

18. Execution

- (1) Before issuing a warrant of execution or a warrant of commitment the person issuing the warrant may require the person applying for its issue to furnish to him a praecipe in accordance with the form or to the effect of Form 7 in these regulations.
- (2) Any fine, cost or fees directed to be levied by execution shall be recoverable by warrant of execution in accordance with Form 8 directed to the sheriff.
- (3) The sheriff, under a warrant of execution, may seize and take and cause to be sold any goods (which term shall include cheques, bills of exchange, promissory notes, specialties, or other securities for money) which the person against whom the warrant was issued is or may be possessed of or entitled to or which he has power to assign or dispose of excepting so much of the goods as are protected from seizure under the *Local Courts Act 1904*.
- (4) The sheriff shall hold any cheques, bills of exchange, promissory notes, specialties, or other securities for money which are seized or taken under the warrant of execution, as a security for the amount directed to be levied under the warrant, or so much thereof as has not been otherwise levied or raised for the benefit of the execution creditor, and may receive any moneys payable by virtue of any such instrument from the person liable under it.

The sheriff may sue in the name of the person against whom the warrant of execution was issued, or in the name of any person in whose name the debtor might sue, for the recovery of the sums secured or made payable by any such instrument when the time of payment thereof arrives.

Any money paid to the sheriff or recovered in an action brought by him in respect of any such instrument shall be paid into the Court by him.

- (5) A sale of goods which are taken in execution shall not, unless the goods are of a perishable nature, be made until after the expiration of the 5 days at least next following the day on which the goods were taken, except upon the request in writing of the person whose goods are taken.

Until the sale, the goods must be deposited by the sheriff in some fit place or they may remain in the custody of a fit person approved by the sheriff to be put in possession by the sheriff.

- (6) The sheriff may deduct out of the amount realised by such sale, the costs incurred in the execution of any warrant of execution and all costs and charges actually incurred in effecting such sale, and shall render to the owner the surplus (if any) after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.
- (7) A written account of the costs and charges incurred in respect of the execution of any warrant of execution shall be sent by the sheriff to the Clerk and the person against whom the warrant was issued may, at any time within one month after the levy, inspect such account at any reasonable time and take a copy thereof.
- (8) (a) A warrant of execution issued under the Act shall have the same effect against any property (including land under the *Transfer of*

Land Act 1893) as a writ of *fiery facias* issued out of the Supreme Court.

- (b) Section 133 of the *Transfer of Land Act 1893* shall apply to a sale under a writ or warrant of execution issued under the Act, and that section and the schedules therein referred to shall, in relation to any such sale, be read as if the words “warrant of execution issued out of the Court” were inserted in place of “writ of *fiery facias* issued out of the Supreme Court”.