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Notification of General Rules and Orders framed by the Attorney General and approved by the Governor in Council, under the Small Debts Ordinance, 1863.

WHEREAS by Section 74 of the Small Debts Ordinance, 1863 (27 Vict., No. 21), it is enacted that it shall be lawful for the Attorney General to frame such general rules and orders as to him shall seem expedient for and concerning the practice and proceedings of the Courts holden under the said Ordinance, and for the execution of the process of the Courts, and generally for carrying the said Ordinance into effect, and that the Governor may, with the advice of the Executive Council, approve or disallow, or alter or amend such rules and orders, or any of them, and such of the rules as shall be so approved shall forthwith be notified in the *Government Gazette* for public information, and shall commence and have the force of law after the expiration of fourteen days from such publication: AND WHEREAS the Attorney General has framed the following general rules and orders under the authority by the said section conferred, and the same have been approved by the Governor, with the advice of the Executive Council: NOW, THEREFORE, the said general rules and orders are hereby notified for public information, as required by the provisions of the said section.

Attorney General's Office,  
Perth, 16th June, 1897.

SEP. BURT,  
Attorney General.

## GENERAL RULES AND ORDERS.

All Rules, Scales of Professional and other Costs, Witnesses' Expenses, and Bailiffs' Fees heretofore in force are hereby revoked and repealed; but nothing herein contained shall affect or be construed to affect any action or proceeding commenced in any Local Court in the Colony of Western Australia before the day on which these Rules shall come into force and take effect.

1. The Scale of Costs, Witnesses' Expenses, Bailiffs' and other Fees, and Schedule of Forms hereto annexed shall be part of these Rules.

2. The following terms in inverted commas shall bear the several meanings set against them respectively:—

“Sealed.”—Sealed with the Seal of the particular Local Court.

“Party.”—The Plaintiff or Plaintiffs, or Defendant or Defendants, as the case may be.

“Clerk,” “Bailiff,” “other Officer.”—Any Clerk of the Local Court, Bailiff, or other specified officer or person duly appointed and authorised to act as such respectively.

“Home Court.”—The Local Court from which the process originally issues.

“Home District.”—The District of the Local Court from which the process originally issues.

“Foreign District.”—The District of the Local Court into which process is issued from another district.

“Foreign Court.”—The Local Court of the District into which the process is issued from another Local Court.

“Oath.”—An Oath *vivâ voce* or on Affidavit.

“The Act” shall mean 27 Vict., No. 21.

“The Amendment Act” shall mean 58 Vict., No. 13.

“Magistrate.”—The Magistrate of the particular Local Court in question, or the Justice, Justices, or any other person or persons authorised to exercise the powers of the Court by Section six of the Act.

3. When an infant applies to enter a plaint for any cause of action (other than for wages or piecework or for work as a servant) he shall, at the time of entering the plaint, procure the attendance of a next friend to be approved by the Registrar, and no plaint shall be issued until the next friend has undertaken (in the form set out in the Schedule hereto) to be responsible for costs, and he, on entering into such undertaking, shall be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit, and the cause shall proceed in the name of the infant by his next friend, and the undertaking shall be filed by the clerk; but no order of the Court shall be necessary for the appointment of such next friend. If the plaintiff fail in or discontinue his suit and does not pay the amount of the costs awarded by the Court to be paid by him to the defendant, proceedings may be taken for the recovery of such amount from the next friend as for the recovery of any debt ordered to be paid by the Court.

#### CLERK'S DUTIES.

4. The Clerk shall keep an office at the place where the Court of which he is Clerk is holden, and such office shall be kept open every day from ten o'clock in the morning until four o'clock (or such other hour as the Attorney General may, in case of any particular Court, direct) in the afternoon, except on Saturdays and during vacation, when the said office shall close at twelve o'clock (noon), and also except on Good Friday, Sundays, Christmas Day, public holidays, or days proclaimed as public holidays for the district in which the Local Court is situate, on which days the said office shall not be opened at all.

5. The Clerk shall keep books and make returns in the forms and in the manner from time to time directed and approved by the Attorney General.

6. When the Clerk or his lawful deputy is absent from the Court, or when from any other reason the Magistrate deems it desirable so to do, the Magistrate may appoint a deputy to act as Clerk, and an entry of such appointment shall be made in the minutes of the Court, and such entry shall be evidence of such appointment.

7. The Clerk shall sign and issue all summonses and warrants without delay after plaints are entered or warrants are applied for, and where the leave of the Court or Magistrate is necessary before issuing a summons, the Clerk shall obtain such leave, and endorse a note of the same on the summons when issued in accordance with Rule 28.

8. If a summons is required to be served by the bailiff in a foreign district, the Clerk shall (if requested) forward such summons and all other necessary documents and copies to the bailiff of such foreign district, and if the summons is returned unserved shall forthwith notify the plaintiff.

9. The Clerk may, in the event of a summons requiring to be served in a foreign district, require the plaintiff to deposit with him a sum sufficient to defray the cost of such service.

10. The Clerk shall, in all cases where particulars are required, annex to the summons a copy of the plaintiff's particulars sealed with the seal of the Court.

11. The Clerk shall, if requested so to do, give an acknowledgment in writing of all moneys received by him into Court.

12. No officer of the Court shall sign the books of the Court, or any ledger, on account of any suitor, or otherwise act as agent for any suitor, nor shall he become surety for any suitor.

#### BAILIFF'S DUTIES.

13. The Bailiff shall keep such books and make such returns as shall from time to time be prescribed by the Attorney General.

14. The Bailiff shall attend personally or by his lawful deputy at the office of the Clerk whenever necessary or when required so to do by the Clerk or Magistrate.

15. The Bailiff shall not be required to serve any summonses at a distance beyond five miles from the Local Court out of which the summons has issued, unless it is delivered to him at least ten days before the return day of such summonses.

16. Where a summons is required to be served in a foreign district, the Bailiff of such foreign district shall, in time to reach the Clerk of the home district four days before the return day of such summonses, transmit to the Clerk of the home district an affidavit of service of such summons, or an endorsement in pursuance of Section 12 of the Amendment Act, or if such summons be not served, an endorsement as to the cause of non-service.

17. Four days before the holding of any Court the Bailiff shall deliver to the Clerk a list of all summonses issued to him for service for such Court; such list shall state the mode of service of such summonses, and if they are not served the cause of non-service: And the Bailiff shall return a copy of all such summonses with a proper endorsement in pursuance of Section 12 of the Amendment Act or an affidavit of service in all cases where service has been effected.

18. Where service of a summons has been undertaken by the plaintiff he shall, four days before the return day of such summons, return the same to the Clerk with an affidavit of service, or, if the same has not been served, with an endorsement as to the cause of non-service: Provided always, that if the plaintiff undertakes the service of a summons he shall not be required to pay any Bailiff's fees and shall be allowed on taxation a reasonable sum for such service.

19. Where a summons has been issued to the Bailiff for service, and the same has, on the making of the aforesaid return to the Clerk, not been served, the Clerk shall immediately notify the plaintiff of the fact of such non-service.

20. The Bailiff shall keep a warrant book in which he shall enter every warrant as he receives the same, and shall from time to time enter therein what has been done in the matter of each warrant, and if the same be not executed within one month of the delivery of the same to him, shall enter the reason why it was not executed, and shall, at all reasonable times, give to a suitor, his solicitor, the Court, or Clerk, such information as may reasonably be required.

21. Every Bailiff levying and receiving money in any manner shall forthwith pay over the same to the Clerk of the Court of which he is Bailiff.

22. Whenever a warrant required to be executed in a Foreign District has not been executed within one month of the receipt of the same by the Bailiff of such Foreign District, such Bailiff shall, on the day after the termination of such month, make a return to the Clerk of the Home Court as to what he has done in the matter of such warrant, and why it has not been executed, and if such warrant has not been executed during the time it is in force the Bailiff shall return the same to the Clerk of the Home Court, with an endorsement signed by him as to the cause of its non-execution, but the Bailiff shall return such warrant to the Home Clerk (though unexecuted) at any time when required to do so.

#### PLAINT.

23. Every plaint shall be in the form in the schedule hereto, and shall be lodged with the Clerk at least twelve days before the date fixed for the sitting of the Court at which the summons to be issued on the plaint is to be made returnable: Provided that this rule shall not apply to plaints filed and summonses issued in pursuance of the proviso to Rule 30.

## PARTICULARS.

24. On entering the plaint the plaintiff shall, in all cases where the same are required, deliver at the office of the Clerk as many copies of the statement of particulars of his demand or cause of action as there are defendants whom it is intended to serve, and an additional copy to be filed, and in all cases such particulars shall be deemed part of the summons: Provided always, that if the plaintiff's particulars have previously been rendered to the defendants or one of them, and they exceed three folios in length, it shall be deemed sufficient particulars to state the nature of the claim and short particulars thereof with the words "particulars whereof have been rendered and exceed three folios:" Provided, however, that the Magistrate may order delivery of further particulars on such terms as he may think fit.

## PLAINT NOTE.

25. At the time of entering a plaint the Clerk shall, if required, give the plaintiff, his solicitor or agent, a note in the form in the Schedule, and such note when produced to the Clerk shall be evidence that the bearer is the plaintiff, or his agent, and shall entitle the bearer to payment of any moneys in Court in the particular cause.

## SUMMONS TO APPEAR TO A PLAINT.

26. The summons to appear to a plaint shall be in the form set forth in the Schedule, and shall be dated on the day of entry of the plaint, and shall be the commencement of the suit.

27. Such summons shall be returnable for the next Court holden upwards of ten days after the entry of the plaint, or at any other Court that the plaintiff or his solicitor may request holden within six months of the entry of the plaint.

28. Where a summons is issued by leave of the Magistrate, the words "by leave of the Court" shall be written on the face of the summons and initialed by the Clerk.

29. Where a summons has not been served, successive summonses may be issued without entering a new plaint or paying any further fees, and such summonses shall bear the date of the first summons: Provided that no successive summonses shall be issued on a plaint entered more than twelve months previously.

30. A summons to appear to a plaint shall be served, where the service is to be in the Home District, at least eight days, and where it is to be served in a Foreign District at least ten days before the return day thereof: Provided always, that if the plaintiff produces, at the time of entry of a plaint, an affidavit by himself or his solicitor that he believes the defendant is about to remove out of the Home District, such plaint may be entered and a summons issued and served at any time before the day on which the Court is holden: Provided always, that in such case the Magistrate may, at his discretion and on such terms as he shall think fit, adjourn the hearing.

31. The service of the summons, except as is hereinafter provided and where it is otherwise provided in the Act or any Amendment thereof, shall in all cases be personal or by leaving the same with some person apparently above the age of fourteen years, at the house or place of business of the defendant or the place where he usually resides.

32. In the following cases delivery of the summons to the undermentioned persons shall be deemed sufficient service on the defendant:—

- (a.) Where defendant is living or serving on a vessel or ship delivery to the person in charge of the vessel or ship at the time of such service shall be sufficient service.
- (b.) Where defendant is resident or quartered in any barracks as a soldier or marine, or is serving Her Majesty as a soldier or marine, delivery to the officer or serjeant of the troop or corps to which the soldier or marine belongs shall be sufficient service.

- (c.) Where defendant is a prisoner in a gaol or lock-up delivery to the Governor or Warder of the gaol or lock-up shall be sufficient service.
- (d.) Where defendant is permanently employed or dwells in any lunatic or other asylum, or any gaol or house of correction, delivery to the gate-keeper or lodge-keeper of such asylum, gaol, or house of correction, shall be sufficient service.

33. Service on a registered company or other company, association, or corporation may be effected by delivering the summons or process to the Secretary or Clerk of the defendant at any office or place of business of the company, or association, or corporation within the Colony of Western Australia, and such service shall be personal service on the defendant.

34. Where the defendant keeps his house or dwelling or place of business closed in order to prevent the service of a summons, it shall be sufficient to affix such summons to the door of such dwelling house or place of business.

35. Where the defendant, by violence or threats, prevents the service of any summons upon him personally, it shall be sufficient to leave such summons as near to the defendant or his place of business, house, or dwelling as may be practicable.

36. Where the service has been other than personal, or such as is provided for in Rules 32 and 33, or as is provided for as sufficient in the Act or any amendment thereof, and there is no appearance of the defendant at the hearing, the Magistrate shall require evidence to show that the fact of the issue of the summons came to the knowledge of the defendant against whom judgment is asked, and if the Magistrate is of opinion that the defendant had not time, after the issue of the summons came to his knowledge, to appear or prepare his defence, he may adjourn the cause on such terms as he may think fit.

37. The above rules as to the mode (but not those as to the time) of the service of a summons shall apply to the mode of service of subpoenas, processes, or notices of all kinds, except where otherwise directed by the Act or any amendment thereof, or rules of Court.

38. No service of any summons, process, order, subpoena, or notice shall be effected on Sunday, Christmas Day, or Good Friday; but when the time for doing any act or taking any proceeding expires on any of the aforesaid days or on any other day on which the offices are closed, such act or proceeding shall, so far as regards the time for doing or taking the same, be held to be duly done or taken if done or taken on the day on which the offices shall next be open.

## PAYMENT INTO COURT.

39. Where the defendant is desirous of paying money into Court, it shall be paid to the Clerk five clear days before the return day of the summons: Provided that if payment into Court is made less than the said five days before the return day of the summons, the Magistrate may order the payment of such costs further than those provided in section twenty-four of the Act as to him may seem fit, and notice of such payment in shall be sent by the Clerk to the plaintiff forthwith.

40. On receipt of notice of payment into Court the plaintiff shall, within two days, notify the Clerk as to whether he will proceed or not, and, in the event of no such notice being given, the cause shall proceed, and the Clerk shall immediately on the expiration of the said two days notify the defendant as to whether the cause will proceed or not.

## INSPECTION OF DOCUMENTS.

41. Where in any action the plaintiff or defendant is desirous of inspecting any written or printed document or instrument in which he has an interest, and to the production of which he is entitled for the purposes of the action, and which shall be in the possession or power or under the control of the other party, such plaintiff or defendant may, five clear days before the day of hearing,

give notice to the other party, by post or otherwise in writing, that he or his attorney desires to inspect any such document (describing the same) at any place to be appointed by the other party, and if such other party shall neglect or refuse to appoint such place, or to allow such plaintiff or defendant, or his solicitor, to inspect such document or instrument within three days after receiving such notice, the Magistrate may, in his discretion, on the day of hearing, adjourn the cause, and make such order as to costs as he shall think fit.

#### WITHDRAWAL BY PLAINTIFF.

42. If the plaintiff be desirous of not proceeding in any cause he may give notice thereof to the Clerk and to the defendant, and after the receipt of such notice the defendant shall not be entitled to any further costs than those incurred up to the time of the receipt of such notice, unless the Magistrate shall otherwise order.

#### CAUSE SENT FOR TRIAL FROM SUPREME COURT OR ON CHANGE OF VENUE FROM ANOTHER LOCAL COURT.

43. When a Supreme Court action is ordered to be tried in the Local Court or an order is granted changing the venue in a Local Court action, the Clerk of the Local Court mentioned in the order shall enter the cause for trial on the day appointed by the Magistrate in the usual way, and the hearing shall proceed as if the said action had been commenced by a plaint issued from the Court mentioned in such order.

#### DEFENCES.

44. Where the defendant intends to rely on any of the special defences set out in Section 19 of the Act or on any counter claim, his defence shall contain the particulars hereinafter mentioned with reference to such ground of defence; and notice of such defence and copies thereof as hereinafter provided shall be lodged with the Clerk at least five clear days before the return day of the summons, and the Clerk shall forthwith post or serve the said notices as directed by Section 19 of the Act: Provided that in the event of non-compliance with this rule, the Magistrate may, on payment by the party in default of the costs of the day, adjourn the cause to enable the defendant to give such notice.

- (a.) When the defence is a set-off of any claim or demand claimed or recoverable by the defendant from the plaintiff, the defendant shall deliver particulars of such set-off claim or demand as would be required on the entering of a plaint.
- (b.) Where the defence is infancy, the notice shall state, so far as practicable, the place and date of birth.
- (c.) Where the defence is coverture, the notice shall state, as far as practicable, the place and date of marriage and the last known place of abode of the husband.
- (d.) Where the defence is discharge under any law or statute relating to bankrupts or insolvents, the notice shall set forth the date of the certificate or order relied upon as a defence.

45. The defendant shall file as many copies of such notice of special defence as there are plaintiffs in the action and an additional copy for filing.

46. On a defence of tender the defendant shall pay the debt into Court (without costs), otherwise the defence shall not be available.

#### EVIDENCE.

47. Subpoenas to witnesses may be issued without leave of the Court to be served either in the Home or in any Foreign District.

48. It shall be sufficient if a subpoena to a witness be served a reasonable time before the actual hearing.

49. Where either party proposes to give a judgment of a Supreme Court or any other document, whether printed or written, in evidence he may, by a demand in writing

made a reasonable time before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the document to be read in evidence without proof, and if such demand be not made no costs of proving such document shall be allowed unless the Magistrate shall otherwise order. If such demand be not complied with, and the Magistrate think it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document whatever may be the event of the cause.

#### ADJOURNMENT OF CAUSE.

50. The parties to any cause at any time before the cause is called on may, by consent, postpone the hearing to such subsequent Court as the Magistrate may direct.

51. Where a cause is adjourned, no order of adjournment shall be served on either party unless by direction of the Magistrate.

52. When anything required by the practice of the Court to be done by either party before or during the hearing has not been done, the Magistrate may in his discretion, and upon payment of the costs of the day by the party in default, adjourn the hearing to enable the party to comply with the practice.

#### HEARING.

53. Where an infant defendant appears at the hearing and names a person willing to act as guardian, who then assents so to act, such person shall be appointed guardian accordingly, but if the defendant do not name a guardian, the Magistrate may appoint any person in Court willing to become guardian, or in default of such person the Magistrate shall appoint the Clerk of the Court to be guardian and the cause shall proceed thereupon as if another person had been appointed guardian, and the name of the guardian appointed shall be entered in the form in the Schedule, and no responsibility shall attach to the Clerk when so appointed guardian at the instance of the Court.

54. Where a plaintiff avails himself of the provisions of Section 16 of the Act and proceeds against only one or more of several persons jointly answerable, the defendant or defendants against whom the action proceeds may avail himself or themselves of any set-off or other defence to which he or they would be entitled if the action had proceeded against all the persons answerable.

#### TRIAL OF SUPREME COURT ACTION IN LOCAL COURT.

55. Where an action is ordered to be tried in a Local Court under Section 85 of the Act, or Section 16 of the Amendment Act, the Clerk of the Local Court mentioned in the order shall enter the cause for hearing (in the minute book) on the day so appointed.

#### AMENDMENT.

56. Where a person other than the defendant appears at the hearing and admits that he is the person whom the plaintiff intended to charge, his name may be substituted for that of the defendant if the plaintiff consents, and thereupon the cause shall proceed as to set-off and other matters 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 Magistrate.

57. Where a party sues or is sued in a representative character, but at the hearing it appears that he ought to have sued or been sued in his own right, the Magistrate may, at the instance of either party and on such terms as he shall think fit, amend the proceedings accordingly, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the proper description of the party had been given in the summons.

58. Where a party sues or is sued in his own right, but at the hearing it appears that he ought to have sued or been sued in a representative character, the Magistrate may, at the instance of either party and on such terms as

he shall think fit, amend the proceedings accordingly, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the proper description of the party had been given in the summons.

59. Where the name or description of a plaintiff in the summons is insufficient or incorrect it may, at the hearing, be amended at the instance of either party by order of the Magistrate on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the name or description had been originally such as it appears after the amendment has been made.

60. Where the name or description of a defendant in the summons is insufficient or incorrect, and the defendant appears and objects to the description, it may, at the hearing, be amended at the instance of either party by order of the Magistrate on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the name or description had been originally such as it appears after the amendment has been made, but if no objection is taken to the name or description, the cause may proceed, and in the judgment and all subsequent proceedings founded thereon the defendant may be named and described in the same manner.

61. In actions by or against a husband, if a wife be improperly joined or omitted as a party, the summons may, at the hearing, be amended at the instance of either party by order of the Magistrate on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the proper person had been made party to the suit.

62. When it appears at the hearing that a greater number of persons have been made plaintiffs than by law required, the names of the persons improperly joined may, at the instance of either party, be struck out by order of the Magistrate on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the proper party or parties had alone been made plaintiffs.

63. Where it appears at the hearing that a less number of persons have been made plaintiffs than by law required, the name of the omitted person may, at the instance of either party, be added by order of the Magistrate on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the proper persons had been originally made parties, and if such person shall, either at the hearing or at some adjournment thereof, personally or by writing signed by himself or his agent, consent to become a plaintiff in manner aforesaid, the Magistrate shall then pronounce judgment as if such person had originally been made a plaintiff, but if such person shall not consent to become a plaintiff in manner aforesaid, either at the hearing or at the adjournment thereof, judgment of nonsuit shall be entered.

64. Where it appears at the hearing that a greater number of persons have been made defendants than by law required, the name of the person improperly joined may, at the instance of either party, be struck out by order of the Magistrate on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the proper party or parties had alone been made defendants, and the costs of the person improperly joined as a defendant shall be in the discretion of the Magistrate.

65. Where two or more persons are made defendants and some of them have not been served, the name or names of the defendant or defendants who have not been served may, at the instance of either party, be struck out by order of the Magistrate on such terms as he shall think fit, and thereupon the cause shall proceed as to set-off, counter claim, and other matters as if the party or parties whose name or names have not been struck out had alone been made defendant or defendants.

#### COSTS.

66. The Magistrate shall in each case direct what number of witnesses are to be allowed on taxation of costs between party and party, and their allowance for attendance shall in no case exceed the rate of the allowance mentioned in the scale in the Schedule.

67. The costs of witnesses, whether they have been examined or not, may in the discretion of the Magistrate be allowed, though they have not been subpoenaed.

68. Money paid into court on a judgment shall be appropriated, first in satisfaction of the costs, and afterwards in satisfaction of the original demand.

69. Costs of warrants of execution, whether executed or unexecuted, or unproductive, shall be allowed against the defendant unless the Magistrate shall otherwise direct.

70. Costs of warrants of commitment, whether executed or unexecuted, shall be allowed against the defendant unless the Magistrate shall otherwise direct.

71. No possession fee shall be payable where an execution is paid out at the time of the levy, but if the officer shall necessarily remain in possession more than one hour, and the execution shall be paid out on the day of levy, the possession fee for that day shall be charged.

72. In all cases in which a solicitor shall have been employed by either party, and such party shall recover costs of suit the amount whereof has not been determined by the Magistrate at the hearing, the solicitor of the party entitled to such costs shall (if required by the opposite party) within five days after the hearing file his bill of costs with the Clerk, who shall thereupon give an appointment for the taxation thereof, a copy of which appointment and costs shall be served upon the opposite party at least two days before the time appointed for such taxation. If the party obtaining such appointment or the party served with the same shall fail to appear, then the Clerk may tax *ex parte*, and no taxation of a bill shall take place unless the party (or his solicitor) whose bill is to be taxed has given to the opposite party two days' notice of the appointment to tax.

#### ORDERS.

73. All orders when directed to be served shall in all cases (where required) be prepared by the Clerk of the Home Court, and delivered to the Bailiff, who shall send them by registered post to, or shall serve them personally on the parties on whom they are directed to be served: Provided always, that it shall not be necessary for the party in whose favour an order was made to prove, previously to taking proceedings thereon, that it was posted or reached the opposite party.

74. When the Court gives leave to take any proceedings it shall not be necessary to draw up any order, nor shall any order be drawn up to warrant such proceeding. In no case (except where the order is required to be served on the opposite party) shall it be necessary to draw up any formal order or judgment to warrant further proceedings on such order or judgment, but the entry of such order or judgment by the Magistrate in his book shall be sufficient to warrant any further proceedings.

#### INSTALMENTS.

75. When an order is made for the payment of any sum of money by instalments, such instalments shall be payable at such periods as the Court may order, and if no period be mentioned, then the first instalment shall become due on the twenty-eighth day from the making of such order, and every successive instalment shall become due at a like period from the previous instalment becoming due.

#### WARRANTS OF EXECUTION.

76. All warrants of execution shall bear the date on which the same are issued, and shall continue in force for twelve months from such date and no longer, except where the Act or any Amendment thereof provides otherwise.



78. Where a defendant has made default in payment of the whole amount awarded by the judgment, or of an instalment thereof, a warrant of execution, without leave of the Court, may issue, and such execution shall be for the whole amount of the judgment and costs then remaining unsatisfied, unless in the case of instalments the Magistrate shall otherwise direct at the time of giving judgment.

79. The Clerk shall, in issuing a warrant of execution, endorse thereon the amount to be levied, distinguishing the amount adjudged to be paid and the amount of the fee for issuing the warrant, and shall prepare and deliver to the Bailiff, with the warrant, a notice in the form contained in the Schedule, and the Bailiff upon levying shall deliver such notice to the party against whom the execution has issued or leave the same at the place where the execution is levied.

80. All goods sold in execution of the process of the Court shall be sold publicly and for ready money by the Bailiff, or his deputy, to the highest bidder at or as near the place where the same were levied upon as may be convenient for the sale thereof, and the said Bailiff or deputy shall affix notice of the said sale upon or near the door of the house or the place where the levy is made four days at least before the day appointed for the said sale, which day shall not be earlier than the sixth day from the day of levying upon the goods.

81. When any goods are levied upon in any place not situated in any part of any town the Bailiff shall, if required by the owner, and on payment of the expense of removal by such owner, remove the goods so levied upon to the next town for sale, and in all cases of any such sale not being conducted in a town the Bailiff shall post a written notice of such intended sale at the nearest Court House, or some convenient place, four days previous to such sale taking place.

82. Warrants of execution may be issued concurrently into one or more districts by leave of the Magistrate, or in his absence by leave of the Clerk, provided that the costs of more than one warrant shall not be allowed against the execution debtor unless by order of the Magistrate.

#### TRANSMISSION OF PROCESS AND PROCEEDS OF WARRANTS TO AND FROM FOREIGN DISTRICTS,

83. In all cases of warrants to be executed in a Foreign District the Clerk of the Foreign Court shall, immediately on the receipt of the warrant, enter it in "The Foreign Executions Re-issued Book."

84. Where, by virtue of any warrant sent to a Foreign District, any money shall have been received by the Bailiff of the Foreign Court, such Bailiff shall forthwith pay over the same to the Clerk of the Foreign Court, and shall, unless an interpleader summons as to such money be pending, make a return in writing of the amount received; and in the case of a levy having been made the Bailiff shall state in the return the gross amount produced by such levy, the particulars of all Bailiffs' charges, and fees in respect of such levy, and pay over to the Clerk of the Foreign Court the amount levied less such charges and fees, and the Clerk of the Foreign Court shall certify in the said return the amount paid into the Court, and the correctness of the said charges and fees, and shall account for and pay over such amount to the Clerk of the Home Court, who shall thereupon pay to the plaintiff in the cause the amount certified in such return to have been received by the Clerk of the Foreign Court as the proceeds of the execution, and shall enter in a book kept for that purpose the amount so certified, and the Clerk of the Home Court shall file such return.

#### NEW TRIAL.

85. An application for a new trial may be made at the first Court holden after the expiration of ten days from the hearing, or at any subsequent Court, and the intended applicant shall, five days before the holding of such Court, deliver to the Clerk, at his office, and also give

the opposite party, by serving the same personally or leaving the same at his last known place of abode or business, or serving on his solicitor in the original trial, a notice in writing, signed by himself, or his solicitor or counsel, stating that such application is intended to be made, and at what Court, and on what date, and setting forth the grounds of his intended application: Provided that no such application shall be made after two months from the making of the order appealed against without leave of the Magistrate who made the original order or gave the original decision: And such Magistrate, or the Magistrate of the Court in which the original trial took place, may order a stay of proceedings on such terms as he may deem fit: Provided always, that if any money be paid into Court in the cause, either as the proceeds of execution or otherwise, after the giving of such notice of intention to apply for a new trial, the Clerk shall retain the same until the further order of the Court.

#### APPLICATION TO SET ASIDE AWARD.

86. An application to set aside an award under Section 20 of the Act shall be made by the applicant, his agent, solicitor, or counsel, lodging with the Clerk a notice setting forth the grounds of his application and signed as is required on an application for a new trial, and such notice shall be lodged and served in the same manner as is required on a new trial application: And the Magistrate of the Court to whom such application is made may grant a stay of proceedings on such terms as he may deem fit: And on such notice being given, the Clerk shall retain any moneys paid into Court in the cause, whether as the proceeds of an execution or otherwise, until the further order of the Court.

87. The costs of an application to set aside an award or revoke a reference shall be in the discretion of the Magistrate.

88. If an award is set aside by the Magistrate, or the reference revoked, the action shall be set down for hearing at the next Court holden not less than seven days after such revocation or setting aside, and the costs of the hearing before the arbitrator or arbitrators shall abide the event.

#### INTERPLEADER.

89. When any claim is made to or in respect of any goods or chattels taken in execution under the process of any Local Court, or in respect of the proceeds or value thereof, by any landlord for rent, or by any person not being the party against whom the process has issued, and summonses have been issued on the application of the Bailiff, such summonses shall be served in the mode prescribed for the service of a summons to appear to a plaintiff, and the case shall proceed as if the claimant were plaintiff and the execution creditor defendant, and the claimant shall, on giving notice of his claim, specify the goods or chattels alleged to be his property, and the grounds of claim, or in the case of rent, the amount thereof, and the premises in respect of which the same is claimed to be due, and such notice shall be signed by the claimant or his solicitor or counsel, and shall set forth the name of the claimant, and his address and occupation, and any money paid into Court shall be held by the Clerk until the claim shall have been adjudicated upon, and until the further order of the Court.

90. Interpleader summonses shall be issued by the Clerk on the application of the Bailiff, without leave of the Court and without fee.

91. Interpleader summonses shall be issued for the Court of the district in which the levy was made, and the execution creditor and claimant shall be summoned to such Court.

92. Where the claim to any goods or chattels taken in execution of the proceeds or value thereof shall be decided against the claimant, the costs of the Bailiff, allowed by the Magistrate, shall be retained by him out of the amount levied if the Magistrate shall so order, but without prejudice to the right of the execution creditor for the sum so retained.

## REPLEVIN.

93. All actions of replevin shall be commenced by plaint and summons in the usual way, and no other cause of action shall be joined.

94. The particulars to a plaint in replevin shall state the particulars of the cattle, goods, or chattels taken under the distress, and of the taking of which the plaintiff complains.

95. Actions of replevin shall be tried in the same manner as ordinary actions in the Local Court.

96. When the distress has been for rent, and the defendant succeeds in the action, if the defendant requires the Magistrate shall find the value of the goods distrained, and if the value is less than the rent in arrear, judgment shall be given for the amount of such value, but if the amount of rent is less than the value, then judgment shall be given for the amount of such rent, and may be enforced in the same manner as any other judgment of the Court.

97. Where the distress was for damage *feasant* and the defendant is entitled to a judgment for a return if the plaintiff require the Magistrate shall find the amount of damage sustained by the defendant, and judgment shall then be given in favour of the defendant in the alternative for a return or for the amount of damage so found.

## RECOVERY OF TENEMENTS.

98. Warrants for giving possession of tenements shall bear the day named by the Magistrate for the issuing thereof, and shall issue to the Bailiff requiring him to give possession within a period therein named, such period commencing at the date of such warrant, and not less than five days or more than ten days from such date; and the Bailiff may execute such warrant forthwith on the receipt thereof, or at any time during the period therein named.

## SECURITY.

99. In all cases where a party proposes to give a bond by way of security he shall serve by post or otherwise on the opposite party and the Clerk at his office notice of the names and residences of the proposed sureties in the form set forth in the Schedule, and the Clerk shall forthwith give notice to both parties of the day and hour on which he proposes that the bond shall be executed, and shall state in the notice to the obligee that should he have any valid objection to make to the sureties, or either of them, it must then be made.

100. The sureties shall make an affidavit of their sufficiency before the Clerk in the form in the Schedule, unless the opposite party shall dispense with such affidavits.

101. The bond shall be executed in the presence of the Magistrate or Clerk, or some other person before whom oaths may be taken: Provided that if it be executed in the presence of the Magistrate or Clerk it shall not be necessary for it to be attested.

102. Where a party makes a deposit of money in lieu of giving a bond, he shall forthwith give notice to the opposite party by post or otherwise of such deposit having been made.

103. In all cases where the security is by bond, the bond shall be deposited with the Clerk until the cause be finally disposed of.

## ABATEMENT OF ACTION.

104. Where one or more of several plaintiffs or defendants shall die before judgment, the suit shall not abate if the cause of action survive to or against the surviving parties respectively.

105. Where one or more of several plaintiffs or defendants shall die after judgment, proceedings thereon may be taken by the survivor or survivors or against the survivor or survivors without leave of the Court.

106. Where a married woman is sued as a *femme sole* and she obtains judgment on the ground of coverture, proceedings may be taken thereon in the name of the wife at the instance of the husband without leave of the Court.

PROCEEDINGS IN THE NATURE OF A *SCIRE FACIAS*.

107. Execution on a judgment shall not issue by or against any person not a party to the suit without a plaint and summons upon the judgment, the proceedings in which shall be the same as in ordinary cases.

108. Where a judgment has been given for or against a person deceased, his executors or administrators may in the same manner sue or be sued upon the judgment.

## PROCEEDINGS BY AND AGAINST EXECUTORS AND ADMINISTRATORS.

109. In actions by executors or administrators if the plaintiff fail the costs shall, unless the Court shall otherwise order, be awarded in favour of the defendant, and shall be levied *de bonis propriis*.

110. Where an executor or administrator, plaintiff or defendant, shall not appear on the day of hearing, the provisions of Sections 21 and 22 of the Act and Section 13 of the Amendment Act shall apply respectively, subject to the rules applicable to executors or administrators suing or being sued.

111. A party suing an executor or administrator may charge in the summons that the defendant has had assets and has wasted them.

112. In all cases where the defendant is so charged in the summons, if the Court shall be of opinion that the defendant has wasted the assets, the judgment shall be that the debt or damage and costs shall be levied *de bonis testatoris si, &c., et si non de bonis propriis*, and the non-payment of the amount of the demand immediately on the Court finding such demand to be correct, and that the defendant is chargeable in respect of assets, shall be conclusive evidence of wasting to the amount with which he is so chargeable.

113. Where a defendant sued as an executor or administrator does not appear, or where the defendant appearing denies his representative character, or alleges a release to himself of the demand, whether he insists on any other ground of defence or not if the judgment of the Court be in favour of the plaintiff the judgment shall be that the amount found to be due and costs shall be levied *de bonis testatoris si, &c., et si non de bonis propriis*.

114. Where a defendant sued as an executor or administrator admits his representative character, and only denies the demand, if the plaintiff prove it, the judgment shall be that the demand and costs shall be levied *de bonis testatoris si, &c., et si non* as to the costs *de bonis propriis*.

115. 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, &c., et si non de bonis propriis*; and as to the whole or residue of the demand judgment of assets, *quando acciderint*, and the plaintiff shall pay the defendant's costs of proving the administration of assets.

116. 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, 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 the hands of the defendant, or such amount as is shown to have come to them, and costs *de bonis testatoris si, &c., 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*.

117. Where such defendant admits his representative character and the plaintiff's demand, but alleges a total or partial administration of the assets and proves the administration alleged, the judgment shall be for assets *quando acciderint*, and the plaintiff shall pay the defendant's costs of proving the administration of assets.

118. Where such defendant admits his representative character and the plaintiff's demand, 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 so much 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, &c., 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*.

119. Where judgment has been given against an executor or administrator that the amount be levied upon assets of the deceased *quando acciderint* the plaintiff or his personal representative may issue a summons, and if it shall appear that assets have come to the hands of the executor or administrator since the judgment, the Court may order the debt, damages, and costs be levied *de bonis testatoris si, &c., et si non* and as to the costs *de bonis propriis*: Provided that it shall be competent for the party applying to charge in the summons that the executor or administrator has wasted the assets of the testator or intestate in the same manner as in Rule 111, and the provision of Rule 112 shall apply to such enquiry, and the Court may, if it appear that the party charged had wasted the assets, direct a levy to be made as to the debt and costs *de bonis testatoris si, &c., et si non de bonis propriis*.

120. 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.

121. In actions against executors or administrators, for which provision is not hereinbefore specially made, if the defendant fail as to any of his defences, the judgment shall be for the plaintiff as to his costs of disproving such defence and such costs shall be levied *de bonis testatoris si, &c., et si non de bonis propriis*.

#### NOTICES.

122. Where by these rules any party is required to give notice according to a form mentioned in the Schedule, it shall be sufficient if the notice given complies substantially with such form, and the same may be signed by the party giving such notice, his solicitor, or counsel.

123. In all cases where any notice or thing is required by these rules to be given or done, no part of Sunday, Christmas Day, or Good Friday, or of any day appointed by proclamation for a public holiday, shall be included in the computation of such period.

124. All letters or process sent by post by the officers of the Court shall be prepaid.

125. All notices required by these Rules may be given to the solicitor or agent in lieu of the party.

#### STATUTE OF LIMITATIONS.

126. Successive summonses may be issued without leave of the Court, for the purpose of preventing the operation of any statute whereby the time for the commencement of any action is or may be limited, and the first and each subsequent summons shall be in force for six calendar months from the time of issuing the same, including the day of such issuing, and such subsequent summons shall be issued before the expiration of the previous summons and entered in the plaint book of the Court: Provided that on entering the plaint in the first instance the usual fee shall be paid; but for such subsequent summons no further fee shall be paid nor shall it be necessary that any attempt be made to serve the first

summons or any successive summonses unless the plaintiff requires the same, and such successive summonses shall be a continuance of the action on and from the day on which the first summons was issued.

127. Where a summons has been served in due time to prevent the operation of any Statute of Limitations, and either party dies after such service and after the lapse of the period within which it is provided that an action may be brought, proceedings may be taken by or against the surviving party or by or against the personal representative of the deceased party within one year from the day of holding the Court at which the summons required the defendant to appear.

#### ARBITRATION.

128. Where a plaint is entered the Magistrate may, with the consent of the parties as well (in cases of agreement under Section 5 of the Amendment Act) as in cases within the ordinary jurisdiction of the Court, make an order for a reference under the provisions of Section 20 of the Act before, upon, or after the return day of the summons, and all the provisions in the said Act contained as to references shall apply to a reference under such an order: Provided that the same fees of Court and fees to barristers and solicitors (so far as applicable) and the like expenses to witnesses shall be allowed and payable on an arbitration as are payable on a cause.

#### DETINUE.

129. The judgment in detinue, if for the plaintiff, shall be the value of the goods detained, together with a sum to be stated in the judgment by way of damages for the detention and costs, but it may be made part of the order that on payment of damages for the detention and costs and return of the goods on or before a day named, satisfaction shall be entered.

#### CONFESSIONS.

130. All confessions under the Act, or any amendment thereof, shall be delivered to the Clerk five days before the return day of the summons: Provided, however, that a defendant may at any time confess or admit the debt or claim subject to an order to pay such costs as the Magistrate may think the plaintiff has incurred in consequence of non-delivery as aforesaid of such confession. All confessions shall be in the form set forth in the Schedule.

#### CONSENT JURISDICTION.

131. In all cases in which jurisdiction is given to the Local Court by consent under the provisions of the Act or any Amendment thereof, the rules of practice shall be adopted as far as practicable, and the action shall be commenced and proceed as an ordinary action in the Local Court.

#### REVIEW OF TAXATION.

132. An application for a review of taxation shall be made by the party dissatisfied with the taxation lodging with the Clerk, within seven days of such taxation, and serving as is hereinafter provided, a notice that he intends to apply for a review of taxation. Such notice shall be served in the same manner as is required on an application for a new trial, and shall state the items the allowance or disallowance of which is objected to, and such review shall be dealt with by the Magistrate on a day and at a time to be appointed by him not less than five days nor more than thirty days from the giving of such notice, and the Clerk shall give to each party at least three days' notice of the day so appointed: Provided always, that any item in the original bill not set forth in such notice shall be deemed not to be objected to, and shall not be considered or in any manner dealt with on such review, and the costs of and incidental to such review shall be in the discretion of the Magistrate.



## JUDGMENT SUMMONS.

133. Every application for the issue of a judgment summons shall be in writing and lodged with the Clerk.

134. A judgment summons shall be issued, served, and returnable in the manner and at the times in these Rules provided for the issuing, service, and return of a summons to appear to a plaintiff, but no judgment summons shall be issued against a judgment debtor to appear in a Court other than the Court in which the judgment was recovered, or a Court within the jurisdiction of which the judgment debtor resided or carried on business at the time of the issue of the judgment summons.

135. Where a judgment summons has not been served in due time, successive summonses may be issued without fee at any time within three months, but if any such successive summons is served in due time no further successive summonses shall be allowed, but a fresh summons may be issued on payment of the fee.

136. The hearing of judgment summonses may be adjourned from time to time.

137. Where a judgment summons is heard in a Court other than that in which judgment was obtained, and the order of such last mentioned Court is altered by the Magistrate of the Court in which the judgment summons is heard, all payments under such order shall be made into and execution thereupon against the goods shall be issued by the Court which alters the order.

## COMMITMENT.

138. In cases of commitment under Section 3 of 34 Vict., 31, the amount of the judgment, and all costs payable by the defendant, shall be endorsed on the warrant.

139. When a warrant of commitment for non-payment of money is issued, the defendant may, at any time before his body is delivered into the custody of the gaoler, pay to the Bailiff the amount endorsed on the warrant as that on the payment of which he may be discharged, and on receiving such amount the Bailiff shall discharge the defendant.

140. Where a person is imprisoned under a warrant of a Local Court, and the Home Court or the Home and Foreign Courts is or are at an inconvenient distance from the prison, the gaoler may discharge him out of his custody, if he shall see fit, upon payment to him by the prisoner of the total amount endorsed on the warrant, as that on the payment of which he may be discharged, with a sum sufficient for transmission by the gaoler of such amount by post office order to the Clerk of the Home Court.

141. Warrants of commitment against the same party may be issued concurrently into one or more districts: Provided that the costs of more than one warrant shall not be allowed against such party, unless by order of the Magistrate.

## ATTACHMENT OF DEBTS.

142. Where the Court in which the garnishee is sued is not the Court in which the judgment upon which he is garnisheed was given, the Clerk of such first-mentioned Court shall send a certificate of the judgment obtained in his Court against such garnishee, duly sealed, to the Clerk of the Court in which judgment was given against the judgment debtor, and of payments made, if any, before or after the return day, giving in full all particulars, and such last-mentioned Clerk shall enter such particulars in his debt-attachment book, and they shall be a record of the Court.

## APPLICATIONS UNDER SECTION 111 OF THE BANKRUPTCY ACT OF 1893.

143. Any application under Section 111 of the Bankruptcy Act shall be brought before the Court by the applicant filing with the Clerk a notice of motion stating

the day, hour, and place when and where the application is intended to be made, together with an affidavit setting forth the facts upon which the order is asked, and such notice of motion shall fully set out the applicant's proposed arrangement: Provided always, that the day mentioned in such notice of motion for the hearing of such application shall not be less than three days after the filing of such notice and affidavit.

144. No order under Section 111 of the Bankruptcy Act shall be made unless the Magistrate is satisfied (on oath) that a copy of such notice of motion has been served on each of the applicant's creditors, or that a registered letter containing a copy of such notice of motion has been sent to each of the applicant's creditors, and that sufficient time has elapsed since such notice, or the posting of such registered letter, to enable each of the creditors in the ordinary course to receive such letter and attend on the hearing of such application: Provided that if the Magistrate is of opinion that sufficient time has not elapsed he may adjourn the hearing to a day appointed by him and order notice of such adjournment to be served or posted as aforesaid.

145. The applicant's creditors shall, on every such application, be entitled to attend and show cause either by themselves, their solicitor or counsel, why the order should not be made, and also to be heard generally on the making of such order, and may give evidence on oath in opposition to the application.

146. On the hearing of such application the Magistrate may make such order as to costs as to him may seem fit.

147. Creditors may prove their debts by lodging with the Clerk an affidavit in the form in the Schedule hereto, and the Clerk shall forthwith give the debtor notice of the lodging of such proofs, and require him within one week to admit or dispute the same in writing, and if no notice of dispute of the claim is received within such week as aforesaid, the Clerk may admit the claim without further proof, but in the event of the claim being disputed, the Clerk shall give the debtor and creditor notice to attend the Magistrate in Chambers at a place and time to be mentioned in such notice, and the Magistrate shall then hear the parties in the same manner as on the hearing of an ordinary suit in the Local Court, and shall order so much of the claim as he finds to be due to be admitted to rank for dividend, and the cost of such proceedings shall be in the discretion of the Magistrate.

## APPLICATIONS UNDER SECTION 89 OF THE ACT.

148. A defendant desiring to have an action removed into the Supreme Court under Section 89 of the Act shall lodge the required notice with the Clerk, and the Magistrate shall appoint a day for the hearing of the said application not less than five days or more than thirty days from the lodging of such notice, and the Clerk shall give each of the parties to the action notice of the day and hour so appointed at least two days before the day so appointed.

149. In the event of the application of the defendant being granted and the conditions imposed by the Magistrate being complied with, and the security ordered being given within fourteen days from the granting of such application, the action in the Local Court shall be struck out and the plaintiff shall, within one month after the expiration of such 14 days, issue a writ in the Supreme Court for the said cause of action, and in the event of the plaintiff failing to issue such writ within such 30 days the Magistrate shall on the *ex parte* application of the defendant discharge any sureties or security given, or, if a deposit of money has been made, order a refund of such deposit to the defendant, and such order shall be a complete bar to all further proceedings.

150. On any such application the Magistrate may order the defendant to pay to the plaintiff such sum as he may think fit for costs of the action in the Local Court, so far as the same has proceeded, and may make the payment of such costs a condition on the granting of such application.

151. In the event of the defendant not giving the security ordered or failing to comply with the conditions imposed by the Magistrate within the aforesaid 14 days, the order shall be deemed to have lapsed and shall be of no effect, and the Clerk shall set the action down for hearing at the next sittings of the Local Court holden upwards of five days after the expiration of the said 14 days and shall give to the plaintiff at least three days' notice of such setting down.

APPLICATIONS GENERALLY.

152. In the case of any application (whether *ex parte* or otherwise) for which no procedure is prescribed either by the Act, any Amendment thereof, or these Rules, the same shall be brought before the Court or Magistrate by the moving party filing with the Clerk a notice of motion stating the nature of the application and the day and hour on which the same is to be heard.

TIME IN VACATION.

153. Where a party to any proceeding is by these Rules required to do any act or thing, other than those set forth in the proviso to Section 34 of the Amendment Act, within a specified time, the days on which the Court is in vacation shall not be computed in such time.

FORMS.

154. In proceedings for which forms are not provided in the Schedule forms used in the Supreme Court shall, as nearly as practicable, be followed.

SCHEDULE OF FORMS.

No. 1.—Undertaking by next Friend of Infant to be responsible for Defendant's Costs.

No. In the Local Court of holden at I, the undersigned, being the next friend of who is an infant, and who is desirous of entering a Plaintiff in this Court against of hereby undertake to be responsible for the costs of the said of in such cause, and that if the said shall fail to pay to the said, when and in such manner as the Court shall order, all such costs of such cause as the Court shall direct him to pay to the said I will forthwith pay the same to the Clerk of the Court. Dated this day of 18 .

No. 2.—Agreement to give Jurisdiction to a Local Court under Sec. 5 of 58 Vict., No. 13.

We (or the respective Solicitors of) A.B., of, etc., and C.D., of, &c., do hereby agree that the Local Court shall have power to try an action to be brought by A.B. against C.D. for under the provisions of Sec. 5 of the Amendment Act. Given under our hands this day of, 18 . A.B. (or, E.F., Solicitor for A.B.) C.D. (or, G.H., Solicitor for C.D.)

No. 3.—Plaint.

No. In the Local Court of Between holden at and, Plaintiff, and, Defendant. The Plaintiff by his solicitor (or in person) sues the Defendant for the recovery of the sum of £ for (here state cause of action)

Particulars (here set out particulars as required by the rules) : And the Plaintiff claims £

Dated Solicitor for Plaintiff. (Or Plaintiff, if in person.) (Address.)

Table with 2 columns: Particulars and Amount. Rows include Claim, Instructions to sue, Letter before action, Plaintiff and particulars, Attending entering plaint, etc., and Paid.

No. 4.—Plaint Note on entering Plaintiff.

No. In the Local Court of holden at, Plaintiff, against, Defendant.

Fees paid.

£ s. d.

The above cause was entered this day, and will be tried at on the day of at o'clock in the noon. Dated this day of 18 Clerk of the Court.

No. 5.—Summons to Appear to a Plaintiff.

No. In the Local Court of Between holden at and, Plaintiff, and, Defendant.

You are hereby summoned to appear at a Local Court, to be holden at on the day of at the hour of in the noon, to answer the Plaintiff, to a claim, the particulars of which are hereunto annexed.

Dated this day of Clerk of the Court.

Table with 2 columns: Description and Amount. Rows include Debt or Claim, Costs of Plaintiff, and Attorney's Costs.

Total Amount ... £

To the Defendant.

N.B.—If you confess the Plaintiff's claim, you should sign and deliver your confession to the Clerk of the Court five clear days before the day of hearing; but you may deliver your confession at any time before the cause is called on, subject to the payment of any further costs which your delay may have caused the Plaintiff to incur.

You and the Plaintiff may agree as to the amount due and the mode of payment, and will, before the cause is called on for trial, sign a memorandum of such agreement at the Clerk's Office, or before a Solicitor.

If you pay the debt and costs, as stated in the Summons, five clear days before the hearing, you will avoid further costs; but you may pay the same at any time before the cause is called on for trial, subject to the payment of any further costs which your delay may have caused the Plaintiff to incur.

If you admit a part only of the claim you may, by paying into the Clerk's Office the amount so admitted, together with costs proportionate to the amount you pay in, five clear days before the day of hearing, avoid further costs, unless the Plaintiff, at the hearing, shall prove a sum against you exceeding the sum so paid.

If you intend to rely on a Set-off, Counter-claim, Infancy, Coverture, or Statute of Limitations, or a discharge under a Bankrupt or Insolvent Ordinance, as a defence, you must give notice of such special defence to the Clerk five clear days before the day of hearing, and such notice must contain the particulars required by the rules of the Court; and you must deliver to the Clerk as many copies of such notice as there are Plaintiffs, and an additional copy for the use of the Court. If your defence be a Set-off, you must, with each notice thereof, deliver to the Clerk a statement of the particulars thereof. If your defence be a tender, you must pay into Court, before or at the hearing, the amount tendered.

Summons for witnesses, and for the production of documents, will be issued upon application at the Office of the Clerk of the Court, upon payment of the proper fee.

[BACK.]

I, the Defendant, do hereby confess and admit that the sum of £ : : , Debt and Costs, the amount claimed by the Plaintiff in this Action, is due from me to him.

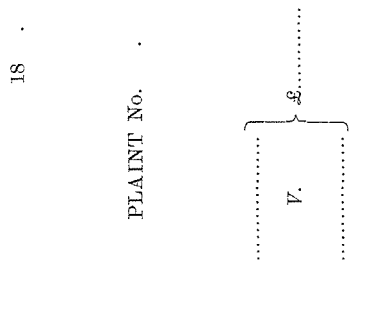
Dated this day of 189 .

Defendant.

Signed in the presence of

Clerk of the Court.

The above confession can only be signed by the Defendant in the presence of the Clerk of the Court out of which the Summons issues, or in the presence of a Solicitor of the Supreme Court.



No. 6.—*Notice of Service or Non-Service of Summons.*

No. In the Local Court of Between holden at and , Plaintiff, and , Defendant.

You are hereby informed that the Defendant has\* been served with the summons issued in this action. (If summons not served state reasons.)

Dated this day of 18 . Clerk of the Court.

To the Plaintiff.

\*N.B.—If defendant has not been served, the word "not" must be inserted here.

No. 7.—*Affidavit of Service.*

No. In the Local Court of Between holden at and , Plaintiff, and , Defendant.

I make oath and say that I did on the day of one thousand eight hundred and , duly serve the Defendant with a summons, a true copy whereof is hereunto annexed, marked A, by delivering the same personally to the Defendant (or as the case may be).

Sworn at this day of one thousand eight hundred and } Before me }

No. 8.—*Certificate of Deposit.*

In the Local Court of Between holden at and , Plaintiff, and , Defendant.

I do hereby certify that the hands the sum of £ has paid into my

Dated this day of 18 . Clerk of the Court.

No. 9.—*Notice of Set-off or Counter-claim.*

No. In the Local Court of Between holden at and , Plaintiff, and , Defendant.

Take Notice that I intend, at the hearing of this cause, to claim a Set-off (or Counter-claim) against the Plaintiff's demand, the particulars of which Set-off (or Counter-claim) are annexed hereto (here set out particulars as in a plaint).

Dated this day of 18 .

The Defendant.

To the Clerk of the Court.

N.B.—If a Counter-claim is set up the statement of particulars must be headed with the word "Counter-claim."

No. 10.—*Notice of Special Defence.*

No. In the Local Court of Between holden at and , Plaintiff, and , Defendant.

Take Notice, that I intend, at the hearing of this cause, to give in evidence and rely upon the following ground of defence (Set out grounds of defence as required by rules).

Dated this day of 18 .

The Defendant.

To the Clerk of the Court.

No. 11.—*Notice of Payment of Part of Claim into Court.*

No. In the Local Court of Between holden at and , Plaintiff, and , Defendant.

Take notice that the defendant has paid into Court the sum of £ , together with costs proportionate to that sum. If you elect to accept the same in full satisfaction of the sum claimed, and send to the Clerk of this Court, and to the Defendant, a written notice forthwith by post, or by leaving the same at the Clerk's Office, and at the Defendant's place of abode or business, the action will be discontinued, and you will be liable to no further costs. In default of such notice the action may proceed; and if you do not appear at the hearing you will be liable to pay to the Defendant such costs as he may incur for appearing at the hearing, or such other sum of money as the Court may order for expenses, subsequent to the payment into Court, as provided by the 24th Section of 27th Vict., 21.

Dated this day of 18 .

To the Plaintiff. Clerk of the Court.

No. 12.—*Notice of Payment into Court of whole Claim.*

No. In the Local Court of Between holden at and , Plaintiff, and , Defendant.

Take notice that the Defendant has paid into Court the full amount of your demand in this action, together with your costs therein.

Dated this day of 18 .

To the Plaintiff. Clerk of the Court.

No. 13.—*Notice to Plaintiff of Payment of Instalment.*

No.  
In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
Between \_\_\_\_\_, Plaintiff,  
and \_\_\_\_\_, Defendant.

I hereby give you Notice, that \_\_\_\_\_, the Defendant, has paid into Court the sum of \_\_\_\_\_ under the judgment obtained by you against him.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.  
To the Plaintiff. \_\_\_\_\_ Clerk of the Court.

No. 14.—*Summons to Witness.*

No.  
In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
Between \_\_\_\_\_, Plaintiff,  
and \_\_\_\_\_, Defendant.

You are hereby required to attend at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_, and thence from day to day until this matter be disposed of, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, to give evidence in the above cause on behalf of the \_\_\_\_\_ and then and there to have and produce \_\_\_\_\_ and all other books, papers, writings, and other documents relating to the said action, which may be in your custody, possession, or power. In default of your attendance you will be liable to a penalty of Ten pounds, under the 27th Vict., No. 21.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.  
To \_\_\_\_\_ Clerk of the Court.

No. 15.—*Order fining a Witness for Non-attendance.*

No.  
In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
Between A.B., Plaintiff, and C.D., Defendant.

Whereas \_\_\_\_\_ of \_\_\_\_\_ was duly summoned to appear as a witness in this cause at a Court this day holden and at the time of being so summoned payment (or a tender of payment) of his expenses was made according to the scale of allowance settled by the Rules of Practice of the Local Court. And whereas he has neglected, without sufficient cause shown, to appear at the Court (or to produce) [here describe what he was required by summons to produce] or\* Whereas being this day present in Court, and being required by the Court to give evidence in this cause refused to be sworn without alleging, as a ground for such refusal, that he had any conscientious scruples with respect to taking an oath (or after being duly sworn 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 on the \_\_\_\_\_ day of \_\_\_\_\_) pay to the Clerk of this Court a fine of £ \_\_\_\_\_ for such neglect (or refusal).

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.  
[Seal.] \_\_\_\_\_ By the Court,  
Clerk of the Court.

\* Where witness is present in Court commence from here.

No. 16.—*Warrant of Execution against the Goods of a Witness for a Fine.*

No. of Warrant.  
In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
Between A.B., Plaintiff, and C.D., Defendant.

Whereas \_\_\_\_\_ was duly summoned to appear as a witness in this cause at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, and at the time of being so summoned payment (or a tender of payment) of his expenses was made according to the scale of allowance settled by the Rules of Practice of the Local Court: And whereas he neglected, without sufficient cause shown, to appear at such Court (or, to produce) [here describe what he was required and bound to produce] or,

\* Whereas \_\_\_\_\_, being present in Court on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_, and being required by the Court to give evidence, refused to be sworn, without alleging as a ground for such refusal that he had any conscientious scruples with respect to taking an oath (or, after being duly sworn refused to give evidence; or, to produce, etc.), it was thereupon ordered by the Court that he should forthwith (or, on the \_\_\_\_\_ day of \_\_\_\_\_) pay to the Clerk of this Court a fine of £ \_\_\_\_\_ for such neglect (or, refusal): And whereas the said sum has not been paid according to the said order, and the Magistrate of this Court has ordered it to be levied as hereinafter mentioned: These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the said \_\_\_\_\_ wheresoever they may be found within the District of this Court (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of Five pounds), the sum stated at the foot of this warrant being the amount of such fine and 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, specialties, or securities for money belonging to him which may then 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 make return of what you have done under this Warrant immediately upon the execution thereof.

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.

[Seal.] \_\_\_\_\_ By the Court,  
Clerk of the Court.

To the Bailiff of the said Court and others, the Assistant Bailiffs thereof.  
Amount of fine, £ \_\_\_\_\_

NOTICE.—The goods and chattels are not to be sold until after the end of five clear days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the said witness.

Application was made to the Clerk for this Warrant at \_\_\_\_\_ minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the day of \_\_\_\_\_ 18 \_\_\_\_.

\* Where witness was present in Court commence from here.

No. 17.—*Order for changing the Venue.*

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
Between A.B., Plaintiff, and C.D., Defendant.

It is ordered that the venue in the above cause be changed, and that the cause be sent for hearing to the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.  
By the Court,

[Seal.] \_\_\_\_\_ Clerk of the Court.

To the Plaintiff and Defendant.

No. 18.—*Notice to be sent to both parties of the day fixed by Magistrate for hearing of Supreme Court action sent for trial.*

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
Whereas under the provisions of the Act an action commenced in the Supreme Court of Western Australia, wherein A.B., of, etc., is Plaintiff, and C.D., of, etc., is Defendant, has been ordered by His Honour (name of Judge of Supreme Court), to be tried in this Court.

Take notice that the said action will be heard in this Court on the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon.

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_.

[Seal.] \_\_\_\_\_ Clerk of the Court.

To the Plaintiff and Defendant.

No. 19.—*Certificate of the Result of the Hearing of a Cause remitted from the Supreme Court for trial.*

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_

I hereby certify that an action commenced in the Supreme Court of Western Australia wherein A.B. is Plaintiff, and C.D. is Defendant, was ordered by His Honour (name of Judge of Supreme

Court) to be tried in this Court has been heard accordingly in this Court this day, and the result was as follows:—(State the finding or that the Plaintiff was non-suited.)

Dated this day of 18 . [Seal.] Clerk of the Court.

appointed for the trial of this cause, and the Defendant has appeared in person and has not admitted the demand, it is awarded that the Plaintiff do pay the sum of £ for the Defendant's costs, and it is ordered that the Plaintiff do pay the same to the Clerk of this Court on the day of 18 .

By the Court, Clerk of the Court.

No. 20.—Order appointing Guardian of Infant Defendant.

In the Local Court holden at Between A.B., Plaintiff, and C.D., Defendant.

Whereas now at the hearing of this cause the Defendant being an infant here in Court, I do hereby appoint to be guardian of the Defendant in this cause.

Given under the Seal of the Court this day of 18 . [Seal.] Magistrate of the Court.

No. 25.—Agreement under Section 43 of the Act.

In the Local Court holden at Between A.B., Plaintiff, and C.D., Defendant.

We (or the respective solicitors or agents of) the above-named Plaintiff and Defendant, do hereby, under the provision of Section 43 of the Act agree that the decision of the Magistrate of this Court in this action shall be final.

Given under our hands this day of 18 . Plaintiff (or Plaintiff's Solicitor). Defendant (or Defendant's Solicitor).

No. 21.—Admission of Claim or part of Claim under Section 38 of 27 Vict., No. 21.

No. In the Local Court holden at Between , Plaintiff, and , Defendant.

I, the Defendant, do hereby confess and admit that the sum of £ , the amount claimed (or the sum of £ , being part of the amount claimed by the Plaintiff in this action) is due to him from me, and I will pay the sum by instalments of

Dated this day of 18 . Defendant.

Signed in the presence of This paper, marked "A," is the statement referred to in the annexed affidavit.

No. 26.—Order for a New Trial.

In the Local Court holden at Between A.B., Plaintiff, and C.D., Defendant.

Upon hearing Counsel for the above-named and

It is ordered that the judgment in this case, and all subsequent proceedings thereon, be set aside and a New Trial had between the parties on [set out the terms or conditions, if any, on which the order is made].

Given under the Seal of the Court this day of 18 . [Seal.] By the Court, Clerk of the Court.

No. 22.—Admission of Claim by Agreement.

No. In the Local Court holden at Between A.B., Plaintiff, and C.D., Defendant.

We, the Plaintiff and Defendant, do hereby agree that the amount of the debt or demand due from the Defendant to the plaintiff is £ , and that the same, with £ for the plaintiff's costs, and £ , the Court fees, shall be paid to the Clerk of the Court at his Office in manner following, viz. :—

Dated this day of 18 . Signatures of Plaintiff and Defendant.

Signed in the presence of This paper, marked "A," is the statement referred to in the annexed affidavit.

No. 27.—Judgment for Defendant or of Nonsuit.

No. In the Local Court of holden at Between , Plaintiff, and , Defendant.

Upon hearing this Cause, at a Court holden this day, it is adjudged that judgment be entered for the Defendant [or, that judgment of nonsuit be entered] and that the Plaintiff do pay the sum of £ for the Defendant's costs: And it is ordered that the Plaintiff do pay the same to the Clerk of this Court on the day of 18 .

Given under the Seal of the Court, this day of 18 . [Seal.] By the Court, Clerk of the Court.

No. 23.—Affidavit of Signature to Admission.

No. In the Local Court, holden at Between A.B., Plaintiff, and C.D., Defendant.

I, of , Barrister and Solicitor of the Supreme Court of Western Australia, make oath and say that I was present on the day of 18 , and did see the abovenamed Defendant sign the statement hereunto annexed, marked with the letter "A," and that the name set to the said statement is in the handwriting of the Defendant, and that the name set to the said statement as the witness attesting the same is in my handwriting.

Sworn at , this day of 18 . Before me

No. 28.—Judgment for Plaintiff.

In the Local Court of holden at Between , Plaintiff, and , Defendant.

It is this day adjudged that the Plaintiff do recover against the Defendant the sum of £ for and for costs, amounting together to the sum of

And it is ordered that the Defendant do pay the same to the Clerk of the Court on the day of

(by instalments of for every days, the first instalment to be made on the day of one thousand eight hundred and ).

Given under my hand this day of 18

[Seal.] By the Court, Clerk of the Court.

Table with 4 columns: £, s., d., Received by. Header: Acknowledgments of payments into Court.

No. 24.—Order for Costs to Defendant where Plaintiff does not appear.

No. In the Local Court of holden at Between , Plaintiff, and , Defendant.

Whereas the Plaintiff has not appeared, either by himself, his Solicitor, or Agent, at the Court holden this day, being the day



No. 29.—*Notice to be sent with all Warrants of Execution against the Goods.*

No. \_\_\_\_\_  
 In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
 Between \_\_\_\_\_, Plaintiff,  
 and \_\_\_\_\_, Defendant.

Take notice that the warrant of execution against your goods on the judgment obtained against you in this action, is for the following amount:—

	£	s.	d.
Amount for which judgment was obtained ... ..			
Since paid by you into Court ... ..			
Remaining due on judgment ... ..			
Poundage and other fees for issuing this warrant ... ..			
Total amount to be levied	£		

The costs of keeping possession of such of your goods as may be seized, are subject to review by the Magistrate.

If you pay the amount to be levied within half-an-hour of the entry of the bailiff, you will not be required to pay him any further sum than the amount directed to be levied as stated above.

Your goods are not to be sold until after the end of five days next following the day on which they are seized, unless they be of a perishable nature, or at your request.

If your goods are sold, the following fees are chargeable for sale, and no others:—

- For executing a writ of execution:
  - Poundage, 3 per cent. on the amount raised and paid into Court.
- For the Sale, including advertisements, catalogues, keeping possession and delivery of the goods, such incidental expenses as the Magistrate, on review, may allow, or as are allowed in the rules.

No. 30.—*Warrant of Execution against the Goods of Defendant.*

No. \_\_\_\_\_  
 No. \_\_\_\_\_  
 In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
 Between \_\_\_\_\_, Plaintiff,  
 and \_\_\_\_\_, Defendant.

Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_, the Plaintiff obtained a judgment in this Court against the Defendant for the sum of £ \_\_\_\_\_ for debt \_\_\_\_\_; and it was thereupon ordered by the Court that the Defendant should pay the same to the Clerk on the \_\_\_\_\_ day of \_\_\_\_\_; 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 of the defendant, wheresoever they may be found within the Colony (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the plaintiff under the said order, including 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, specialities, or 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 costs of making and executing the same, and to pay what you shall have so levied to the Clerk of this Court, and make return of what you have done under this warrant immediately upon the execution thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_  
 By the Court, \_\_\_\_\_

Clerk of the Court.  
 To the Bailiff of the said Court.

	£	s.	d.
Amount for which judgment was obtained			
Paid into Court ... ..			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount levied ... ..			

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 for this warrant at \_\_\_\_\_ minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the \_\_\_\_\_ day of \_\_\_\_\_ 189\_\_\_\_  
 Clerk of the Court.

No. 31.—*Warrant of Execution against the Goods of Plaintiff.*

No. \_\_\_\_\_  
 No. \_\_\_\_\_  
 In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
 Between \_\_\_\_\_, Plaintiff,  
 and \_\_\_\_\_, Defendant.  
 Whereas at the Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, it was ordered by the Court that judgment

and that the Plaintiff should pay to the Clerk of the Court, on or before the \_\_\_\_\_ day of \_\_\_\_\_ the sum of \_\_\_\_\_ for the Defendant's costs of suit;

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 of the Plaintiff, wheresoever they may be found, within the colony (excepting the wearing apparel and bedding of him or his family, and the tools and implements of his trade, if any, to the value of five pounds), the sum stated at the foot of this warrant, being the amount due to the Defendant under the said judgment, including 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, specialities, or securities for money of the Plaintiff 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 make return of what you have done under this warrant immediately upon the execution thereof.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_  
 By the Court, \_\_\_\_\_

Clerk of the Court.

To the Bailiff of the said Court.

	£	s.	d.
Costs adjudged ... ..			
Paid into Court ... ..			
Remaining due ... ..			
Poundage for issuing this warrant ... ..			
Total amount to be levied ... ..			

Notice.—The goods and chattels are not to be sold until after the end of five days next following the day on which they are seized, unless they be of a perishable nature, or at the request of the Plaintiff.

Application was made to the clerk for this warrant \_\_\_\_\_ minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

Clerk of the Court.

No. 32.—*Interpleader Summons to Execution Creditor.*

In the Local Court \_\_\_\_\_, holden at \_\_\_\_\_  
 Between A.B., Plaintiff, and C.D., Defendant.

Whereas [here insert the name, address, and description of claimant so far as is then known] hath made a claim to (certain goods and chattels, or money, etc.) taken in execution under process issuing out of this Court at your instance (or certain rent alleged to be due to him):—

You are, therefore, hereby summoned to appear at a Court to be holden at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, at the hour of \_\_\_\_\_ in the forenoon, when the said claim will be adjudicated upon, and such order made thereon as to the Magistrate shall seem fit.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

[Seal.] \_\_\_\_\_  
 Clerk of the Court.

To the Plaintiff.

NOTE.—The claimant is called upon to give the particulars of his claim, which you may inspect on application at the office of the clerk of this Court four days before the day of hearing.

No. 33.—*Interpleader Summons to a Claimant of Goods.*

No. \_\_\_\_\_  
 In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
 Between \_\_\_\_\_, Plaintiff,  
 and \_\_\_\_\_, Defendant.

You are hereby summoned to appear at a Court to be holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon, to support a claim made by you to certain goods and chattels taken in execution under process issued in this action at the instance of \_\_\_\_\_, and in default of your then establishing such claim the said goods and chattels will then be sold according to the exigency of the said process; and take notice, that you are hereby required, five days before the said day, to deliver to the officer in charge of the said process, or leave at my office, particulars of the goods and chattels which are claimed by you, and of the grounds of your claim; and in such particulars you shall set forth fully your name, address, and description; and take notice, that in the event of your not giving such particulars as aforesaid your claim will not be heard by the Court.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_  
 To \_\_\_\_\_ Clerk of the Court.  
 of \_\_\_\_\_

NOTE.—Where Claim is for rent in respect of premises in which goods are seized, alter accordingly.

No. 34.—*Warrant of Execution against the Goods of Claimant.*

No. of Plaintiff \_\_\_\_\_  
 No. of Warrant \_\_\_\_\_  
 In the Local Court, holden at \_\_\_\_\_  
 Between A.B., Plaintiff, and C.D., Defendant,  
 E.F., Claimant.

Whereas at a Court, holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ the Plaintiff, by the judgment of the said Court, recovered against the defendant the sum of £ \_\_\_\_\_ for debt, (or damages) and \_\_\_\_\_ for costs; and whereas the Defendant, by an order of the Court, was ordered to pay the same to the Clerk of the Court; and whereas default having been made in payment according to the said order, an execution issued against the goods of the Defendant, under which certain goods and chattels were seized in respect of which E.F. of &c. made claim, and which claim was heard and decided upon at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ and it was adjudged that the goods so seized under the said execution were the property of the Defendant (or that certain rent alleged by the said \_\_\_\_\_ of, etc., to be due to him was not so due) and it was ordered that the costs of that proceeding, amounting to the sum of £ \_\_\_\_\_ should be paid by the Claimant to the Clerk of the said Court on or before the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_; and whereas default has been made in payment according to the last mentioned order. These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the said Claimant wheresoever they may be found within the District of this Court (excepting the wearing apparel and bedding of the said Claimant or his family and the tools and implements of his trade (if any) to the amount of £5, the sum stated at the foot of this warrant being the amount due to the Plaintiff under the said order, including 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, specialties, or securities for money of the Claimant 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 make return of what you have done under this warrant immediately upon the execution thereof.

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

[Seal.] By the Court.  
 \_\_\_\_\_ Clerk of the Court.

To the Bailiff of the said Court.	_____
Costs adjudged ... ..	£ _____
Mileage ... ..	_____
Total amount to be levied	£ _____

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 said Claimant.

Application was made to the Clerk for this Warrant at \_\_\_\_\_ minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

No. 35.—*Affidavit of Justification.*

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
 Between A.B., Plaintiff, and C.D., Defendant.

I \_\_\_\_\_ of \_\_\_\_\_ one of the sureties for the defendant make oath and say that I am a householder (or freeholder, as the case may be), residing [describing particularly the District or City, the street or place, and the No. of the house, if any], that I am worth property to the amount of £ \_\_\_\_\_ [the amount required by the practice of the Court], over and above what will pay my just debts [if security in any other action or for any other purpose add, and every other sum for which I am now security], that I am not bail or security in any other action or proceeding, or for any other person (or if security in any other action or actions add, except for C.D., at the suit of E.F., in the Court of \_\_\_\_\_, in the sum of £ \_\_\_\_\_, for G.H., at the suit of J.K., in the Court of \_\_\_\_\_ in the sum of £ \_\_\_\_\_) [specifying the several actions with the Courts in which they are brought, and the sums in which he has become bound], that this my property to the amount of the said sum of £ \_\_\_\_\_ [and if security in any other action, etc., over and above all other sums for which I am now security as aforesaid], consists of [here specify the nature and value of the property in respect of which the deponent proposes to become bondsman, as follows]:—

Stock-in-trade in my business of \_\_\_\_\_, carried on by me at \_\_\_\_\_, of the value of £ \_\_\_\_\_, of good book debts owing to me to the amount of £ \_\_\_\_\_, of furniture in my house at \_\_\_\_\_ of the value of £ \_\_\_\_\_, of a freehold (or leasehold) farm of the value of £ \_\_\_\_\_, situate at \_\_\_\_\_, occupied by \_\_\_\_\_ (or if a dwelling house of the value of £ \_\_\_\_\_, situate at \_\_\_\_\_, occupied by \_\_\_\_\_ or of other property particularising each description of property with the value thereof), and that I have for the last six months resided at [describing the place of such residence, or if he has had more than one residence during that period state it in the same manner as above directed].

Sworn, etc.

No. 36.—*Summons in nature of Scire Facias where any Change of Plaintiff.*

No. \_\_\_\_\_  
 In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
 Between E.F., Plaintiff [address and occupation],  
 and \_\_\_\_\_  
 C.D., Defendant [address and occupation].

Whereas A.B., at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, obtained a judgment against you for the sum of £ \_\_\_\_\_ for debt and costs, which judgment now remains unsatisfied: And whereas the said A.B. has since died [or state circumstances requiring revival of judgment] and the said Plaintiff is his Executor [or state representative character]. You are hereby summoned to appear at a Court to be holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_, at the hour of \_\_\_\_\_ in the forenoon, to show cause why judgment should not be entered up at the suit of the plaintiff on the judgment so obtained against you and why execution should not issue thereon

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_  
 \_\_\_\_\_ Clerk of the Court.

Due on judgment \_\_\_\_\_ £

To the defendant.

N.B.—Where the judgment in the original cause was for the defendant the above form must be altered accordingly.

No. 37.—*Judgment on Scire Facias Summons on Change of Plaintiff.*

No. \_\_\_\_\_  
 In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
 Between E.F., Plaintiff, and C.D., Defendant

Whereas A.B. at a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_ obtained a judgment against the Defendant for payment of £ \_\_\_\_\_ for \_\_\_\_\_ and \_\_\_\_\_ costs, which judgment now remains unsatisfied. And whereas the said A.B. has since died (or state circumstances requiring revival of judgment) and

the Plaintiff is his Executor (or state other representative character) it is ordered that the said Plaintiff be at liberty to issue execution on the said judgment against the said Defendant (and the sum of £ \_\_\_\_\_ for further costs).

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

[Seal.] By the Court.

Clerk of the Court.

Due on judgment £ \_\_\_\_\_

N.B.—Where the judgment in the original cause was for the Defendant, the above form must be altered accordingly.

\* Here insert the sum, if any, allowed to the Plaintiff as costs by the Magistrate.

No. 38.—*Judgment on Scire Facias where any Change of Defendant.*

No.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_

Between A.B., Plaintiff,  
and  
E.F., Defendant.

Whereas the Plaintiff, in a Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, obtained a judgment against C.D., for the sum of £ \_\_\_\_\_ for \_\_\_\_\_, and costs, which judgment now remains unsatisfied: And whereas the said C.D. has since died [or state other circumstances requiring revival of judgment] and the Defendant is his Executor [or state other representative character; conclude according to the rules and forms as to Executors and the defence made].

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

By the Court.

[Seal.]

Clerk of the Court.

Due on judgment £ \_\_\_\_\_

N.B.—Where the judgment in the original cause was for the Defendant the above form must be altered accordingly.

No. 39.—*Judgment against an Executor who has wasted Assets.*

No.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_

Between, A.B., Plaintiff, and C.D., Executor (or Administrator) of \_\_\_\_\_, deceased, Defendant.

Upon hearing this cause at a Court this day holden, 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 to the Clerk of this Court on or before the day of \_\_\_\_\_: It is also adjudged that the Defendant being the Executor (or Administrator) of the said deceased, has made away with, wasted, and put to his own use divers goods and chattels (or, moneys as the case may be), to the amount of the said sum which were the property of the said deceased, and which came to the hands of the Defendant as Executor, (or Administrator) as aforesaid, to be administered. Wherefore it is ordered that if the Defendant shall make default in the payment of the said sum the same shall be levied by distress, and sale 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 sums shall be levied on the proper goods and chattels of the Defendant.

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

[Seal.] By the Court.

Clerk of the Court.

No. 40.—*Judgment against an Executor who has denied his representative character.*

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_

Between A.B., Plaintiff, and C.D., Executor (or Administrator) of \_\_\_\_\_, deceased, Defendant.

Upon hearing this cause at a Court this day holden 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 to the Clerk of this Court on or before the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

And the Defendant having denied that he is Executor (or, Administrator) of the said \_\_\_\_\_, deceased, it appears to the Court that he is Executor (or Administrator) of the said \_\_\_\_\_ deceased.

Wherefore it is ordered that if the Defendant shall make default in the payment of the said sums the same shall be levied by distress and sale 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 sums shall be levied on the proper goods and chattels of the Defendant.

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

[Seal.] By the Court.

Clerk of the Court.

No. 41.—*Judgment against an Executor who has pleaded a Release of the Claim to himself.*

No.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_

Between A.B., Plaintiff, and C.D., Executor (or Administrator) of \_\_\_\_\_, deceased, Defendant.

Upon hearing this cause at a Court this day holden, 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 sum to the Clerk of this Court on or before the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

And the Defendant having alleged that the Plaintiff's claim had been released to him, it appears to the Court that he has failed to prove such release.

Wherefore it is ordered that if the Defendant shall make default in the payment of the said sums, the same shall be levied by distress and sale 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 shall be levied of the proper goods and chattels of the Defendant.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

By the Court.

[Seal.]

Clerk of the Court.

No. 42.—*Judgment against Executor or Administrator who admits his representative character and denies the demand.*

No.

In the Local Court, \_\_\_\_\_, holden at \_\_\_\_\_

Between A.B., Plaintiff, and C.D., Executor (or Administrator) of \_\_\_\_\_, deceased, Defendant.

Upon hearing this cause at a Court this day holden, 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 to the Clerk of this Court on or before the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

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 sum, the same shall be levied as follows:—The sum of £ \_\_\_\_\_ [the debt or damage 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] be levied upon the proper goods of the Defendant.

Given under the seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

By the Court.

[Seal.]

Clerk of the Court.

No. 43.—*Judgment against 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 proves administration.*

No. In the Local Court holden at  
between A.B., Plaintiff, and C.D., Executor (or Administrator) of Deceased, Defendant.

Upon hearing this cause at a Court this day holden, 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 to the Clerk of this Court on or before the day of 18

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 on 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, and if he has not, then that it shall be levied of the proper goods and chattels of the Defendant, and as to the sum of £ [the Plaintiff's demand] 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 to the Clerk of the Court, on or before the day of 18, the sum of £, being the costs incurred by the Defendant in proving the administration alleged.

Given under the seal of the Court this day of 18

By the Court.

Clerk of the Court.

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*.

No. 44.—*Judgment against Executor (or Administrator) where the Defendant 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.*

No. In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Executor (or Administrator) of Deceased, Defendant.

Upon hearing this cause at a Court this day holden, 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 to the Clerk of this Court on, or before the day of 18, 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.

And it is further 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 Defendant as aforesaid, 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 upon the proper goods of the Defendant.

Given under the seal of the Court this day of 18

[Seal.] By the Court,

Clerk of the Court.

No. 45.—*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.*

No. In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Executor (or Administrator) of Deceased, Defendant.

Upon hearing this cause at a Court this day holden, it is adjudged that the Plaintiff do recover against the Defendant the sum of £ for and it is ordered that the Defendant do pay the same to the Clerk of this Court on or before the day of 18

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 proved to the Court the administration alleged, wherefore it is ordered that in default of such payment the said sum of £ shall be levied on 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 to the Clerk of this Court, on or before the day of 18, the sum of £, being the costs incurred by the Defendant in proving the administration alleged.

Given under the Seal of the Court this day of 18

[Seal.] By the Court,

Clerk of the Court.

No. 46.—*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 prove the Administration.*

No. In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Executor (or Administrator) of Deceased, Defendant.

Upon hearing this cause at a Court this day holden, it is alleged that the Plaintiff do recover against the Defendant the sum of £ for and it is ordered that the Defendant do pay the same to the Clerk of this Court at on or before the day of 18

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. And it is further 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 Defendant as aforesaid, 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 upon the proper goods of the Defendant.

Given under the seal of the Court this day of 18

[Seal.] By the Court,

Clerk of the Court.

No. 47.—*Summons to an Executor of Plaintiff's intention to apply to the Court where assets have come to Defendant's hands since judgment.*

No. In the Local Court holden at  
Between A.B., Plaintiff [address and occupation], and C.D., Executor (or Administrator) of Deceased, Defendant [address and occupation].

The Plaintiff having learnt that property of the deceased has come to your [the Defendant's] hands as Executor (or Adminis-

trator) since the judgment herein to be administered (and that you have withholden and wasted the same) intends to apply to the Court to be holden on the day of 18, at the hour of in the forenoon, for an order that the debt (or damages) and costs shall be levied of the goods and chattels of the said deceased if you have so much thereof to be administered (and that if you have not, then that it shall be levied on your proper goods and chattels), and that the costs be levied on 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.

Dated this day of 18  
Clerk of Court.

To [the Executor or Administrator of the deceased].

No. 48.—Warrant of Execution against the Goods of a Testator.

No. of Plaintiff  
No. of Warrant  
In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Executor (or Administrator) of deceased, Defendant.

Whereas at a Court holden at on the day of 18, the Plaintiff obtained a judgment against the Defendant as Executor (or Administrator) of the said 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 suit, and thereupon it was ordered by the Court that the Defendant should pay the same to the Clerk of the Court on or before the day of 18 (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 within the District of the Court (excepting the wearing apparel and bedding of him or his family and the tools and implements of his trade, if any, to the value of £5), the sum stated at the foot of this Warrant being the amount due to the Plaintiff under the said Order, including 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, specialities, or securities for money which were the property of the said 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 hath so much thereof in his hands to be administered, and if the Defendant hath not so much thereof in his hands to be administered, then that you make and levy of the proper goods and chattels, money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialities, or securities for money of the Defendant the sum of for the costs and charges first above mentioned and the costs of this Execution and of levying the same, and to pay what you shall have so levied to the Clerk of the Court and make return of what you have done under this Warrant immediately upon the execution thereof.

Given under the Seal of the Court this day of 18  
[Seal.] By the Court,  
To the Bailiff of the said Court and )  
other the Assistants Bailiffs thereof. ) Clerk of the Court.

Debt or damages adjudged	...	...	£
Costs	...	...	...
Paid into Court	...	...	...
Remaining due	...	...	...
Mileage	...	...	...
Total amount to be levied			£

Notice.—The goods and chattels are not to be sold until after the end of 5 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 for this Warrant at minutes past the hour of in the noon of the day of 18.

[Warrants of Execution upon the judgments given in Forms 38 to 45 may be drawn from this form altered accordingly from those forms.]

No. 49.—Judgment against an Executor on a Devastavit.

No.  
In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Executor (or Administrator) of deceased, Defendant.

Upon hearing the Plaintiff's application in this cause at Court this day holden, it is adjudged that the property of deceased, has come to the hands of the Defendant as his Executor (or Administrator) since the judgment recovered herein to be administered, and that the Defendant has wasted the same property whereby the judgment recovered herein remains unsatisfied. It is therefore ordered that the defendant do pay the sum of £ recovered by (or remaining due upon) the judgment of, together with the sum of £ the costs of this order to the Clerk of this Court on or before [as the case may be]. And it is further adjudged that if the Defendant make default in payment thereof an execution shall issue to make and levy the abovementioned sums of the goods and chattels of the said deceased if the Defendant has so much thereof in his hands to be administered, and if he has not then to be made and levied of the proper goods and chattels of the Defendant.

Given under the seal of the Court this day of 18

[Seal.] By the Court.  
Clerk of the Court.

No. 50.—Order of Reference.

In the Local Court holden at  
Between A.D., Plaintiff, and C.D., Defendant.

By the consent of the Plaintiff and Defendant it is at a Court holden this day ordered that all matters in difference in this cause (and all other matters within the jurisdiction of this Court in difference between the said parties) be referred to of whose award shall be made or given on or before the day of 18 and shall thereupon be entered as the judgment in this cause.

Given under the Seal of the Court this day of 1897

By the Court.  
Clerk of the Court.

No. 51.—Summons to a Tenant or other person holding over.

No.  
In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Defendant.

You are hereby summoned to appear at a Local Court to be holden at on the day of 18, at the hour of in the forenoon to answer the Plaintiff wherefore you neglect or refuse to deliver up to him possession of a certain [messuage with appurtenances or part of a house, etc., or as the case may be] situate at

And take notice that the Plaintiff claims of you for rent (or mesne profits or for rent and mesne profits) the sum of £ for a period from the day of 18, to the day of 18.

And further take notice, if you do not appear at the said Court and show cause why you do not deliver up possession as aforesaid, the Magistrate of the said Court may order that possession of the said premises be given by you to the plaintiff, on or before such day as the Magistrate shall name, and that if such order be made and be not obeyed, a warrant may issue to give possession to the Plaintiff.

Dated the day of 18  
[Seal.] Clerk of the Court.

To the Defendant  
Costs of this summons £  
Claim for

[On Back.]

Take notice—If the Plaintiff in this action be not your immediate landlord, you must, upon your being served with this summons, or if this summons shall come to your knowledge, forthwith give notice thereof to your immediate landlord, and if you do not give such notice you will be liable, under Section 102 of the Act, to forfeit to your immediate landlord three years' rack-rent of the premises held by you of him in respect of which the summons shall have issued.



No. 52.—*Summons to Tenant in Default with Rent.*

In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Defendant.  
You are hereby summoned to appear at a Court to be holden  
at on the day of  
18 at the hour of in the forenoon, to answer  
the Plaintiff why possession of a certain situate  
at should not be given up to the Plaintiff  
by reason of the rent payable in respect thereof by you being half  
a year in arrear, and the Plaintiff having right by law to re-enter  
for the non-payment thereof.  
If you shall pay to the Clerk the rent in arrear, and the costs  
of his action, as stated at the foot of the Summons, five clear  
days before the day you are required to appear to this summons  
this action will cease.

And take notice that if you do not pay such rent in arrear and  
costs, or appear at the said Court and show cause why possession  
of the said should not be recovered against you,  
you may be ordered by the Court to give possession of such  
premises to the Plaintiff, and that if such order be not obeyed a  
warrant may issue to give possession to the Plaintiff.

Dated this day of 18  
Clerk of the Court.  
Costs of this Summons £

[On Back].

Take Notice.—If the Plaintiff in this action be not your im-  
mediate landlord, you must, upon being served with this Summons,  
or if this Summons shall come to your knowledge, forthwith give  
notice thereof to your immediate landlord, and if you do not give  
such notice you will be liable under Sec. 102 of this Act to forfeit  
to your immediate landlord three years' rack-rent of the premises  
held by you of him in respect of which the Summons shall have  
issued.

No. 53.—*Order for Recovery of Tenement.*

No.  
In the Local Court, holden at  
Between A.B., Plaintiff, and C.D., Defendant.  
Upon the hearing of this cause at a Court holden this day it  
is ordered that the Defendant do give to the Plaintiff possession of  
a certain (or messuage with  
*appurtenances, or part of a certain house with appurtenances, or*  
*as the case may be*), situate at  
on the day of

And it is adjudged that the Plaintiff do recover against the  
Defendant the sum of £ costs.  
And it is ordered that the Defendant do pay to the Clerk of  
the Court the sum (or sums) above mentioned, on or before the  
day of 18 .

Given under the seal of the Court this day of  
18 .  
By the Court,  
Clerk of the Court.

To the Defendant.

Take notice that if you do not give such possession a warrant  
may issue requiring the Bailiff of the Court to give possession of  
the said to the Plaintiff, and to levy the sum  
above mentioned, together with further costs.

No. 54.—*Warrant for giving Possession of Tenement.*

No. of Plaintiff.

No. of Warrant.

In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Defendant.

Whereas at a Court holden at on the  
day of 18 , it was ordered by the Court that the  
Defendant should give the Plaintiff possession of a certain [as in  
*summons*] situate at [and that the Plaintiff should  
recover against the Defendant] the sum of £ for rent (or  
*mesne profits, or rent and mesne profits and costs*).

And whereas the Defendant has not obeyed the said order:  
These are therefore to authorise and require you to forthwith give  
possession of the said hereinbefore mentioned premises to the  
Plaintiff. And these are therefore 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 the District of the Court (excepting the wearing apparel

and bedding of the Defendant or his family, and the tools and  
implements of his trade, if any, to the value of £5), the said sum  
and the costs of this Warrant and execution, and also to seize  
and take any money or bank notes, and any cheques, bills  
of exchange, promissory notes, bonds, specialties, or securi-  
ties for money of the Defendant which may be there 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 the amount so levied to the Clerk of this Court, and make  
return of what you have done under this Warrant immediately  
upon the execution thereof.

Given under the seal of the Court this day  
of 18 .  
By the Court,  
Clerk of the Court.

To the Bailiff of the said Court.

Rent (or mesne profits or rent and mesne profits) £  
Costs ... ..  
Poundage for issuing this warrant ... ..  
Total amount to be levied ... £

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.

Application was made to the Clerk for this Warrant at  
minutes past the hour of in the noon of the  
day of 18 .

No. 55.—*Judgment in Detinue.*

No.  
In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Defendant.

Upon hearing this cause at a Court holden this day it is  
adjudged that the Plaintiff do recover against the Defendant the  
sum of £ , the same being now this day assessed by this  
Court to be the value of the following chattels of the Plaintiff  
wrongfully detained by the Defendant, that is to say [*here enu-  
merate the chattels which the Court decides to have been detained*] and  
the further sum of £ for damages for the detention of  
the said chattels and the sum of £ for costs, and it is ordered  
that the Defendant do pay the said several sums to the Clerk of  
the Court on the day of 18

ACKNOWLEDGMENT OF  
PAYMENT INTO COURT.

£	s.	d.

\* And it is further ordered that if the  
Defendant shall, on or before the said last-  
mentioned day, pay to the Clerk the said  
sums respectively above ordered to be paid  
for damages and costs and also return to  
the Plaintiff the said chattels, and if the  
Plaintiff shall then accept the same, then  
satisfaction of this judgment shall be en-  
tered up by the Clerk on the production to  
him of a receipt for the said chattels signed  
by the Plaintiff, or his solicitor or agent,  
into Court.

Given under the seal of the Court this day  
of 18 .  
By the Court,  
Clerk of the Court.

\* This paragraph is not to be added unless it be part of the order of the  
Magistrate.

No. 56.—*Warrant of Execution in Detinue.*

No.  
No.  
In the Local Court of holden at  
between , Plaintiff, and  
Defendant.

Whereas at a Court holden at on the  
day of 18 , the Plaintiff obtained a judgment  
against the Defendant for the sum of £ the same being  
assessed by this Court to be the value of certain chattels of the  
Plaintiff wrongfully detained by the Defendant, and for the  
further payment of £ for damages for the detention  
of the said chattels and of £ for costs; and thereupon it  
was ordered by the Court that the Defendant should pay the same  
to the Clerk of this Court on the day of .

And it was further ordered that if the Defendant should, on or before the said last mentioned day, pay into this Court the said sums respectively above ordered to be paid for damages and costs, and also return to the Plaintiff the said chattels, and if the Plaintiff should then accept the same, then satisfaction of the said judgment should be entered up by the Clerk on the production to him of a receipt for the said chattels signed by the Plaintiff or his attorney. And whereas the Defendant did not on the said day of 18 , return the said chattels to the Plaintiff, and default has also been made in payment according to the orders: 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 (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 five pounds), the sum stated at the foot of this warrant, being the amount due to the Plaintiff under the said order including 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, specialties, or 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 costs of making and executing the same, and to pay what you shall have so levied into this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.

Dated this day of , 18 .  
By the Court,

Clerk of the Court.

To the Bailiff of the said Court.

	£	s.	d.
Value of goods detained ... ..			
Damages for their detention ... ..			
Costs ... ..			
<hr/>			
Paid into Court ... ..			
<hr/>			
Remaining due ... ..			
Poundage for issuing this warrant			
<hr/>			
Total amount to be levied	£		

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 for this Warrant at minutes past the hour of in the noon of the day of 18 .

No. 57.—*Warrant of Commitment for Contempt.*

In the Local Court holden at

To the Bailiff and others, the officers of the said Court and all Peace officers within the jurisdiction of the said Court, and to the Governor or Keeper of the Gaol [used by the Court].

Whereas at a Court holden on this day A.B. wilfully insulted the Magistrate during his sitting in Court (or C.D., the Clerk, Bailiff, or officer as the case may be of the said Court during his attendance in Court; or wilfully interrupted the proceedings of the said Court; or wilfully misbehaved in the said Court). These are therefore to require you the said Bailiff, officers, and others to take the said A.B., and to deliver him to the Governor (or keeper) of the abovementioned prison; and you the said Governor (or keeper, etc.) to receive the said A.B., and him safely keep in the said prison for days from the arrest under this warrant, or until he shall be sooner discharged by due course of law.

Given under the seal of the Court this day of 18 .

[Seal.] Magistrate of the Court.

No. 58.—*Bailiff's Warrant to Clerk of Foreign Court.*

No. of Plaintiff  
No. of Warrant

In the Local Court holden at  
Between A.B., Plaintiff, and C.D., Defendant.

Whereas the Warrant of Execution (or Commitment) hereto annexed, has been issued out of this Court against the goods and chattels of : And whereas the goods and chattels of are out of the ordinary jurisdiction of this Court and are (or is) believed to be within the jurisdiction of the Local Court of holden at

of which you are the Clerk. These are therefore to require you to cause the said warrant to be executed within the ordinary jurisdiction of the said last-mentioned Local Court.

Dated this day of 18  
Bailiff of the Local Court of holden at

To the Clerk of the Local Court of holden at

No. 59.—*Affidavit to ground Garnishee Order.*

In the Local Court , holden at  
Between Judgment Debtor Judgment Creditor, and Garnishée.

I of , the abovenamed Judgment Creditor (or the Solicitor or Agent for the abovenamed Judgment Creditor) make oath and say:—

1. That I (or the abovenamed Judgment Creditor) on the day of last past, recovered judgment in the Local Court holden at , against the abovenamed Judgment Debtor for the sum of and costs.
2. That the said judgment is still wholly unsatisfied (or is still unsatisfied to the extent of the sum of £ ).
3. That E.F., of [state description] is indebted to the said Judgment Debtor in the sum of £ .
4. That the said E.F. resides within the jurisdiction of this Court.

Sworn at this day of 18 before me.

This affidavit is filed on behalf of the abovenamed Judgment Creditor.

No. 60.—*Garnishee Order attaching Debt.*

No. In the Local Court holden at  
Between , Judgment Creditor, and Garnishee.

Upon hearing of Counsel for and reading the affidavit of , filed the day of 18 , and upon

It is ordered that all debts, owing and accruing, due from the abovenamed Garnishee to the abovenamed Judgment Debtor be attached to answer a judgment recovered against the said Judgment Debtor by the abovenamed Judgment Creditor, in the Local Court of , holden at , on the day of , 18 , for the sum of £ , on which judgment the sum of £ remains due and unpaid. And it is further ordered that the said Garnishee attend this Court on the day of , 18 , at o'clock in the noon, to show cause why he should not pay into Court the debt due from him to the said Judgment Debtor, or so much thereof as may be sufficient to satisfy the said judgment.

Dated this day of , 18 .  
[Seal.] By the Court.

Clerk of the Court.

To the abovenamed Garnishee.

To the abovenamed Judgment Debtor.

NOTE.—If the Garnishee pay the amount of debt, or so much thereof as will satisfy the Judgment debt, into Court five clear days before the hearing of this Summons he will incur no costs. If the Garnishee does not appear and dispute the debt the Court may order execution to issue against him.

No. 61.—*Judgment against Garnishee.*

No. In the Local Court holden at  
Between A.B., Judgment Creditor, and C.D., Judgment Debtor, and E.F., Garnishee.

It is ordered that the said A.B., the above-mentioned Judgment Creditor, do recover against the said E.F., the abovenamed Garnishee, the sum of £ [insert the amount of the judgment debt, or so much thereof as the debts amount to when the same are less than the judgment debt] and £ for costs, amounting altogether to the sum of £ and it is further ordered that the Garnishee do pay the same to the Clerk of the Court on the day of 18 (or by instalments of for every days, the first instalment to be paid on the day of 18 ).

[In case default be made in payment of any one of such instalments and execution issue, it shall be for the whole of the above amount then remaining due.]

Dated this day of 18 .  
[Seal.] By the Court.

Clerk of the Court.

No. 62.—Execution against Garnishee.

No.  
No. of Warrant  
In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
Between A.B., Judgment Creditor, and C.D., Judgment Debtor, and E.F., Garnishee.  
Whereas on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ the Judgment Creditor obtained a judgment in this Court against the Garnishee for the sum of £ \_\_\_\_\_ being [portion of] the amount due by him to the Judgment Debtor, and it was thereupon ordered that the Garnishee should pay the sum to the Clerk on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_ (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 of the said E.F. wheresoever they may be found within the district of this Court (except the wearing apparel and bedding of him and his family and the tools and implements of his trade, if any, to the value of £5), the sum stated at the foot of this warrant being the amount due to the said A.B. under this order, including the costs of this execution, and also to seize and take any money or bank notes, cheques, bills of exchange, promissory notes, bonds, specialities, or 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 shall have so levied to the Clerk of this Court, and to make return of what you have done under this warrant immediately upon the execution thereof.  
Given under the seal of this Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_  
[Seal.] \_\_\_\_\_ By the Court.

\_\_\_\_\_ Clerk of the Court.  
To the Bailiff of the said Court and others the assistant Bailiffs thereof.  
Amount for which judgment was obtained.  
Amount of judgment ... .. £  
Costs ... ..  
Mileage ... ..  
Paid into Court ... ..  
Total amount to be levied ... .. £

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 said E.F.

Application was made to the Clerk for this Warrant at \_\_\_\_\_ minutes past the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon of the day of \_\_\_\_\_ 18 \_\_\_\_\_

No. 63.—Affidavit in Support of an Order under Sec. 111 of 55 Vict., No. 32.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
In the matter of the application of \_\_\_\_\_ for an order under Sec. III. of 55 Vict., No. 32.  
I, \_\_\_\_\_, of \_\_\_\_\_ make oath and say:  
1. I am the applicant herein.  
2. A judgment has been obtained against me in the Local Court for the \_\_\_\_\_ District [here set out full particulars of the judgment], and I am unable to pay the amount thereof forthwith.  
3. The whole of my indebtedness amounts to £ \_\_\_\_\_. The following are my creditors, and the several amounts owing to them by me are set opposite their respective names [set out debts, consideration, etc., in full].  
4. My only sources of income are [here set out the same, together with the debtor's reasons for being unable to pay his debts, and any other facts in support of the order asked].  
Sworn, etc.

No. 64.—Notice of Motion.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
Between \_\_\_\_\_ Plaintiff, and \_\_\_\_\_ Defendant,  
or \_\_\_\_\_  
In the matter of, etc.  
Take notice that this Court will be moved on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, or so soon thereafter as Counsel can be heard for [here fully state the nature of the application].  
Dated \_\_\_\_\_  
Solicitor for \_\_\_\_\_  
To the Clerk, etc.

No. 65.—Proof of Debt by Creditor in a matter where an order has been made under Sec. 111 of 55 Vict., No. 32.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
In the matter of the estate of, etc.  
I [name, etc., of creditor], make oath and say:  
(1) I am a Creditor in the estate of the said \_\_\_\_\_, and the said Debtor owes me the sum of £ \_\_\_\_\_ for [here state nature of the debt], full particulars whereof are hereto annexed, marked "A."  
Sworn, etc.

No. 66.—Order under Sec. 111 of 55 Vict., No. 32.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_  
In the matter of the application of, etc.  
Upon reading the affidavit filed herein, and upon hearing Counsel: It is ordered that the estate of the abovementioned Debtor be administered under the provisions of Sec. III. of 55 Vict., No. 32: And it is further ordered that the said Debtor pay to the Clerk of this Court the sum of £ \_\_\_\_\_ on the first day of every month, the first of such payments to be made on the \_\_\_\_\_ day of \_\_\_\_\_, 18 \_\_\_\_\_, until the sum of \_\_\_\_\_ shillings in the pound be paid on each and every of the said Debtor's liabilities, which said sum shall be in full satisfaction and discharge of the said Debtor's liabilities. And it is further ordered [here set out any further terms imposed].  
[Seal.] \_\_\_\_\_ By the Court,  
\_\_\_\_\_ Clerk of the Court.

No. 67.—Certificate for Costs.

(Under Sec. 2, of 51 Vict., No. 10.)  
In the Local Court, \_\_\_\_\_ holden at \_\_\_\_\_  
Between \_\_\_\_\_, Plaintiff,  
and \_\_\_\_\_, Defendant.  
I (or We) \_\_\_\_\_, being the Magistrate (or Magistrates) who heard the above action, hereby certify that the said action involved [set out either a novel or difficult point of law, or that the question involved in such litigation was of importance to some class or body of persons, or of general or public interest].  
Dated \_\_\_\_\_ Magistrate.

No. 68.—Application for Judgment-Summons.

THE DEBTORS' ACT, 1871.  
Between \_\_\_\_\_, Plaintiff,  
and \_\_\_\_\_, Defendant.  
I apply for the issue of a Judgment-summons against the said Defendant in respect of a judgment [or order] of this Court [or of the Local Court of \_\_\_\_\_] holden at \_\_\_\_\_  
And I undertake to 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 said sum.  
I am aware that if I do not prove the same accordingly, that I shall have to pay the costs of this summons.  
Judgment Creditor or his Solicitor.

No. 69.—*Affidavit to be filed on application for Judgment-Summons where it is sought on an Order of a Court not a Local Court.*

THE DEBTORS' ACT, 1871.

In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_

In the matter of a [Judgment, or Order, or Decree of the Supreme Court, or of the Court for Divorce and Matrimonial causes] Plaintiff [Address—Description], and Defendant [Address—Description]

I, \_\_\_\_\_ the above-mentioned Plaintiff, make oath and say :—

1. That on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, I obtained a [Judgment, or Decree, or Order, in the Supreme Court or in the Court for Divorce and Matrimonial causes, as the case may be] against \_\_\_\_\_, the above-named Defendant, for the payment of the sum of \_\_\_\_\_

2. That there is still due on the said [Judgment, or Order, or Decree] the sum of \_\_\_\_\_ Sworn at, etc.

No. 70.—*Judgment-Summons.*

THE DEBTORS' ACT, 1871.

In the Local Court \_\_\_\_\_ holden at \_\_\_\_\_

Between \_\_\_\_\_ Plaintiff, and \_\_\_\_\_ Defendant.

Whereas the above-named Plaintiff has obtained judgment against you for the sum of £ \_\_\_\_\_ and £ \_\_\_\_\_ costs in the \_\_\_\_\_ Court, and you have made default in payment thereof (or part or an instalment thereof) and there is now due and payable on the said judgment the sum of £ \_\_\_\_\_. You are therefore hereby summoned to appear personally at this Court holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, at the hour of \_\_\_\_\_ in the \_\_\_\_\_ noon and be examined touching the means you have of paying the said judgment debt, and to show cause why you should not be imprisoned for such term (not exceeding six weeks) as to the Magistrate shall seem meet.

	£	s.	d.
Amount of judgment including costs to judgment	...	...	...
Amount paid since judgment	...	...	...
Balance due	...	...	...
Costs of judgment summons service	...	...	...
Fees paid	...	...	...
Total due	...	...	...

No. 71.—*Order for Payment by Instalments. Judgment-Summons.*

No. \_\_\_\_\_ In the Local Court of \_\_\_\_\_ holden at \_\_\_\_\_  
Between \_\_\_\_\_ and \_\_\_\_\_, Plaintiff,  
and \_\_\_\_\_, Defendant.

ACKNOWLEDGMENT OF PAYMENT INTO COURT.

Date.	£	s.	d.	Received by.

WHEREAS the Plaintiff obtained a judgment of this Court against the Defendant for the sum of £ \_\_\_\_\_ for his debt and costs, upon which judgment and the subsequent process issued thereon the sum of £ \_\_\_\_\_ is still due.

AND WHEREAS a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to appear personally at this Court this day to answer such questions as might be put to him pursuant to Section 51 of Ordinance 27th Vict., No. 21, in relation to such debt.

It is ordered, that the Defendant do pay the amount still due on the said judgment, and the costs of the said summons and its hearing, as stated at the foot of this order, into this Court, by instalments of £ \_\_\_\_\_ for every \_\_\_\_\_ days; the first payment to be made on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.

In case default be made in payment of any one of such instalments, and execution issue, it shall be for the whole of the above amount then remaining due.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

By the Court,

Clerk of the Court.

Amount remaining due...	...	...	...	£	s.	d.
Costs of judgment-summons and its hearing	_____	_____	_____	£	_____	_____

No. 72.—*Order upon a Judgment-Summons altering Original Order or Judgment.*

THE DEBTORS' ACT, 1871.

In the \_\_\_\_\_

No. of plaintiff.....

No. of judgment-summons...

Between [address and description] Plaintiff,  
and [present address, description, and, if known, place of employment] Defendant.

Whereas

And whereas a summons was, at the instance of the Plaintiff duly issued out of this Court, by which the Defendant was required to appear personally at this Court on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_, to be examined on oath touching the means he had then or had had since the date of the [judgment or order] to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant:

ACKNOWLEDGMENT OF PAYMENT INTO COURT.

Date.	£	s.	d.	Received by

It is ordered, that the Defendant do pay the amount still due on the said judgment, and the costs of the said summons and its hearing, as stated at the foot of this order, to the clerk of this Court, by instalments of £ \_\_\_\_\_ for every \_\_\_\_\_ days; the first payment to be made on the \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_.

Given under the Seal of the Court this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

Clerk of the Court.

Amount on judgment or order remaining due ...	...	...	...	£	s.	d.
Cost of judgment-summons and its hearing	...	...	...	£	_____	_____

No. 73.—*Order of Commitment on an Order or Judgment of a Court other than a Local Court.*

THE DEBTORS' ACT, 1871.

In the [title of the Court ordering the committal].

No. of plaintiff

No. of judgment-summons

No. of order

Between \_\_\_\_\_ and \_\_\_\_\_ Plaintiff,

Defendant.

To the Bailiffs of the said Court and all Peace Officers within the jurisdiction of the said Court, to the Governor or Keeper of the [Prison used by the Court].

Whereas the Plaintiff obtained a judgment against the Defendant in the [Supreme Court or as the case may be], on the \_\_\_\_\_ day of \_\_\_\_\_ for the sum of £ \_\_\_\_\_, and there is now due and payable upon the said judgment the sum of £ \_\_\_\_\_

And whereas a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to appear personally at this Court on the day of 18, to be examined on oath touching the means he had then or has had since the date of the [judgment or order], to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant;

And whereas, at the hearing of the said summons, it has now been proved to the satisfaction of the Court that the Defendant [now has, or has had] since the date of the [judgment or order] the means to pay the sum in respect of which he made default as aforesaid, and [has refused, or neglected, or then refused, or neglected] to pay the same;

Now, therefore, it is ordered that the Defendant shall be committed to prison for [not exceeding six weeks] days, unless he shall sooner pay the sums, in payment of which he has so made default; together with the prescribed costs hereinafter mentioned.

These are, therefore, to require you the said Bailiffs, and others, to take the Defendant, and to deliver him to the Governor or keeper of the [prison used by the Court], and you the said Governor or keeper to receive the 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.

Given under the seal of 18 this Clerk of the Court.

Amount of judgment or order remaining due  
Costs of judgment-summons and poundage on this order  
Amount upon the payment of which the prisoner is to be discharged

This order remains in force one year from the date thereof.

No. 74.—Order of Commitment.

THE DEBTORS' ACT, 1871.

In the [title of Court ordering committal].

No. of plaintiff  
No. of judgment-summons  
No. of order

Between A.B., plaintiff, and C.D., defendant.

To the Bailiffs of the said Court and all Peace Officers within the jurisdiction of the said Court, to the Governor or Keeper of the [Prison used by the Court].

Whereas the Plaintiff obtained a judgment [or order] against the Defendant in the Local Court of holden at on the day of 18, for the payment of £, together with £ for costs, and in payment thereof [or of shillings, part thereof], the Defendant has made default;

And whereas a summons was, at the instance of the Plaintiff, duly issued out of this Court, by which the Defendant was required to appear personally at this Court on the day of 18, to be examined on oath touching the means he had then or had had since the date of the judgment [or order], to pay the said sum, which summons was proved to this Court to have been personally and duly served on the Defendant;

And whereas, at the hearing of the said summons, it has been proved to the satisfaction of the Court that the Defendant now has [or has had] since the date of the judgment [or order] the means to pay the sum in respect of which he made default as aforesaid, and has refused [or neglected], [or then refused or neglected] to pay the same;

Now, therefore, it is ordered that the Defendant shall be committed to prison for days, unless he shall sooner pay the sums, in payment of which he has so made default; together with the prescribed costs hereinafter mentioned.

These are, therefore, to require you the said Bailiff, Bailiffs, and others, to take the Defendant, and to deliver him to the Governor or keeper of the [prison used by the Court], and you the said Governor or keeper to receive the 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.

\* Not exceeding six weeks.

Given under the seal of 18 this [insert date of order] day of E.F., Clerk [or Registrar] of the Court.

Amount of judgment or order including costs  
Paid into Court  
Amount unpaid and due on judgment  
Deduct amount of instalments at s. per month, which were not required to have been paid before the date of this warrant  
Costs of judgment-summons and poundage on this order  
Amount upon the payment of which the prisoner is to be discharged

This order remains in force one year from the date thereof.

No. 75.—Certificate for the discharge of a Defendant from Custody.

In the Local Court holden at Between A.B., plaintiff, and C.D., defendant.

I hereby certify that the Defendant who was committed to your custody by virtue of Writ under the Seal of this Court bearing date the day of 18 [has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof and that the Defendant] may, in respect of such warrant, be forthwith discharged out of your custody.

Given under the Seal of the Court this day of 18

By leave of the Court, [Seal.]

To the Governor or keeper of Clerk of the Court.

SCALE OF COSTS.

Scale of Party and Party Costs in Local Court cases where the amount claimed is over £20.

	Where the amount recovered is less than £5 and where the Magistrate's order for payment of costs.	Where the amount recovered is not less than £5 and does not exceed £20.	Where the amount recovered exceeds £20 but does not exceed £50.	Where the amount recovered exceeds £50.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Instructions to sue or defend or instructions to take or defend other proceedings	0 3 4	0 6 8	0 13 4	0 13 4
Letter before action	0 2 0	0 3 4	0 5 0	0 6 8
Plaint and particulars, counter claim or set-off including copies	0 3 0	0 7 0	0 10 0	0 15 0
Attending entering plaint	0 3 4	0 3 4	0 6 8	0 6 8
Attending taking minutes of evidence of each witness afterwards allowed by the Magistrate	0 2 0	0 3 0	0 4 0	0 5 0
Attending Court, conducting cause when undefended	1 1 0	1 10 0	2 2 0	3 3 0
Attending Court, conducting cause when defended, per diem	1 10 0	3 3 0	4 4 0	5 5 0
Attending Court with Counsel, per diem	0 10 6	1 1 0	1 10 6	2 2 0
Drawing Bill of Costs	0 2 0	0 3 0	0 4 0	0 5 0
Attending filing	0 3 0	0 3 0	0 5 0	0 5 0
Each necessary copy of costs	0 2 0	0 2 0	0 3 0	0 3 0
Attending taxation	0 5 0	0 5 0	0 6 8	0 10 0
<i>Occasional Costs.</i>				
Attending for leave to issue summons where leave necessary	0 3 0	0 4 0	0 5 0	0 5 0
If plaintiff give notice of abandoning	0 3 0	0 4 0	0 5 0	0 5 0
Notice to produce				
Notice to admit				
Notice of application for new trial, review of taxation to set aside award, or any notice of motion	0 2 0	0 3 0	0 5 0	0 5 0
Each necessary copy notice	0 1 0	0 1 0	0 2 0	0 2 0
Each letter to and attendance on the opposite party or his solicitor which the clerk may on taxation think necessary	0 3 4	0 3 4	0 6 8	0 6 8
All necessary affidavits	0 5 0	0 5 0	0 7 0	0 7 0
All necessary copies	0 2 0	0 2 0	0 3 0	0 3 0
Instructions for and drawing brief	1 0 0	1 10 0	2 0 0	2 10 0



Scale of Party and Party Costs—continued.

	Where the amount recovered is less than £5 and where the Magistrate orders payment of costs.	Where the amount recovered is not less than £5 and does not exceed £20.	Where the amount recovered exceeds £20 but does not exceed £50.	Where the amount recovered exceeds £50.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
<i>Oaths (sum paid).</i>				
Attending swearing affidavits ...	0 3 4	0 3 4	0 6 8	0 6 8
All notices not otherwise specified ...	0 2 0	0 2 0	0 4 0	0 4 0
Proceipe for writ of execution ...	0 4 0	0 4 0	0 6 0	0 6 0
Proceipe for subpoena ...	0 1 0	0 1 0	0 2 0	0 2 0
Each copy subpoena for service ...	0 0 6	0 0 6	0 1 0	0 1 0
All attendances at the office of the clerk which he may, on taxation, think necessary ...	0 2 0	0 3 0	0 5 0	0 6 8
Attending Court to support or oppose new trial, motion, or motion to set aside proceedings, or application not otherwise specified, <i>per diem</i> ...	1 1 0	1 10 6	2 2 0	2 10 6
Attending Court with counsel on any such motion, <i>per diem</i> ...	0 10 6	0 15 0	1 1 0	1 5 0
Instructions for and drawing brief on any such motion ...	0 10 6	0 15 0	1 0 0	1 5 0
Drawing and copy all necessary orders ...	0 2 0	0 3 0	0 4 0	0 4 0
All necessary copies ...	0 1 0	0 1 0	0 2 0	0 2 0
<i>New Trials.</i>				
Costs to be allowed on the same scale as original trial.				
<i>Costs of the day on adjournment.</i>				
Counsel's or solicitor's fee on adjournment where no part of the hearing takes place ...	0 10 6	0 15 0	1 1 0	1 10 6
Attending with counsel if member of another firm ...	0 6 8	0 10 6	0 15 0	1 1 0
<i>Arbitration.</i>				
Same costs to be allowed as on hearing before the Magistrate.				
The amount of Arbitrators' fees shall be, in the discretion of and fixed by the Magistrate.				
<i>Orders under Bankruptcy Act, and Applications for Commitment.</i>				
Attending Court, moving for order, or opposing same, <i>per diem</i> ...	1 3 6			
<i>Chambers.</i>				
Attending to make, or oppose motion or on any other matter or application in Chambers ...	0 6 8	0 10 6	0 15 0	1 1 0
<i>Attachment of Debts.</i>				
Costs on proceedings for attachment of debts shall be on the same scale as costs of an original trial, so far as the same are applicable (except so far as fee to Counsel or Solicitor is concerned, which shall be the same as in undefended actions), and shall follow the same scale as the costs of the original action.				

SCALE OF ALLOWANCES TO WITNESSES ATTENDING THE LOCAL COURT.

	£ s. d.
Professional men, <i>per diem</i> ...	1 1 0
All witnesses other than professional men and labourers, <i>per diem</i> ...	0 15 0
Labourers ...	0 7 0
Any witness living more than two miles from the Court shall be allowed his expenses of coming to and returning from the Court (not exceeding 1s. a mile for one way only), and shall also be allowed at the aforesaid rate <i>per diem</i> from the time that he required to leave his home to attend the Court until he could reasonably return thereto. Provided that in case a witness can travel by railway, the railway fare only shall be allowed in lieu of the mileage fee aforesaid.	

I approve of the foregoing General Rules and Orders, with the advice of the Executive Council.

GERARD SMITH,  
Governor.

Dated the 16th day of June, 1897.

SCALE OF COURT FEES.

Fees in cases up to £5 are regulated by 51 Vict., No. 10, Sec. 1, as follows:—

	There shall be paid in lieu of such Magistrate's and Clerk's fees a fee of ...	s. d.
Where the sum sought to be recovered does not exceed Ten shillings ...	1 0	0
Exceeds Ten shillings, but does not exceed a pound ...	2 0	0
Exceeds a pound, but does not exceed One pound Ten shillings ...	3 0	0
Exceeds One pound Ten shillings, but does not exceed Two pounds ...	4 0	0
Exceeds Two pounds, but does not exceed Two pounds Ten shillings ...	5 0	0
Exceeds Two pounds Ten shillings, but does not exceed Three pounds ...	6 0	0
Exceeds Three pounds, but does not exceed Three pounds Ten shillings ...	7 0	0
Exceeds three pounds Ten shillings, but does not exceed Four Pounds ...	8 0	0
Exceeds Four pounds, but does not exceed Four pounds Ten shillings ...	9 0	0
Exceeds Four pounds Ten shillings, but does not exceed Five pounds ...	10 0	0

WHEREAS by Section 119 of "The Small Debts Ordinance, 1863," it is provided that the Governor, with the advice of the Executive Council, from time to time may vary, lessen, or increase the fee of Court payable under the said Ordinance, and substitute other fees in lieu thereof, and may order entirely new fees in proceedings thereafter authorised in such Courts: Now, THEREFORE, I Lieut.-Colonel Sir Gerard Smith, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief in and over the Colony of Western Australia and its Dependencies, &c., &c., &c., with the advice of the Executive Council, do hereby order and direct that on and after the commencement of the foregoing General Rules and Orders, under the said Act approved by me, with the advice aforesaid this day, the list of fees hereunder set forth shall be charged and payable on proceedings in the Local Courts, and be substituted for the list of fees set forth in Schedule B to the said Ordinance, so far as the said last-named list remains in force:—

	When amount claimed exceeds £5 and does not exceed £50.	When amount claimed exceeds £50.
	£ s. d.	£ s. d.
Plaint fee and all proceedings to judgment ...	0 12 0	1 0 0
Filing affidavits, notices of motion, including all documents and notices not otherwise specified ...	0 1 0	0 2 0
Issuing subpoena to witnesses ...	0 1 0	0 1 0
every writ of execution ...	0 2 0	0 3 0
Bailiff's notice of execution ...	0 1 0	0 1 0
certificate of judgment ...	0 2 0	0 3 0
Filing notice of defence ...	0 1 0	0 2 0
every confession ...	0 1 0	0 2 0
For appointment to tax ...	0 2 0	0 3 0
every search ...	0 0 6	0 0 6
writ of attachment ...	0 2 0	0 3 0
replevin bond ...	0 2 6	0 5 0
Judgment or other summons or process not otherwise specified ...	0 2 6	0 5 0

Bailiff's Fees.

	Under £50.	Over £50.
	s. d.	s. d.
Serving any summons, rule, notice, order, or other document or proceeding ...	1 0	2 0
Executing writ of execution, commitment, or arrest, or any other writ or warrant ...	5 0	7 0
Poundage 3 per cent. on the amount raised and paid into Court ...		
For keeping possession under a writ of execution each day ...	6 0	6 0
For making levy ...	5 0	5 0
For every £ over £20 ...	0 3	0 3
For mileage in the execution of any writ, or on service of any summons, notice or other document or proceeding per mile (one way only), excepting where a railway is available, when the railway fare only shall be allowed in lieu of the mileage fee ...	1 0	1 0
In all cases not herein provided for, such fees as the Magistrate shall allow ...		

NOTE.—Mileage to be reckoned one way only, and any fraction of a mile to be reckoned as a mile.

Dated the 16th day of June, 1897.

GERARD SMITH,  
Governor.