. I have had, but have not now, in my possession or power the document relating to the matters in question in this action set forth in the second Schedule hereto.
 5. The last mentioned documents were last in my possession or power on [state when].
 6. That [here state what has become of the last-mentioned documents, and in whose possession they now are].
 7. 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 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 action, 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.
-

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

THE FIRST SCHEDULE

PART I

[List of documents which the deponent is willing to produce]

1.
2.
3.
4.
5.

(Signed).....

Deponent

PART II

[List of documents which the deponent objects to produce]

1.
2.
3.
4.

(Signed).....

Deponent

THE SECOND SCHEDULE

[List of documents formerly but not at present in the possession or power of the deponent]

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

1.
2.
3.
4.

(Signed).....

Deponent

Part XIV, r.5

FORM 33

Guyana

NOTICE TO PRODUCE DOCUMENTS FOR INSPECTION

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice, that the plaintiff (or defendant) requires you to produce for his inspection the following documents referred to in your (particulars of claim, or of defence or affidavit, dated the.....day of.....20.....).

(Describe documents required)

Dated this.....day of.....20.....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(*Signed*).....

Plaintiff (or Defendant)

To.....

Part XIV, r.6

FORM 34

NOTICE TO INSPECT DOCUMENTS

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff

and

C.D. of....., Defendant

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 (insert the place of inspection) on.....next the.....inst., between the hours of.....and.....o'clock.

Or, that the plaintiff (or defendant) objects to giving you inspection of the documents mentioned in your notice of the.....day of....., on the ground that (state the ground) –

Dated the.....day of.....20.....

(*Signed*).....

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Plaintiff (or Defendant)

To.....

Part XV, r.2

FORM 35

NOTICE TO CLERK OF CHANGE IN PLAINTIFF'S INTEREST, ESTATE OR TITLE BEFORE JUDGMENT

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice that....., the plaintiff in the above
mentioned action, died on the.....day of.....20.....,
and that his last will and testament was duly proved by me in
registry of the Supreme Court (or that letters of administration
to his personal estate and effects were duly granted to me)
upon the.....day of.....20....., and that I am
the executor of his said will (or that I am the administrator of
the personal estate and effects of the said deceased).

(Or that the above-named.....by an assignment
dated the.....day of.....20....., duly assigned
all his interest in the subject-matter of the above action to me,
the undersigned.)

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

And further take notice that I am desirous of being substituted as plaintiff in the above action against the above-named defendant in the place of the said.....(or added as a plaintiff with the said plaintiff in the above action).

Dated this.....day of.....20.....

(*Signed*).....

Executor (or Administrator)
or Assignee

To the Clerk of the Court, and the above-named defendant.

Part XV, r.3

FORM 36

NOTICE TO DEFENDANT OF CHANGE IN PLAINTIFF'S INTEREST, ESTATE OR TITLE BEFORE JUDGMENT

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice that.....of.....executor of the last will and testament of....., deceased (or as administrator of the personal estate and effects of deceased) (or as assignee under an assignment dated the.....day of.....20.....) has this day filed an affidavit, together with a notice, a copy of which is hereto annexed, stating that

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290 Cap. 3:05 *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

he is desirous of being substituted as plaintiff in the above action against you in the place of.....(or added as a plaintiff with the above-named plaintiff in the above action against you).

And further take notice that unless you appear at the hearing of this action upon the.....day of.....20....., at.....o'clock in the.....noon, to show cause against the same, the said.....will be substituted for (or made a joint plaintiff with) the above-named plaintiff.

Dated this.....day of.....20.....

(Signed).....
Clerk of the Court

N.B. – Similar notices upon change in defendant's title before judgment may be prepared from this and the following form.

FORM 37

Part XV, r.4

NOTICE TO CLERK OF CHANGE IN PLAINTIFF'S TITLE BEFORE JUDGMENT WHERE SUCH CHANGE AFFECTS MORE ACTIONS THAN ONE

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

and

C.D. of....., Defendant
and

Plaint No.....

Between E.F. of....., Plaintiff

and

C.D. of....., Defendant

Take notice that....., the plaintiff in the several actions mentioned in the schedule hereto, died on the.....day of.....20...., and that his last will and testament was duly proved by me in the registry of the Supreme Court (or that letters of administration to his personal estate and effects were duly granted to me), upon theday of.....20...., and that I am the executor of his will (or the administrator of the personal estate and effects of the said deceased.....).

(Or that....., the plaintiff in the several actions mentioned in the Schedule thereto, by an assignment dated the.....day of.....20...., duly assigned all his interest in the subject matter of the said several actions to me the undersigned).

And further take notice that I am desirous of being substituted as plaintiff in the said actions against the several defendants in the said actions in the place of the said.....(or added as a plaintiff with the said plaintiff in the said actions).

Dated this.....day of.....20.....

(Signed).....
Executor (or Administrator)
or Assignee

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

To the Clerk of the Court, and the several defendants named in the Schedule hereto.

THE SCHEDULE ABOVE REFERRED TO

Number and Year.	Plaintiff.	Defendant.
1.....
2.....
3.....
4.....

FORM 38

Part XV, r.8

NOTICE TO PARTY AGAINST WHOM PROCEEDINGS ORDERED TO BE CONTINUED

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

I hereby give you notice, that by an order of this Court dated the.....day of.....20...., a copy of which order is hereunto annexed, together with a copy of the

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

summons in this action, it was ordered that the proceedings in this action should be carried on between the plaintiffs (name the continuing plaintiffs) and the defendants (name the continuing defendants) and you X.Y. as (state the character in which the new party is added).

And further take notice, that the further proceedings in this action have been adjourned to the.....day of.....
.....20...., at.....o'clock in the.....noon: and that if you do not attend at.....(the Court house) at..... upon the day and at the above-mentioned time, either in person or by your counsel, such order will be made or proceedings taken as the Court may think fit.

And further take notice, that you may at or before the hearing apply to the Magistrate or clerk to discharge the said order of the.....day of.....20.....

(Signed).....

Clerk of the Court

Part XVI, r.1

FORM 39

Guyana

APPLICATION FOR REFERENCE TO ARBITRATION

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.

A.B. of....., Plaintiff

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

versus

C.D. of....., Defendant

c. 7:01

The parties do hereby apply to the Court or a Magistrate for an order pursuant to section 26 of the Summary Jurisdiction (Petty Debt) Act that all matters in difference in this action (and all other matters within the jurisdiction of this Court in difference between the said parties) be referred to....., of.....award, to be made or given on or before the.....day of.....20....., shall be entered as the judgment in this action, and that the costs of the said reference and award shall be in the discretion of the arbitrator, and that the costs of the action shall abide the event (or be reserved) and for such other order as to the Court or a Magistrate may seem just.

Dated this.....day of.....20.....

(Signed).....

Plaintiff

(Signed).....

Defendant

Part XVI, r.2

FORM 40

ORDER OF REFERENCE

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

On the application of the plaintiff and defendant, it is ordered that all matters in difference in this action (and all other matters within the jurisdiction of this Court in difference between the said parties) be referred to.....of....., whose award, to be made or given on or before the..... day of.....20...., shall be entered as the judgment in this action; and it is further ordered, that the time for making or giving such award may be from time to time enlarged by the Court, in its discretion, for such time as it shall, by endorsement to be made on this order, direct; and that the said award, when made or given, may be referred back again to the said arbitrator at the like discretion of the Court without the further consent of the said parties; and in case either of the said parties shall neglect or refuse to attend any appointment to be made by the said arbitrator for proceeding under this order, after two days' notice thereof in writing shall have been given to him by serving the same personally or by leaving it at his usual or last known place of abode, the said arbitrator shall be at liberty to proceed *ex parte* on the matters of the said reference, and his award shall be as valid as if both the said parties had duly attended before him:

And it is further ordered that the costs of the said reference and award shall be in the discretion of the arbitrator, and that the costs of the action shall abide the event (or be reserved):

And it is lastly ordered that the submission to arbitration shall not be revocable by either party.

Dated this.....day of.....20.....

(Signed).....

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Magistrate

Part XVI, r.5

FORM 41

PRECEDENT OF AN AWARD ON REFERENCE

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Whereas by an order made on the.....day of.....
.....20...., it was by consent ordered that all matters in difference in this action should be referred to me.....whose award, to be made on or before the.....day of.....20..., should be entered as the judgment in the action; and it was further ordered that the costs of the said reference and award should be in my discretion, and that the costs of the action should abide the event:

Now having heard and considered the allegations and the evidence of the parties, I do hereby make my award concerning the matters referred to me as follows –

I award and find that the plaintiff is entitled to recover in this action from the defendant the sum of \$.....(or

that the plaintiff is not entitled to recover anything in this action from the defendant):

And I further award and direct that the defendant (or plaintiff) do pay the plaintiff's (or defendant's) costs of the reference, and the costs of this my award (which I assess at the sum of \$.....):

And in case the plaintiff (or defendant) shall pay such last mentioned costs, then I award and direct that the defendant (or plaintiff) do repay to the plaintiff (or defendant) the amount which he shall so pay:

(Or such other order as the arbitrator shall make as to costs.)

(Or, where a counter-claim has been made), I award and find that the plaintiff is entitled to recover in this action from the defendant the sum of \$....., and that the defendant is entitled to recover on his counterclaim from the plaintiff the sum of \$.....: (or that the plaintiff is entitled to recover in this action from the defendant the sum of \$.....), and that the defendant is not entitled to recover anything on his counter-claim from the plaintiff (or as the case may be).

[And I further award and direct that the plaintiff and defendant do each bear his own costs of the reference, and do each pay one-half of the costs of this my award (which I assess at the sum of \$.....):]

[And that if either party shall in the first instance pay the whole or more than one-half of the costs of the award the other party shall repay him so much of the amount so paid as shall exceed one-half of the said costs (or such other order as the arbitrator shall make as to costs).]

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

(If the award directs that anything be done or omitted by the plaintiff or defendant, the directions given should be concisely stated immediately before that part of the award which deals with the costs.)

Dated this.....day of.....20.....

(Signed).....

Arbitrator

Part XVII,
r.2(2)

FORM 42

NOTICE TO INSPECT AND ADMIT DOCUMENT PROPOSED TO BE PUT IN EVIDENCE

(Heading of Action or Matter)

I agree to admit the documents set out in the schedule (and no other) saving all just exceptions to the same as evidence.

SCHEDULE

(Here set out the documents in order.)

1.
2.
3.
4.

(Signed).....
Plaintiff (or Defendant)

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XVII,
r.3(1)

FORM 43

NOTICE TO ADMIT AND INSPECT

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice that the plaintiff (or defendant) in this action proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant (or plaintiff) or his solicitor at.....on the.....day of.....20...., between the hours of.....and....., and the defendant (or plaintiff) is hereby required within two days after receiving this notice to admit, saving all just exceptions to the admissibility of all such documents as evidence in this action, that such of the said documents as are specified to be 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 that such documents as are stated to have been served, sent, or delivered were so served, sent, or delivered respectively.

Dated this.....day of.....20.....

(Signed).....
Solicitor for Plaintiff
(or Defendant)

To E.F. Solicitor for defendant (or plaintiff).

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

ORIGINALS

Description of Document	Dates
e.g. 1. Deed between A.B. of the first part and C.D. of the second part	January 1, 1898
2. Letter – Defendant to plaintiff	March 1, 1901

COPIES

Description of Document	Dates	Original or duplicate served, sent or delivered when, how and by whom
e.g. 1. Register of baptism of A.B. in the parish of X 2. Letter— Plaintiff to Defendant	January 1, 1898 February 1, 1901	— Sent by General Post February 1 st , 1901

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Summary Jurisdiction (Magistrates)

Cap. 3:05

301

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XVII,
r.3(1)

FORM 44

Guyana

NOTICE TO PRODUCE (GENERAL FORM)

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Take notice that you are hereby required to produce and show to the Court on the hearing of this action 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 –

(Here set out the particular documents which the party is required to produce.)

Dated this.....day of.....20.....

(Signed).....

Solicitor for Plaintiff
(or Defendant)

To the above-named.....

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302 **Cap. 3:05** *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

Part XVII, r.28

FORM 45

Guyana

CONSENT TO JUDGMENT

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

I (or We) the undersigned defendant (or defendants), admit the truth of the allegations in the plaint, and hereby consent to judgment of the Court being entered against me (us) for the sum of \$.....together with the proper costs of this action.

(Signed).....
Defendant

Witnesses (two credible) to whom the defendant is personally known –

1.
(Address)

2.
(Address)
or

Attested by me to whom the defendant is personally known –

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

303

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(Signed).....

Justice of the Peace, or
Notary Public, or
Clerk of the Court

Part XVII,
r.30(3)

FORM 46

AFFIDAVIT VERIFYING CLAIM

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and

C.D. of....., Defendant

I,.....of.....(the above-named plaintiff, or clerk to the above-named plaintiff (as the case may be)) make oath and say as follows –

(1) That defendant.....is justly and truly indebted to (me or the above-named plaintiff) in the sum of \$.....for (set out the nature of the indebtedness) and was so indebted at the commencement of this action. The particulars of the said claim appear in the plaint in this action.

(2) I verily believe that there is no defence to this action.

(If the affidavit is made by any person other than the plaintiff add the following paragraph) –

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304 **Cap. 3:05** *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

(3) It is within my own knowledge that the said debt was incurred and is still due and owing. I am duly authorized by the plaintiff to make this affidavit.

Sworn by the said.....at.....in the.....
County of.....

Before me

(Signed).....
A Commissioner of Oaths

Part XVII, r.32

FORM 47

c. 7:01

ORDER SUSPENDING JUDGMENT, OR EXECUTION, OR FOR DISCHARGE OF A DEBTOR UNDER SECTION 42 OF THE SUMMARY JURISDICTION (PETTY DEBT) ACT

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

On the application of.....and the Magistrate being satisfied that the defendant is unable to pay and discharge the debt (or damages, or costs) recovered against him (or the

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

305

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

instalments due under the judgment in this action on account of (sickness, insanity, or other sufficient cause to be set out.)

The Magistrate doth, pursuant to section 42 of the Summary Jurisdiction (Petty Debt) Act, order that the said judgment be suspended (or stayed, or that the execution issued in this action be suspended for (state time)) (or that the defendant be discharged from custody under the order of commitment issued in this action upon the terms following, namely (state terms including, if so ordered, liability to be arrested if the terms are not complied with)).

Dated this.....day of.....20.....

(*Signed*).....
Magistrate

Part XVII, r.33

FORM 48

JUDGMENT OR DECREE FOR SPECIFIC PERFORMANCE OF CONTRACT UNDER SECTION 52 OF THE SALE OF GOODS ACT (CAP. 90:10)

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
versus

C.D. of....., Defendant

Upon the trial of this action (the same being for breach of contract to deliver specific goods for a price in money) at a

LAWS OF GUYANA

306 Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Court holden this day, it being adjudged that the plaintiff is entitled to recover, it is, upon the application of the plaintiff, found and adjudged that the goods in respect of the non-delivery of which the plaintiff is entitled to recover, and which remain undelivered, are as follows: (that is to say) (here enumerate the goods undelivered); and that the plaintiff would have been liable to pay the sum of \$.....(here insert the sum to be paid by plaintiff for the delivery thereof; and that the plaintiff will have sustained damages to the amount of \$.....(here insert the amount assessed for damages if the goods be delivered) if the said goods shall be delivered as hereinafter mentioned, and to the amount of \$.....(here insert the amount assessed for damages in the event of the non-delivery of the goods) if the said goods shall not be so delivered: And thereupon judgment being now given for the plaintiff, it is, upon the application of the plaintiff, ordered that the said goods be delivered by the defendant to the plaintiff, on the payment by the plaintiff of the said sum of \$.....(here insert the sum to be paid by plaintiff for the delivery), on or before the.....day of.....20..., now next ensuing, and that in default thereof, execution do issue for the delivery to the plaintiff, on payment by the plaintiff of the said sum of \$.....(here insert the sum to be paid by plaintiff for the delivery), of the said goods; and that the defendant shall not have the option of retaining the same upon payment of the damages lastly assessed in the vent of the non-delivery of the goods; and that the plaintiff do recover against the defendant the said sum of \$.....(here insert the sum assessed for damages if the goods be delivered) for damages and.....for costs:

And it is ordered that the defendant do pay the said last mentioned sums of \$.....and \$.....to the Clerk of the Court on or before the.....day of.....20.....

And it is further ordered that if the said goods or any part thereof cannot be found within Guyana, the Bailiff of this

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

307

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Court shall distrain the defendant by all his lands and chattels till the defendant deliver the said goods, or, at the option of the plaintiff, the said Bailiff shall cause to be made of the defendant's goods the said sum secondly above assessed for damages, or a due proportion thereof.

Dated this.....day of.....20....

(*Signed*).....
Magistrate

Part XVII,
r.34(1)

Guyana

FORM 49

FORM OF JUDGMENT AGAINST MARRIED WOMEN

ENTER JUDGMENT ACCORDING TO FORM 50, AND
PROCEED AS FOLLOWS:

(Against married woman, widow, or divorced woman, in
respect of any contract or tort.)

And it is ordered that the debt (or damages) and costs
hereby recovered against the defendant (name of married
woman, widow, or divorced woman) shall be payable out of
the separate property of the said defendant which she is now
or may hereafter be possessed of or entitled to (or, in case of a
widow or divorced woman, out of such property of the said
defendant as during her coverture was her separate property),
and any other property as she may hereafter while discovert
be possessed of or entitled to, and not otherwise.

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308 Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XVII, r.36

FORM 50

Guyana

JUDGMENT FOR PLAINTIFF

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and

C.D. of....., Defendant

Acknowledgment of payment in Court

It is this day adjudged
that the plaintiff do recover
against the defendant the
sum of \$.....for debt
(or damages), and \$.....
for costs amounting
together to the sum of
\$

And it is ordered that the defendant do pay the same forthwith (*or on the day of*) or by instalments of for every days, the first instalment to be paid on the day of 20

(And any other conditions)

Magistrate

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(In case default be made in payment of any instalment according to this order execution to successive executions may issue for the whole of the said sum and costs then remaining unpaid, or for such portion thereof as the Court shall order.)

N.B. – This form will, by striking out the words not required, apply to judgments whether for payment of the whole claim forthwith, or within any specified time, or for payment by instalments, and also to judgments in replevin, where the judgment is for the plaintiff. If at the time of making an order for payment by instalments the Court directs that in case default be made in payment of any instalment, execution shall issue for a portion only of the amount remaining unpaid, the last paragraph must be altered so as to give effect to such order.

Part XIX, r.9(2)

FORM 51

Guyana

NOTICE SETTING FORTH PARTICULARS OF MATTERS AND FEATURES IN PLANS, DRAWINGS, ETC.

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

1. The plaintiff proposes to prepare a plan (drawing, chart, model or a copy of a plan, drawing, chart, or model) made by.....(a sworn land surveyor dated.....) showing the following matters or features:

- (a) The highway situate about the corner of Robb and Hincks Streets in the City of Georgetown; the building of the G. and Trinidad Mutual Fire Insurance Company, the roadway at the junction of Robb and Hincks Streets, that portion of Hincks Street between Robb and Regent Streets and the pavement on the western side thereof; the motor garage shed of the G. and Trinidad Mutual Fire Insurance Company and the entrance to the dispensary of Silva's Drug Store;
- (b) Lot 242, Gordon Street, in the Village of Kitty and Alexanderville, East Coast, Demerara, the situation of the plaintiff's house and the position of the fallen tree before its collapse; the canal on the northern side thereof, that portion of Gordon Street between Vlissengen Road and Stanley Place.

2. The said plan, etc., will establish the following matters of fact:

(Here set out the matters of fact which the party claims will be established by the plan, etc.)

Dated the.....day of.....20.....

(Signed).....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Plaintiff (or Defendant)

To.....
(the opposite party)

Part XX, r.5

FORM 52

Guyana

APPLICATION FOR NEW HEARING

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

Take notice that application is hereby made by and on
behalf of the.....for an order that the judgment given,
(or the execution issued upon the judgment given on
the.....day of.....20...., be set aside), (or that
this action or matter be restored to the hearing list for
hearing), and that a new hearing be made before the Court on
the grounds and for the reasons following:

(Here set out concisely the grounds of the application
suitable to the particular case.)

Dated this.....day of.....20.....

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(Signed).....

Plaintiff (or Defendant)

Part XXI, r.6,
Part XXIV,
r.19(1)

Guyana

FORM 53

AFFIDAVIT STATING THAT JUDGMENT DEBTOR HAS APPLIED FOR ADMINISTRATION OF HIS ESTATE

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
versus
C.D. of....., Defendant

I, C.D., of.....make oath and say –

I. That on the.....day of.....20...., a writ of execution against my goods was issued by this Court in consequence of default made by me in payment of \$....., due from me in pursuance of a judgment (or an order) given (or made) against me on the.....day of.....20.....

or

c. 6:04

(1). That under the Debtors Act, an order for my commitment was made by this Court (or the Court of the.....Magisterial District holden at.....), for making default in payment of \$....., due from me

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

313

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

in pursuance of a judgment (or an order) of the (here insert the Court in which the judgment or order was given or made).)

c. 12:21

2. That on the.....day of.....20....., an order for the administration of my estate was made by the High Court under section 106 of the Insolvency Act, as shown by the Certificate of the Registrar of that Court hereto appended.

3. That the debt in respect of which the above judgment (or order) was given (or made) has been notified to the Court by which the said order for administration was made, and the plaintiff who obtained the said judgment (or order) has not obtained leave to proceed from that Court, as appears from the said certificate of the Registrar.

Sworn to at, etc., etc.

(Signed) C.D.

CERTIFICATE OF THE REGISTRAR

In the High Court of Guyana.

c. 12:21

I hereby certify that an order for the administration of the estate of C.D. of (here insert address and description of debtor) was made by this Court under the provisions of section 106 of the Insolvency Act, on the.....day of.....20....., and that a debt of \$....., has been notified by the said C.D. to this Court as being due from him to (insert the name, address and description of the creditor whose name the debtor wishes to be inserted), and the said (here insert the name of the creditor) has not obtained leave to proceed from this Court.

Dated this.....day of.....20.....

(Signed).....

LAWS OF GUYANA

314 Cap. 3:05 *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

Registrar

Part XXI, r.9

FORM 54

Guyana

WRIT OF DELIVERY OF GOODS

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff

and

C.D. of....., Defendant

Whereas at a Court holden at.....on the.....day of 20...., the plaintiff obtained a judgment against the defendant for the recovery of (here enumerate the goods and chattels which the Court has ordered to be recovered of the defendant), and thereupon it was ordered by the Court that the defendant should return the said goods and chattels to the plaintiff on the.....day of.....20....., and that in default of his so doing a writ of delivery should issue:

And whereas the defendant did not on the said.....day of.....20....., return the said goods and chattels to the plaintiff:

And if the same cannot be found by you, you are required and ordered to distrain all the goods and chattels of the

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

defendant, wheresoever they may be found in Guyana, and hold them until the defendant shall deliver the said goods and chattels to you, and to make return of what you have done under this writ immediately upon the execution hereof.

Dated this.....day of.....20....

(Signed).....

Magistrate
Magisterial District

To the Head or any Bailiff.

Application was made to the Clerk of the Court for this writ at.....minutes past the hour of.....in the.....noon of the.....day.....20....

Part XXI, r.9

FORM 55

Guyana

WRIT OF DELIVERY OF GOODS, AND OF EXECUTION FOR DAMAGES AND COSTS

Whereas at a Court holden at.....on the.....day of.....20....., the plaintiff obtained a judgment against the defendant for the recovery of (here enumerate the goods and chattels which the Court has ordered to be recovered of the defendant) and for the payment of \$.....for damages for the detention of the said goods and chattels, and of \$.....for costs; and thereupon it was ordered by the Court that the defendant should return the said goods and chattels to the plaintiff on the.....day of.....20.....

LAWS OF GUYANA

316 Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

And whereas the defendant did not on the said.....day of.....20....., return the said goods and chattels to the plaintiff, and default has been made in payment of the said sums according to the said order:

These are therefore to require and order you forthwith to seize the said goods and chattels so not returned as aforesaid, wheresoever they may be found in Guyana and deliver the same to the plaintiff.

And if the same cannot be found by you, you are required and ordered to distrain all the goods and chattels of the defendant, wheresoever they may be found in Guyana and hold them until the defendant shall deliver the said goods and chattels to you;

And these are further to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever they may be found within Guyana (except the wearing apparel and bedding of him or his family, and to the value of one hundred dollars the tools and implements of his trade) the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, together with the costs of this execution; and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, or other securities for money belonging to the defendant, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to pay what you shall have so levied to the Clerk of the Court and to make return of what you have done under this writ immediately upon the execution hereof.

Dated this.....day of.....20.....

(Signed).....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

317

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Magistrate
Magisterial District

To the Head or any Bailiff.

	\$	c.
Damages for detention of goods
Costs of action
Costs of issuing this writ
<hr/>		
Total amount to be levied (with fees for execution of writ, as endorsed hereon)
<hr/>		

Notice. – The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the Clerk of the Court for this writ at.....minutes past the hour of.....in the.....noon of the.....day of.....20.....

Part XXI, r.9

FORM 56

Guyana

WRIT OF DELIVERY WHERE, IF GOODS ARE NOT RETURNED, LEVY IS TO BE MADE FOR THEIR VALUE

In the Magistrate's Court of the.....Magisterial
District holden at.....

LAWS OF GUYANA

318 Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Whereas at a Court holden at.....on the.....day of.....20...., the plaintiff obtained a judgment against the defendant for the recovery of (here enumerate the goods and chattels which the Court has ordered to be recovered of the defendant) of the value of \$....., and for the payment of \$.....for damages for the detention of the said goods and chattels to the plaintiff or pay the said sum of \$.....their value to the plaintiff on the.....day of.....20....; and it was further ordered that the defendant should pay the said sums of \$.....(damages for the detention) and \$.....(costs) to the plaintiff on the.....day of.....20....:

And whereas the defendant did not on the said.....day of.....20...., return the said goods and chattels to the plaintiff, and default has been made in payment of the said sums according to the said order:

These are therefore to require and order you forthwith to seize the said goods and chattels so not returned as aforesaid, wheresoever they may be found in Guyana and deliver the same to the plaintiff:

And if the same cannot be found by you within Guyana you are required and ordered to make and levy by distress and sale of the goods and chattels of the defendant all the goods and chattels of the defendant, wheresoever they may be found in Guyana (except the wearing apparel and bedding of

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

319

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

him or his family, and the tools and implements of his trade, if any, to the value of one hundred dollars), the said sum of \$.....(the assessed value of the goods and chattels):

And you are further required and ordered to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever they may be found in Guyana (except as hereinbefore excepted the wearing apparel and bedding of him or his family, and tools and implements of his trade, if any, to the value of \$100.00), the said sums of \$.....(damages for detention) and \$.....(costs), together with the costs of this execution:

And also to seize and take any money or bank notes, cheques, bills of exchange, promissory notes, bonds, or other securities for money belonging to the defendant, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution and the costs of making and executing the same, and to pay what you have so levied to the Clerk of the Court, and to make return of what you have done under this writ immediately upon the execution hereof.

Dated this.....day of.....20.....

(Signed).....

Magistrate

Magisterial District

To the Head or any Bailiff.

\$ c.

Assessed value of the goods and chattels

Damages for detention of goods

Costs

Costs of issuing this writ

LAWS OF GUYANA

320 Cap. 3:05 *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

Total amount to be levied (with fees for execution of
writ, as endorsed hereon)

Notice. – The goods and chattels are not to be sold until
after the end of five days next following the day on which
they were seized, unless they be of a perishable nature, or at
the request of the defendant.

Application was made to the Clerk of the Court for this
writ at.....minutes past the hour of.....in
the.....noon of the day of.....20.....

FORM 57

Part XXI, r.9

Guyana

c. 90:10

WRIT OF EXECUTION AGAINST DEFENDANT'S GOODS
UNDER SECTION 52 OF THE SALE OF GOODS ACT
WHERE PLAINTIFF EXERCISES THE OPTION OF HAVING
THE DAMAGES ASSESSED FOR THE NON-DELIVERY OF
THE GOODS (WHERE THE GOODS ARE NOT DELIVERED
PURSUANT TO THE ORDER) LEVIED BY DISTRESS AND
SALE OF DEFENDANT'S GOODS

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and

C.D. of....., Defendant

Whereas at a Court holden at.....on the.....day of.....20...., the plaintiff obtained a judgment against the defendant for the delivery to the plaintiff upon payment by the plaintiff of the sum of \$.....(here insert the sum to be paid by plaintiff for the delivery) of the following goods, that is to say (here enumerate the goods enumerated in the judgment); and by the said judgment it was found and adjudged that the plaintiff would have sustained damages to the amount of \$.....(here insert the sum assessed for damages if the goods be delivered) if the said goods should be delivered to the plaintiff, and to the amount of \$.....(here insert the sum assessed for damages in the event of the non-delivery of the goods) if the said goods should not be so delivered; and judgment being then given for the plaintiff, it was thereupon ordered that the said goods be delivered by the defendant to the plaintiff, on payment by the plaintiff of the said sum of \$.....(here insert the sum to be paid by the plaintiff for the delivery), on or before the.....day of.....20..., and that in default thereof execution should issue for the delivery to the plaintiff, on payment by the plaintiff of the said sum of \$.....(here insert the sum to be paid by the plaintiff for the delivery), of the said goods, and that the defendant should not have the option of retaining the said goods upon payment of the said sum of \$.....(here insert the sum assessed for damages in the event of the non-delivery of the goods), and that the plaintiff should recover against the defendant and the said sum of \$.....(here insert the sum assessed for damages if the goods be delivered) for damages, and \$.....for costs; and that the defendant should pay the said last-mentioned sums of \$....., and \$....., on or before the.....day of.....20....

And it was further ordered that if the said goods or any part thereof should not be found in Guyana the bailiff of this

LAWS OF GUYANA

322

Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Court should distrain the defendant by all his goods and chattels in Guyana till the defendant should deliver the said goods, or, at the option of the plaintiff, the said bailiff should cause to be made of the defendant's goods the said sum of \$.....(here insert the sum assessed for damages in the event of the non-delivery of the goods), or a due proportion thereof:

And whereas the said goods have not been delivered according to the said order, and the plaintiff has expressed his option to have the said sum of \$.....(here insert the sum assessed for damages in the event of the non-delivery of the goods) made of the goods and chattels of the defendant:

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant, wheresoever they may be found in Guyana (except the wearing apparel and bedding of him or his family, and the tools of his trade, if any, to the value of one hundred dollars), the sum stated at the foot of this writ, being the amount due to the plaintiff under the said order, together with the costs of this execution; and also to seize and take any money or bank notes, cheques, bills of exchange, promissory notes, bonds, or other securities for money of the defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the cost of making and executing the same, and to pay what you have so levied to the Clerk of the Court, and to make return of what you have done under this writ immediately upon the execution hereof.

Dated this.....day of.....20.....

(Signed).....

Magistrate
Magisterial District

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

323

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

To the Head or any Bailiff.

\$ c.

Amount assessed for damages if the goods be not delivered
Sum adjudged for costs
Cost of issuing this writ

Total amount to be levied (with fees for execution of
writ, as endorsed hereon)

Notice. – The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the Clerk of the Court for this writ at.....minutes past the hour of.....in the.....noon of the.....day of.....20.....

Part XXI, r.
10(3)

FORM 58

APPLICATION FOR LEAVE TO ISSUE EXECUTION

(DEATH OF PERSON ENTITLED)

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

LAWS OF GUYANA

324

Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Ex parte E.F., the legal personal representative of A.B.

Application is hereby made *ex parte* by or on behalf of E.F. the personal representative of A.B. the above-named plaintiff for leave to issue execution on a judgment in the above-mentioned action on the grounds and for the reasons following:

(1) Judgment was obtained against the defendant on the.....day of.....20...., for the recovery of \$.....and costs \$.....

(2) The defendant paid to the plaintiff in his lifetime the sum of \$....., in part satisfaction of the said judgment and costs and still owes thereon the sum of \$.....and costs \$.....

(3) The plaintiff died on the.....day of.....20....., leaving a last will dated the.....day of.....20....., whereby he appointed the above-named applicant his executor, and probate thereof was granted on the.....day of.....20....., to the applicant.

(4) The defendant is still alive.

Dated the.....day of.....20.....

(Signed).....

Applicant

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

325

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXI,
r.10(3)

FORM 59

APPLICATION FOR LEAVE TO ISSUE EXECUTION

(DEATH OF PERSON LIABLE)

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

Application is hereby made by or on behalf of the above-named plaintiff for leave to issue execution on a judgment in the above-mentioned action against the property of the defendant which has since devolved on and become vested in E.F., his executor (or administrator), on the ground and for the reasons following:

(1) Judgment was obtained by the plaintiff against the defendant on the.....day of.....20...., for the recovery of \$.....and costs \$.....

(2) The defendant has paid no part of the said judgment and costs (or has paid \$.....) (state what sum has been paid in case of payment on account).

(3) The defendant died on the.....day of.....20....., leaving a last will dated the.....day of.....20....., whereby he appointed E.F. his executor and probate thereof was granted to the said E.F. on the.....day of.....20.....

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Dated the.....day of.....20.....

(Signed).....

Applicant

Part XXI,
r.12(1)

FORM 60

**PARTICULARS OF CLAIM BY LANDLORD FOR RENT DUE
BY THE TENANT IN CASE OF AN EXECUTION AGAINST
THE TENANT**

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

I, (name in full) of (residence), (occupation), do solemnly
and sincerely declare as follows:

(1) I am the landlord (or agent of the landlord) of the
above-mentioned (name of execution debtor) in respect of
premises situate at (description of tenement) under a (nature
of tenancy) at the rent of \$.....per.....

(2) There was at the date of the said execution due to me
from the said.....and the said.....is at present

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

327

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

justly, truly, and lawfully indebted to me in the sum of \$.....being rent of the said premises for (period for which rent is due and details of rent in arrears).

(3) The goods and chattels taken in execution under process issuing out of this Court in this action were in and upon the said premises at the time they were seized in the said execution.

(4) I claim payment of the said sum of \$.....out of the proceeds of the said execution in terms of section 50(2) of the Summary Jurisdiction (Petty Debt) Act.
c. 7:01

I make this declaration conscientiously believing the same to be true, according to the Statutory Declarations Act.

(Signed).....

Declarant

Declared before me this.....day of.....20.....

A Commissioner for Oaths to Affidavits.

Part XXII, r.1(2)

FORM 61

APPLICATION BY STAKEHOLDER OR PERSON ANALOGOUS

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

LAWS OF GUYANA

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Between A.B. of (residence), (occupation), Plaintiff
and
C.D. of (residence), (occupation), Defendant

Application is hereby made by or on behalf of C.D. the defendant in the above-named action for the issue of a summons to E.F. of (residence), (occupation), to appear as a third party as plaintiff in an action of such issued as the Court may frame after hearing the said third party on the grounds following:

(1) The defendant does not claim any interest in the subject matter of the above-named action and the right thereto belongs to the said E.F.

(2) There is no collusion between the defendant and the said E.F.

(3) The facts supporting the right of the said E.F. are as follows –

(set out the facts concisely).

(4) The defendant is willing to pay or transfer the subject matter into Court or to dispose of it as the Court or a Magistrate may direct.

(5) (Any other facts which it would have been necessary to set out in a plaint.)

Dated this.....day of.....20.....

(Signed).....
Defendant

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXII, r.
4(1)

FORM 62

INTERPLEADER CLAIM TO GOODS SEIZED BY BAILIFF

Guyana

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Claimant
and
C.D. of....., Defendant

The claimant claims the following goods at.....in
this Magisterial District wrongfully and unlawfully seized in
execution on the.....day of.....20...., by the
defendant under a writ of execution dated.....issuing
out of.....Court at the instance of the defendant
against one E.F. on the grounds following:

(set out the grounds of the claim).

The claimant also claims \$.....damage for
trespass.

Dated this.....day of.....20.....

(*Signed*).....

Plaintiff
(Solicitor for Plaintiff)

LAWS OF GUYANA

330 **Cap. 3:05** *Summary Jurisdiction (Magistrates)*

[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

Part XXII, r.
4(1)

FORM 63

NOTICE BY BAILIFF TO EXECUTION CREDITOR

Guyana

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

To.....

Take notice that (name and address of claimant) has on
this.....day of.....20...., claimed the
goods following (here set out the specific goods
claimed).....all of which were seized by you and at
your instance on the.....day of.....20...., under a
writ of execution dated the.....day of.....20...., on
the ground (set out the ground).

All for your information and guidance.

Dated the.....day of.....20.....

(Signed).....

Bailiff

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

331

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXII, r.9

FORM 64

Guyana

BOND PROVIDING SECURITY FOR THE VALUE OF GOODS CLAIMED IN INTERPLEADER PROCEEDINGS

I approve of
this bond.

Magistrate.

Know all men by these presents that we, A.B. of.....C.D. of....., and E.F. of....., are held and firmly bound unto G.H. of....., in the sum of.....to be paid to the said G.H. or his certain attorney, assigns, or legal personal representative for which payment to be made we bind ourselves and each and every of us in the whole our and each of our legal personal representatives jointly and severally firmly by these presents.

Signed with our signatures and dated this.....day of.....20.....

Whereas the above-named C.D. and E.F. at the request of the said A.B., have agreed to enter into the above-written obligation and the security has been approved of by the Magistrate of the Court in the.....Magisterial District holden at....., as appears by his allowance in the margin hereof:

Now the condition of this obligation is such that if the above-bounden A.B. do and shall within fourteen days from the date of the said obligation commence an action against the above-named G.H. in the said Court for unjustly taking in execution on the.....day of.....20...., at.....certain goods and chattels claimed by the said A.B. to be his property and prosecute such action without delay and if the Court shall declare that the goods so seized were at the time of the seizure thereof the property of the said A.B. and that this bond be void, then the obligation shall be void

LAWS OF GUYANA

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

and of no effect but otherwise shall be and remain in full force.

(Signed) A.B.
C.D.
E.F.

Signed by the above-bounden in the presence of –

1.
2.

Witnesses

Part XXII, r.
12(3)

FORM 65

Guyana

ORDER FOR SALE FO GOODS TAKEN IN EXECUTION, BUT CLAIMED BY A CLAIMANT AS SECURITY FOR A DEBT, ETC.

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
versus
C.D. of....., Defendant

Upon the application of.....and upon hearing.....

and the execution creditor undertaking to secure any person entitled to priority over him against any loss by reason of the sale hereinafter directed:

It is ordered that the bailiff do proceed to sell enough of the goods seized under the writ of execution issued in this action to satisfy –

(1) The expenses of and incident to the sale;

(2) The rent (if any) duly claimed by the landlord of the premises on which the goods were seized;



(3) The claim of the claimant E.F. which has been determined to amount to \$.....;

(4) The costs of the bailiff in relation to the execution in this action;

(5) The claim of the execution creditor in this action:

And it is further ordered that the bailiff do, after deducting the expenses of and incident to the sale, pay the rent claimed and charged as above-mentioned, and do pay the balance of the proceeds of sale into Court, and that the Clerk do apply such balance in payment of the various sums herein mentioned in the order herein mentioned, and that the ultimate balance (if any) of such proceeds be paid to the execution debtor.

But if the proceeds of sale shall be insufficient to pay any of the sums herein directed to be paid in priority to the claim of the execution creditor, then it is ordered that the execution creditor do pay so much of the said sums as such proceeds shall be insufficient to pay to the several parties entitled thereto respectively.

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

And any of the parties are to be at liberty to apply to the Court as they may be advised.

Dated this.....day of.....20.....

(Signed).....

Magistrate

Part XXIII, r.9

FORM 66

Guyana

SUMMONS TO AN EXECUTOR WHERE PLAINTIFF
INTENDS TO APPLY TO THE COURT WHERE ASSETS
HAVE COME TO DEFENDANT'S HAND SINCE
JUDGMENT

In the Magistrate's Court of the.....Magisterial District holden at.....

Plaint No.....

CIVIL JURISDICTION

Between

A.B. of (Address), (Description).....
Plaintiff

and

C.D. Executor (or Administrator) of.....decd.
(Address), (Description).....
Defendant

The plaintiff having learned that property of the deceased

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

has come to your (the above-named defendant's) hands as executor (or administrator) since the judgment recovered in this action to be administered intends to apply in the Court to be holden at.....on the.....day of.....
20....., at the hour of.....o'clock in the.....noon
for an order that the debt (or damages) and costs adjudged to be recovered in this action shall be levied of the goods and chattels of the said deceased, if you have so much thereof in your hands to be administered; and if you have not, then that the costs shall be levied of your proper goods and chattels.

You are therefore hereby summoned to appear at the said Court at the time and place aforesaid, to answer touching the matters aforesaid.

To the defendant C.D., executor (or administrator)
of....., deceased.

Dated this.....day of.....20.....

(Signed).....

Plaintiff
(or Solicitor for Plaintiff)

Part XXIII, rr.
3, 12

FORM 67

Guyana

JUDGMENT AGAINST AN EXECUTOR OR
ADMINISTRATOR WHO DOES NOT APPEAR, OR
APPEARS AND ADMITS HIS REPRESENTATIVE
CHARACTER AND PLAINTIFFS DEMAND, AND DOES
NOT DENY ASSETS

LAWS OF GUYANA

336

Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Upon the trial of this action at a Court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of \$.....for....., and \$.....for costs.

And it is ordered that the defendant do pay the same forthwith (or on or before the.....day of.....20....) (or by instalments of.....for every.....days, the first instalment to be paid on the.....day of.....20....):

And the defendant not having appeared at the trial (or having appeared and admitted his representative character and the plaintiffs demand, and not having denied that he has assets of the said deceased which came to his hands to be administered).

It is ordered that if the defendant shall make default in the payment of the said sums the same shall be levied as follows: the sum of \$.....(the debt or damages and costs) of the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor (or administrator), if the defendant has so much thereof in his hands to be administered; and if he has not, then that the sum of \$.....(the costs) shall be levied of the proper goods and chattels of the defendant.

Dated this.....day of.....20.....

(*Signed*).....

Magistrate

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

337

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXIII, rr.
4, 12

FORM 68

Guyana

JUDGMENT AGAINST AN EXECUTOR OR ADMINISTRATOR WHO ADMITS HIS REPRESENTATIVE CHARACTER AND DENIES THE DEMAND

Upon the trial of this action at a Court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of \$.....for....., and \$.....for costs.

And it is ordered that the defendant do pay the same on or before the.....day of.....20...., (or by instalments of.....for every.....days, the first instalment to be paid on the.....day of.....20....):

And the defendant having admitted his representative character, but denied the plaintiff's demand, and the plaintiff having proved the same, it is further ordered, that if the defendant shall make default in payment of the said sums, the same shall be levied as follows: the sum of \$.....(the debt or damages and costs) of the goods and chattels which were of the said deceased, and which came to the hands of the said defendant as executor (or administrator), if the defendant has so much thereof in his hands to be administered; and if he has not, then that the sum of \$.....(the costs) to be levied of the proper goods and chattels of the defendant.

Dated this.....day of.....20.....

(Signed).....

Magistrate

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXIII, rr.
5, 12

FORM 69

Guyana

JUDGMENT AGAINST AN EXECUTOR OR
ADMINISTRATOR WHERE HE ADMITS HIS
REPRESENTATIVE CAPACITY, BUT DENIES THE
DEMAND, AND ALLEGES TOTAL OR PARTIAL
ADMINISTRATION OF ASSETS, AND THE PLAINTIFF
PROVES HIS DEMAND, AND THE DEFENDANT PROVES
ADMINISTRATION

Upon the trial of this action at a Court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of \$.....for....., and \$.....for costs.

And it is ordered that the defendant do pay the same forthwith (or by instalments of.....for every.....days, the first instalment to be paid on the.....day of.....20....):

And the defendant having admitted his representative character, but denied the plaintiff's demand, and having also alleged a total (or partial) administration of the goods of the said deceased, which came to the hands of the defendant as executor or administrator, to be administered, it appears to the Court that the plaintiff has proved to the Court his demand, and also that the defendant has proved the administration alleged:

Wherefore it is ordered that in default of such payment the sum of \$....., being the costs incurred by the plaintiff in proving his demand, shall be levied of the goods and chattels which were of the said deceased and which came to the hands of the defendant as executor (or administrator), if the defendant has so much thereof in his hands to be administered; and if he has not, then that the said sum be

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

levied of the proper goods and chattels of the defendant, and as to the sum of \$.....the plaintiff's demand, it is ordered that it be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the defendant as executor (or administrator) as aforesaid to be administered.

And it is further ordered, that the plaintiff do pay forthwith the sum of \$.....being the costs incurred by the defendant in proving the administration alleged.

Dated this.....day of.....20.....

(Signed).....

Magistrate

N.B. – If the defendant is shown to have some assets, the judgment must be for that amount *de bonis testatoris*, and for the residue *quando acciderint*.

Part XXIII, rr.
6, 12

Guyana

FORM 70

JUDGMENT AGAINST AN EXECUTOR OR
ADMINISTRATOR WHERE HE ADMITS HIS
REPRESENTATIVE CHARACTER, BUT DENIES THE
DEMAND, AND ALLEGES TOTAL OR PARTIAL
ADMINISTRATION OF ASSETS, AND THE PLAINTIFF
PROVES HIS DEMAND, AND THE DEFENDANT DOES
NOT PROVE THE ADMINISTRATION

Upon the trial of this action at a Court held on this day, it is

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

adjudged that the plaintiff do recover against the defendant the sum of \$.....for....., and \$.....for costs.

And it is ordered that the defendant do pay the same forthwith (or by instalments of..... every.....days, the first instalment to be paid on the.....day of.....20....):

And the defendant having admitted his representative character, but denied the plaintiff's demand, and having also alleged a total (or partial) administration of the goods of the said deceased, which came to the hands of the defendant as executor (or administrator) to be administered, it appears to the Court that the plaintiff has proved to the Court his demand and also that the defendant has not proved the administration alleged:

Wherefore it is ordered, that if the defendant shall make default in payment of the said sum, the same shall be levied as follows: the sum of \$.....(debt and costs) of the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor (or administrator), if the defendant has so much thereof in his hands to be administered; and if he has not, then that the residue of the sum of \$.....(debt) be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the defendant as executor (or administrator) as aforesaid to be administered; and that the sum of \$.....(the costs) be levied of the proper goods and chattels of the defendant.

Dated this.....day of.....20.....

(Signed).....
Magistrate

Part XXIII, rr.
7, 12

FORM 71

Guyana

**JUDGMENT AGAINST AN EXECUTOR OR
ADMINISTRATOR WHO ADMITS HIS REPRESENTATIVE
CHARACTER AND THE PLAINTIFF'S DEMAND BUT
ALLEGES A TOTAL OR PARTIAL ADMINISTRATION OF
ASSETS AND PROVES THE ADMINISTRATION**

Upon the trial of this action at a Court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of \$.....for....., and \$.....for costs.

And it is ordered that the defendant do pay the same forthwith (or by instalments of.....for every.....days, the first instalment to be paid on the.....day of.....20....):

And the defendant having admitted his representative character and also the plaintiff's demand, and having alleged a total (or partial) administration of the goods of the said deceased, which came to the hands of the defendant as executor (or administrator) to be administered, it appears to the Court that the plaintiff has proved to the Court his demand and also that the defendant has not proved the administration alleged:

Wherefore it is ordered that in default of such payment the said sums of \$.....and \$.....shall be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the defendant as executor (or administrator) as aforesaid to be administered.

And it is further ordered, that the plaintiff do pay forthwith, the sum of \$.....being the costs incurred by the defendant in proving the administration alleged.

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Dated this.....day of.....20.....

(*Signed*).....

Magistrate

Part XXIII, rr.
8, 12

FORM 72

Guyana

**JUDGMENT AGAINST AN EXECUTOR OR
ADMINISTRATOR WHO ADMITS HIS REPRESENTATIVE
CHARACTER AND THE PLAINTIFF'S DEMAND, BUT
ALLEGES A TOTAL OR PARTIAL ADMINISTRATION OF
ASSETS, AND DOES NOT PROVES THE
ADMINISTRATION**

Upon the trial of this action at a Court holden this day, it is adjudged that the plaintiff do recover against the defendant the sum of \$.....for....., and \$.....for costs.

And it is ordered that the defendant do pay the same forthwith (or by instalments of.....for every.....days, the first instalment to be paid on the.....day of.....20....):

And the defendant having admitted his representative character and also the plaintiff's demand, and having alleged a total (or partial) administration of the goods of the said deceased, which came to the hands of the defendant as executor (or administrator) to be administered, it appears to the Court that the defendant has not proved to the Court the administration alleged or established any other ground of defence:

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Summary Jurisdiction (Civil Procedure) Rules

Wherefore it is ordered, that if the defendant shall make default in payment of the said sums, the same shall be levied as follows: the sum of \$.....(debt and costs) of the goods and chattels which were of the said deceased, and which came to the hands of the defendant as executor (or administrator), if the defendant has so much thereof in his hands to be administered; and if he has not, then that the residue of the sum of \$.....(debt) be levied of the goods and chattels of the said deceased which hereafter shall come to the hands of the defendant as executor (or administrator) as aforesaid to be administered; and that the sum of \$.....(the cost) be levied of the proper goods and chattels of the defendant.

Dated this.....day of.....20.....

(Signed).....

Magistrate

Part XXIII, r.12

FORM 73

Guyana

WRIT OF EXECUTION AGAINST GOODS OF TESTATOR (OR INTESTATE) AND THE EXECUTOR OR ADMINISTRATOR

Whereas at a Court holden at.....on the.....day of.....20...., the plaintiff obtained a judgment against the defendant, as executor (or administrator) of....., deceased, for the sum of.....for.....due and owing to the plaintiff by the said deceased in his lifetime, and the sum of.....for costs of action:

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

And thereupon it was ordered by the Court that the defendant should pay the same forthwith, (or by instalments of.....for every.....days):

And whereas default has been made in payment according to the said order:

These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels which were the property of the said deceased in his lifetime, in the hands of the defendant to be administered, wheresoever they may be found in Guyana, the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, together with the costs of this execution; and also to seize and take any money and bank notes, and any cheques, bills of exchange, promissory notes, bonds, or securities for money, which were the property of the deceased in his lifetime, which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, if the defendant has so much thereof in his hands to be administered; and if he has not so much thereof in his hands to be administered, then these are to require and order you to make and levy of the proper goods and chattels, money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, or securities for money of the defendant (except the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of one hundred dollars), the sum of.....for the costs of action above-mentioned, together with the costs of this execution and of making and executing the same, and to pay what you shall have so levied to the Clerk of the Court, and to make return of what you have done under this writ immediately upon the execution thereof.

Dated this.....day of.....20.....

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(Signed).....

Magistrate

.....Magisterial District

To the Head or any Bailiff.

	\$	c.
Debt or damages adjudged		
Costs		
<hr/>		
Paid into Court		
<hr/>		
Remaining due		
Fee for issuing this writ		
<hr/>		
Total amount to be levied (with costs of execution of writ, as endorsed hereon)		
<hr/>		

Notice. – The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the defendant.

Application was made to the Clerk of the Court for this warrant at.....minutes past the hour of.....in the.....noon of the.....day of.....20.....

Note. – As regards execution *de bonis propriis* of the executor or administrator, this form is to be altered to correspond with the judgment entered in accordance with Forms 67 to 72 (inclusive).

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXIV, r.
1(2)

FORM 74

Guyana

PRAECIPE FOR JUDGMENT SUMMONS

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.

A.B. of....., Plaintiff (Judgment-Creditor)
and

C.D. of....., Defendant (Judgment-Debtor)

I apply for the issue of a judgment summons against the above-named debtor (name the defendant or if there are more defendants than one, and plaintiff desires to proceed against some or one only name them or him) in respect of a judgment (or order) of the Court holden at.....Magistrate's Court in the.....Magisterial District on the.....day of.....20...., for the purposes of section 4 of the Debtors Act directed that the said sum due from the defendant be paid by instalments of \$.....every.....
or on the.....day of.....]

c. 6:04

I am aware that if I do not prove to the satisfaction of the Court at the hearing that the judgment debtor has, or has had since the date of the judgment (or order) the means to pay the sum in respect of which he has made default, and that he has refused or neglected or refuses or neglects to pay the same, I may have to pay the costs of this summons.

(Signed).....
Judgment-Creditor, or

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Counsel for Judgment-Creditor

Part XXIV, r.
3(1)

FORM 75

JUDGMENT SUMMONS ON A JUDGMENT OR ORDER OF THE COURT

Guyana

c. 6:04

The Summary Jurisdiction (Petty Debt) Act and the Debtors Act.

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
and
C.D. of....., Defendant

To.....of.....

Whereas the plaintiff obtained a judgment (or order) against the above-named defendant in this Court on the.....day of.....20...., or by instalments of.....) and subsequent costs have been incurred in pursuance thereof amounting to \$....., and there is now alleged to be due and payable under the said judgment (or order) the sum of \$.....

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

And whereas on the.....day of.....20....., for the purposes of section 4 of the Debtors Act the said Court directed that the debt from the defendant in pursuance of the said judgment or order be paid by instalments of \$.....each every (state period or if at any specified time state the same).

And whereas default has been made in payment of the sum of \$.....payable in pursuance of the said judgment (or order, or direction to pay the debt by the said instalments or at the said specified time) and the plaintiff has required this judgment summons to be issued against the defendant.

You are therefore hereby summoned to appear personally in this Court at.....on the.....day of.....20....., at the hour the Court touching the means you have or have had since the date of the said judgment (or order, or direction to pay the debt by the said instalments, or at the said specified time) to satisfy the sum payable in pursuance of the said judgments, or order, or direction to pay the debt by the instalments, or at the specified time) and also to show cause why you should not be committed to prison for such default.

Dated this.....day of.....20.....

(Signed).....
Magistrate

.....Magisterial District

\$ c.

Amount remaining due under judgment (or order) ...

Subsequent costs

Costs of this summons

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Total sum due

Form 77.

MEMORANDUM TO BE ANNEXED TO JUDGMENT SUMMONS

Guyana

c. 7:01

In default of your attendance you will, if at the time of service of this summons on you payment or tender of your expenses is made on the prescribed scale of allowances, be liable to a fine not exceeding \$300.00 under section 16 of the Summary Jurisdiction (Petty Debt) Act, payment of which fine may be enforced according to law.

Part XXIV,
r.3(1), (2)

FORM 76

JUDGMENT SUMMONS ON A JUDGMENT OR AN ORDER OF A COURT OTHER THAN THAT IN WHICH THE JUDGMENT OR ORDER WAS OBTAINED OR MADE

Guyana

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

and

C.D. of....., Defendant

Whereas the plaintiff obtained a judgment (or order) against the above-named defendant in the Magistrate's Court of the Magisterial District holden at.....on the.....day of.....20....., for the payment of the sum of \$.....for debt (or damages) and costs forthwith (or on the.....day of.....20....., or by instalments of.....) and subsequent costs have been incurred in pursuance thereof amounting to \$....., and there is now alleged to be due and payable under the said judgment (or order) the sum of \$.....:

And whereas on the.....day of.....20....., for the purposes of section 4 of the Debtors Act the said Court directed that the debt from the defendant in pursuance of the said judgment (or order) be paid by instalments of \$.....each every (state period or if at any specified time state the same):

And whereas default has been made in payment of the sum of \$.....payable in pursuance of the said judgment (or order, or direction to pay the debt by the said instalments or at the said specified time) and the plaintiff has required this judgment summons to be issued against the defendant.

You are therefore hereby summoned to appear personally in this Court at.....on the.....day of.....20....., at the hour of.....o'clock in the.....noon, to be examined on oath by the Court touching the means you have or have had since the date of the said judgment (or order, or direction to pay the debt by the said instalments, or at the said specified time) to satisfy the sum payable in pursuance of the said judgments, or order, or direction to pay the debt by the instalments, or at the specified time) and also to show cause why you should not be committed to prison for such default.

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Dated this.....day of.....20.....

(Signed).....
Magistrate

.....Magisterial District
\$ c.

Amount remaining due under judgment (or order) ...

Subsequent costs

Costs of this summons

Total sum due

Form 77.

MEMORANDUM TO BE ANNEXED TO JUDGMENT SUMMONS

Guyana

In default of your attendance you will, if at the time of service of this summons on you payment or tender of your expenses is made on the prescribed scale of allowances, be liable to a fine not exceeding \$300.00 under section 16 of the Summary Jurisdiction (Petty Debt) Act, payment of which fine may be enforced according to law.

c. 7:01

Part XXIV, r.
3(2)

FORM 77

MEMORANDUM TO BE ANNEXED TO JUDGMENT SUMMONS

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Guyana

c. 7:01

In default of your attendance you will, if at the time of service of this summons on you payment or tender of your expenses is made on the prescribed scale of allowances, be liable to a fine not exceeding \$300.00 under section 16 of the Summary Jurisdiction (Petty Debt) Act, payment of which fine may be enforced according to law.

Part XXIV, r.
6(1)

FORM 78

AFFIDAVIT TO LEAD TO ISSUE OF JUDGMENT SUMMONS AGAINST A FIRM OR PERSON CARRYING ON BUSINESS IN A NAME OTHER THAN HIS OWN

Guyana

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
and
C.D. of....., Defendant

I,of....., the above-named plaintiff [or, I,of (state residence and occupation)] make oath and say as follows:

1. On the.....day of.....20...., I (or the plaintiff) obtained judgment (or an order) in this action in this

Court.....against the defendants (state name in which defendants were sued) for the sum of \$.....(and costs), and there is now due and payable under the said judgment (or order) the sum of \$.....

2. I allege that (state name, residence and occupation) is liable as a partner in (or the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....) to pay the sum payable under the said judgment (or order), and I make this allegation on the following grounds –

- (a) That the said.....has admitted before the Court in the proceedings in which the said judgment (or order) was obtained that he was a partner in (or the sole member of) the firm of.....(or the person carrying on business on his own behalf in the name of.....) at the time of the accruing of the cause of action (or has been adjudged in the proceedings in which the said judgment (or order) was obtained to be liable as a partner in (or the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....); or
- (b) That the said.....was individually served as a partner in (or the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....) with the summons in the action in which the said judgment (or order) was obtained,

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

and failed to appear at the trial; or

- (c) (State any other grounds on which the person against whom a judgment summons is sought is alleged to be liable, with the deponent's sources of information and grounds of belief.)

3. I verily believe that the said.....is well able to pay the said sum of \$.....now due and payable under the said judgment (or order) (to be added where the plaintiff does not himself make the affidavit) and I am duly authorized by the plaintiff to make this affidavit on his behalf.

4. I apply for the issue of a judgment summons against the said.....in respect of the non-payment of the said sum of \$.....

Sworn at.....in the county of.....this.....day
of.....20.....

Before me,

(Signed).....

Commissioner for Oaths
to Affidavits

Part XXIV,
r.6(1)

FORM 79

AFFIDAVIT TO LEAD TO ISSUE OF JUDGMENT
SUMMONS OUT OF A COURT OTHER THAN THE COURT
IN WHICH JUDGMENT WAS OBTAINED AGAINST A
FIRM OR A PERSON CARRYING ON BUSINESS IN A
NAME OTHER THAN HIS OWN

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
and
C.D. of....., Defendant

I,of....., the above-named plaintiff (or, I,), of (state residence and occupation) make oath and say as follows:

1. On the.....day of.....20...., I (or the plaintiff) obtained judgment (or an order) in this action in the Magistrate's Court of the.....Magisterial District holden at.....against the defendants (state name in which defendants were sued) for the sum of \$.....(and costs), and there is now due and payable under the said judgment (or order) the sum of \$.....

2. I allege that (state name, residence and occupation) is liable as a partner in (or the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....) to pay the sum payable under the said judgment (or order), and I make this allegation on the following grounds –

(a) That the said.....has admitted before the Court in the proceedings in which the said judgment (or order) was obtained that he was a partner in (or the sole member of) the firm of.....(or the person carrying on business on his own behalf in the

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Summary Jurisdiction (Magistrates)

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name of.....) at the time of the accruing of the cause of action (or has been adjudged in the proceedings in which the said judgment (or order) was obtained to be liable as a partner in (or the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....); or

- (b) That the said.....was individually served as a partner in (or the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....) with the summons in the action in which the said judgment (or order) was obtained, and failed to appear at the trial; or
- (c) (State any other grounds on which the person against whom a judgment summons is sought is alleged to be liable, with the deponent's sources of information and grounds of belief.)

3. The said.....now lives at.....and there occupies a house [or shop or rooms, or as the case may be] within the jurisdiction of this Court.

4. The said firm of (state name in which defendants were sued) carry (or carries) on business of (state what) at (state where and add any facts showing that the business is within the jurisdiction of the Court in which application is made.

5. I verily believe that the said.....is well able to pay the said sum of \$.....now due and payable under the said

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

judgment (or order) [(to be added where the plaintiff does not himself make the affidavit) and I am duly authorized by the plaintiff to make this affidavit on his behalf].

6. I apply to the Court for leave to issue a judgment summons against the said.....in respect of the non-payment of the said sum of \$.....

Sworn at.....in the county of.....this.....day of.....20.....

Before me,

(Signed).....

Commissioner for Oaths
to Affidavits

Part XXIV, r.
6(2)

FORM 80

JUDGMENT SUMMONS ON JUDGMENT OR ORDER AGAINST A FIRM, OR A PERSON CARRYING ON BUSINESS IN A NAME OTHER THAN HIS OWN

Guyana

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
and

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

C.D. of....., Defendant

(State name, address, and description as in the original summons with any amendment made by the Court.)

To (state the name, address, and description of one of the persons alleged to be partners in the firm against whom judgment or order was obtained or of the person alleged to be the sole member thereof, or of the person alleged to be carrying on business in a name other than his own)
of.....

Whereas the plaintiff obtained a judgment (or order) against the defendant by and in the name of (state name, address and description as in the original summons, with any amendment made by the Court) above described in this Court (or in the Magistrate's Court of theMagisterial District holden at.....on the..... day of.....20....., for the payment of the sum of \$..... for debt) (or damages) and costs forthwith (or on the.....day of.....20...., or by instalments of.....) and subsequent costs have been incurred in pursuance thereof amounting to \$.....:

c. 6:04

And whereas on the.....day of.....20....., for the purposes of section 4 of the Debtors Act the said Court directed that the debt from the defendant in pursuance of the said judgment (or order) be paid by instalments of \$.....each every (or on the.....day of.....20....), (state period or if at any specified time state the same):

And whereas default has been made in payment of the sum of \$.....payable in pursuance of the said judgment (or order, or direction to pay the debt by the said instalments or at the said specified time) and the plaintiff has required this judgment summons to be issued against you:

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

And whereas the said plaintiff.....has filed an affidavit in this Court, a copy whereof is hereunto annexed, wherein it is alleged that you the above-named.....are liable as one of the partners in (or the sole member of) the firm of (state name, etc.), (or as the person carrying on business on your own behalf in the name of (state name, etc.), to pay the sum payable under the said judgment (or order)):

You are therefore hereby summoned to appear personally in this Court at.....on the.....day of.....20....., at the hour of.....o'clock in the.....noon, to be examined on oath by the Court touching the means you have or have had since the date of the said judgment (or order, or direction) to satisfy the said sum of \$.....now due and payable under the said judgment (or order, or direction to pay the debt by the instalments, or at the said specified time) and also to show cause why you should not be committed to prison for default in payment of the said sum.

And take notice that if you deny that you are liable as one of the partners in (or as the sole member of) the said firm of (state name, etc.) or as the person carrying on business on your behalf in the name of (state name, etc.), to pay the sum payable under the said judgment (or order) you must appear at this Court on the day and at the hour above-mentioned, and that in default of your so appearing you will be deemed to admit your liability as aforesaid to pay the amount due and payable under the said judgment (or order or direction).

Dated this.....day of.....20.....

(Signed).....

Magistrate

.....Magisterial District

\$ c.

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

Amount due under judgment (or order)
Subsequent costs
Costs of this summons
 Total sum due

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXIV, r. 7

CERTIFICATE OF JUDGMENT OR ORDER RELATING TO A JUDGMENT SUMMONS
In the Magistrate's Court at the.....Magisterial District holden at.....

CIVIL JURISDICTION

A.B. of.....
versus
Plaintiff

C.D. of.....
Defendant

I hereby certify that he following are particulars of the judgment (or order) obtained by the plaintiff (or defendant) in this Court in the above-mentioned matter.

Dated this.....day of.....20.....

Case Jacket Number	Name, Residence and Occupation of Plaintiff		Nature of Claim	Date of Judgment or Order	Amount of Judgment or Order			How or when Payable	Subsequent Orders for Payment by Instalments	Date of any Commitment Already Made
	Defendant	Date of Judgment or Order			Debt or Damages or Amount Ordered	Costs	Subsequent Costs			

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

Part XXIV,
r.13(2)

FORM 82

WARRANT OF COMMITMENT ON A JUDGMENT OR ORDER OF A MAGISTRATE'S COURT

Guyana

*The Summary Jurisdiction (Petty Debt) Act.
The Debtors Act.*

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

To the Head Bailiff and others, the
bailiff of the said Court and all
Peace Officers within Guyana
and to the Keeper of the.....
Prison.

Whereas the plaintiff obtained a judgment (or order)
against the defendant in this Court [or in the Magistrate's
Court of the.....Magisterial District holden at.....]
on the.....day of.....20...., for the payment of
\$.....for debt (or damages) and costs, and subsequent
costs have been incurred in pursuance thereof amounting to
\$....., and the Court on the.....day of.....
20...., for the purposes of section 4 of the Debtors Act directed
that the said debt be paid by instalments of \$.....every

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Summary Jurisdiction (Magistrates)

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Summary Jurisdiction (Civil Procedure) Rules

.....or on the.....day of.....20.....

And whereas the defendant has made default in payment ofpayable in pursuance of the said judgment (or order) or of the instalment of such debt which fell to be paid on the.....day of.....20....., [or at the time specified]:

And whereas a summons was, at the instance of the plaintiff duly issued out of this Court by which the defendant (if there is more than one defendant, name the defendant against whom this order of commitment was made) was required to appear personally at this Court on the.....day of.....20....., to be examined on oath touching the means he had then or had had since the date of the said judgment (or order or direction) to pay the debt by the said instalments or at the said specified time to satisfy the sum then due and payable in pursuance of the said judgment (or order or direction), and to show cause why he should not be committed to prison for such default, which summons has been proved to this Court to have been personally and duly served on the said defendant:

And whereas at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the said defendant now has [(or has had since the date of the said judgment) (or order or direction to pay the debt by the said instalments or at the said specified time)], the means to pay the sum due and payable in pursuance of the said judgment (or order or direction), and refuses (or neglects) (or has refused or neglected) to pay the same and the said defendant has shown no cause why he should not be committed to prison:

Now, therefore, it is ordered, that for such default as aforesaid the said defendant.....shall be committed to prison for.....days, unless he shall sooner pay the sum

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

stated below as that upon payment of which he is to be discharge, or unless he be discharged out of custody upon an order of the Court or a Magistrate pursuant to rule 19 (1) of Part XXIV of the Summary Jurisdiction (Civil Procedure) Rules.

These are therefore to require you, the said Head Bailiff and others hereinbefore mentioned, to take the said defendant.....and to deliver him to the Keeper of the Prison, and you the said Keeper to receive the said defendant....., and him safely keep in the said prison for.....days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Dated this.....day of.....20.....

(Signed).....
Magistrate

.....Magisterial District

\$ c.

Sum in payment of which defendant had made default
at time of issue of judgment summons
Fees and costs on issue and hearing of judgment
summons

Deduct amount paid since issue of judgment summons
Costs of executing this commitment

Sum on payment of which debtor is to be discharged ...

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXIV, r.
13(2)

FORM 83

WARRANT OF COMMITMENT ON A JUDGMENT OR ORDER AGAINST A FIRM, OR A PERSON CARRYING ON BUSINESS IN A NAME OTHER THAN HIS OWN

Guyana

The Summary Jurisdiction (Petty Debt) Act.
The Debtors Act.

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.

Between A.B. of....., Plaintiff
and
C.D. of....., Defendant

To the Head Bailiff and others, the
bailiff of the said Court and all
Peace Officers within Guyana
and to the Keeper of the.....
Prison.

Whereas the plaintiff obtained a judgment (or order)
against the defendants by and in the name.....above
described in this Court (or in the Magistrate's Court of
the.....Magisterial District holden at.....) on
the.....day of.....20...., for the payment of
\$.....for debts (or damages) (and costs) [and the Court
on the.....day of.....20...., for the purposes of
the Debtors Act directed the said debt be paid by instalments

c. 6:04

LAWS OF GUYANA

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

of \$.....every.....or on the.....day of.....20.....], and there is now due and payable under the said judgment (or order), from the said defendants to the said plaintiff the sum of \$.....:

And whereas the said plaintiff having filed an affidavit in this Court, wherein it was alleged that (state the name, address, and description of one of the person alleged to be partners in the firm against whom the judgment or order was obtained, or of the person alleged to be the sole member thereof, or of the person alleged to be carrying on business in a name other than his own).....was liable as one of the partners in (or as the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....) to pay the sum payable under the said judgement (or order) a summons was, at the instance of the said plaintiff, duly issued out of this Court, by which the said.....was required to appear personally at this Court on.....the.....day of.....20....., to be examined on oath touching the means he had then or had had since the date of the said judgment (or order or direction to pay the debt by the said instalments or at the said specified time) to satisfy the sum then due and payable in pursuance of the said judgment (or order or direction), and also to show cause why he should not be committed to prison for default in payment of the said sum, and notice was thereby given to the said.....that if he denied he was liable as one of the partners in (or as the sole member of) the said firm of.....(or as the person carrying on business son his own behalf in the name of.....) to pay the sum payable under the said judgment (or order) he must appear at this Court on the day above-mentioned, and that in default of his so appearing he would be deemed to admit his liability as aforesaid to pay the amount due and payable under the said judgment (or order):

And whereas the said summons came on for hearing this

day, and the said summons has been proved to this Court to have been personally and duly served on the said.....:

And whereas the said.....did not appear at the hearing of the said summons:

[or And whereas the said.....appeared at the hearing of the said summons, and admitted his liability as one of the partners in (or as the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....) to pay the sum payable under the said judgment (or order):]

[or And whereas the said.....appeared at the hearing of the said summons and denied that he was liable as one of the partners in (or as the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....) to pay the sum payable under the said judgment (or order), but proof has been made to the satisfaction of the Court that the said.....is liable as one of the partners in (or as the sole member of) the said firm of.....(or as the person carrying on business on his own behalf in the name of.....to pay the said sum):]

And whereas at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the said now has [(or has had since the date of) the judgment (or order or direction to pay the debt by the said instalments or at the said specified time)] the means to pay the sum due and payable under the said judgment (or order or direction), and refuses (or neglects) (or has refused or neglected) to pay the same and the said.....has shown no cause why he should not be committed to prison:

Now, therefore, it is ordered, that for such default as aforesaid the said.....shall be committed to prison for.....days, unless he shall sooner pay the sum stated

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

below as that upon payment of which he is to be discharge, or unless he shall be discharged out of custody upon an order of the Court or a Magistrate pursuant to rule 19 (1) of Part XXIV of the Summary Jurisdiction (Civil Procedure) Rules.

These are therefore to require you, the said Head Bailiff and others hereinbefore mentioned, to take the said defendant.....and to deliver him to the Keeper of thePrison, and you the said Keeper to receive the said defendant....., and him safely keep in the said prison for.....days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Dated this.....day of.....20.....

(Signed).....

Magistrate

.....Magisterial District

\$ c.

Sum in payment of which defendant had made default
at time of issue of judgment summons
Fees and costs on issue and hearing of judgment
summons

Deduct amount paid since issue of judgment summons
Costs of executing this commitment

Sum on payment of which debtor is to be discharged ...

Total

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Part XXV, r. 1

FORM 84

SWORN CLAIM FOR RENT IN ARREARS

Guyana

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

I,of.....in the county of.....make oath and say as follows –

1. I am landlord (or agent of the landlord) of.....hereinafter called the tenant now residing at.....in respect of a (weekly, monthly, or yearly) tenancy created (verbally, or in writing) with respect to premises (or lands) situate at.....in the said Magisterial District, for the term of.....or at will at a rent of.....(per week, month, or year).

2. The tenant is presently indebted to me in the sum of \$.....for rent as set forth in the particulars.

3. The tenancy is still subsisting and the goods and chattels of the tenant are presently in the said premises (or land).

PARTICULARS

By (weeks, months, or years) rent of the said premises or lands from the.....day of.....20...., to the.....day of.....20....., at the rate of \$.....per (week, month, or year).

(Signed).....

LAWS OF GUYANA

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Cap. 3:05

Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Landlord or his agent.

Sworn to by the said.....at.....
.....in the county of.....
Before me,

(Signed).....

Magistrate

Part XXV, r.
2(1)

FORM 85

NOTICE TO BAILIFF OF DESIRE TO REPLEVY GOODS DISTRAINED

In the Magistrate's Court of the.....Magisterial
District holden at.....

Take notice that I,of (residence), (occupation)
desire to replevy the goods distrained by (name of distrainer)
on the.....day of.....20....., in the matter
of.....(name of landlord), *versus*,.....(name
of tenant) and that I propose to (either deposit the amount of
the rent alleged to be due and \$5.00 as security for costs, or,
enter into a recognizance with one sufficient surety at least for
the due and effective prosecution of the action), particulars of
the said goods distrained being as follows –

PARTICULARS

(Here set out description of goods item by item.)

Dated this.....day of.....20.....

(Signed).....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Replevisor

To the Bailiff of the.....Court.

Part XXV, r.
2(1)

FORM 86

RECOGNISANCE TO PROSECUTE REPLEVIN

I approve of
this
recognition.

Magistrate.
Dated this
.....
day of.....
.....
20.....

Know all men by these presents, that we A.B. of.....,
C.D. of....., and E.F. of.....are held bound unto
G.H. (the distrainer) in the sum of \$.....to be paid to the
said G.H. or his certain attorney or legal representatives, for
which payment to be well and truly made we bind ourselves
and each and every of us in the whole our and each of our
legal representatives jointly and severally firmly by these
presents.

Signed with our signatures and dated this.....day
of.....Two Thousand and.....

(Signed) A.B.
C.D.
E.F.

Witnesses –

1.

2.

Whereas the above-named C.D. and E.F. at the request of
the said A.B. have agreed to enter into the above-written
obligation, and this security has been approved by the
Magistrate of the Court in the.....Magisterial District as
appears by his allowance in the margin hereof:

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Now the condition of this obligation is such that if the above-bounden A.B. do and shall within seven days from the date of the said obligation commence an action of replevin against the above-named G.H. in the above Court for unjustly distraining certain goods and chattels of the said A.B., to wit (here insert the description of the goods and chattels), and prosecute such action with effect and without delay, and do and shall also make return of the said goods and chattels, if return thereof shall be adjudged, then this obligation shall be void and of no effect, or otherwise the same shall remain in full force.

Part XXV, r.
2(3)

FORM 87

NOTICE TO DISTRAINER OF GOODS INTENDED TO BE REPLEVIED

In the Magistrate's Court of the.....Magisterial District holden at.....

Take notice that A.B. of (residence) who alleges that his goods have been distrained intends to replevy the same and has duly given notice of his intention and has (deposited the amount of the rent alleged to be due and \$5 as security for costs, or, entered into a recognizance with one or more sufficient sureties for the due and effective prosecution of the action) and has otherwise this day complied with section 10(1) of the Summary Jurisdiction (Petty Debt) Act.

c. 7:01

All for your information and guidance.

Dated this.....day of.....20.....

(Signed).....

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

Bailiff

To G.H. of.....

Part XXVI, r.1

FORM 88

NOTICE OF PROPOSED SURETIES

Guyana

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

Take notice that the sureties whom I propose as my security in the above action (here state the proceedings which have rendered the sureties necessary) are (here state the full names and additions of the sureties, whether property owners, and their address, etc.).

Dated this.....day of.....20.....

To the Clerk of the Court,.....Magisterial District, and
to.....
(the opposite party)

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(Signed).....

Party proposing sureties

Part XXVI, r.2

FORM 89

AFFIDAVIT OF SUFFICIENCY OF SURETY

Guyana

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff
versus
C.D. of....., Defendant

I,.....of....., one of the sureties for the defendant, make oath and say –

1. That I am the owner of (state property owned).
2. That I am worth in (state whether movable or immovable property) property to the amount of \$....., over and above what will pay my just debts (if surety in any other action or for any other purpose, add, and every other sum for which I am now surety).
3. That I am not bail or surety in any other action or proceeding or for any other person (if surety in any other action or matter, add) except for C.D. at the suit of E.F. in

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

the.....Court holden at.....in the sum of
\$.....(specifying the several matters with the Courts in
which they are brought and the sums in which he has become
bound).

4. That is my property to the amount of the said sum of
\$.....(if surety in any other action, etc., add) over and
above all other sums for which I am now surety as aforesaid,
consists of (here specify the nature and value of the property I
respect of which the deponent proposes to become
bondsman).

5. That I have for the last six months resided at.....

Sworn to before me at.....on.....the.....day
of.....20.....

(Signed).....

A Commissioner for Oaths
to Affidavits

Part XXVII, r.
1(1)

FORM 90

WARRANT (FUGEE WARRANT) OF APPREHENSION

Guyana

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

A.B. of....., Plaintiff

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

versus

C.D. of....., Defendant

To the Head or any other.....Bailiff of the Court and
to all other Peace Officers.

Whereas a claim hath this day been lodged before me the
undersigned Magistrate for the.....Magisterial
District by.....or his Agent that he has a good cause of
action against.....of.....for the sum of*
.....and that he has cause to believe that the
said.....is about to quit Guyana unless he is
apprehended, and that the absence of the said.....from
Guyana unless he is apprehended, and that the absence of the
said.....from Guyana will prejudice h.....in the
recovery of what is claimed, and oath having been made to
my satisfaction in support of the claim of the said.....

This is to command you forthwith to apprehend the
said.....and to bring him before the Magistrate in the
said Court to answer the said claim, and to be further dealt
with according to law.

Dated this.....day of.....20.....

Part XXVII, r.
1(2)

FORM 91

AFFIDAVIT FOR ARREST OF DEFENDANT

Guyana

* State cause of action.

LAWS OF GUYANA

Summary Jurisdiction (Magistrates)

Cap. 3:05

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

In the Magistrate's Court of the.....Magisterial
District holden at.....

CIVIL JURISDICTION

Plaint No.....

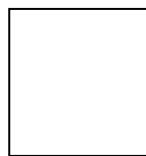
A.B. of....., Plaintiff

versus

C.D. of....., Defendant

I,.....of.....make oath and saith that the plaintiff.....has a just and valid cause of action against.....of.....to the amount of.....
dollars for*and this deponent further saith†
.....

And this deponent further saith that for the reasons aforesaid, he verily believes that the said defendant is about to leave Guyana without paying or giving security for the payment of the aforesaid sum or any part thereof as this deponent verily believes.



Sworn before me this.....day of.....20.....
(‡)

* Here state the cause of action for which the arrest is to be made.

† Here state the facts which show, or the grounds and reason for believing, that the defendant is about to leave Guyana, unless forthwith apprehended and that the absence of the defendant from Guyana will prejudice the plaintiff in the recovery of what is claimed.
(Stating whether defendant has any property in Guyana.)

‡ By the creditor or his representative being duly authorised in writing in this behalf.

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(*Signed*).....

A Commissioner for Oaths
to Affidavits

The Magistrate of the.....Magisterial District is requested to grant a warrant of arrest against the above-named defendant.

N.B. – Affidavit to contain disclosures required by rule 1(2) of Part XXVII of the Summary Jurisdiction (Civil Procedure) Rules.

Part XXVII, r.2

FORM 92

Guyana

AUTHORITY TO REPRESENT PARTIES

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.

Case No.

A.B. of....., Plaintiff
and

C.D. of....., Defendant

I hereby authorise E.F. of.....to appear on my behalf before the Magistrate in the said Court in the above matter and to prosecute (or consent to judgment, or defend) therein.

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

(Signed).....

Plaintiff or Defendant

Part XXVII, r. 4

FORM 93

ORDER FINING A WITNESS FOR NON-ATTENDANCE

Guyana

In the Magistrate's Court of the.....Magisterial District holden at.....

CIVIL JURISDICTION

Plaint No.

A.B. of....., Plaintiff

versus

C.D. of....., Defendant

Whereas.....of.....was duly summoned to appear as a witness in this cause at a Court holden on the.....day of.....20....., and at the time of his being so summoned payment (or a tender of payment) of his expenses was made according to the Schedule to the Act:

And whereas the said.....refused or neglected to appear and give evidence, or to give evidence and produce the books, deeds, papers, writings, or articles in his possession or custody as specified in the summons:

And whereas notice was duly given to the said.....

LAWS OF GUYANA

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Summary Jurisdiction (Magistrates)

[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

requiring him to show cause pursuant to rule 4 (d) of Part XXVII of the Summary Jurisdiction (Civil Procedure) Rules why a fine should not be imposed upon him for such refusal or neglect, and the said.....did not appear (or appeared but did not show sufficient cause excusing his said refusal or neglect):

or Whereas.....being this day present in Court, and being required by the Court to give evidence in this action, refused to be sworn or to make affirmation (or after being duly sworn) or (after having made affirmation) refused to give evidence (or to produce (here describe what he was required and bound to produce)):

It is hereby ordered that the said.....shall forthwith or (state time specified) pay to the Clerk of this Court a fine \$.....for such refusal or neglect to be apportioned as follows:

[State the application of the fine pursuant to section 16(2) of the Summary Jurisdiction (Petty Debt) Act.]

And it is further ordered that in default of payment of the said fine, the same, with all subsequent costs as allowed by the Summary Jurisdiction (Petty Debt) Act, shall be levied on the movable property of the said.....(the bedding and wearing apparel of himself and his family, and, to the value of one hundred dollars, the tools and implements of his trade only excepted) and in default of movable property sufficient to satisfy the said judgment, with all costs, then this execution is to be levied on his immovable property in accordance with the Summary Jurisdiction (Petty Debt) Act.

or And it is further ordered that in default of payment of the said fine, the defendant to be imprisoned in the.....Prison for the term of.....unless the said sum should be sooner paid and that the commitment be issued in terms of

Summary
Jurisdiction
(Petty Debt)
Act
c. 7:01,
s. 16(1).

c. 7:01

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Summary Jurisdiction (Magistrates)

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[Subsidiary]

Summary Jurisdiction (Civil Procedure) Rules

section 64 of the Summary Jurisdiction (Procedure) Act.

Dated this.....day of.....20.....

(*Signed*).....

c. 10:02

Magistrate

.....Magisterial District

FORM 94

WARRANT OF COMMITMENT FOR CONTEMPT OF COURT

Guyana

Part XXVII, r.5

In the Magistrate's Court of the.....Magisterial
District holden at.....

To.....Police (or any Constable), and to the Keeper,
.....Prison.

Whereas on the.....day of.....20.....,
willfully insulted his Worship,the Magistrate
during his sitting in Court (or was guilty of grave misconduct
during the hearing of a cause or matter) and his Worship the
said Magistrate thereupon ordered that the said.....
should stand committed for.....days to the.....
Prison for such offence: (or, that the said.....should
forthwith, or, state specified time) pay to the Clerk of the
Court a fine of \$.....for such offence, and that in default

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[Subsidiary] *Summary Jurisdiction (Civil Procedure) Rules*

of payment the said.....should be imprisoned in the.....Prison, and there kept for the term of.....days, unless the fine should be sooner paid:

And whereas default has been made in payment of the said fine:

These are therefore to require you the said Constable to take the said.....and to deliver him to the Keeper of the above-named prison, together with this warrant, and you the said Keeper to receive the said.....and him safely keep in the said prison for.....days from the arrest under this warrant or until he shall be discharged in due course of the law (or unless the said fine be sooner paid).

Dated this.....day of.....20.....

(*Signed*).....
Magistrate

.....Magisterial District