

CHAPTER 13

SUPREME COURT

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SUPREME COURT

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Acts Nos. 28 of 1968, 59 of 1968

AN ACT FOR THE ESTABLISHMENT OF A SUPREME COURT OF JUDICATURE IN FIJI

[1st March, 1876]

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Supreme Court Act.

Interpretation

2. In this Act, unless the context otherwise requires—
 - “Chief Justice” and “Chief Registrar” include the persons for the time being acting as such respectively;
 - “Imperial laws” include General Rules or Orders of Court made under any Imperial Act;
 - “judge” means the Chief Justice or a puisne judge of the Supreme Court and includes a person appointed to act as Chief Justice or puisne judge, in accordance with the provisions of subsection (3) or subsection (6) of section 90 of the Constitution; (*Substituted by 35 of 1965, s. 2, and amended by Order 31st Jan., 1967.*)

“Supreme Court” or “Court” means the Supreme Court of Fiji established by section 89 of the Constitution.

Name of Court and general jurisdiction

3.—(1) The Supreme Court shall be called “the Supreme Court of Fiji”.

(2) The Court shall have all such powers and jurisdiction as are or may from time to time be vested in the Court under or by virtue of the Constitution, this Act or any law for the time being in force. (*Section substituted by Order 31st Jan., 1967.*)

Seal of Court

4. The Supreme Court shall have and use as occasion may require a seal or stamp bearing a device or impression of the Royal Arms with the inscription “The Supreme Court of Fiji”, and all writs and process issuing out of the Court shall be sealed or stamped therewith.

PART II—CONSTITUTION OF THE COURT

Constitution of Court

5. The Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of Chief Justice or of any judge thereof. (*Section substituted by 3 of 1945, s. 3, and amended by Order 31st Jan., 1967.*)

Powers of judges

6.—(1) All the judges of the Court shall have in all respects save as is herein expressly otherwise provided, equal power, authority and jurisdiction under this Act (*Substituted by 3 of 1945, s. 4.*)

(2) Any judge of the Court may exercise all or any part of the jurisdiction vested in the Court by or under the provisions of this or any other Act, and for such purpose shall be and form a court. (*Substituted by 27 of 1966, s. 3.*)

Precedence of judges

7. The Chief Justice for the time being shall be the president of the Court and in his absence the senior judge present shall preside.

The other judges shall take precedence after the Chief Justice according to the date of their respective appointments. (*Inserted by 3 of 1945, s. 4.*)

PART III—OFFICERS OF THE COURT

Officers

8. There shall be of the Supreme Court a Chief Registrar and such other officers, including sworn interpreters, as the Chief Justice with the approval of Parliament shall consider to be necessary for the administration of justice and the due execution of all the powers and authorities which are granted to or vested in the Supreme Court. (*Substituted by 27 of 1966, s. 4.*)

Duties of Chief Registrar

9. The Chief Registrar shall discharge such duties as are respectively performed by the Master, Registrar, Taxing Master, or Keeper of the Records of Her Majesty's High Court of Justice in England, and shall be Registrar of the Supreme Court in its Admiralty Jurisdiction, and he and the other officers of the

Court shall be subject to such orders as they shall from time to time receive from the Chief Justice. The Chief Registrar shall be a Commissioner of the said Court to administer oaths and take solemn declarations or affirmations in lieu of oaths and also to take examinations of witnesses *de bene esse*.

When Chief Registrar unable to perform his duties

10. In case the Chief Registrar shall at any time be unable by reason of illness or other sufficient cause to the satisfaction of the Chief Justice to perform all or any of the duties of his office, the Judicial and Legal Services Commission may appoint a fit and proper person to perform all or any of such duties, and it shall thereupon be lawful for such person to perform all such acts and do all such things as would otherwise require to be performed and done in person by the Chief Registrar, and for such purpose he shall have all the powers, privileges and authority of the Chief Registrar. (13 of 1916, s. 2.)

Magistrate to act as Chief Registrar in certain cases

11. Notwithstanding anything contained in section 10, at any sitting of the Court held outside Suva a magistrate having jurisdiction in the division where such sitting is held may, if the Chief Justice so directs, act, in the absence of the Chief Registrar, as Chief Registrar of the Court during such sitting:

Provided that the Chief Justice may, if he shall deem it expedient, appoint such other person as he shall think fit to act as Chief Registrar at any such sitting of the Court in lieu of a magistrate as aforesaid. (Substituted by 21 of 1944, s. 2.)

Powers of Deputy Registrar or District Registrar

12. It shall be competent for any person holding office as a Deputy Registrar or a District Registrar, subject to such directions as the Chief Justice may from time to time deem expedient to give, to perform any act or to discharge any duty which the Chief Registrar of the Supreme Court may lawfully do or is required by law to do and for such purpose the person holding any such office as aforesaid shall have all the powers, privileges and authority of the Chief Registrar of the Supreme Court.

(Substituted by 27 of 1966, s. 6.)

PART IV—FUNDS IN COURT

Funds in Court

*13. All moneys which shall be paid into Court and all securities for money which shall stand or be placed to the credit of any cause, matter or account in the Supreme Court shall be paid or placed (as the case may be) to the account or credit of the Chief Register for and on behalf of the Supreme Court.

Moneys to be held in trust

†14. All moneys and securities paid or placed to the account or credit of the Chief Registrar as provided in section 13 shall be held in trust to attend the orders

*Inserted by Ordinance No. 7 of 1910.

†Sections 14, 15 and 16 substituted by Act No. 28 of 1968

of the Supreme Court thereto, subject to the provisions of the law for the time being in force.

**Rules*

15. The Chief Justice may from time to time make rules, supplementary to the provisions of any regulations made under the provisions of the Finance (Control and Management) Act for giving effect to sections 13 and 14 of this Act and for regulating the manner in which, subject to the orders of the Court, the said moneys and securities shall be dealt with by the Chief Registrar. (Cap. 69.)

**Liability of Consolidated Fund*

16. The Consolidated Fund shall be liable to make good to the suitors of the Court all moneys and securities paid or placed to the account or credit of the Chief Registrar for and on behalf of the Supreme Court in pursuance of the provisions of this Act.

PART V—SHERIFF AND ADMIRALTY MARSHAL

Appointment and duties of Sheriff and Admiralty Marshal

17. The Chief Justice shall from time to time as occasion shall require appoint some fit person to act as Sheriff of Fiji and such Sheriff shall, by himself or by his sufficient deputies to be by him appointed and authorized under his hand and for whom he shall be responsible during his continuance in such office, execute all such writs, warrants, orders, commands and process of the Supreme Court as he shall be required by the said Court or any judge thereof to execute, and make return of the same together with the manner of the execution thereof to the Supreme Court, and receive and detain in prison all such persons as shall be committed to the custody of such Sheriff by the Supreme Court, and shall be Marshal of the Supreme Court in its Admiralty Jurisdiction:

Provided that, whenever the Supreme Court directs or awards any process against the said Sheriff or awards any process in any cause, matter or thing wherein the said Sheriff by reason of any good cause of challenge which would be allowed against any Sheriff in England cannot by law execute the same, in every such case the Supreme Court shall appoint some other fit person to execute and return the same and the said process shall be directed to the person so to be named for that purpose and the cause of such proceeding shall be entered on the records of the Court. (Amended by 7 of 1893, 9 of 1899 and 23 of 1937, s. 2.)

PART VI—JURISDICTION

Court to have jurisdiction of High Court of Justice in England

18. The Supreme Court shall, within Fiji, and subject as in this Act mentioned, possess and exercise all the jurisdiction, powers and authorities which are for the time being vested in or capable of being exercised by Her Majesty's High Court of Justice in England.

(Substituted by 21 of 1944, s. 4, and amended by 35 of 1965, s. 9 and Order 31st Jan., 1967.)

* Sections 14, 15 and 16 substituted by Act No. 28 of 1968

In probate, divorce and matrimonial causes

19. The jurisdiction of the Court in probate, divorce and matrimonial causes and proceedings may, subject to the provisions of this or any other Act and to rules of Court, be exercised by the Court in conformity with the law and practice for the time being in force in England.

(Substituted by 21 of 1944, s. 4, and amended by Order 31st Jan., 1967.)

Power to appoint guardians and committees

20. The Court shall have all and singular the powers and authorities of the Lord High Chancellor of England, with full liberty to appoint and control guardians of infants and their estates, and also keepers of the person and estates of such persons as being of unsound mind are unable to govern themselves and their estates. (Substituted by 21 of 1944, s. 4.)

Admiralty jurisdiction of the Court

21. The Supreme Court shall be a Colonial Court of Admiralty within the meaning of the Colonial Courts of Admiralty Act, 1890, of the United Kingdom, and shall have and exercise such Admiralty jurisdiction as is provided under or in pursuance of subsection (2) of section 56 of the Administration of Justice Act, 1956 of the United Kingdom or as may from time to time be provided by any Act, but otherwise without limitation, territorially or otherwise.

(Substituted by 35 of 1965, s. 10.)

PART VII—IMPERIAL LAWS

What imperial laws to be in force

22.—(1) The common law, the rules of equity and the statutes of general application which were in force in England at the date when Fiji obtained a local legislature, that is to say, on the second day of January, 1875, shall be in force within Fiji subject to the provisions of section 24 of this Act.

(2) For the removal of doubt, it is hereby declared that the provisions of sections 24 and 25 of the Supreme Court of Judicature Act, 1873, are in force in Fiji notwithstanding that the commencement of that Act was postponed in England until after the said second day of January, 1875. (Inserted by 35 of 1965, s. 11.)

Practice

23. Such portions of the practice of the English courts as existed on the said second day of January, 1875, shall be in force in Fiji subject to the provisions of section 24, and except so far as such practice may be inconsistent with any general rules of the Supreme Court relating to practice and procedure.

Imperial laws to be subject to Fiji jurisdiction and Acts

24. All Imperial laws extended to Fiji by this or any future Act shall be in force therein so far only as the circumstances of Fiji and its inhabitants and the limits of its jurisdiction permit and subject to any existing or future Acts of the Parliament of Fiji and for the purpose of facilitating the application of the said laws it shall be lawful for the Court to construe the same with such verbal alteration not affecting the substance as may be necessary to render the same applicable to the matter before the Court, and every judge or officer of the Supreme Court having or

exercising functions of the like kind or analogous to the functions of any judge or officer referred to in any such law shall be deemed to be within the meaning of the enactments thereof relating to such last-mentioned judge or officer, and whenever the Great Seal or any other seal is mentioned in any such statute it shall be read as if the seal of the Supreme Court were substituted therefore, and in matters of practice all documents may be written on ordinary paper notwithstanding any directions as to printing or engrossing on vellum, parchment or otherwise.

PART VIII—RULES

Power to make rules

25.—(1) In this section “rule” includes any addition to or amendment or revocation of a rule.

(2) It shall be lawful for the Chief Justice to make rules of Court carrying this Act into effect and in particular for all or any of the following matters (that is to say)—

- (a) for regulating the sittings of the Supreme Court for the dispatch of civil business therein and of a judge sitting in chambers; (*Amended by 3 of 1945, s. 6.*)
- (b) for regulating the pleading, practice and procedure in the Supreme Court in civil cases and in matters which in Her Majesty’s High Court of Justice in England come within the jurisdiction of the Crown side of the Queen’s Bench Division thereof;
- (c) for regulating the hours of opening and closing the offices of the Court) (*Amended by 21 of 1944, s. 5, and 23 of 1965, s. 85.*)
- (d) for regulating the forms to be used in the Court and for all matters connected therewith;
- (e) for regulating the receipt of money paid into Court, or received or recovered under or by virtue of any process of execution or distress;
- (f) for regulating the payment out of Court of all moneys to the persons entitled thereto;
- (g) for prescribing the books and forms of account to be kept and used in the Supreme Court;
- (h) for prescribing fees, costs and amounts for service and execution of process which may be demanded and received by the Sheriff and officers of the Court in connexion with the practice and procedure of the Supreme Court;
- (i) for prescribing the manner of acceptance, retention and disposal of fees and costs;
- (j) for providing for the taxation of the fees and costs of legal practitioners; (*Paragraphs (d) to (j) inserted by 27 of 1966, s. 7.*)
- (k) generally for regulating any matters relating to the practice and procedure of the Court or to the duties of the officers thereof or the costs of proceedings therein.

(3) The power to make rules conferred by this section shall include the power to make rules with respect to all or any of the matters dealt with by the Rules of the Supreme Court in England made from time to time.

(4) Where any provisions in respect of the practice or procedure of any of Her

Majesty's Courts the jurisdiction of which or of any courts substituted for or united and consolidated with which is vested by this Act in the Supreme Court are contained in any Act of the Imperial Parliament, rules of Court may be made under this section modifying those provisions to any extent that may be deemed necessary by the Chief Justice for adapting the same to the Supreme Court, and any provision relating to the payment, transfer or deposit into or in or out of Court of any money or property or to the dealing therewith shall, for the purposes of this subsection, be deemed to be provisions relating to practice and procedure.

PART IX—MISCELLANEOUS

Sittings of the Court

26.—(1) The Court shall sit for the trial of criminal and civil causes and for the disposal of other legal business pending at such places and at such times as the Chief Justice may direct. (*Substituted by 21 of 1944, s. 6.*)

(2) The Chief Registrar shall ordinarily give notice beforehand of all such sittings.

Delivery of judgments and orders

27. It shall be lawful for any decision of the Court or a judge to be delivered by the effect thereof being pronounced, in Court or in chambers, as the case may be, provided that the full terms of such decision shall have been reduced to writing and that a copy thereof is made available to the parties. (*Substituted by 35 of 1965, s. 12.*)

Vacations

28. The Chief Justice may, by order, direct such vacations, not exceeding, in the aggregate, thirty days in any one year, as he thinks fit. (*Substituted by 35 of 1965, s. 13.*)

Expenses of witnesses in civil proceedings

29.—(1) It shall be lawful for the Court in civil proceedings to order and allow to all persons examined or detained as witnesses such sum or sums of money as shall seem fit as well for defraying the reasonable expenses of such witnesses as for affording them a reasonable compensation for their trouble and loss of time and also, if the Court shall think fit, to order any witness present to give evidence notwithstanding that no viaticum or other payment to which he may be entitled has been paid or tendered to him.

(2) All sums of money so allowed shall be paid in civil proceedings by the party on whose behalf the witness is called and shall be recoverable as ordinary costs of suit if the Court shall so direct.

Expenses of witnesses in criminal proceedings

30.—(1) Every person who attends any criminal sessions of the Supreme Court as a witness for the prosecution, whether on his recognizance or in obedience to a subpoena or by virtue of a warrant, and every person who attends any such sessions as a witness for the defence on his recognizance, shall be entitled at the conclusion of the case and after his account has been duly taxed by the Chief Registrar, whether he has been examined or not, to such sums for his attendance and his travelling expenses as may from time to time be prescribed by rules of Court. (*Amended by 21 of 1944, s. 8.*)

(2) The judge may, if he thinks fit, disallow the payment of any such sum to any such witness. (*Amended by 3 of 1945, s. 8.*)

(3) If the judge at any criminal sessions certifies that in his opinion any witness examined for the defence not being a witness as hereinbefore described—

(a) has given material evidence;

(b) has given his evidence in a truthful and satisfactory manner; and

(c) that a reasonable explanation has been given as to the non-examination of such witness at the preliminary inquiry,

he may order that the allowance and travelling expenses of such witness shall be allowed and paid in the same manner as if he had attended on his recognizance, and the account of such witness shall be taxed and paid accordingly.

(*Amended by 3 of 1945, s. 8.*)

(4) No claim made by a witness for any such sum shall be entertained unless the same is made within one month after the last day of the criminal sessions in respect of which such claim is made.

(5) Payment of any allowances or expenses under this section shall be made out of the Consolidated Fund. (*Section inserted by 1 of 1904.*)

Mode of trial in civil causes

31.—(1) Civil causes in the Supreme Court shall be tried by a judge alone, except where express provision to the contrary is made by this or any other Act.

(2) In any civil cause before the Supreme Court the Court may, if it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear the cause or matter wholly or partly with their assistance.

(3) The remuneration, if any, to be paid to an assessor shall be determined by the Court. (*Inserted by 37 of 1961, s. 3.*)

Power to impose charge on land of judgment debtor

32.—(1) The Court may, for the purpose of enforcing any judgment or order for the payment of money, by order impose on any land, or any estate or interest therein, of the debtor as may be specified in the order, a charge for securing the payment of any moneys due or to become due under the judgment or order.

(2) An order made under the provisions of subsection (1) may be made either absolutely or subject to such conditions as to notifying the debtor or as to the time when the charge is to become enforceable or as to other matter. (*Section inserted by 59 of 1968 s. 2.*)

Controlled by Ministry of the Attorney-General.

CHAPTER 13

SUPREME COURT
SECTION 9.—PROBATE PRACTICE

Direction by the Chief Justice

Notice 4th May, 1945 (in force 4th May, 1945).

Grants of Probate or Letters of Administration shall issue under the hand of the Chief Registrar of the Supreme Court and the Seal of the Supreme Court.

SECTION 17.—APPOINTMENT OF SHERIFF

Appointed by the Governor

Notice 11th Jan., 1940 (in force 1st Jan., 1940).

The Chief Registrar of the Supreme Court shall be the Sheriff of Fiji.

Rules 30th August 1915

SECTION 25—SUPREME COURT (NOTARIAL ACTS ABROAD) RULES

Made by the Chief Justice

Short title

1. These Rules may be cited as the Supreme Court (Notarial Acts Abroad) Rules.

Notarial acts may be done before Ambassador Envoy, etc.

2. All notarial acts which any notary public can do within Fiji and all examinations, affidavits, declarations, affirmations and attestations of honour in causes or matters depending in the Supreme Court may be sworn, taken, administered or done before or by any Fiji or British Ambassador, High Commissioner, Envoy, Minister, Charge d'Affaires, or Secretary of Embassy or Legation exercising his functions in any foreign country, or any Fiji or British Consul-General, Consul, Vice-Consul, Acting Consul, Pro-Consul or Consular Agent exercising his functions in any foreign place, and the judges and other officers of the Supreme Court shall take judicial notice of the seal or signature as the case may be of any such person as aforesaid, attached, appended, or subscribed to any such notarial act, examination, affidavit, declaration, affirmation or attestation of honour, or to any other deed or document.

Rules 2nd Nov., 1944 (in force 24th Jan., 1945).
SECTION 25.—PRIZE COURT (FEES) RULES

Made by the Chief Justice

Short title

1. These Rules may be cited as the Prize Court (Fees) Rules.

Fees

2. The fees to be taken in prize matters in the Supreme Court shall, with such adaptations as may be necessary, be those set out in Appendix B to the Imperial Prize Court Rules, 1939.

SECTION 25—SUPREME COURT RULES

Rules, 3rd Dec. 1968, (in force 3rd March 1969), 1st Oct. 1969, 22nd Jan. 1971, 26th Nov. 1971, 14th Dec. 1971, 29th Jan. 1975, 26th Mar. 1975, 13th May 1976, 18th May 1977.

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APPENDIX 1

(Modifications to the Applied Rules)

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SUPREME COURT RULES
(Made by the Chief Justice)

Short title

1. These Rules may be cited as the Supreme Court Rules.

Application of English Rules of the Supreme Court

2. Subject as hereinafter provided, the provisions of the rules of court in force in the Supreme Court of Judicature in England on the 1st day of January, 1967, entitled the "Rules of the Supreme Court 1965" (being the rules enacted by Statutory Instrument 1965 No. 1776 as amended by Statutory Instruments 1966 No. 559 and 1966 No. 1055), hereinafter referred to as the "Applied Rules", shall be in force in Fiji and have effect in relation to proceedings in the Supreme Court of Fiji.

Modifications, etc.

3.—(1) In their application to Fiji as aforesaid, the Applied Rules shall be construed and have effect subject to and with all necessary modifications, and, in particular, subject to and with the modifications specified in Appendix I.

(2) For the purposes of this rule, the expression "modifications" includes exceptions, qualifications, deletions, substitutions and additions.

Non-contentious Probate Rules

4. The Rules in force on 1st January, 1967, in the Principal Registry of the Probate Division of the High Court of Justice in England, and the practice and procedure of such Court on that date with respect to non-contentious business shall apply so far as the same may be applicable, with such modifications as may be necessary, to grants of probate and administration issued in common form from the Registry of the Supreme Court of Fiji.

Practice where no express provision

5. Where no express provision is made by these Rules with respect to the practice or procedure in any circumstances arising in any cause or matter, then the powers, duties, authority and jurisdiction of the Supreme Court of Fiji shall be exercised in conformity with the practice and procedure for the time being adopted in the like circumstances in Her Majesty's High Court of Justice in England.

Proceedings to which these Rules do not apply

6.—(1) Where, for the time being, by or under any law in force in Fiji, specific provision is made for regulating the practice or procedure in, or in relation to, any particular form of proceedings in the Supreme Court of Fiji, these Rules shall not apply thereto except in so far as any such provision applies, incorporates, or imports the application of these Rules (whether by express reference thereto or by reference to the rules of court of, or the practice or procedure in, the Supreme Court of Fiji).

(2) These Rules shall not apply to any criminal proceedings in the Supreme Court of Fiji.

Fees, costs, etc.

7.—(1) The fees set out in Appendix 2 shall be paid to and received in the Registry of the Supreme Court in respect of the matters set out therein. Fees payable and receivable in respect of any matters not specifically set out therein shall be as directed by the Chief Justice:

Provided that no fees shall be payable by a public officer in connection with any proceeding by or against him in his official capacity but any fee which would have been payable but for this proviso shall be recoverable from any other party ordered to pay the costs of such public officer in any such proceeding.

(2) The fees set out in Appendix 3 shall be paid to and received by the Sheriff or his deputies concerned in the execution of any process directed to the Sheriff, in the several proceedings mentioned therein.

(3) (a) Subject to any special order made in any proceedings by the trial judge there shall be allowed to barristers and solicitors in the Supreme Court of Fiji costs amounting to not less than those prescribed under the Lower Scale and not exceeding those prescribed under the Higher Scale in Part I of Appendix 4 in relation to the matters set out therein, in the discretion of the taxing officer.

(b) In exercising his discretion under sub-paragraph (a), the taxing officer shall have regard to all relevant circumstances and in particular to—

- (i) the complexity of the item or of the cause or matter in which it arises and the difficulty or novelty of the questions involved;
- (ii) the skill, specialized knowledge and responsibility required of, and the time and labour expended by, the barrister and solicitor;
- (iii) the number and importance of the documents (however brief) prepared or perused;
- (iv) the place and circumstances in which the business involved is transacted and whether the barrister and solicitor concerned was in the circumstances obliged to act through his agent in Suva;
- (v) the importance of the cause or matter to the client;
- (vi) where money or property is involved, its amount or value;
- (vii) any other fees and allowances payable to the barrister and solicitor in

respect of other items in the same cause or matter, but only where work done in relation to those items has reduced the work which would otherwise have been necessary in relation to the item in question.

- (c) Fixed costs shall be allowed as provided in Part 2 of Appendix 4.

Pleading of criminal conviction.

*8.—(1) If in any action which is to be tried with pleadings any party intends, in reliance on section 9 of the Evidence Act (convictions as evidence in civil proceedings) to adduce evidence that a person was convicted of an offence by or before a court in Fiji, he must include in his pleading a statement of his intention with particulars of—

- (a) the conviction and the date thereof,
(b) the court which made the conviction, and
(c) the issue in the proceedings to which the conviction is relevant.

(2) Where a party's pleading includes such a statement as is mentioned in paragraph (1), then if the opposite party—

- (a) denies the conviction, or
(b) alleges that the conviction was erroneous, or

(c) denies that the conviction is relevant to any issue in the proceedings. he must make the denial in his pleading.

Application to District Registry

*9. In their application to a District Registry, the Applied Rules shall be construed and have effect subject to and with all necessary modifications including exceptions, qualifications, deletions, substitutions and additions as far as they are applicable to the circumstances of the case.

Matters dealt with at the Principal Registry

*10. Notwithstanding anything contained in these Rules or in any written law, the following matters shall continue to be dealt with only at the principal Registry:—

- (a) all applications for Probate or Letters of Administration and resealing made under the provisions of the Succession, Probate and Administration Act;
(b) all causes and matters coming before the Court under its Admiralty Jurisdiction.

APPENDIX 1 (Rule 3 (1))

MODIFICATIONS OF THE APPLIED RULES IN THEIR
APPLICATION TO FIJI

ORDER 1—CITATION, APPLICATION, INTERPRETATION AND FORMS

Rules 2 and 3—Delete these rules.

Rule 4—(a) In para. (1), for the list of definitions there given, substitute the following—

- “an Act” means an enactment;
- “the Act” means the Supreme Court Act.
- “the appropriate office” means the Registry of the Supreme Court;
- “assisted person” means a party proceeding in *forma pauperis* or with legal aid;
- “cause book” means the cause book kept in the Principal Registry and in each District Registry;
- “Central Office” means the Principal Registry.
- “Chief Registrar” includes the Deputy Registrar;
- “the Court” means the Supreme Court or any judge thereof, whether sitting in court or in chambers, or, where appropriate, the Chief Registrar; and this definition shall not be taken as affecting any provision of these Rules and, in particular, the provisions of Order 32 rule 11 by virtue of which the authority and jurisdiction of the Chief Registrar are defined and regulated;
- “Court of Appeal” means the Fiji Court of Appeal;
- “Crown Office” means the Principal Registry;
- “Debtors Acts, 1869 and 1878” means the Debtors Act;
- “district registry” means the Registry of the Supreme Court established at Lautoka and shall include, where the context so admits, any other registry of the Supreme Court, other than the Principal Registry, to be established at such place or places as may be specified by notice and published in the *Fiji Royal Gazette*;
- “Exchange Control Act, 1947” means the Exchange Control Act and includes any Act which amends or replaces the Exchange Control Act;
- “folio” means 120 words, each figure being counted as one word;
- “High Court” means the Supreme Court;
- “High Court in the Royal Courts of Justice” or
- “The Royal Courts of Justice” means the Supreme Court of Suva;
- “the Long Vacation” means any vacation;
- “master” means the Chief Registrar and includes a Deputy Registrar when lawfully discharging any of the duties of the Chief Registrar;
- “moneylender’s action” has the meaning assigned to it by Order 83;
- “officer” means a public officer of the Judicial Department;
- “originating summons” means every summons other than a summons in a pending cause or matter;
- “pleading” does not include a petition or summons;
- “Principal Registry” means the Registry of the Supreme Court at Suva;
- “probate action” has the meaning assigned to it by Order 76;

“proper officer” means the Chief Registrar and includes a Deputy Registrar when lawfully discharging any of the duties of the Chief Registrar;
“Registrar” means the Chief Registrar of the Supreme Court and a deputy registrar when lawfully discharging any of the duties of the Chief Registrar;
“Registry” means the Registry of the Supreme Court;
“the scheduled territories” has the meaning assigned to it by the Exchange Control Act;
“seal” means a seal or stamp authorized by the Act;
“solicitor” means barrister and solicitor;
“Supreme Court” means the Supreme Court of Fiji.
“Treasury” means Minister of Finance;
“vacation” means any vacation directed by order made under the Act.
“writ” means a writ of summons.

(b) Delete para. (2).

Rule 7—Delete this rule.

*Rule 9—Add the following—

“Provided that—

- (i) the Court or a Judge may permit departures from the forms in Appendix A;
- (ii) Appendix B (Admiralty Forms) shall have effect in Fiji subject to the legislation for the time being in force in Fiji with respect to Admiralty proceedings”.

ORDER 2—EFFECT OF NON-COMPLIANCE
(NOTE.—Applied without modifications)

ORDER 3—TIME

Rule 1—For “section 3 of the Interpretation Act” substitute “the provisions of any Act affecting the interpretation of subsidiary legislation”.

Rule 2—In para. (5), for “bank holiday, Christmas Day or Good Friday” substitute “public holiday”; and delete the definition of “bank holiday”.

Rule 4—For “a Sunday” substitute “a Saturday or Sunday”.

Rule 5—Delete para. (4).

ORDER 4—CONSOLIDATION OF PROCEEDINGS

Heading—Substitute new heading as above.

Rules 1 to 9 inclusive—Delete these rules.

Rule 10—For “in the same Division” substitute “in the Court”.

ORDER 5—MODE OF BEGINNING CIVIL PROCEEDINGS IN HIGH COURT
(NOTE.—Applied without modifications).

ORDER 6—WRITS OF SUMMONS: GENERAL PROVISIONS

Rule 1—Delete the figure “2” and add the following—

“but shall be tested in the name of the Chief Justice of Fiji”.

Rule 4—Delete this rule.

* Substituted by Rules 22nd January 1971.

Rule 7—(a) Delete para. (2).

(b) In para. (3), delete “of the office out of which it is issued”.

(c) In para. (5), for “the office at which it is tendered” substitute “the Registry”.

ORDER 7—ORIGINATING SUMMONSES: GENERAL PROVISIONS

Rule 2—In para. (1), delete the figure “9”.

Rule 5—Delete this rule.

Rule 7—In para. (1), for “Rules 2 (1), 3 (1) and 5 (1) and (2)” substitute “Rules 2 (1) and 3 (1)”.

ORDER 8—ORIGINATING AND OTHER MOTIONS: GENERAL PROVISIONS

Rule 3—Delete para. (4), except the sentence commencing “Issue of the notice . . .”.

ORDER 9—PETITIONS: GENERAL PROVISIONS

Rule 3—Delete this rule.

Rule 4—(1) —Delete paras. (a) and (b) and substitute therefor the words “by the Chief Registrar”.

ORDER 10—SERVICE OF ORIGINATING PROCESS: GENERAL PROVISIONS

(NOTE.—Applied without modifications).

ORDER 11—SERVICE OF PROCESS ETC., OUT OF THE JURISDICTION

Rule 1—(a) In para. (1), delete the words “and provided that the writ does not contain any such claim as is mentioned in Order 75 rule 2 (1) (a)”.

(b) In para. (1) (e), for “English law” substitute “the law of Fiji”.

(c) In para. (1) (f), delete “against a defendant not domiciled or ordinarily resident in Scotland”.

(d) In para. (1) (f) (iii), for “English law” substitute “the law of Fiji”.

(e) In para. (1) (g), delete “against a defendant not domiciled or ordinarily resident in Scotland or Northern Ireland”.

(f) For para. (1) (l) substitute—

“if the action begun by the writ is brought under the Carriage by Air Act 1932, the Carriage by Air Act 1961 or the Carriage by Air (Supplementary Provisions) Act 1962”.

(g) Delete paras. (2) and (3).

Rule 3—(a) In para. (1), insert immediately before “Scotland” the words “England, Wales,”.

(b) In para. (2), delete “or 7”; and delete also “whichever is appropriate”.

Rule 4—Delete para. (3).

Rule 5—In para. (6), for “Secretary of State” substitute “Minister”.

Rule 6—(a) In para. (1) (a), insert immediately before “Scotland” the words “England, Wales,”.

(b) In para. (7), for “sent by the Senior Master to the Parliamentary Under-Secretary of State to the Foreign Office” substitute “sent by the Chief Registrar to the Minister”.

Rule 7—(a) In para. (1) (a), for “Secretary of State” substitute “Minister”.

(b) In para. (2), for “United Kingdom” substitute “Fiji”.

(c) In para. (4), for “sent by the Senior Master to the Secretary of State with a request that the Secretary of State” substitute “sent by the Chief Registrar to the Chief Secretary with a request that the Minister”.

Rule 8—For “incurred by the Secretary of State” substitute “incurred by the Minister”; and for “Finance Officer of the office of the Secretary of State” substitute “Minister”.

Rule 9—In para. (5), for “Rule 4 (1), (2) and (3)” substitute “Rule 4 (1) and (2)”.

ORDER 12—ENTRY OF APPEARANCE TO WRIT OR ORIGINATING SUMMONS

Rule 1—In para. (3), delete “or sending them by post to”.

Rule 2—Delete this rule.

Rule 3—In para. (2), for “Form No. 14 or 15 in Appendix A, Part II, as is appropriate” substitute “Form No. 14 in Appendix A, Part II”.

Rule 4—(a) In para. (1), delete sub-paras. (a) and (b) and substitute “hand back that copy of the memorandum”.

(b) In para. (2), delete “by handing in the requisite documents at the appropriate office”.

(c) In para. (2), for “send by post to” substitute “serve on or send by post to”.

Rule 5—In para. (b) delete “Order 11 rule 1 (3)”.

Rule 8—In para. (2), for sub-paras. (a) and (b) substitute “by summons”.

Rule 9—(a) Delete para. (3).

(b) In para. (4), delete “(except paragraphs (2) and (5) (c) of rule 2)”; and for “Order 11 rules 1 (3) and 4 (4)” read “Order 11 rule 4 (4)”.

ORDER 13—DEFAULT OF APPEARANCE TO WRIT

Rule 8—Delete this rule.

ORDER 14—SUMMARY JUDGMENT

Rule 1—In para. (1), delete “in the Queen’s Bench Division or Chancery Division”.

Rule 5—In para. (1), delete “in the Queen’s Bench Division or Chancery Division”.

Rule 6—Delete para. (2).

ORDER 15—CAUSES OF ACTION, COUNTERCLAIMS AND PARTIES

Rule 3—(a) In para. (4), delete the words “except that” and all succeeding words down to the end of the paragraph.

(b) In para. (5), delete the words “and Order 75 rule 4”.

(c) In para. (6), delete sub-para. (c).

Rule 8—New para. (5) (added by S.I. 1966 No. 1055)—

“(5) The foregoing provisions of this rule shall apply in relation to an action begun by originating summons as they apply in relation to an action begun by writ”.

Rule 11—For “in the central office, or, if the writ or originating summons is to issue out of a district registry, in that registry” substitute “in the Registry”.

ORDER 16—THIRD PARTY AND SIMILAR PROCEEDINGS

Rule 3—(a) In para. (3), delete the words “except that” and all succeeding words down to the end of the paragraph.

(b) In para. (4), delete the words “and Order 75 rule 4”.

ORDER 17—INTERPLEADER

Rule 4—Delete this rule.

Rule 9—Delete “in several Divisions, or”; and delete also “of the same Division”.

ORDER 18—PLEADINGS

Rule 6—In para. (1)—

(a) in sub-para. (a), delete “letter and”;

(b) delete sub-para. (c).

Rule 22—Delete this rule.

ORDER 19—DEFAULT OF PLEADINGS

(Applied without modifications).

ORDER 20—AMENDMENT

(Applied without modifications).

ORDER 21—WITHDRAWAL AND DISCONTINUANCE

Rule 2—(a) In para. (1), delete the full stop at the end and add “and filing in the Registry a copy thereof”.

(b) In para. (2), delete the full stop at the end and add “and filing in the Registry a copy thereof”.

(c) In para. (4), delete sub-paras. (a) and (b) and for the words “by producing” substitute “by filing in the Registry”.

(d) In para. (4), delete the last sentence commencing “In this paragraph”.

ORDER 22—PAYMENT INTO AND OUT OF COURT

Rule 1—In para. (6)—(a) for “the Fatal Accidents Acts 1846 to 1959” substitute “the Compensation to Relatives Act”;

(b) for “the Law Reform (Miscellaneous Provisions) Act 1934” substitute “the Law Reform (Miscellaneous Provisions) (Death and Interest) Act”;

Rule 3—In para. (2), delete “or if the trial is with a jury before the judge begins his summing up”.

Rule 4—(a) Delete para. (1) (c).

(b) In para. (1) (d)—

(i) for “the Fatal Accidents Acts 1846 to 1959” substitute “the Compensation to Relatives Act”;

(ii) for “the Law Reform (Miscellaneous Provisions) Act 1934” substitute “the Law Reform (Miscellaneous Provisions) (Death and Interest) Act”; and

(iii) for “the first mentioned Acts” substitute “the first mentioned Act”.

Rule 8—In para. (1), for “a master or associate” substitute “the Chief Registrar”.

Rule 10—Delete paras. (1), (2) and (3) of this rule and substitute the following new rule—

“10. Payment out of money in Court shall be made to the person entitled or, on his written authority, to his solicitor or if the Court so orders, to his solicitor without such authority.”

Rules 12 and 13—Delete these rules.

ORDER 23—SECURITY FOR COSTS
(NOTE.—Applied without modifications).

ORDER 24—DISCOVERY AND INSPECTION OF DOCUMENTS
(NOTE.—Applied without modifications).

ORDER 25—SUMMONS FOR DIRECTIONS

Rule 1—In para. (2), delete sub-paras. (f), (g), (h) and (i).

Rule 2—(a) In para. (5), for “the county court or some other court” substitute “a magistrate’s court or some other court or tribunal”.

(b) Delete para. (6).

Rule 3—(a) For “section 1 (2) of the Evidence Act 1938” substitute “section 3 (2) of the Evidence Act”.

(b) Delete “and Order 75 rule 25 (4)”.

ORDER 26—INTERROGATORIES
(Applied without modifications).

ORDER 27—ADMISSIONS
(Applied without modifications).

ORDER 28—ORIGINATING SUMMONS PROCEDURE

Rule 2—In para. (1), for the words commencing with “sealed with the seal” and continuing to the end of the paragraph, substitute “sealed with the seal of the Court.”.

Rule 4—In para. (2), for “a county court or some other court” substitute “a magistrate’s court or some other court or tribunal”.

Rule 9—(a) In para. (1), for “a county court or some other court” substitute “a magistrate’s court or some other court or tribunal”.

(b) Substitute for para. (2) the following—

“(2) The Court shall make such order as to the hearing or trial as may be appropriate, but any such order may be varied by a subsequent order of the Court made at or before the hearing or trial.”

(c) Delete para. (3).

(d) Delete para. (4).

ORDER 29—INTERLOCUTORY INJUNCTIONS, INTERIM PRESERVATION OF PROPERTY ETC.
(Applied without modifications).

ORDER 30—RECEIVERS

Rule 2—For para. (4), substitute the following—

“(4) The guarantee or undertaking must be filed in the Registry, and it shall be kept as of record until duly vacated.”.

Rule 4—For para. (4), substitute the following—

“(4) The passing of a receiver’s account must be certified by the Chief Registrar or as otherwise directed by the Court.”.

ORDER 31—SALES, ETC. OF LAND BY ORDER OF COURT, ETC.

Heading—Substitute new heading as above.

Rule 1—In para. (1), delete “in the Chancery Division”.

Rule 2—(a) Delete paras. (2) and (3).

(b) In para. (4), delete “On the hearing of the summons”.

(c) Delete para. (4) (h).

Rule 3—For para. (2), substitute the following—

“(2) The solicitor of the party or person having the conduct of the sale must file the certificate and affidavit (if any) in the Registry within 7 days of the sale.”.

Rules 5, 6, 7 and 8—Delete these rules.

ORDER 32—APPLICATIONS AND PROCEEDINGS IN CHAMBERS

Heading—Delete the heading “1. General”.

Rule 2—Delete para. (3).

Rule 7—For this rule substitute the following—

“7. A writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum* to compel the attendance of a witness for the purpose of proceedings in chambers may be issued out of the Registry by or on the authority of the Chief Registrar.”.

Rule 8—For this rule substitute the following—

“8. The following officers of the Judicial Department, namely the Chief Registrar, any officer being a Commissioner for Oaths or a Magistrate, and any officer specially authorized by the Chief Justice in that behalf shall have authority to administer oaths and take affidavits for the purpose of proceedings in the Supreme Court.”.

Rule 9—Delete this rule.

Rule 10—Delete this rule.

Heading—Delete the heading—

“II. Queen’s Bench Division and Probate, Divorce and Admiralty Division.”.

*Rule 11—For this rule substitute the following:—

“11. The Chief Registrar shall, subject to the directions of the Chief Justice given generally or in respect of any particular case, have the powers, authority and jurisdiction of a judge in chambers with respect to the following matters:—

(a) the place, time for setting down for trial, and mode of trial, and other matters usually arising on a summons for directions;

(b) the discovery of documents, and production of documents for inspection; and discovery by interrogatories;

*Substituted by Rules 26th March 1975.

- (c) the amendment of a writ, pleading, memorandum of appearance, or other document;
- (d) extension or enlargement of time;
- (e) renewal of a writ;
- (f) addition, omission or substitution of parties;
- (g) substituted service within the jurisdiction;
- (h) garnishee orders *nisi*, orders to third persons to attend garnishee proceedings (under Order 49 rule 6), and garnishee orders absolute;
- (i) security for costs;
- (j) leave to enter judgment for costs under Order 13 rule 6 (2);
- (k) judgment under Order 14;
- (l) leave to defend, under Order 14, absolute or conditional and consequential directions;
- (m) leave to withdraw summons, under Order 21 rule 6;
- (n) judgment or order on an admission, or on a summons under Order 27 rule 3, for a sum of money only.”.

Rule 12—For this rule substitute the following—

“12. The Chief Registrar may refer to a judge any matter which he thinks should properly be decided by a judge and the judge may either dispose of the matter or refer it back to the Chief Registrar with such directions as he thinks fit.”.

Heading—Delete the heading “III. Chancery Division”.

Rule 14—Delete this rule.

Rule 15—(a) In para. (1), delete “of the Chancery Division”.

(b) For para. (4), substitute the following—

“(4) The Chief Registrar may examine any party or witness either orally or on interrogatories.”.

Rule 17—Delete “in the Chancery Division”; and add, at the end of the rule—
“and provide every other party with a copy of the affidavit not less than two clear days before the hearing”.

Rule 18—Delete this rule.

Rule 20—Delete this rule.

Rules 23 to 26 inclusive—Delete these rules.

ORDER 33—PLACE AND MODE OF TRIAL

Rule 1—For this rule substitute the following—

“1. Subject to the provisions of these Rules, the place of trial of a cause or matter, or of any question or issue arising therein, shall be determined by the Court.”.

Rule 2—For this rule substitute the following—

“2. Subject to the provisions of these Rules, a cause or matter, or any question or issue arising therein, may be tried before—

(a) a judge alone; or

(b) a judge with the assistance of assessors.”.

Rule 4—Delete para. (3).

Rule 5—Delete this rule.

Rule 6—Delete “under section 98 of the Act”.

ORDER 34—SETTING DOWN FOR TRIAL ACTION BEGUN BY WRIT

Rule 1—Delete para. (2).

Rule 2—(a) In para. (1), delete “whether the trial is to be with or without a jury and”.

(b) For para. (3) substitute the following—

“(3) Every order for trial shall contain an estimate of the length of the trial.”.

*Rule 3—For this rule substitute the following—

- “3.—(1) In order to enter an action for trial the party seeking to enter it for trial shall take out a summons returnable before the Chief Registrar applying for an order that the action be entered for trial at the place specified in the order made on the summons for directions.
- (2) The party taking out the summons shall file in the Registry two certified true copies of the following documents, bound up in book form in chronological order:—
- (a) the writ;
 - (b) the pleadings (including any affidavits ordered to stand as pleadings), any request or order for particulars and the particulars given; and
 - (c) all orders made on the summons for directions, for use of the judge.
- (3) At the hearing of the summons it shall be the duty of the Chief Registrar to enquire of the parties whether the assistance of the Chief Registrar or an officer would be likely to facilitate a settlement or compromise of the action before it is entered for trial.
- (4) Where the parties agree that further time is required for consideration of a settlement of the action the Chief Registrar shall adjourn the hearing to such time and place as he thinks fit.
- (5) Where at the hearing of the summons or any adjournment thereof the parties agree that assistance is desirable to facilitate a settlement, the Chief Registrar may in his discretion either afford such assistance himself, or adjourn the hearing of the summons and direct that the matter be referred to an officer designated by him for the purpose of facilitating a settlement.
- (6) Where the summons is referred to an officer, such officer shall hear and discuss the matter with the parties in an attempt to facilitate a settlement and shall report to the Chief Registrar either the terms of settlement that have been reached or that no settlement appears to be likely. The Chief Registrar shall then deal with the summons as provided in paragraph (ii).
- (7) Save and except where a party having been duly served with the summons fails to attend at the hearing, no order to enter an action for trial shall be made unless the Chief Registrar is satisfied that the parties have had a reasonable opportunity to consider and reach a settlement or that no settlement appears to be likely or possible to be reached between them.

* Substituted by Rules 4th December 1971

- (8) No court record shall be kept of any such discussions held with a view to a settlement and no statements, concessions or admissions made thereat shall be admissible in evidence at the trial of the action or the trial of any other action.
- (9) Any such discussions with a view to a settlement shall, unless a settlement is reached and entered by consent as a judgment of the court, be without prejudice and shall be deemed to be held in confidence on an occasion of absolute privilege.
- (10) No process of the Court shall be issued for the purpose of enforcing the attendance at any court or tribunal of any person as a witness to give evidence of anything said or disclosed at the hearing of a summons for an order for the entry of an action for trial, or any adjournment thereof, or at any discussion between the parties by an officer under paragraph (6).
- (11) At the hearing of the summons or any adjournment thereof the Chief Registrar, after hearing the parties, may either enter judgment by consent on any terms agreed or order that the case be entered for trial or make such other order as may be appropriate.
- (12) In this rule the words "party" and "parties" mean, where a plaintiff or defendant is legally represented, his solicitor, and where he is not so represented, the plaintiff or defendant in person. In any case where the plaintiff or defendant is legally represented he may, if he wishes, be present in chambers in person with his solicitor or, if his solicitor consents, without his solicitor."

Rules 4 to 8 inclusive—Delete these rules.

Rule 9—Delete para. (3).

ORDER 35—PROCEEDINGS AT TRIAL

Rule 4—For this rule, substitute the following—

"4. If the judge at any place is of opinion that any cause or matter set down for trial at that place cannot, for any sufficient reason, be conveniently tried at that place, or at that place and at the appointed time, he may, upon or without an application for that purpose, change the place of trial or postpone the trial."

Rules 5 and 6—Delete these rules.

Rule 7—In para. (1), delete "(whether with or without a jury)".

Rule 8—Delete para. (2).

Rule 10—Delete this rule.

Rule 12—For "or the House of Lords", where those words twice appear, substitute "or the Privy Council".

Rule 13—In para. (1), delete "or the Director of Public Prosecutions".

ORDER 36—INQUIRIES BY CHIEF REGISTRAR AND SPECIAL REFEREES

Heading—Substitute new heading as above.

Rule 1—Delete this rule.

Rule 2—For this rule substitute the following—

"(1) In any cause or matter the Court may refer to the Chief Registrar, or to a special referee (being a person nominated by the Court) for inquiry and

report any question or issue of fact or mixed law and fact arising therein, and, unless the Court otherwise orders, further consideration of the cause or matter shall stand adjourned until the receipt of the report.

(2) Before a special referee enters upon the reference, the Chief Registrar shall supply him with—

(a) a certified copy of the order of reference;

(b) a copy of the pleadings; and

(c) a copy of such other documents as may be directed by the Court.

(3) The Court may make such order as it thinks fit to provide for the remuneration of a special referee and may give such directions as may be necessary for the collection thereof from the parties and for the payment thereof to the special referee.”

Rule 3—For “an official referee” and for “the official referee”, wherever appearing in this rule, substitute “the Chief Registrar or special referee”.

Rule 4—(a) For “an official referee” and for “the official referee”, wherever appearing in this rule, substitute “the Chief Registrar or special referee”.

(b) In para. (1) (a), for “disposing of any cause or matter” substitute “dealing with any matter”.

(c) In para. (1) (b), delete the words “every trial and all other”.

(d) For para. (2), substitute the following—

“(2) No steps or proceedings shall be taken to enforce any order made or direction given by the Chief Registrar or special referee in the exercise of any of the powers referred to in rule 4 (1) (a) until such order or direction has been confirmed by a judge.”

(e) In para. (3), delete the words “trial or any other”.

Rules 5 to 9 inclusive—Delete these rules.

ORDER 37—ASSESSMENT OF DAMAGES

Rule 1—(a) In para. (1), delete “in the Chancery Division or the Queen’s Bench Division”.

(b) In para. (3), delete “of the Chancery Division”.

Rule 2—For this rule substitute the following—

“2. Where in pursuance of this Order or otherwise damages are assessed by the Chief Registrar, he shall certify the amount of the damages and file the certificate in the Registry.”

Rule 4—(a) In sub-para. (a), delete “to an official referee or”.

(b) In sub-para. (b), delete “(with or without a jury)”.

ORDER 38—EVIDENCE: GENERAL

Rule 1—For “Evidence Act 1938” substitute “Evidence Act”.

Rule 5—Delete “for special reasons”.

Rule 6—In para. (1), after the words “the Court otherwise orders” insert the words “or no objection is raised thereto”.

Rule 10—(a) In para. (1), for “High Court” substitute “Supreme Court or the Court of Appeal”.

(b) In para. (2), immediately after “Supreme Court” insert “or the Court of Appeal”.

Rule 13—In para. (1), for “Crown” substitute “Court”

Rule 14—(a) For para. (3), substitute the following—

“(3) Where a writ of subpoena is to be issued in a cause or matter the appropriate office for the issue of the writ is the Registry.”

(b) Delete para. (4).

(c) In para. (5), add the following words—
“and the name of the person to be summoned.”.

(d) Insert new paras. (6) and (7)—

“(6) Unless the Court shall otherwise direct every writ of subpoena which is issued or served less than seven clear days before the date of hearing shall bear the following endorsement—

“NOTE—If this subpoena is served less than 7 clear days before the hearing you are not obliged to attend if, as a result of short notice, it is inconvenient for you to do so. In this event you should so inform the Court.”.

(7) Unless a writ of subpoena is duly served on the person to whom it is directed not less than 7 clear days, or such other period as the Court may fix, before the date of hearing together with appropriate conduct money that person shall not be liable to any penalty or process for failing to obey the writ.”.

Rule 19—(a) In para. (1), for “the Crown Office” substitute “the Registry”.

(b) In para. (4), for “4 days” substitute “7 days”.

(c) In para. (5), for “may be heard by a master of the Queen’s Bench Division” substitute “shall be heard by a judge”.

ORDER 39—EVIDENCE BY DEPOSITION: EXAMINERS OF COURT

Rule 1—In para. (1), delete “or examiner of the Court”.

Rule 2—In para. (2) (b), substitute “Attorney-General” for “Secretary of State”.

Rule 3—(a) In para. (6), for “Secretary of State”, where it first appears, substitute “Attorney-General”.

(b) In para. (6), for “Finance Officer of the office of the Secretary of State substitute “Attorney-General”.

Rule 4—In sub-para. (a), delete “or examiner of the Court”.

Rule 5—In para. (1), for “in the district registry (if any) in which the cause or matter is proceeding and otherwise in the Central Office” substitute “in the Registry”.

Rule 11—In para. (4), for “district registry etc.” to the end of the paragraph substitute “Registry and shall be filed therein”.

Rule 12—For “the district registry or the Central Office” substitute “the Registry”.

Rule 14—For “the official solicitor” substitute “the Chief Registrar”.

Rules 16 to 18 inclusive—Delete these rules.

Rule 19—For this rule substitute the following—

“19.—(1) The party prosecuting the order must pay all reasonable expenses as certified by the Chief Registrar in addition to the prescribed fees for an examination.

(2) The Chief Registrar may require an amount estimated by him to cover the expenses of the examination to be deposited before the order for the examination is sealed.”.

ORDER 40—COURT EXPERT

Rule 1—In para. (1), delete “which is to be tried without a jury and”.

ORDER 41—AFFIDAVITS

Rule 3—(a) Re-number this rule as para. (1) of the rule.

(b) Add the following para.—

“(2) Where it appears to the person administering the oath that the deponent does not understand the English language he must certify in the jurat that—

(a) the affidavit was read, explained and interpreted, either by himself or through the medium of a sworn and named interpreter in his presence, to the deponent in a specified language with which the deponent was familiar,

(b) the deponent seemed perfectly to understand it, and

(c) the deponent made his signature or mark in his presence;

and the affidavit shall not be used in evidence without such a certificate”.

Rule 8—Delete “Without prejudice to section 1 (3) of the Commissioners for Oaths Act, 1889”.

Rule 9—Delete paras. (1), (2) and (3).

Rule 10—(a) In para. (1), delete “in the Chancery Division with the leave of the Court, and in any other proceedings without such leave,”.

(b) In para. (2), for “with the judicature fee stamp” substitute “with the stamp duty”.

Rule 11—(a) In para. (1), delete “and not annexed,”.

(b) In para. (2), delete the last sentence.

Rule 12—For “outside England and Wales” substitute “outside Fiji”.

ORDER 42—JUDGMENTS AND ORDERS

Rule 1—In para. (3), for “referee or master” substitute “or other person”.

Rule 3—(a) In para. (1), delete “or of an official or special referee”.

(b) In para. (2), delete “or referee, as the case may be,”.

Rule 5—For this rule substitute the following—

“5.—(1) Every judgment given in a cause or matter and every order required under rule 4, to be drawn up shall be settled by or under the direction of the Chief Registrar before being entered or drawn up.

(2) The party seeking to enter a judgment or to have an order drawn up may and shall if so required by the Chief Registrar prepare a draft of the judgment or order and present the draft to the Chief Registrar.

(3) If the party in whose favour a judgment is given or an order is made does not prepare it, have it settled and enter it within 21 days after it is given or made any other party affected by the judgment or order may prepare it, have it settled and enter it.

(4) Every judgment when entered shall be endorsed with the date of entry.”.

Rules 6 and 7—Delete these rules.

Rule 8—For this rule substitute the following—

“8. If any party fails to attend any appointment made by a judge or the Chief Registrar for settling any judgment or order or fails to produce any

documents required by the judge or the Chief Registrar in order to enable him to settle the judgment or order, the judge or the Chief Registrar may settle and pass the judgment or order in the absence of that party.”

Rule 9—Delete this rule.

ORDER 43—ACCOUNTS AND INQUIRIES

Rule 7—(a) In para. (2), for the words “the official solicitor”, where they first appear, substitute “appoint a suitable person”.

(b) In para. (2), for the words “the official solicitor’s costs”, where they next appear, substitute “any costs incurred”.

ORDER 44—PROCEEDINGS UNDER JUDGMENTS AND ORDERS

Heading—In the heading, delete “Chancery Division”.

Rule 2—For this rule substitute the following—

“2.—(1) Where in order to carry out any directions contained in, or to carry into effect, a judgment given in any cause or matter it is necessary to proceed in chambers under the judgment, the party entitled to prosecute the judgment shall, within 21 days after entry of the judgment, take out a summons to proceed under the judgment.

(2) If the party entitled to prosecute the judgment fails to comply with paragraph (1), any other party to the cause or matter shall thereupon become entitled to prosecute the judgment.”

Rule 3—Delete paras. (3) and (7).

Rule 15—In para. (4), delete “and (7)”.

Rule 18—(a) In para. (1) (b), for “£4” substitute “five”.

(b) In para. (2), for “£4” substitute “five”.

Rule 19—For “£4” substitute “five”.

Rule 20—(a) In para. (1), for “the proceedings before the master” substitute “any proceedings before the Chief Registrar or a special referee”.

(b) In para. (2), delete all the words following “the Court of Appeal”.

Rule 21—In para. (1), for “before the master” substitute “before the Chief Registrar or special referee”; and for “by the master” substitute “by the Chief Registrar or special referee”.

Rule 22—For this rule substitute the following—

“22. A draft of the certificate shall be settled by the parties before the Chief Registrar or special referee, and the signed certificate shall be filed in the Registry.”

Rule 23—(a) For para. (1), substitute the following—

“(1) Any party to proceedings before the Chief Registrar or special referee may, not later than 21 clear days after the filing of the certificate, apply by summons to a judge for an order discharging or varying the certificate.”

(b) In para. (3), delete “of a master”.

Rules 24 and 25—Delete these rules.

ORDER 45—ENFORCEMENT OF JUDGMENTS AND ORDERS: GENERAL

Rule 1—In para. (3), for “under section 139 of the County Courts Act 1959 to have the judgment or order enforced in a county court” substitute “under any enactment to have the judgment or order enforced in a magistrate’s court”.

Rule 3—In para. (3), delete sub-para. (b) and delete also the word “and” immediately preceding it.

Rule 8—Delete “under section 47 of the Act and its powers”.

ORDER 46—WRITS OF EXECUTION: GENERAL

Rule 2—In para. (2), delete “section 2 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, or any other”; and insert “any” before “enactment”.

Rule 6—Delete para. (6).

ORDER 47—WRITS OF FIERI FACIAS

Rule 1—In para. (1), delete “2 or”.

Rule 2—Delete this rule.

Rule 3—In para. (1), for “the judgment or order is issued, the writ may” substitute “payment of the sum (other than for costs)”.

Rules 4, 5 and 6—Delete these rules.

ORDER 48—EXAMINATION OF JUDGMENT DEBTOR, ETC.

Rule 1—(a) In para. (1), for “such master, registrar or nominated officer” substitute “the Chief Registrar or such magistrate”.

(b) In para. (2), add the words “and appropriate conduct money must be paid or tendered”.

(c) Delete paras. (3) and (4).

ORDER 49—GARNISHEE PROCEEDINGS

Rule 1—Delete para. (3).

Rule 9—(a) Delete para. (2).

(b) In para. (4), delete “Subject to Order 75 rule 24”.

ORDER 50—CHARGING ORDERS, STOP ORDERS, ETC.

Rule 1—(a) For para. (1), substitute the following—

“(1) This rule shall apply to any order which by virtue of any enactment the Court is empowered to make imposing a charge on any land or interest in land of a judgment debtor or levying execution thereon.”.

(b) In para. (3), for “under the said section 35” substitute “to which this rule applies”.

(c) In para. (4), for “under the said section 35” substitute “to which this rule applies”.

(d) Add the following new paragraph (9)—

“(9) This rule shall have effect subject to the provisions of the enactment whereunder any such order as aforesaid may be made.”.

Rule 2—(a) In para. (3), for “any general Act of Parliament, including such stock standing in the name of the Accountant-General” substitute “any enactment”.

(b) In para. (4), for “the United Kingdom” substitute “Fiji”.

Rule 4—(a) In para. (2) (a), for “Bank of England” substitute “Minister of Finance”.

(b) Delete para. (2) (c).

Rule 5—(a) In para. (2), for “Bank of England” substitute “Minister of Finance”.

(b) In para. (3), for “on the Bank of England or a company the Bank or company permits” substitute “on the Minister of Finance or a company the Minister or company permits”.

(c) In para. (3), for “it shall be liable” substitute “he or it shall be liable”.

*Rule 8—*In para. (4), for “Accountant-General” substitute “Chief Registrar”.

*Rule 9—*For this rule substitute the following—

“9. An application for an injunction ancillary or incidental to a charging order under rules 1, 2 or 8 may be joined with the application for such order.”.

*Rule 10—*In para. (3), for “and on the Accountant-General” substitute “and on the Chief Registrar”.

Rule 11—(a) In para. (2), for “Central Office or in a district registry” where those words twice appear, substitute “the Registry”.

(b) In para. (2) *(b)*, for “Bank of England” substitute “Minister of Finance”.

(c) In para. (2), for “on the Bank” substitute “on the Minister”.

(d) In para. (4), for “Bank of England” substitute “Minister of Finance”.

*Rule 12—*For “Bank of England” and “Bank”, wherever those words appear, substitute “Minister of Finance”.

*Rule 13—*For “Bank of England” and “Bank” substitute “Minister of Finance”.

Rule 14—(a) In para. (1), for “Bank of England” substitute “Minister of Finance”.

(b) In para. (4), delete “in the Chancery Division”.

Rule 15—(a) In para. (1), for “any general Act of Parliament” substitute “any enactment”; and for “Bank of England” substitute “Minister of Finance”.

(b) In para. (2), delete “in the Chancery Division”.

ORDER 51—RECEIVERS: EQUITABLE EXECUTION

*Rule 2—*Delete this rule.

ORDER 52—COMMITTAL

Rule 1—(a) In para. (1), delete “or Court of Appeal”.

(b) For para. (2), substitute the following—

“(2) This Order applies to contempt of court—

**(a)* committed in connection with—

(i) any proceedings before the Supreme Court; or

(ii) proceedings in an inferior court;

(b) committed otherwise than in connection with any proceedings.”.

(c) For para. (3), substitute the following—

“(3) An order of committal may be made by a single judge.”.

(d) In para. (4), delete “of the Queen’s Bench Division”.

- Rule 2*—(a) In para. (1), delete “to a Divisional Court”.
 (b) In para. (2), delete “to a Divisional Court, except in vacatio when it may be made”.
 (c) Delete paras. (4) and (5).
- Rule 3*—In para. (1), for “a Divisional Court” substitute “the Court”.
- Rule 4*—Delete this rule.
- Rule 6*—(a) In para. (1) (b), delete “within the meaning of the Mental Health Act, 1959”.
 (b) In para. (3), delete “or as the case may be in the notice of motion under rule 4”.
- Rule 7*—In para. (1), delete “by whom an order of committal is made”.

ORDER 53—APPLICATIONS FOR ORDER OF MANDAMUS, PROHIBITION, CERTIORARI, ETC.

- Heading*—In heading delete “Divisional Courts, Court of Appeal etc.”.
- Rule 1*—(a) In para. (2), delete “Divisional Court of the Queen’s Bench Division, except in vacation when it may be made to a”.
 (b) Delete para. (3).
 (c) Delete paras. (6) and (7).
- Rule 2*—(a) Delete para. (1).
 (b) In para. (2), for the words “the Court or judge”, where they twice appear, substitute “the judge”.
- Rule 3*—(a) In para. (1), for “a Divisional Court of the Queen’s Bench Division” substitute “the Court”.
 (b) In para. (3), insert “and” before the words “the other parties to the proceedings” and delete the words “and where any objection to the conduct of the judge is to be made, on the judge”.
- Rule 6*—In para. (2), for “Queen’s Bench Division” substitute “Court”.
- Rule 7*—Delete “from a county court or” and also delete “other”.
- Rule 9*—(a) In para. (1), for “applications under section 9 of the Administration of Justice (Miscellaneous Provisions) Act, 1938” substitute “applications for an injunction to restrain a person from acting in an office in which he is not entitled to act”.
 (b) In para. (2), for “An application under the said section 9” substitute “Any such application”; and delete the words “under that section”.
 (c) In para. (2) (a), delete “Divisional”.
- Rules 10, 11 and 12*—Delete these rules.

ORDER 54—APPLICATIONS FOR WRIT OF HABEAS CORPUS

- Rule 1*—In para. (1), for “a Divisional Court of the Queen’s Bench Division or, if no such Court is sitting, to a single judge in court” substitute “the Court”.
- Rule 2*—(a) In para. (1) (a), for “a Divisional Court or to a judge in court” substitute “the Court”.
 (b) Delete para. (1) (b).
 (c) In para. (1) (c), for “a Divisional Court” substitute “the Court”.
- Rule 4*—Delete para. (2).

ORDER 55—APPEALS TO HIGH COURT FROM COURT, TRIBUNAL OR PERSON:
GENERAL

Rule 1—For this rule substitute the following—

“1.—(1) Subject to paragraphs (2) and (3), this Order shall apply to every appeal which by or under any enactment lies to the Supreme Court from any court, tribunal or person.

(2) This Order shall not apply to—

(a) any appeal by case stated; or

(b) any appeal under any enactment for which rules governing appeals have been made thereunder, save to the extent that such rules do not provide for any matter dealt with by these rules.

(3) The following rules of this Order shall, in relation to appeals to which this Order applies, have effect subject to any provision made specifically in relation to such appeals by these rules or by or under any enactment.

(4) In this Order references to a tribunal shall be construed as references to any tribunal constituted by or under any enactment other than any of the ordinary courts of law.”

Rule 2—Delete this rule.

ORDER 56—APPEALS TO HIGH COURT BY CASE STATED: GENERAL

Rule 1—For this rule substitute the following—

“1.—(1) Subject to paragraphs (2) and (3), this Order shall apply to every appeal which by or under any enactment lies to the Supreme Court by case stated from any court, tribunal or person.

(2) This Order shall not apply to any appeal by case stated under any enactment for which rules governing such appeals have been made thereunder save to the extent that such rules do not provide for any matter dealt with by these rules.

(3) This Order shall, in relation to an appeal to which it applies, have effect subject to any provision made specifically, in relation to such appeals, by or under any enactment.

(4) In this Order references to a tribunal shall be construed as references to any tribunal constituted by or under any enactment other than any of the ordinary courts of law.”

Rule 2—For “a court of quarter sessions” substitute “the court, tribunal or person”; and delete “signed by the person who presided over the court of quarter sessions”.

Rules 3, 4 and 5—Delete these rules.

Rule 6—For para. (1) (a), substitute the following—

“(a) within 10 days after receiving the case, lodge it in the Registry, and”.

Rule 7—(a) For para. (1) of this rule, substitute the following—

“(1) This rule and the following rules of this Order shall apply to proceedings for the determination of a case stated by, or a question of law referred to the Court by a Minister of the Crown, government department, tribunal or other person.”.

(b) Delete para. (4).

Rule 10—Delete para. (6).

ORDER 57—SUPPLEMENTARY PROVISIONS IN RESPECT OF PROCEEDINGS BEFORE
A SINGLE JUDGE

Heading—Substitute new heading as above.

Rule 1—For this rule substitute the following—

“1. This Order shall apply to—

(a) any proceedings before a single judge under Order 52 rule 2, Order 53 and Order 54, and

(b) any proceedings before a single judge, being proceedings which consist of or relate to an appeal to the High Court from any court, tribunal or person including an appeal by case stated and the reference of a question of law by way of case stated.”.

Rule 2—Delete paras. (3) and (4).

Rule 3—For paras. (a) and (b) substitute “in the Registry”.

Rule 4—(a) In para. (1), delete “Except as provided by Order 41, rule 9 (2) and (3)”.

(b) In para. (2), delete “in the Queen’s Bench Division”.

Rule 6—Delete this rule.

ORDER 58—APPEALS FROM CHIEF REGISTRAR AND DEPUTY REGISTRARS

Heading—Substitute new heading as above.

Rule 1—For para. (1), substitute the following—

“(1) An appeal shall lie to a judge in chambers from any judgment, order or decision of the Chief Registrar or Deputy Registrar.”

Rules 2 to 8 inclusive—Delete these rules.

ORDER 59—APPEALS TO THE COURT OF APPEAL

Delete the whole of this Order.

ORDER 60—APPEALS TO COURT OF APPEAL FROM THE RESTRICTIVE PRACTICES
COURT

Delete the whole of this Order.

ORDER 61—APPEALS FROM TRIBUNALS TO COURT OF APPEAL BY CASE STATED

Delete the whole of this Order.

ORDER 62—COSTS

Rule 1—In para. (1)—

(a) for the definitions of “contentious business” and “non-contentious business” substitute the following—

““contentious business” means business done as a barrister and solicitor in or for the purposes of proceedings begun before a court, tribunal or arbitrator”; and

“non-contentious business” means any other business done as a barrister and solicitor”;

(b) in the definition of “the court”, for “any master, registrar, or registrar of a district registry” substitute “the Chief Registrar”;

(c) delete the definition of “proceedings in the Probate, Divorce and Admiralty Division”;

(d) delete the definition of "registrar";

(e) delete the definition of "taxing master";

(f) for the definition of "taxing officer" substitute the following—
" "taxing officer" means the Chief Registrar or any officer for the time being authorized by the Chief Justice to act as a taxing officer."

Rule 2—(a) Delete para. (1).

(b) In para. (2), for "rules 22 to 26" substitute "rule 22, rules 25 and 26".

(c) In para. (2), delete "other than proceedings in the Probate, Divorce and Admiralty Division".

(d) For para. (3), substitute the following—

"(3) This Order shall have effect subject to the provisions of any enactment which limit the costs recoverable."

(e) For para. (4), substitute the following—

"(4) The powers and discretion of the Court as to costs shall be exercised subject to and in accordance with this Order."

Rule 4—In para. (3), for "county court", where those words twice appear, substitute "magistrates court".

Rule 6—In para. (1)—

(a) delete "or in section 50 of the Act";

(b) delete sub-paras. (a), (b) and (c);

(c) in sub-para. (e), delete "under section 23, 24 or 25 of the Patents Act, 1949".

Rule 7—Delete para. (6).

Rule 8—(a) In para. (3), for "responsible registrar or master" substitute "Chief Registrar".

(b) In para. (4), for "direct" substitute "request"; and for "official solicitor" substitute "Attorney-General".

(c) In para. (8), for "an official referee or master" substitute "a special referee or the Chief Registrar"; and for the words "official solicitor", where they twice appear, substitute "Attorney-General".

(d) Delete para. (9).

Rule 9—In para. (2), delete "under section 45 of the Act".

Rule 12—(a) In para. (1), for "Subject to paragraphs (2) and (3), each of the following taxing officers, that is to say a taxing master, a registrar of the Principal Probate Registry and the Admiralty registrar" substitute "A taxing officer".

(b) For para. (2), substitute the following—

"(2) Where by or under any enactment any costs are directed to be taxed or settled in or by the Supreme Court, a taxing officer shall have power to tax those costs."

(c) Delete paras. (3) to (7) inclusive.

Rule 13—Delete this rule.

Rule 20—For para. (1) substitute the following—

"(1) Where the Court refers any matter to any person or under Order 32 rule 16 obtains the assistance of any person the fees payable in respect of the work done in connection with the reference or in assisting the Court, as the case may be, may be fixed by a taxing officer."

Rule 21—(a) In para. (1), delete "the requisite document and" down to the end of the paragraph, and substitute therefor "his bill of costs and a copy thereof".

(b) Delete para. (2).

(c) In para. (3), delete "other than proceedings in the Probate Divorce and Admiralty Division"; and for "7", where that figure twice appears, substitute "21".

(d) Delete paras. (4) and (5).

Rule 22—(a) For para. (1), substitute the following—

"(1) Where proceedings for taxation have been duly begun in accordance with rule 21, then, subject to paragraph (3), the party beginning the proceedings shall obtain an appointment for the taxation and shall serve a copy of the bill of costs endorsed with the date and time appointed for the taxation on every other party entitled to be heard in the taxation not less than seven days before the said appointment."

(b) Delete para. (2).

(c) In para. (3), for "notice" substitute "copy of the bill of costs" and delete "under section 69 of the Solicitors Act, 1957".

(d) Delete para. (4).

Rule 23—Delete this rule.

Rule 24—Delete this rule.

Rule 28—For para. (6) substitute the following—

"(6) The foregoing provisions of this rule, shall be without prejudice to the provisions of any enactment which limit, or enable the court to limit, the amount of costs allowable or payable in respect of any proceedings."

Rule 29—(a) In para. (1), delete "a bill to be paid out of the legal aid fund under the Legal Aid and Advice Act, 1949, or".

(b) For para. (4), substitute the following—

"(4) In paragraphs (2) and (3), references to the client shall be construed, whenever necessary, as references to his committee, guardian *ad litem* or next friend."

(c) Delete para. (5).

Rule 30—(a) In para. (1) (a), delete "within the meaning of the Mental Health Act, 1959".

(b) In para. (1) (b), for "the Fatal Accidents Acts 1846 to 1959" substitute "the Compensation to Relatives Act".

(c) In para. (3) (b), delete "within the meaning of the Mental Health Act, 1949".

(d) Delete para. (6).

(e) For para. (7), substitute the following—

"(7) This rule shall apply *mutatis mutandis* to counterclaims."

Rule 32—(a) Delete para. (1).

(b) In para. (2), for "at the discretion of the taxing officer" substitute "on the special order of a judge".

(c) In para. (2), for sub-paras. (a) and (b) substitute the following—

"(a) in relation to items not mentioned in the scales of costs for the time being in force; or

(b) of an amount greater than that prescribed by the higher scale of costs for the time being in force."

(d) In para. (3), for "any general orders for the time being in force under the Solicitors Act 1957" substitute "any enactment or rules made thereunder for the time being in force"; and delete "notwithstanding anything in the scale contained in Appendix 2 to this Order".

- (e) Delete para. (4).
Rule 34—(a) Delete para. (1).
(b) Delete para. (5).
Rule 35—(a) In para. (5), delete “under section 98 of the Act”.
(b) Delete para. (7).
Appendix 1—Delete this Appendix.
Appendix 2—Delete this Appendix.
Appendix 3—Delete this Appendix.

ORDER 63—FILING, INSPECTION, ETC. OF DOCUMENTS IN REGISTRY

Heading—Substitute new heading as above.

Rules 1 and 2—Delete these rules.

Rule 3—(a) In para. (1), add the words “the fees paid and the Revenue Receipt number”.

(b) Delete para. (2).

Rule 4—Delete para. (2).

Rule 5—For “unless the order directs that the documents be so lodged by being deposited at the Bank of England” substitute “unless the Court otherwise directs”.

Rules 6 to 8 inclusive—Delete these rules.

Rule 9—For “county court” substitute “magistrates’ court”.

Rules 10 to 14 inclusive—Delete these rules.

ORDER 64—SITTINGS, VACATIONS AND OFFICE HOURS

Rule 1—For this rule substitute the following—

“1. The Chief Registrar shall give notice in the Gazette of any vacation directed by the Chief Justice to be observed under section 28 of the Act.”.

Rule 2—Delete this rule.

Rule 3—For this rule substitute the following—

“3. A judge shall sit in vacation to hear and deal with all such causes, matters and applications as require to be heard or dealt with in vacation by a judge.”.

Rules 4 to 6 inclusive—Delete these rules.

Rule 7—For this rule substitute the following—

“7.—(1) The offices of the Supreme Court shall be open on every day of the year except Saturdays, Sundays and public holidays and such other days as the Chief Justice may direct.

(2) On such days as the offices of the Supreme Court are open the Registry shall be open for the filing of documents, the issue of process and the transaction of other public business from 9.00 a.m. to 1.00 p.m. and from 2.00 p.m. to 3.00 p.m.”.

Rule 8—Delete this rule.

ORDER 65—SERVICE OF DOCUMENTS

Rule 5—(a) In para. (1) (b), for “by post” substitute “by registered post”.

(b) In para. (2), for “section 26 of the Interpretation Act, 1889” substitute “any enactment relating to service of documents”.

Rule 6—For this rule substitute the following—

"6. Where for the purpose of or in connection with any proceedings in the Supreme Court, not being civil proceedings by or against the Crown within the meaning of Part II of the Crown Proceedings Act, any document is required by any enactment or these rules to be served on the Government of Fiji, A Minister, a government department or a public officer within the meaning of the Constitution, the document must be served on the Attorney-General in accordance with the provisions of Order 77 rule 4."

ORDER 66—PAPER, PRINTING, NOTICES AND COPIES
(Applied without modifications).

ORDER 67—CHANGE OF SOLICITOR

Rule 1—(a) In para. (1), delete the words "lodged and".

(b) For para. (2), substitute the following—

"(2) Notice of a change of barrister and solicitor must be filed in the Registry."

(c) In para. (3), delete "in the appropriate office (naming it)".

Rule 2—In para. (2), delete "in the appropriate office (naming it)".

Rule 5—(a) Delete all references in this rule to the Court of Appeal.

(b) In para. (3) (b), for "district registry or other appropriate office mentioned in rule 1 (2)" substitute "Registry".

(c) In para. (3) (c), for "at that office" substitute "the Registry".

Rule 6—(a) Delete all references in this rule to the court of Appeal.

(b) In para. (1) (b), for "district registry or other appropriate office mentioned in rule 1 (2)" substitute "Registry".

(c) In para. (1) (c), for "at that office" substitute "the Registry".

(d) For para. (4), substitute the following—

"(4) Notwithstanding anything in paragraph (1), where the appointment of a barrister and solicitor to represent an assisted person is revoked or discharged, or the assisted person ceases to be an assisted person, such barrister and solicitor shall cease to be the barrister and solicitor acting in the cause or matter; and if the assisted person desires to proceed with the cause or matter without legal aid and appoints either that barrister and solicitor or another barrister and solicitor to act on his behalf the provisions of rule 3 shall apply as if that party had previously sued or defended in person."

Rule 7—(a) In this rule, for para. (c) substitute the following—

"(c) a barrister and solicitor ceases to be the barrister and solicitor acting in the cause or matter by virtue of rule 6 (4)."

(b) Delete the words "or certificate".

Rules 8 and 9—Delete these rules.

ORDER 68—OFFICIAL SHORTHAND NOTE

Rule 1—For this rule substitute the following—

"1.—(1) An official shorthand note may be directed to be taken of any proceedings in the Supreme Court or before the Chief Registrar or a special referee.

(2) When an official shorthand note is taken the transcription thereof shall be the official record of such proceedings provided however that,

where the judge, Chief Registrar or special referee, as the case may be, has taken a note of the proceedings or any part thereof, and such note conflicts with or is not included in the official record, such note shall prevail and the official record shall be amended or supplemented accordingly.

(3) Any party to the proceedings and any other person who is so authorised by the Chief Registrar, shall upon payment of the prescribed fee be entitled to be supplied with a copy of the official record.

(4) Where the Chief Registrar is satisfied that it is reasonably necessary for a party to the proceedings to be supplied with a copy of the official record and that it would be an excessive burden on that party, on account of poverty, to pay the prescribed fee therefor, he may authorise the supply of a copy of the record to such party at no fee or at such reduced fee as he thinks fit in the circumstances."

Rules 3 to 7—Delete these rules.

Rule 8—Insert a full stop after "mechanical means" and delete the remainder of this rule.

ORDER 69—SERVICE OF FOREIGN PROCESS

Rule 1—For "taxing master" means a taxing master of the Supreme Court" substitute "taxing master" and "senior master" means Chief Registrar".

Rule 2—(a) In para. (1), for "England or Wales" substitute "Fiji"; and for "Her Majesty's Secretary of State for Foreign Affairs" substitute "the Minister for Foreign Affairs";

(b) In para. (4), for "by the Treasury Solicitor with the consent of the Treasury" substitute "by or on behalf of the Attorney-General".

(c) In para. (6) (b), for "England and Wales" substitute "Fiji".

(d) In para. (6) (c), delete "as certified by a taxing master".

(e) In para. (7), for "for use out of the jurisdiction and shall be sent to Her Majesty's Secretary of State for Foreign Affairs" substitute "and shall be sent to the Minister".

Rule 3—(a) In para. (1), for "England and Wales" and "England or Wales" substitute, in each case, "Fiji".

(b) In para. (5) (b), delete "as certified by a taxing master".

(c) In para. (6), delete "for use out of jurisdiction".

Rule 5—For "Lord Chancellor" substitute "Chief Registrar".

ORDER 70—OBTAINING EVIDENCE FOR FOREIGN COURTS, ETC.

Rule 1—For this rule substitute the following—

"1—(1) This Order applies to the powers of the Supreme Court under any enactment to make, in relation to a matter pending before a court or tribunal in a place outside the jurisdiction, orders for the examination of witnesses and for their attendance and for the production of documents, and to give directions therein.

(2) All such powers shall be exercised by a judge."

Rule 2—In para. (1), for "under the Foreign Tribunals Evidence Act, 1856, or under that Act as extended by section 24 of the Extradition Act, 1870 or under the Evidence by Commission Act, 1859" substitute "of the kind referred to in rule 1 (1)".

Rule 3—(a) For “Secretary of State” substitute “the Minister for Foreign Affairs”.

(b) For “senior master” substitute “the Chief Registrar”.

(c) For “England” substitute “Fiji”.

(d) For “England or Wales” substitute “Fiji”.

(e) For “the senior master shall send the document to the Treasury Solicitor and the Treasury Solicitor may with the consent of the Treasury, make an application for an order under the Foreign Tribunals Evidence Act, 1856” substitute “the Chief Registrar shall send the document to the Attorney-General and the Attorney-General may make an application for an order”.

Rule 4—(a) In para. (1), delete “of the Court”.

(b) In para. (3), for “one of the examiners of the Court” substitute “an examiner”; and for “rules 17, 18 and 19” substitute “rule 19”.

Rule 5—(a) For “senior master”, wherever those words appear, substitute “Chief Registrar”.

(b) In para. (a), delete “for use out of the jurisdiction”.

(c) In para. (b), for “Secretary of State” substitute “Minister”.

ORDER 71—RECIPROCAL ENFORCEMENT OF JUDGMENTS

Rule 1—For this rule substitute the following—

“1. The Reciprocal Enforcement of Judgments Rules made under the Reciprocal Enforcement of Judgments Act shall apply, with necessary modifications, to proceedings under the Foreign Judgments (Reciprocal Enforcement) Act”.

Rules 2 to 14—Delete these rules.

ORDER 72—COMMERCIAL ACTIONS IN THE QUEEN'S BENCH DIVISION

Delete the whole of this Order.

ORDER 73—ARBITRATION PROCEEDINGS

Rule 1—Delete this rule.

Rule 2—(a) For para. (1), substitute the following—

“(1) Every application to the Court—

(a) to remit an award under section 11 (1) of the Arbitration Act;
or

(b) to remove an arbitrator or umpire under section 12 (1) of that Act; or

(c) to set aside an award under section 12 (2) thereof,
must be made by originating motion to a judge in court.”.

(b) Delete para. (2).

(c) In para. (3), delete “single”.

Rule 3—(a) For para. (1), substitute the following—

“(1) Subject to the foregoing provisions of this Order, the jurisdiction of the Supreme Court or a judge thereof under the Arbitration Act may be exercised by a judge in chambers.”.

(b) In para. (2), for “section 21 of the said Act of 1950” substitute “section 15 of the said Act”.

(c) In para. (3), for “Act of 1950” substitute “Act”.

Rule 4—Delete this rule.

Rule 5—In para. (1)—

(a) for “section 22 of the Arbitration Act, 1950” substitute “section 11 (1) of the Arbitration Act.”

(b) for “section 23 (2) of that Act” substitute “section 12 (2) of that Act”.

Rule 6—Delete this rule.

Rule 8—(a) For “Part I of the Foreign Judgments (Reciprocal Enforcement) Act 1933” substitute “Part II of the Foreign Judgments (Reciprocal Enforcement) Act”.

(b) For “Part II of the Administration of Justice Act 1920” substitute “the Reciprocal Enforcement of Judgments Act”.

(c) For “the said Part I” substitute “the said Part II”.

(d) For “subject however to the following modifications” substitute “subject to all necessary modifications”.

(e) Delete paras. (a) and (b).

ORDER 74—APPLICATION AND APPEALS UNDER THE MERCHANT SHIPPING ACTS
1894 TO 1965

Delete the whole of this Order.

ORDER 75—ADMIRALTY PROCEEDINGS

Delete the whole of this Order.

ORDER 76—PROBATE PROCEEDINGS

Rule 1—In para. (3)—

(a) in the definition of “probate registry” delete the words “Principal Probate”;

(b) for the definition of “registrar” substitute ““registrar” means the Chief Registrar”.

Rule 10—In para. (3), delete “as a short cause”.

Rule 14—In para. (2), delete “as a short cause”.

Rule 16—Delete “as a short cause”.

Rule 17—Delete this rule.

Rule 18—Delete para. (2).

Rule 24—(a) For para. (1), substitute the following—

“(1) An application for the grant of administration pendente lite shall be made to a judge by summons.”.

(b) In para. (2), for “is made under the said section 163” substitute “of administration pendente lite is made”.

(c) In para. (3), delete “23”.

(d) In para. (4), delete “in accordance with the said section 163”.

ORDER 77—PROCEEDINGS BY AND AGAINST THE CROWN

Rule 1—In para. (2)—

(a) in the definition of “civil proceedings by the Crown” etc., for “Act, 1947” substitute “Act”; and for “section 23 (3) of that Act”, substitute “section 18 (3) of that Act”.

(b) in the definition of “civil proceedings to which the Crown is a party”, for “Part IV of the Crown Proceedings Act, 1947, by virtue of section 38 (4)

of that Act" substitute "Part IV of the Crown Proceedings Act by virtue of section 32 (3) of that Act".

(c) in the definition of "order against the Crown", delete "or in any proceedings on the Crown side of the Queen's Bench Division".

Rule 2—Delete this rule.

Rule 4—For para. (2), substitute the following—

"(2) Personal service of any document required to be served on the Crown or on the Attorney-General on behalf of the Crown is not requisite and may be effected by—

(a) leaving the document at the chambers of the Attorney-General in Suva with a responsible member of his staff, or

(b) posting it by registered post in an envelope addressed to the Attorney-General at his chambers in Suva."

Rule 5—Delete this rule.

Rule 7—(a) In para. (2) (b), for "an officer" substitute "a person".

(b) In para. (2), insert immediately after "department concerned" the following—

"or (c) a member of the Crown Law Office."

Rule 8—Delete this rule.

Rule 12—(a) In para. (2), for "section 28 (1) of the Crown Proceedings Act, 1947" substitute "section 23 (1) of the Crown Proceedings Ordinance";

(b) In para. (4), for "section 28 of the Crown Proceedings Act, 1947" substitute "section 23 of the Crown Proceedings Act".

Rule 13—Delete this rule.

Rule 15—In para. (2), for "section 25 of the Crown Proceedings Act, 1947" substitute "section 20 of the Crown Proceedings Act".

Rule 16—In para. (2), for "section 27 (1) of the Crown Proceedings Act, 1947" substitute "section 22 (1) of the Crown Proceedings Act".

Rule 17—In para. (1), for "section 9 (3) of the Crown Proceedings Act, 1947" substitute "section 6 (3) of the Crown Proceedings Act"; and delete the words "in the Queen's Bench Division".

Rule 18—(a) Delete para. (1).

(b) In para. (2), for "section 29 (2) of the Crown Proceedings Act, 1947" substitute "section 24 (2) of the Crown Proceedings Act".

ORDER 78—PROCEEDINGS TRANSFERRED OR REMOVED TO SUPREME COURT

Heading—Substitute new heading as above.

Rule 1—(a) For para. (1), substitute the following—

"(1) This Order applies where an order has been made under any enactment for the transfer or removal of any proceedings from a magistrates' court to the Supreme Court."

(b) In para. (2), delete "under section 65 of the said Act of 1959".

(c) In para. (3), for "county court otherwise than by plaint" substitute "magistrates' court otherwise than by writ of summons".

Rule 2—For this rule substitute the following—

"2.—(1) On receipt by the Chief Registrar of the relevant documents from the magistrates' court he shall—

(a) file the said documents and make the appropriate entries in the cause book, and

(b) give notice in writing to all parties to the proceedings that the action has been transferred to the Supreme Court and that the plaintiff is required to take out a summons for directions.

(2) The notice by the Chief Registrar may be sent to the parties by ordinary post and shall state that the time within which the summons for directions must be taken out is within 14 days of the date of the notice.”.

Rule 3—For this rule substitute the following—

“3. The plaintiff shall take out a summons for directions within the time specified by the Chief Registrar.”.

Rule 4—For this rule substitute the following—

“4. Upon the hearing of the summons for directions, such directions shall be given as to the future course of the proceedings as appear best adapted to secure the just, expeditious and economical disposal thereof.”.

Rule 5—For this rule substitute the following—

“5—(1) If the plaintiff does not take out a summons for directions as provided in rule 3 the defendant or any defendant may do so or may apply for an order to dismiss the action.

(2) On the hearing of a summons taken out by a defendant the Chief Registrar may give such directions or make such other order, including an order as to costs, as he shall think fit.”.

ORDER 79—CRIMINAL PROCEEDINGS

Delete the whole of this Order.

ORDER 80—DISABILITY

Rule 1—(a) Delete “ ‘the Act’ means the Mental Health Act, 1959”.

(b) In the definition of the word “patient” delete “within the meaning of the Act”.

Rule 2—Delete para. (3).

Rule 3—(a) In para. (3), for “under Part VIII of the Act” substitute “under any enactment”.

(b) Delete para. (7).

(c) In para. (8) (b), for “under Part VIII of the Act” substitute “under any enactment”; and delete “of Protection”; and for “under the said Part VIII” substitute “under the enactment”.

(d) In para. (8) (c), immediately before the word “certifying”, add “or, where such person is not represented by a solicitor, by a probation officer, or other person approved or authorised by the Court”.

(e) In para. (8) (c) (iii), for “official solicitor” substitute “Public Trustee”.

Rule 4—In para. (2), for “under Part VIII of the Act” substitute “under any enactment”.

Rule 5—(a) In para. (1), for “registrar of the Principal Probate Registry” substitute “judge”.

(b) In para. (2), for “there must be produced to the registrar” substitute “there shall be filed in the Registry”.

(c) In para. (3), for “there must be produced to the registrar” substitute “there shall be filed in the Registry”.

(d) In para. (3), delete "of Protection"; and for "under Part VIII of the Act" substitute "under any enactment".

Rule 6—In para. (4), delete "in the Chancery Division".

Rule 10—For "not" substitute "no".

Rule 11—(a) In para. (1), for "section 174 of the County Courts Act, 1959" substitute "any enactment".

(b) For para. (2), substitute the following—

"(2) Where in proceedings under this rule a claim is made under the Compensation to Relatives Act, the originating summons must contain full particulars of the person or persons for whom and on whose behalf the action is brought and of the nature of the claim in respect of which damages are sought to be recovered."

(c) Delete para. (3).

Rule 12—(a) In para. (1), delete "whether, under section 174 of the County Courts Act, 1959, or this rule, or under both that section and this rule".

(b) In para. (3), delete "into a county court".

Rule 13—Delete this rule.

Rule 14—For this rule substitute the following—

"14. Rule 12 shall apply, with the necessary modifications, to all moneys which are, by any enactment, subject to the control of the Court, and directions under rule 12 may include directions as to any payment to be made to a widow or any other person on whose behalf the claim in question was made."

Rule 15—(a) In para. (1), for "the Fatal Accidents Acts, 1846 to 1959 and the Law Reform (Miscellaneous Provisions) Act, 1934", substitute "the Compensation to Relatives Act and the Law Reform (Miscellaneous Provisions) (Death and Interest) Act,".

(b) In para. (2), for "the Fatal Accidents Acts, 1846 to 1959," substitute "the Compensation to Relatives Act,"; and delete ", then, unless the sum has been apportioned between the persons entitled thereto by a jury,".

Rule 16—In para. (2), (b), for "under Part VIII of the Act" substitute "under any enactment".

ORDER 81—PARTNERS

Rule 10—(a) In para. (1), for "section 23 of the Partnership Act, 1890" substitute "section 24 of the Partnership Act"; and delete "or a judge thereof".

(b) Delete para. (2).

ORDER 82—DEFAMATION ACTIONS

Rule 8—Delete this rule.

ORDER 83—MONEYLENDERS' ACTIONS

Rule 1—In para. (2), for "section 6 of the Moneylenders Act, 1900" substitute "section 2 of the Moneylenders Act".

Rule 3—(a) Insert immediately after para. (e) the following—

"(ee) whether the note or memorandum consists of a promissory note and, if so, full particulars thereof."

(b) In para. (f), delete "or sent".

Rule 4—In para. (4) (a), for “section 1 (1) of the Moneylenders Act, 1900, as extended by section 10 of the Moneylenders Act, 1927” substitute “sections 21 and 22 of the Moneylenders Act”.

ORDER 84—ACTIONS ARISING OUT OF HIRE-PURCHASE OR CONDITIONAL SALE AGREEMENTS

Delete the whole of this Order.

ORDER 85—ADMINISTRATION AND SIMILAR ACTIONS
(NOTE.—Applied without modifications).

ORDER 86—ACTIONS FOR SPECIFIC PERFORMANCE, ETC.: SUMMARY JUDGMENT

Rule 1—In para. (1), delete “in the Chancery Division”.

Rule 3—Delete this rule.

ORDER 87—DEBENTURE HOLDERS' ACTIONS: RECEIVER'S REGISTER

Rule 6—(a) In para. (1), for “the Accountant-General shall not” substitute “no person shall”.

(b) In para. (2), delete “and send the certificate to the Accountant-General”.

ORDER 88—MORTGAGE ACTIONS

Rule 1—In para. (2), for “In this Order ‘mortgagee’ includes” substitute “In this Order ‘mortgage’ includes”.

Rules 2, 3 and 4—Delete these rules.

Rule 5—In para. (1), delete “in the Chancery Division”.

Rule 6—In para. (1), delete “in the Chancery Division”.

Rule 7—In para. (3), delete “in the Chancery Division”.

ORDER 89—PROCEEDINGS BETWEEN HUSBAND AND WIFE

Rule 1—For this rule substitute the following—

“1.—(1) Proceedings under section 20 of the Married Women's Property Act shall be commenced by originating summons.

(2) No appearance need be entered to the originating summons.”.

Rule 2—Delete this rule.

ORDER 90—REVENUE PROCEEDINGS IN CHANCERY DIVISION

Delete the whole of this Order.

ORDER 91—PROCEEDINGS RELATING TO INFANTS

Rule 1—(a) In para. (1), for “in the Chancery Division” substitute “in the Court”; and delete “assigned to the Chancery Division”.

(b) In para. (2), for “to the chief master, or to a master designated by him” substitute “to a judge”.

(c) Delete paras. (3) and (4).

Rule 2—Delete this rule.

Rule 3—For “under the Guardianship of Infants Act, 1886 (hereafter in this Order referred to as ‘the Act of 1886’), or the Guardianship of Infants Act, 1925

(hereafter in this Order referred to as 'the Act of 1925'), with respect to" substitute "with respect to the guardianship or custody of".

Rule 4—For para. (1) of this rule, substitute the following—

"4.—(1) Where the infant with respect to whose guardianship or custody an application is made is not the plaintiff, he shall not, unless the Court otherwise directs, be made a defendant to the summons or, if the application is made by ordinary summons, be served with the summons, but subject to paragraph (2), any other person appearing to be interested in, or affected by, the application shall be made a defendant or be served with the summons as the case may be."

Rules 5, 6 and 7—Delete these rules.

Rule 8—For "the order of a county court or magistrates' court under the Act of 1886 or the Act of 1925" substitute "any order of a magistrates' court with respect to the custody or maintenance of an infant under any enactment".

Rule 9—In para. (1), delete "in the Chancery Division".

ORDER 92—LODGMET, INVESTMENT, ETC. OF FUNDS IN COURT

Heading—In the heading delete "Chancery Division".

Rule 1—Delete this rule.

Rule 2—(a) In para. (1), for "section 63 of the Trustee Act, 1925" substitute "section 95 of the Trustee Act".

(b) In para. (2), for "the United Kingdom" substitute "Fiji".

(c) In para. (2), for "the Supreme Court Funds Rules for the time being in force" substitute "rules made under section 15 of the Act".

Rule 3—Delete this rule.

Rule 4—For "rule 1, 2 or 3" substitute "rule 2".

Rule 5—(a) In para. (1), delete "in the Chancery Division".

(b) In para. (2), delete "made in the Chancery Division".

(c) Delete paras. (3) and (4).

ORDER 93—APPLICATIONS TO COURT FOR VARIATION OF TRUSTS

Heading—Substitute new heading as above.

Rules 1 to 5 inclusive—Delete these rules.

Rule 6—For para. (1), substitute the following—

"(1) This rule applies to proceedings for variation of trusts under section 86 of the Trustee Act".

Rules 7 to 14 inclusive—Delete these rules.

ORDER 94—APPLICATIONS AND APPEALS TO HIGH COURT UNDER VARIOUS ACTS:

QUEEN'S BENCH DIVISION

Delete the whole of this Order.

ORDER 95—BILLS OF SALE ACTS, 1878 AND 1882

Delete the whole of this Order.

ORDER 96—THE MINES (WORKING FACILITIES AND SUPPORT) ACT, 1923, ETC.

Delete the whole of this Order.

ORDER 97—THE LANDLORD AND TENANT ACTS, 1927 AND 1954
Delete the whole of this Order.

ORDER 98—THE LOCAL GOVERNMENT ACT, 1933, PART X
Delete the whole of this Order.

ORDER 99—THE INHERITANCE (FAMILY PROVISION) ACT
Heading—In the heading for “Act 1938” substitute “Act”.

Rule 1—For this rule substitute the following—

“1. This Order applies to proceedings under the Inheritance (Family Provision) Act which in this Order is referred to as ‘the Act’ ”.

Rule 3—For “section 1 of the Act” substitute “section 3 of the Act”.

Rule 4—For this rule substitute the following—

“4. Any application under the Act in which it appears to the Court that the interests of an infant or other person under disability are affected may, if the Court thinks fit so to direct, be disposed of in chambers.”.

Rule 5—For “section 1 of the Act” substitute “section 3 of the Act”; and for “section 4 (2) of the Act” substitute “section 6 (2) of the Act”.

Rule 6—(a) In para. (1), for “section 1 or 4 of the Act” substitute “the Act”; and for “section 3 (3) of the Act” substitute “section 5 (3) of the Act”.

(b) For para. (2), substitute the following—

“(2) Immediately after any such order has been drawn up and entered the Chief Registrar shall cause a memorandum of the order to be endorsed on or annexed to the probate or the letters of administration and cause an office copy of the order to be placed on the probate file in the Registry relating to the estate.”.

(c) In para. (3), for “section 3 (3) of the Act” substitute “section 5 (3) of the Act”.

ORDER 100—THE TRADE MARKS ACT

Heading—In the heading for “Act 1938” substitute “Act”.

Rule 1—For this rule substitute the following—

“1. This Order applies to proceedings in the Supreme Court under the Trade Marks Act”.

Rule 2—(a) Delete para. (1).

(b) For para. (2), substitute the following—

“(2) Every appeal or application to the Supreme Court under the Trade Marks Act, must be begun by originating motion.”.

(c) For para. (3), substitute the following—

“(3) Notice of the motion must be served on the Administrator General”.

(d) For para. (4), substitute the following—

“(4) An appeal must be entered within 28 days after the date of the decision, order or other determination against which the appeal is brought.”.

(e) For para. (5), substitute the following—

“(5) An application under section 34 of the Trade Marks Act must be made within 28 days after the date of the decision of the Administrator-General in respect of which the application is made.”.

(f) For para. (6), substitute the following—

“(6) An application under section 62 of the Trade Marks Act must be made within 28 days after the date of the certificate of registration issued under section 58 of the Act.”.

Rule 3—In para. (3), for “Comptroller”, where it twice appears, substitute “Administrator-General”.

ORDER 101—THE PENSIONS APPEAL TRIBUNAL ACT, 1943

Delete the whole of this Order.

ORDER 102—THE COMPANIES ACT

Heading—In the heading for “Act 1948” substitute “Act”.

Rule 1—For this rule substitute the following—

“1. In this Order “the Act” means the Companies Act”.

Rule 2—(a) In para. (2) (a), for “section 208” substitute “section 155”.

(b) In para. (2) (b), for “section 375” substitute “section 295”.

(c) In para. (2) (c), for “section 428” substitute “section 299”.

(d) In para. (3), for “section 167 (4) or 441” substitute “section 136”.

(e) Delete para. (4).

Rule 3—(a) In para. (1), for “section 116” substitute “section 101”.

(b) Delete para. (3).

Rule 4—(a) In para. (1) (a), for “section 29” substitute “section 28 (3)”.

(b) In para. (1) (b), for “section 52 (3)” substitute “section 43 (3)”.

(c) In para. (1) (c), for “section 165” substitute “section 136”.

(d) In para. (1) (d), for “section 167 (3)” substitute “section 136 (5)”.

(e) Delete para. (1) (e).

(f) In para. (1) (f), for “section 352” substitute “section 284”.

(g) Delete para. (2).

Rule 5—(a) In para. (1) (a), for “section 5” substitute “section 7”.

(b) Delete para. (1) (b).

(c) Delete para. (1) (c).

(d) In para. (1) (d), for “section 57” substitute “section 48”.

(e) In para. (1) (e), for “section 58” substitute “section 47”.

(f) In para. (1) (f), for “section 67” substitute “section 57”.

(g) In para. (1) (g), for “section 72” substitute “section 62”.

(h) In para. (1) (h), for “section 206” substitute “section 154”.

(i) In para. (1) (i), for “section 353 (6)” substitute “section 285 (6)”.

(j) In para. (1) (j), for “section 395” substitute “section 315”.

(k) In para. (1) (k), for “section 448 (2)” substitute “section 349”.

(l) Delete para. (2).

Rule 6—(a) Delete para. (1).

(b) In para. (2), for “any such proceedings” substitute “any proceedings to which this Order relates”;

(c) In para. (3), for “section 188 (1)”, where it twice appears, substitute “section 214 (1)”.

Rule 7—(a) In para. (2) (a), for “section 57” substitute “section 48”.

(b) In para. (2) (b), for “section 206” substitute “section 154” and for “section 208” substitute “section 155”.

(c) In para. (2) (c), for "section 353 (6)" substitute "section 285 (6)".
(d) In para. (4), delete "the share premium account"; and for "section 67 (3)" substitute "section 57 (3)" and for "section 67 (2)" substitute "section 57 (2)".

Rule 8—In para. (1), for "office of the companies court registrar" substitute "Registry".

Rule 9—In para. (1), delete "and of that solicitor's London agent, if any".

Rule 12—For "office of the companies court registrar" substitute "Registry".

Rule 14—For "section 67 (2)" wherever it appears in this rule, substitute "section 57 (2)"; and for "the companies court registrar" substitute "the Chief Registrar".

Rule 17—For "section 57" substitute "section 48".

Rule 18—Delete this rule.

ORDER 103—THE PATENTS ACT: THE UNITED KINGDOM DESIGNS
(PROTECTION) ACT

Heading—Substitute new heading as above.

Rule 1—For this rule substitute the following—

"1. This Order applies to proceedings in the Supreme Court under the Patents and the United Kingdom Designs (Protection) Act".

Rules 2 to 16 inclusive—Delete these rules.

Rule 17—(a) For "Comptroller", wherever this word appears in this rule substitute "Administrator-General".

(b) In para. (1), delete "under section 30 of the Act".

(c) In para. (1), (c), for "the United Kingdom" substitute "Fiji".

(d) In para. (1), for "Journal" substitute "Gazette".

(e) In para. (2), delete "under the said section 30".

(f) In para. (4), for "Patent Office" substitute "the office of the Administrator-General".

(g) In para. (4), for "the Act" substitute "the Patents Act".

(h) In para. (4), for "Journal" substitute "Gazette".

Rule 18—For this rule substitute the following—

"18—(1) Every application to the Court for—

(a) the cancellation or revocation of any letters patent under section 5 of the Patents Act; or

(b) a declaration under section 28 of that Act; or

(c) a declaration under section 4 of the United Kingdom Designs (Protection) Act,
shall be made by petition".

(2) Any person presenting such a petition must state therein particulars of the grounds on which he intends to rely.

(3) The respondent to such a petition may serve an answer on the petitioner, within 21 days after service of the petition on him.

(4) On the hearing of such a petition the respondent shall be entitled to begin and to adduce evidence in support of the patent; and if the petitioner adduces evidence impeaching the validity of the patent, the respondent shall be entitled to reply."

Rule 19—(a) In para. (3), for "section 57 of the Act" substitute "any enactment".

(b) In para. (4) delete "in pursuance to section 61 of the Act".

Rule 25—In para. (1), for "the revocation of a patent" substitute "the cancellation or revocation of any letters patent under section 5 of the Patents Act, or for a declaration under section 28 of that Act,".

Rule 27—In para. (1), for "the Act" substitute "the Patents Act".

Rules 28 and 29—Delete these rules.

Rule 30—In para. (3), for "Comptroller", where it twice appears, substitute "Administrator-General".

ORDER 104—MAINTENANCE (PREVENTION OF DESERTION AND MISCELLANEOUS PROVISIONS) ACT

Heading—Substitute new heading as above.

Rules 1 to 12 inclusive—Delete these rules.

Sub-Heading—For the heading "IV. Attachment of Earnings Orders under Part II of the Act of 1958" substitute the following—

"ATTACHMENT OF EARNINGS ORDER UNDER PART III OF THE MAINTENANCE (PREVENTION OF DESERTION AND MISCELLANEOUS PROVISIONS) ACT".

Rule 13—(a) In para. (1), for "section 6 of the Act of 1958" substitute "section 12 of the Maintenance (Prevention of Desertion and Miscellaneous Provisions) Act in this Order referred to as 'the said Act'"; and delete "if the maintenance order in connection with which the application is made is registered in the High Court under Part I of that Act,".

(b) In para. (2) (f), delete sub-para. (iii).

Rule 14—(a) For "section 6 (3) (d) of the Act of 1958" substitute "section 12 (3) (c) of the said Act".

(b) For "section 11 (1) (a) of that Act" substitute "section 16 (1) (a) of the said Act".

Rule 15—Delete para. (5).

Rule 16—For this rule substitute the following—

"16. The proper officer of the Court for the purposes of giving notice under section 14 (2) of the said Act of the cessation of an attachment of earnings order shall, in the Supreme Court, be the Chief Registrar."

Rule 17—(a) In Para. (1), insert the words "or varies" after the word "discharges" and the words "or variation" after the word "discharge".

(b) In para. (1), for "section 9 (3) of the Act of 1958" substitute "section 14 (1) of the said Act".

(c) Delete paras. (2) and (3).

Rule 18—Delete this rule.

Rule 19—For "section 12 (1) of the Act of 1958" substitute "section 17 (1) of the said Act".

ORDER 105—THE RESTRICTIVE TRADE PRACTICES ACT, 1956

Delete the whole of this Order.

ORDER 106—PROCEEDINGS RELATING TO SOLICITORS: THE SOLICITORS ACT, 1957

Delete the whole of this Order.

ORDER 107—THE COUNTY COURTS ACT, 1959

Delete the whole of this Order.

ORDER 108—PROCEEDINGS RELATING TO CHARITIES: THE CHARITABLE TRUSTS
ACT

Heading—Substitute new heading as above.

For the whole of this Order substitute the following—

“1. In this Order—

“the Act” means the Charitable Trusts Act;

“charity proceedings” means proceedings in the Supreme Court brought under the Court’s jurisdiction with respect to charities or brought under the Court’s jurisdiction with respect to trusts in relation to the administration of a trust for charitable purposes.

2.—(1) Appeals to the Supreme Court under the Act shall be begun by originating summons and the Registrar of Titles must be made a party to the proceedings.

(2) All other charity proceedings brought in the Supreme Court shall be begun by originating summons, and the Attorney-General must be made a party to the proceedings.”.

ORDER 109—THE ADMINISTRATION OF JUSTICE ACT, 1960

Delete the whole of this Order.

ORDER 110—THE LIMITATION ACT, 1963

For the whole of this Order substitute the following—

“ORDER 110—ASSISTED PERSONS

1. Any poor person, being a party or intending party to any cause or matter in his own right, may apply to the Court by petition for leave to sue or defend in *forma pauperis*.

2. A petition for leave to sue or defend in *forma pauperis* shall be supported by an affidavit by the petitioner, and by such further evidence as the Court may require, that the petitioner is not possessed of property to the amount of two hundred dollars in value, excepting wearing apparel, and the matter or thing claimed by him if he be the plaintiff in the cause or matter, and thereupon the application shall be referred to a solicitor to consider the case.

3. Upon the petitioner producing a certificate signed by the solicitor to whom the application was referred under rule 2 that he has considered the case and believes the petitioner to have a good cause of action or defence, as the case may be, the Court may, subject to rule 4, admit the petitioner to sue or defend, as the case may be, in *forma pauperis*, and may appoint a solicitor to appear for him.

4. No person shall be admitted to sue or defend in *forma pauperis* unless he shall have filed in the Court an affidavit containing a full statement of all the material facts of the case to the best of his belief.

5. A solicitor to whom an application under rule 2 has been referred or who, under rule 3, has been appointed to appear for a person admitted to sue or defend in *forma pauperis*, may not refuse, or discontinue, his assistance, unless he satisfies the Court that he has some good reason for refusing or discontinuing.

6.—(1) No fee shall be taken by any solicitor assigned to assist or to appear for a person applying or admitted to sue or defend in *forma pauperis*.

(2) No fees of court shall be demanded by any officer from any person applying or admitted to sue or defend in *forma pauperis*. Provided that if a person admitted to sue or defend in *forma pauperis* shall succeed in the cause or matter and costs should be awarded to be paid by the other party, then, out of any costs subsequently recovered from the other party, the solicitor so assigned shall be entitled to and shall receive all such costs as may be allowed to him on taxation, and such fees of court as would have been chargeable, shall be charged and paid to the Registry.

7. Any person having been admitted to sue or defend in *forma pauperis*, who
- (a) becomes of means during the progress of the cause or matter; or
 - (b) misbehaves himself in the proceedings by any vexatious or improper conduct; or
 - (c) wilfully delays the cause or matter,

shall on the same being shown to the Court be deprived of all the privileges of an assisted person.

8. In special circumstances, and subject to the availability of public funds for the purpose, legal aid may be granted to any party or intending party to any proceedings in the Supreme Court but only upon the specific authority of the Chief Justice to be obtained in each case.”.

ORDER 111—THE NATIONAL INSURANCE ACT, 1965; THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT, 1965

For the whole of this Order substitute the following—

“ORDER 111—ABSCONDING DEBTORS

1. An application under section 6 of the Debtors Act for an order for a warrant to issue for the arrest of a defendant who is about to abscond may be made by the plaintiff in the action *ex parte*, supported by an affidavit, to a judge in chambers.

2. The Court may make the order upon such terms as it shall think fit and may make it subject to—

- (a) the giving by the plaintiff of an undertaking as to damages in like manner as in the case of an interlocutory injunction,
- (b) the payment by the plaintiff of a deposit in advance to cover the cost of the defendant's subsistence whilst in prison,
- (c) the giving of such recognisance or otherwise to secure the prosecution of the action by the plaintiff without delay, and
- (d) the release of the absconding defendant after his arrest upon him giving such security as may be ordered.

3.—(1) If the warrant or order shall have been made conditional upon the payment of money to cover the cost of the defendant's subsistence, the amount expended for that purpose shall be added to the sum recoverable under the warrant or in the action, as the case may be, without further order unless the Court shall otherwise direct.

(2) The costs of and incidental to the order of arrest and its execution shall be costs in the cause unless otherwise ordered.

4. When the Court orders that a warrant be issued it shall order that the absconding defendant shall be released from custody upon—

- (a) depositing in Court or with the Sheriff the amount mentioned in the order, or
- (b) executing a bond in the sum mentioned in the order with such sureties for such sums as may be specified therein with or without surrendering his passport, or
- (c) providing some other security satisfactory to the plaintiff, and the warrant shall be endorsed accordingly upon its issue.

5. The plaintiff may at any time apply to a judge in chambers by summons supported by affidavit to vary the security ordered or given and the judge may make such order as he thinks fit.

6.—(1) The Sheriff or other officer named in a warrant of arrest shall within two days after the arrest, endorse on the warrant the true date of such arrest and make a return accordingly to the Court.

(2) Upon payment to the Sheriff or into Court of the amount stated in the warrant or upon the security ordered being given, the Sheriff or other officer executing the warrant shall release the defendant from custody and shall make a return to the Court accordingly.

7. A warrant to arrest an absconding defendant shall be in the form set out in this rule, which shall be added to the forms in Appendix A as Form No. 107—

"FORM NO. 107
WARRANT TO ARREST AN ABSCONDING DEFENDANT

(ORDER 111)
(TITLE AS IN ACTION)

To the Sheriff of Fiji:

Whereas by an Order of the Court made this day it was ordered that the above-named defendant be arrested and committed to prison there to be kept until he shall have given bail or security for his appearance at any time when called upon while the above action is pending and until execution or satisfaction of any judgment that may be made against him in the action.

These are therefore to command you in Her Majesty's name to arrest the said and convey him to the prison and deliver him to the officer in charge thereof who is hereby directed safely to keep him unless and until he shall—

- (a) deposit the sum of \$, or
- (b) surrender his passport and give to the plaintiff a bond executed by him and sufficient sureties each in the penalty of \$ or some other security satisfactory to the plaintiff that he will not go out of Fiji without the leave of the court.

Dated this day of , 19 .

Chief Registrar

The Plaintiff's address for service is

*APPENDIX A

Form No. 1: Delete form No. 1 and substitute therefor the following:—

“Form of Writ of Summons for use when endorsed with—

- (1) Indorsement of Claim or
- (2) Statement of Claim” (O6 R1).”

No. of 19

IN THE SUPREME COURT OF FIJI

Between:
and

Plaintiff
Defendant.

ELIZABETH THE SECOND, by the Grace of God, Queen of Fiji and of Her other Realms and Territories, Head of the Commonwealth.

To
of

WE COMMAND you, that within 8 days after the service of this Writ on you inclusive of the day of such service you do cause an appearance to be entered for you in an action at the suit of and take notice that in default of your so doing the plaintiff may proceed therein, and judgment may be given in your absence.

WITNESS

Chief Justice of Fiji, at
this day of , 19
Barrister and Solicitor for the Plaintiff.

Note: This writ may not be served more than 12 calendar months after the above date unless renewed by order of the Court.

Direction for Entering Appearance

The Defendant may enter an appearance in person or by a solicitor by handing in the appropriate forms, duly completed, at the Supreme Court Registry at

Note: Where the writ is indorsed with or served with a statement of claim, if the defendant enters an appearance, then, unless a summons for judgment is served on him in the meantime, he must also serve a defence on the solicitor for the plaintiff within 14 days after the last day of the time limited for entering an appearance, otherwise judgment may be entered against him without notice.

INDORSEMENT OF CLAIM (i)
STATEMENT OF CLAIM (i)

And, where the claim is for a debt or liquidated demand the sum of \$25.00 (or such sum as may be allowed on taxation) for costs, and also, if the plaintiff obtains an order for substituted service, the further sum of \$12.00 (or such sum as may be allowed on taxation). If the amount claimed and cost

* Inserted by Rules 22nd January 1971.

(i) Delete where not applicable.

be paid to the plaintiff (he being resident within the jurisdiction), or his solicitor or agent within 8 days after service hereof (inclusive of the day of service), further proceedings will be stayed.

INDORSEMENT OF SERVICE

This Writ was served by me at
on the Defendant
the day of

, 19
Indorsed the day of , 19

.....
.....
.....

AFFIDAVIT OF SERVICE

I
make oath and say as follows:—

1. I did on the day of , 19

at
personally serve
the within-named defendant with a true copy of the within writ of summons which appeared to me to have been regularly issued out of the Supreme Court against the above-named defendant at the suit of the above-named plaintiff and which was dated the

day of , 19

2. At the time of the said service the said writ and the copy thereof were subscribed in the manner and form prescribed by the Rules of the Supreme Court.

3. I did on the day of , 19 indorse on the said writ the day of the month and the week of the said service on the said defendant.

Sworn at
this day of
19

Before me

.....
A Commissioner for Oaths.

Form No. 3: Delete notes thereunder and substitute therefor the following:—
“Writ of Summons indorsed with statement of claim (O6 R1).
As in Form No. 1.”
Queen’s Bench Master’s Practice Forms

Form No. PF51: Delete directions set out at the head of this form after “N.B.”
and substitute therefor the following directions:—
“Applicants to include only the text of any matter required.”

APPENDIX 2
PART 1—GENERAL FEES

NOTE.—The fees prescribed in this Part shall be taken in all causes and matters save where different fees are prescribed for the same item in any other part of this Appendix or any Act or rule.

	\$
1. On filing or presenting and sealing any writ, petition, summons or notice of motion for the commencement of any action, cause, matter or proceedings other than an originating <i>ex parte</i> application	8-00
(This fee covers the filing of whatever process requires to be filed, the sealing of whatever process requires to be sealed and the issue of whatever process requires to be issued in order to commence the action, cause, matter or proceedings.)	
2. On sealing a concurrent or renewed or amended writ, petition, summons or notice	1-00
3. On an originating <i>ex parte</i> application, whether made in Court or in chambers	4-00
4. On sealing or issuing any notice of motion, summons, writ, citation, notice, fiat, certificate or other document unless otherwise provided for	2-00
(This fee covers both sealing and issuing the same document where this is required.)	
5. On issuing a summons under the Reciprocal Enforcement of Judgments Act or the Foreign Judgments (Reciprocal Enforcement) Act for leave to have a judgment registered ...	2-00
6. On entering an appearance	1-00
7. On amending an appearance	1-00
8. On filing in the Supreme Court a notice of appeal or a special case or a scheme pursuant to an Act and setting down the appeal or special case or scheme for hearing, other than an appeal from a magistrates' court under the provisions of the Magistrates' Courts Act and the Magistrates' Courts Rules ...	15-00
9. On sealing a notice of appeal from the Chief Registrar or a Deputy Registrar to a judge in chambers	2-00
10. On sealing an order for entry for trial of any action, cause, matter or proceedings for hearing in Court (other than a matrimonial cause)	8-00
(This fee is not payable in respect of an appeal from a magistrate's court.)	
11. On adjourning an originating summons from chambers into Court	8-00
12. On setting down a point of law for hearing in Court	8-00
(No additional fees will be payable under Item 10 if later entered for trial.)	
13. On setting down a cause on summons or motion for judgment under Order 19 Rule 7	5-00
14. On sealing a commission or letter of request for the examination of witnesses abroad	4-00

	\$
15. On the examination of a witness before an officer of the Court or a special examiner (including the examination of a judgment debtor) or before trial by a judge:—	
(a) In any action, cause, matter or proceedings pending in the Supreme Court	4-00
(b) In any other matter	20-00
16. On entering or sealing any order made in chambers	2-00
17. On entering or sealing a judgment, decree or order (other than a decree in a matrimonial cause) given, directed or made in Court	5-00
(This includes the fee for settling the judgment, decree or order.)	
18. On entering or sealing a judgment without an order or pursuant to an order made in chambers	3-00
19. On sealing a writ of subpoena (to include not more than three names)	1-00
20. On sealing a writ of execution (including a writ of attachment) ..	2-00
21. On sealing a garnishee order <i>nisi</i> or a charging order <i>nisi</i>	3-00
22. On filing any document unless otherwise provided for	0-50
(This fee is not payable on filing a document already stamped with a fee prescribed in this Appendix or on filing a notice withdrawing a cause or an appeal.)	
23. On any one search	0-50
24. For any certificate unless otherwise provided for	0-50
25. (a) For supplying a typed, carbon or duplicated copy of any judgment, order, decree, document or proceedings— with a minimum fee of \$0-50	0-15
(Provided that the Chief Registrar may, on grounds of hardship, waive, wholly or in part, any amount by which this fee may exceed \$40.)	per page (foolscap size)
(b) For a copy, other than a photocopy, in a foreign language or for a copy of a plan, map, section, drawing, photograph or diagram	The reasonable costs thereof as certified by the Chief Registrar
26. For supplying a transcript, or a duplicated or carbon copy thereof, of shorthand notes of proceedings—with a minimum fee of \$0-50	0-15
(Provided that the Chief Registrar may, on grounds of hardship, waive, wholly or in part, any amount by which this fee may exceed \$40.)	per page (foolscap size)
27. For supplying a photocopy of any document	0-14 per page

	\$
28. For certifying or marking any document as an office copy or a true copy—with a minimum fee of \$0.50 and a maximum fee of \$4.00	0.20
	per page up to foolscap size
29. Upon an application for the production of records or documents to be given in evidence:—	
(a) where the records or documents are sent by post	1.00
(b) where an officer is required to attend whether on subpoena or not, his reasonable expenses and in addition for each day or part of a day he is necessarily absent from his office	5.00
30. (a) On administering any oath or declaration (except in Court) or taking an affidavit or an affirmation: for each deponent	0.50
(b) In addition for each exhibit required to be marked	0.20
31. On taking a recognizance or a bond or vacating the same	2.00
32. On filing a bill of costs and obtaining an appointment to tax:—	
For a bill not exceeding \$100	5.00
For a bill exceeding \$100 but not exceeding \$200	8.00
For a bill exceeding \$200	14.00
(This fee is to be paid on the amount claimed in the bill. No additional fee is payable for the taxation.)	
33. On a certificate of allocatur	0.50
34. On sealing or issuing a commission to take oaths or affidavits in the Supreme Court	15.00
35. Where the Chief Registrar or a Deputy Registrar is required to perform any duties away from his office:—	
For his travelling, lodging and subsistence:	reasonable expenses.

PART 2—(REVOKED)

PART 3—COURT FEES IN PROBATE ACTIONS,
PROCEEDINGS AND MATTERS

(CONTENTIOUS AND NON-CONTENTIOUS BUSINESS)

38. On the issue of a grant of Probate or Letters of Administration with
or without the Will annexed:

If the net real and personal estate is sworn to be under the
value of:—

\$	\$
2,000	1·00
4,000	3·00
6,000	6·00
8,000	8·00
10,000	10·00
12,000	12·00
14,000	14·00
16,000	16·00
18,000	18·00
20,000	20·00
24,000	22·00
28,000	24·00
32,000	26·00
36,000	28·00
40,000	30·00
50,000	34·00
60,000	40·00
70,000	46·00
80,000	50·00
90,000	54·00
100,000	58·00
120,000	66·00
140,000	72·00
160,000	78·00
180,000	84·00
200,000	90·00
240,000	96·00
280,000	102·00
320,000	108·00
360,000	114·00
400,000	120·00
500,000	128·00
600,000	136·00
750,000	144·00
800,000	152·00
1,000,000	162·00

	\$
For every additional \$200,000 or any fractional part or \$200,000 a further and additional fee of	20-00
39. On the issue of a duplicate or triplicate Probate or Letters of Administration with or without the Will annexed	2-00
40. On the issue of double or cessate Probate or Letters of Administration with or without the Will annexed, <i>de bonis non</i> or cessate	3-00
41. On the issue of a grant of Probate of a Codicil or Codicils, or Letters of Administration with a Codicil or Codicils annexed, being a Codicil or Codicils to a Will already proved	1-00
42. For re-sealing a grant or sealing an exemplification or copy under the British and Colonial Probates Act exclusive of the fees, if any, for every issuing and collating the will and other documents filed with the same but including sealing	3-00
43. For giving notice of re-seal	0-50
44. For making alterations in grants of Probate or Letters of Administration in pursuance of the order of a judge	1-00
45. For revocation of a grant	1-00
46. For impounding a grant, or releasing an impounded grant (inclusive fee)	2-00
47. For noting a re-swearing of value and certificate of security (inclusive fee)	1-00
48. For noting on a grant and the record the addition of a personal representative (including filing and affidavit)	1-00
49. For noting on record of grant that an executor to whom power was reserved has renounced (inclusive fee)	1-00
50. For the entry or withdrawal of a caveat	0-50
51. On the issue of a warning to a caveat	0-50
52. For service by the Chief Registrar of a warning to a caveat	0-50
53. For settling the abstract of citation for advertisement, or other advertisement	0-50
54. For settling and sealing a citation (inclusive fee)	1-00
55. On sealing extra copies of the citation: for each such copy	1-00
56. On the issue of an exemplification, in addition to the fees for collating	1-00
57. For collating Wills and other documents, per page	0-50
58. For 3 photocopies of Will for engrossment on grant, copy grant and copy oath, including impressing the seal of the Court	0-50
	(not to exceed per page 14" x 9")
59. For noting renunciations, or any other necessary matter on the record of a grant	1-00
60. For perusing and settling oaths to lead to grant of Probate or Letters of Administration with or without Will or other instruments—per page	0-50
61. For perusing deeds and other documents when necessary—per page	0-10

APPENDIX 3
 SHERIFF'S FEES

SERVICE	\$
1. For receiving and entering process for service	1-00
2. For service of any process:	
(a) within 2 miles from the nearest Deputy Sheriff's office	1-00
(b) exceeding 2 miles from the nearest Deputy Sheriff's office, for every additional mile, in addition to (a)...	0-10
FIERI FACIAS	
3. Receiving and entering Writ of Execution	1-00
4. Receiving and entering order of suspension of execution	0-50
5. On every enlargement of return	0-50
6. Poundage	1-00
	for every \$20 or part thereof
7. Precept to bailiff	1-00
8. Seizure or collection of the sum endorsed on the Writ of Execution without seizure:	
(a) within 2 miles of nearest Deputy Sheriff's office	2-00
(b) exceeding 2 miles from the nearest Deputy Sheriff's office, for every additional mile, in addition to (a)...	0-10
9. For man:	
(a) in actual physical possession, <i>per diem</i>	2-00
(b) in walking possession, <i>per diem</i>	0-50
10. In the event of a <i>nulla bona</i> return being rendered after due inquiries: for time spent making inquiries	2-00
11. Commission on sale	1-00
	for every \$20 or part thereof
12. Delivery of goods in replevin:	
(a) within 2 miles of the nearest Deputy Sheriff's office	2-00
(b) exceeding 2 miles from the nearest Deputy Sheriff's office, for every additional mile, in addition to (a).....	0-10
13. For taking a replevin bond	4-00
14. For assignment of replevin bond	2-00
15. For taking a bond of indemnity	4-00
16. When goods or animals are removed, for warehousing and taking charge of the same (including feeding of animals) \$1.00 for each \$40 or part thereof of the value of the goods or animal removed, or of the sum endorsed on the writ of execution, whichever is the less. No fee for keeping possession of the goods or animals is to be charged after they have been removed.	
17. For work done by Sheriff's officer in inquiring into any claim for rent or claim to the goods	2-00
18. Preparing notice to execution creditor to admit or dispute claim and sending same by post	0-50

	\$
ARREST	
19. Receiving and entering a Writ or Warrant	1-00
20. Precept to bailiff	1-00
21. For every arrest or collection of the amount endorsed on the warrant by way of payment or deposit without arrest:	
(a) within 2 miles of Deputy Sheriff's office	2-00
(b) exceeding 2 miles from the nearest Deputy Sheriff's office for every additional mile, in addition to (a) ...	0-10
22. For conveying to court or to prison from place of arrest, not exceeding <i>per diem</i> , in addition to reasonable travelling expenses actually incurred	2-00
23. On a release on bail or a bond, where authorised and filing bail bond	1-00
24. For assignment of bail bond	2-00
GENERAL	
25. Receiving and entering any process not otherwise provided for ..	1-00
26. For executing a search warrant in bankruptcy or process for possession, attachment or committal or for collecting any sum entered on any process without execution:—	
(a) within 2 miles from the nearest Deputy Sheriff's office	2-00
(b) exceeding 2 miles from the nearest Deputy Sheriff's office per mile, in addition to (a)	0-10
27. For any duty not herein provided for	such sum as the Court may allow.
28. Reasonable expenses, additional or otherwise, necessarily incurred in all matters, including subsistence allowance payable to bailiff.	
29. For Sheriff or his Deputy attending court on the hearing of interpleader proceedings: per hour or part thereof	1-00

APPENDIX 4
PART I—SCALE OF COSTS

	<i>Lower Scale</i> \$	<i>Higher Scale</i> \$
1. Instructions for and writing letter before action or defence	2-00	4-00
2. Instructions to sue inclusive of preparation, issue, service on one party and affidavit of service of a writ of summons (one defendant only)	10-00	15-00
3. For obtaining and filing any necessary authority or consent	2-00	3-00
4. For taking instructions to sue from each additional plaintiff	2-00	3-00
5. On judgment in default of appearance or defence where		

	Lower Scale \$	Higher Scale \$
no application to the Court or a judge is required including entry of a consent judgment or a judgment after discontinuance	3·00	7·00
6. On any judgment whether in default of appearance or defence or under O.XIV where application to the Court or a judge is required	8·00	15·00
7. (a) Instructions to defend inclusive of preparation, filing and service of appearance in respect of one defendant	5·00	10·00
(b) For each additional defendant represented	2·00	3·00
8. In addition to Item 7 for each defendant for whom a guardian <i>ad litem</i> is appointed	2·00	3·00
9. Instructions for Statement of Claim inclusive of preparation, filing and service	8·00	15·00
10. Instructions for Statement of Defence or Counterclaim or Defence and Counterclaim inclusive of preparation, filing and service	8·00	15·00
11. Instructions for Reply or subsequent pleading or Defence to Counterclaim or Reply and Defence to Counterclaim inclusive of preparation, filing and service	4·00	8·00
12. Instructions for Summons for Directions inclusive of preparation, filing, service, appearance and order, and also subsequent incidental notices such as a notice requiring discovery of documents: but not including a notice for further directions which if certified for is to be treated as a fresh summons for directions	6·00	10·00
13. (a) Instructions for and preparation of list of documents and service thereof	4·00	15·00
(b) Affidavit verifying list if required	2·00	2·00
14. (a) Instructions for interrogatories inclusive of preparation of application and proposed interrogatories, filing and service of same, attendance in support, preparing, filing and serving order and perusing answers	15·00	30·00
(b) Instructions to oppose application for interrogatories and attendance in chambers	7·00	20·00
15. If the interrogatories settled by the order exceed 2 pages then for each additional page or part thereof	0·75	0·75
16. Instructions for answers to interrogatories inclusive of preparation, swearing, filing and service of affidavit .	6·00	13·00
17. If foregoing answers exceed 2 pages then for each additional page or part thereof	0·75	0·75
18. Instructions for notice to produce documents or admit facts or documents or any similar notice not otherwise provided for inclusive of preparation, filing and service	4·00	8·00

	Lower Scale \$	Higher Scale \$
19. If any such notice shall exceed 2 pages then for each additional page or part thereof	0-75	0-75
20. Production or inspection of documents pursuant to notice inclusive of all services incidental thereto	4-00	8-00
21. Instructions for admission of facts pursuant to notice inclusive of preparation, filing and service	6-00	12-00
22. (a) Application for entry of action for trial and attendance thereat	10-00	15-00
(b) If pleadings exceed 5 pages for each page of pleadings in excess	0-20	0-20
23. Instructions for and preparing for trial inclusive of instructions for and preparation of brief	15-00	60-00
24. Attendance at trial of an action or proceeding	20-00	75-00
25. Brief fee to extra barrister and solicitor in respect of any proceeding if certified for per day	15-00	40-00
26. Refreshers to barrister and solicitor in respect of any proceeding per day	12-00	30-00
27. Originating Summonses or petitions inclusive of all services from instructions to completion as certified for and inclusive of barrister and solicitor's fee thereon for first day of hearing	45-00	90-00
28. Instructions to defend originating summons inclusive of all services from appearance to completion and inclusive also of barrister and solicitor's fee thereon for first day of hearing	30-00	75-00
29. (a) Instructions for and attendance on summonses, motions, and other applications inclusive of all services from instructions to completion not otherwise provided for in this scale	8-00	16-00
(b) In addition for each adjourned hearing (unless a refresher fee is allowed)	4-00	12-00
(c) In addition if necessary affidavits exceed 3 pages then for each additional page or part thereof	0-75	0-75
30. Preparing and settling a special case	8-00	20-00
31. Argument on special case or question of law as certified for	20-00	75-00
32. Taking accounts, making inquiries and other similar proceedings before the Chief Registrar or in chambers per hour	5-00	8-00
33. Matrimonial suits. In accordance with each step in action of this scale, <i>mutatis mutandis</i>		
34. Appeals from inferior courts or from Chief Registrar or Deputy Registrar or other persons or bodies not otherwise provided for inclusive of all services from instructions to completion (but excluding special applications such as for a stay of execution in an appeal)	30-00	75-00

	Lower Scale \$	Higher Scale \$—
35. Payment into or out of Court	2·00	2·00
36. Instructions for taxation of costs as between party and party inclusive of all services from instructions to completion	6·00	10·00
37. Instructions for any form of execution authorised by any rule of Orders 45, 46 and 47 where no application to the Court or a judge is required inclusive of all services from instructions to completion	6·00	10·00
38. Instructions for execution where an application to the Court or a judge is required, inclusive of all services from instructions to completion	8·00	20·00
39. Instructions for attachment of debts under Order 49 inclusive of all services from instructions to completion but exclusive of execution under Rule 4 or of any trial under Rules 5 or 6 the costs of which execution or trial may be separately allowed.....	6·00	10·00
40. Subpoena <i>ad testificandum</i> and <i>duces tecum</i> including issue and service for each witness	4·00	4·00
41. For preparing and entering a caveat or preparing and issuing a warning thereto	5·00	5·00
42. Service fees: in addition to the above fees the following fees for service may be added in appropriate cases and where service by post is not authorised:—		
(a) For service at a distance of more than 2 miles from the nearest place of business of the serving barrister and solicitor; per mile in excess of 2 miles	0·10	0·10
(b) If a bailiff is employed—all necessary and reasonable charges properly incurred and paid		
(c) Where in consequence of the distance involved it is necessary to instruct another barrister and solicitor to arrange for service to be effected ..	2·00	2·00
43. In any case a judge of the Supreme Court either at the trial or on notice of motion made within 14 days after judgment is pronounced may certify for an increase in any of the above charges, of such amount as he thinks fit having regard to all the circumstances of the case.		
44. Fees which may be taken by Commissioners for Oaths shall be as in Item 30 of Appendix 2.		
45. For any business not covered by the above scales such as instructions, letters, telephone calls, attendances, etc. the charges in respect thereof shall be calculated on the basis of the scale of costs in the Supreme Court in England subsisting at the 1st January, 1967, but without the addition of any percentage increase.		

PART II—FIXED COSTS

- A. Fixed costs are applicable only to the following cases:—
- (1) where the claim is for a debt or liquidated sum in excess of \$600·00,
 - (2) where possession of land is claimed except in suits between landlord and tenant for possession of land or houses where the annual value or rent does not exceed \$800·00,
 - (3) in any other case where the Chief Registrar authorises the endorsement or recovery of such fixed costs, not exceeding those set out in this part, as he may think fit.
- B. Save where expressly otherwise provided the fixed costs allowed in this part include the Court fees and other disbursements recoverable from the other party.

EIGHT-DAY COSTS

1. The amount of costs indorsed on a writ of summons claiming a liquidated demand only, under Order 6, Rule 2 (1) (b), whether indorsed with a statement of claim or not shall be:—

If one defendant	\$ 25·00
For each extra defendant	2·50
2. In addition to the above the following may be added to provide for the contingency of substituted service
3. Where service out of the jurisdiction is ordered the following additional allowances shall be added

\$
25·00
2·50
12·00
20·00

JUDGMENT IN DEFAULT OF APPEARANCE OR OF DEFENCE FOR A DEBT OR LIQUIDATED AMOUNT ONLY OR FOR POSSESSION OF LAND

(The following sums apply whether or not the statement of claim is indorsed on the writ)

- | | |
|--|-------|
| | \$ |
| 4. On entering judgment for a debt or liquidated amount | 30·00 |
| For each extra defendant served | 3·00 |
| 5. On entering judgment for possession of land only or for possession of land and a liquidated sum | 30·00 |
| For each extra defendant served | 3·00 |
| 6. Additional allowances applicable, unless taxation is ordered:— | |
| (1) Where substituted service ordered and effected | 10·00 |
| (2) Where service is ordered and effected out of the jurisdiction | 20·00 |
| (3) Moneylender's cases— | |
| Application for leave to enter judgment under Order 83, Rule 4 | 8·00 |
| (4) If separate judgments against more than one defendant are necessarily entered, for each such additional judgment | 5·00 |

JUDGMENT UNDER ORDER 14

7. (a) Upon entering judgment after obtaining an order for judgment under Order 14 unless taxation is ordered 40-00
(b) For each extra defendant 2-50
8. In addition, for each adjourned hearing unless taxation is ordered 4-00

GARNISHEE PROCEEDINGS
(Order 49)

JUDGMENT CREDITOR'S COSTS

9. The costs which may be endorsed on the Garnishee Order *Nisi* shall be \$ 20-00

- ON ISSUING A WRIT OF FIERI FACIAS, ORDER OF COMMITTAL OR WARRANT
10. The costs which may be endorsed on the Writ, Order or Warrant in addition to Court fees endorsed thereon shall be 6-00

Rules. 20th Oct., 1893 [in force 25th Aug., 1894]

SECTION 25.—*SUPREME COURT (ADMIRALTY) RULES

Made by the Chief Justice

Short title

These Orders and Rules may be cited as the Supreme Court (Admiralty) Rules.

ORDER I—COMMENCEMENT OF ADMIRALTY ACTION

O. 1, R. 1. Commencement of action

1. All actions which prior to the commencement in Fiji of the Colonial Courts of Admiralty, 1890, were commenced by a cause *in rem* or *in personam* in the Vice-Admiralty Court of Fiji, shall be instituted in the Supreme Court by a proceeding to be called an "Action".

ORDER II—ARREST WARRANT

O. 2, R. 1. Admiralty affidavit, etc., required to lead warrant

1. In admiralty actions *in rem* a warrant for the arrest of property may be issued at the instance either of the plaintiff or of the defendant at any time after the writ of summons has issued, but no warrant of arrest shall be issued until an affidavit by the party or his agent has been filed, and the following provisions complied with:—

- (a) the affidavit shall state the name and description of the party at whose instance the warrant is to be issued, the nature of the claim or counter-claim, the name and nature of the property to be arrested, and that the claim or counter-claim has not been satisfied;

* Approved by Order in Council dated 10th March, 1894, published in the *Fiji Royal Gazette* of 25th July, 1894. (See *Laws of Fiji* (1945 Edition), Vol. VI, page 105.)

- (b) in an action of wages or of possession the affidavit shall state the national character of the vessel proceeded against; and, if against a foreign vessel, that notice of the commencement of the action has been given to the Consul of the State to which the vessel belongs if there be one resident in Fiji, and a copy of the notice shall be annexed to the affidavit;
- (c) in any action of bottomry the bottomry-bond, and, if in a foreign language, also a notarial translation thereof, shall be produced for the inspection and perusal of the Registrar, and a copy of the bond, or of the translation thereof, certified to be correct, shall be annexed to the affidavit.

O. 2, R. 2. Except by leave

2. The Court or a judge may in any case allow the warrant to issue although the affidavit in rule 1 mentioned may not contain all the required particulars; and in any action of wages the Court or judge may also waive the service of the notice and in an action for bottomry the production of the bond.

ORDER III—SERVICE OF WRIT OF SUMMONS AND WARRANT

O. 3, R. 1-5. Admiralty actions in rem.

1. In admiralty actions *in rem* no service of writ or warrant shall be required where the barrister and solicitor of the defendant agrees to accept service and to put in bail, or to pay money into Court in lieu of bail.

Service of warrant of arrest

2. In admiralty actions *in rem* the warrant of arrest shall be served by the Marshal or his substitutes, whether the property to be arrested be situate within the port of Suva or elsewhere within the jurisdiction of the Court, and the barrister and solicitor issuing the warrant shall, within six days from the service thereof, file the same in the Admiralty Registry.

Service of writ, how effected

3. In admiralty actions *in rem*, service of a writ of summons or warrant against ship, freight, or cargo on board, is to be effected by nailing or affixing the original writ or warrant for a short time on the mainmast, or on the single mast of a vessel, and, on taking off the process, leaving a true copy of it nailed or fixed in its place.

When cargo landed

4. If the cargo has been landed or transhipped, service of the writ of summons or warrant to arrest the cargo and freight shall be effected by placing the writ or warrant for a short time on the cargo, and, on taking off the process, by leaving a true copy upon it.

Where no access to cargo

5. If the cargo be in the custody of a person who will not permit access to it, service of the writ or warrant may be made upon the custodian.

ORDER IV—APPEARANCE

O. 4, R. 1-4. Solicitor not entering appearance

1. A barrister and solicitor not entering appearance or putting in bail or paying money into Court in lieu of bail in an admiralty action *in rem*, in pursuance of his written undertaking so to do, shall be liable to an attachment.

Bail-bond in admiralty actions

2. In admiralty actions *in rem*, bail may be taken before the Admiralty Registrar, or before any district registrar or commissioner to administer oaths in the Supreme Court, and in every case the sureties shall justify.

Time for filing bond

3. A bail-bond shall not, unless by consent, be filed until after the expiration of twenty-four hours from the time when a notice containing the names and addresses of the sureties and of the commissioner before whom the bail was taken shall have been served upon the adverse barrister and solicitor, and a copy of the notice verified by affidavit shall be filed with the bail-bond.

Intervention

4. In an admiralty action *in rem* any person not named in the writ may intervene and appear on filing an affidavit showing that he is interested in the *res* under arrest or in the fund in the registry.

ORDER V—DEFAULT OF APPEARANCE

O. 5, R. 1-3. Default of appearance

1. In admiralty actions *in rem*, upon default of appearance the plaintiff at the expiration of eighteen days from the service of the writ of summons and a warrant may, upon filing his statement of claim, together with proof in support thereof, and also the writ of summons, affidavit of service, and warrant, enter the action for trial.

Trial by default

2. In admiralty actions *in rem*, upon default of appearance, if, when the action comes before him, the judge is satisfied that the plaintiff's claim is well founded, he may pronounce for the claim with or without a reference to the Admiralty Registrar or to the Admiralty Registrar assisted by merchants, and may at the same time order the property to be appraised and sold, with or without previous notice, and the proceeds to be paid into Court, or may make such order as he shall think just.

As to proceeds in Court

3. In an admiralty action *in rem*, where property has been sold by the Court and the proceedings are against proceeds in Court, no warrant of arrest shall be necessary, but the plaintiff shall in lieu thereof enter a caveat payment, and service of the writ of summons upon the Registrar shall be a sufficient service.

ORDER VI—PRELIMINARY ACT

O. 6, R. 1. Actions for damage by collision

1. In actions for damage by collision between vessels, unless the Court or a judge shall otherwise order, the barrister and solicitor for the plaintiff shall, within

seven days after the commencement of the action, and the barrister and solicitor for the defendant shall, within seven days after appearance, and before any pleading is delivered, file with the Registrar or other proper officer, as the case may be, a document to be called a "Preliminary Act", which shall be sealed up, and shall not be opened until ordered by the Court or a judge, and which shall contain a statement of the following particulars:—

- (a) the names of the vessels which came into collision, and the names of their masters;
- (b) the time of the collision;
- (c) the place of the collision;
- (d) the direction and force of the wind;
- (e) the state of the weather;
- (f) the state and force of the tide;
- (g) the course and speed of the vessel when the other was first seen;
- (h) the lights, if any, carried by her;
- (i) the distance and bearing of the other vessel when first seen;
- (k) the lights, if any of the other vessel which were first seen;
- (l) whether any lights of the other vessel, other than those first seen, came into view before the collision;
- (m) what measures were taken, and when, to avoid the collision;
- (n) the parts of each vessel which first came into contact;
- (o) what fault or default, if any, is attributed to the other vessel.

The Court or a judge may order the Preliminary Act to be opened, and the evidence to be taken thereon without its being necessary to deliver any pleadings; but in such case, if neither party intends to rely on the defence of compulsory pilotage, he may do so, and shall give notice thereof in writing to the other party, within two days from the opening of the Preliminary Act.

ORDER VII—PLEADINGS

O. 7, R. 1-5. Admiralty action in rem

1. In admiralty actions *in rem*, the plaintiff shall, within twelve days from the appearance of the defendant, deliver his statement of claim.

Delivery of defence

2. The defendant shall deliver his defence within ten days after the delivery of the statement of claim.

Delivery of reply

3. The plaintiff shall deliver his reply, if any, within six days after the delivery of the defence.

Where default in delivery of defence

4. In admiralty actions, if the defendant makes default in delivering a defence, the plaintiff may, on filing the statement of claim, set down the action on motion for judgment, and such judgment shall be given as upon the statement of claim the judge shall consider the plaintiff to be entitled to. If the property proceeded against in action *in rem* remains under arrest the plaintiff shall together with the statement of claim file his proofs in support thereof.

Evidence by affidavit

5. In default actions *in rem* evidence may be given by affidavit.

ORDER VIII—PAYMENT OUT OF COURT

O. 8, R. 1-2. Admiralty "Caveat Payment Book"

1. A barrister and solicitor desiring to prevent the payment of money out of Court in an admiralty action shall file a notice, and thereupon a caveat shall be entered in a book, to be kept in the Admiralty Registry, called the "Caveat Payment Book".

Payment out of Court

2. Money paid into Court in an admiralty action shall not be paid out of Court except in pursuance of an order of the judge.

ORDER IX—RELEASES IN ADMIRALTY ACTIONS

O. 9, R. 1-4. "Release"

1. Property arrested by warrant shall only be released under the authority of an instrument issued from the registry, to be called a "Release".

Withdrawal of warrant Release

2. A barrister and solicitor at whose instance any property has been arrested may, before an appearance has been entered, obtain the release thereof by filing a notice that he withdraws the warrant.

Payment into registry. Release

3. A barrister and solicitor may obtain the release of any property by paying into the registry the sum in respect of which the action has been commenced.

Release of cargo

4. Cargo arrested for freight only, may be released by filing an affidavit as to the value of the freight, and by paying the amount of the freight into the registry or by satisfying the judge that it has already been paid.

O. 9, R. 5-14. Salvage actions

5. In an action of salvage, the value of the property under arrest shall be agreed, or an affidavit of value filed, before the property is released, unless the Court or a judge shall otherwise order.

Release on filing bail-bond, etc.

6. A barrister and solicitor, who shall have filed a bail-bond in the sum in respect of which the action has been commenced, or paid such sum into the registry, and, if the action be one of salvage, shall have also filed an affidavit as to the value of the property arrested, shall be entitled to a release for the same, unless there be a caveat against the release thereof outstanding in the Caveat Release Book.

Release to be left at registry

7. The release, when obtained, shall be left with a notice with the Marshal or his substitute as the case may be by the barrister and solicitor taking out the same, who shall also at the same time pay all costs, charges and expenses attending the care and custody of the property whilst under arrest; and the property shall thereupon be released.

Caveat against release

8. A barrister and solicitor in an action, desiring to prevent the release of any property under arrest in that action shall file in the registry a notice, and thereupon a caveat against the release of the property in that action shall be entered in a book to be kept in the principal registry called the "Caveat Release Book".

Delaying release Costs

9. A party delaying the release of any property by the entry of a caveat shall be liable to be condemned in costs and damages unless he shall show to the satisfaction of the Court or a judge good and sufficient reason for having so done.

Caveat against arrest warrant

10. A party desiring to prevent the arrest of any property may cause a caveat against the issue of a warrant for the arrest thereof to be entered in the Admiralty Registry.

"Caveat Warrant Book"

11. For the purpose in rule 10 mentioned the party shall cause to be filed in the registry a notice, signed by himself or his barrister and solicitor, undertaking to enter an appearance in any action that may be commenced against the said property, and to give bail in such action in a sum not exceeding an amount to be stated in the notice, or pay such sum into the registry; and a caveat against the issue of a warrant for the arrest of the property shall thereupon be entered in a book to be kept in the registry called the "Caveat Warrant Book".

Service of writ on party entering caveat

12. A barrister and solicitor commencing an action against any property in respect of which a caveat has been entered in the Caveat Warrant Book shall forthwith serve a copy of the writ upon the party on whose behalf the caveat has been entered, or upon his barrister and solicitor.

Bail

13. Within three days from the service of the writ or copy thereof, the party on whose behalf the caveat has been entered shall, if the sum in respect of which the action is commenced does not exceed the amount for which he has undertaken, give bail in such sum or pay the same into the registry.

If bail not given, action may proceed

14. After the expiration of twelve days from the service of a copy of the writ as required by rule 12, if the party on whose behalf the caveat has been entered shall not have given bail in such sum, or paid the same into the registry, the plaintiff's barrister and solicitor may proceed with the action by default, and, on filing his proofs in the registry, may have the action placed on the list for hearing.

O. 9, R. 15-16. Judgment enforced by attachment

15. If, when the action comes before the judge, he is satisfied that the claim is well founded, he may pronounce for the amount which appears to him to be due, and may enforce the payment thereof by attachment against the party on whose behalf the caveat has been entered, and by the arrest of the property if it then be or thereafter come within the jurisdiction of the Court.

Warrant for arrest notwithstanding caveat

16. Nothing in these Rules shall prevent a barrister and solicitor from taking out a warrant for the arrest of any property, notwithstanding the entry of a caveat in the Caveat Warrant Book, but the party at whose instance any property in respect of which a caveat is entered shall be arrested, shall be liable to have the warrant discharged and to be condemned in costs and damages, unless he shall show, to the satisfaction of the judge, good and sufficient reasons for having so done.

ORDER X—SALES BY THE COURT

O. 10, R. 1-3. Appraisalment or sale of property

1. Every commission for the appraisalment or sale of property under the order of the Court shall, unless the Court or a judge shall otherwise order, be executed by the Marshal or his substitutes.

Payment into Court of gross proceeds of sale

2. The Marshal shall pay into Court the gross proceeds of sale of any property which shall have been sold by him, and shall at the same time bring into the registry the account of the sale, with vouchers in support thereof, for taxation by the Registrar.

Taxation of Marshal's expenses

3. Any person interested in the proceeds may be heard before the Registrar on the taxation of the Marshal's account of expenses, and an objection to the taxation shall be heard in the same manner as an objection to the taxation of a barrister and solicitor's bill of costs.

ORDER XI—REFERENCES IN ADMIRALTY ACTIONS

O. 11, R. 1-4. Application of order

1. This Order shall apply to references by the Court or a judge to the Registrar, whether the reference be to the Registrar alone or to the Registrar assisted by one or by two merchants.

Filing of claim and affidavits

2. Within twelve days from the day when the order for a reference is made, the barrister and solicitor for the claimant shall file the claim and affidavits; and within twelve days from the day when the claim and affidavits are filed, the adverse barrister and solicitor shall file his counter-affidavits.

Filing of further affidavits

3. From the filing of the counter-affidavits six days only shall be allowed for filing any further affidavits by either barrister and solicitor, save by order of the Court or a judge, or by permission of the Registrar.

Placing reference in list for hearing

4. Within three days from the expiration of the time allowed for filing the last affidavits, the barrister and solicitor for the claimant shall file in the registry a notice, with the stamps for the reference placed on the list for hearing, and if he shall not do so, the adverse barrister and solicitor may apply to the Court or a judge to have the claim dismissed with costs.

O. 11, R. 5-11. Hearing of reference

5. At the time appointed for the reference, if either barrister and solicitor be present the reference may be proceeded with; but the Registrar may adjourn the reference from time to time as he may deem proper.

Evidence before registrar. Shorthand-writer

6. Witnesses may be produced before the Registrar for examination, and the evidence shall upon the application of either barrister and solicitor, but at the expense in the first instance of the party on whose behalf the application is made, be taken down by a shorthand-writer or reporter appointed by the Court, who shall be sworn faithfully to report the evidence, and a transcript of the shorthand-writer's or reporter's notes, certified by him to be correct, shall be admitted to prove the oral evidence of the witnesses on an objection to the Registrar's report. Evidence may be given on affidavit.

Attendance of barristers and solicitors before Registrar

7. Barristers and solicitors may attend the hearing of any reference, but the expenses attending the employment of barristers and solicitors shall not be allowed on taxation, unless the Registrar shall be of the opinion that such attendance was necessary.

Costs

8. The Registrar may, if he think fit, report whether any and what part of the costs of the reference should be allowed, and to whom.

Filing of report

9. The barrister and solicitor for the claimant shall, within six days from the time when he has received a notice from the registry that the report is ready, take up and file the same in the registry.

Filing report by adverse barrister and solicitor

10. If the barrister and solicitor for the claimant shall not take the steps prescribed in rule 9, the adverse barrister and solicitor may take up and file the report, or may apply to the Court or a judge to have the claim dismissed with costs.

Notice of objection to report

11. A barrister and solicitor intending to object to the Registrar's report shall, within six days from the filing of the report, file in the registry a notice, a copy of which shall have been previously served on the adverse barrister and solicitor; and within a further period of twelve days he shall file his petition in objection to the report.

ORDER XII—TIME

O. 12, R. 1-2. Appointment of early day for trial in admiralty actions

1. In admiralty actions the Court or a judge shall have power at any stage of the proceedings in any such action upon a motion or summons by either party, for the trial to take place on an early date to be appointed by the Court or a judge, to appoint that such trial shall take place on any day or within any time which the Court or judge shall think fit, and for such purpose the Court or judge shall have power upon such motion or summons to dispense with the giving of notice of trial, or to abridge the time or times for giving such notice, for the delivery of pleadings or for doing any other act or taking any other proceeding in the action, upon such terms, if any, as the nature of the case may require.

Dispensing with delays in taking bail in admiralty actions

2. The delays required by these Rules with respect to the taking of bail in admiralty actions may be dispensed with by consent of the barristers and solicitors in the action.

O. 12, R. 3. Caveat in admiralty actions in force for six months

3. In admiralty actions a caveat whether against the issue of a warrant, the release of property, or the payment of money out of the Admiralty Registry, shall not remain in force for more than six months from the date thereof.

ORDER XIII—SERVICE OF ORDERS

O. 13, R. 1-5. Issue and date of instruments

1. Every instrument under the seal of the Court, and prepared in the Admiralty Registry, shall be issued on a notice filed by the barrister and solicitor applying for the same, and shall bear date on the day on which it is issued.

Service of instrument

2. Every instrument shall be served within twelve months from the day on which it bears date, otherwise the service thereof shall not be valid.

Not to be served on Sunday, etc.

3. No instrument except a warrant shall be served on a Sunday, Good Friday or Christmas Day.

Service of warrants, etc., by the Marshal

4. Every warrant or other instrument required to be served by the Marshal shall be left by the barrister and solicitor taking out the same with a notice with the Marshal or his substitute as the case may be.

Verification of service

5. The service of any instrument by the Marshal shall be verified by his certificate. Service of any instrument by a barrister and solicitor, his clerk, or agent, shall be verified by an affidavit.

ORDER XIV—MISCELLANEOUS

O. 14, R. 1-4. Damages by collision at sea

1. In any cause or proceeding for damages arising out of a collision between two ships, if both ships shall be found to have been in fault, the rules hitherto in force in the Vice-Admiralty Court so far as they have been at variance with the rules in force in the Courts of Common Law, shall prevail.

Agreement in writing between solicitors in admiralty actions when made order of the Court

2. Any agreement in writing between the barristers and solicitors in admiralty actions, dated and signed by the barristers and solicitors of both parties, may, if the Admiralty Registrar think it reasonable and such as the judge would under the circumstances allow, be filed, and shall thereupon become an order of the Court, and have the same effect as if such order had been made by the judge in person.

Filing documents in admiralty actions

3. On filing any instrument or document in admiralty actions the barrister and solicitor shall state in writing, on a printed form, called a minute, to be obtained in the Admiralty Registry, the nature of the instrument or document filed, and the date of the filing thereof.

Minute-Book in admiralty actions

4. In admiralty actions a record of all such minutes as in rule 3 mentioned, and of all actions commenced, and appearances entered, and of all orders of the Court shall be entered in a book, to be kept in the Admiralty Registry, called the "Minute-Book".

ORDER XV—FORMS

O. 15, R. 1. Forms

1. The forms in force and used in the Admiralty Division of the High Court of Judicature in England, and contained in the Appendices to the Supreme Court (England) Rules 1883, shall, with such variations as circumstances may require, be in force and be used in admiralty actions in the Supreme Court of Fiji.

ORDER XVI—FEES

O. 16, R. 1. Schedule

1. The fees contained in the Schedule shall be taken in the Supreme Court in admiralty causes for the several matters mentioned herein.

SCHEDULE

TABLES OF FEES TO BE TAKEN IN THE SUPREME COURT OF
 FIJI (ADMIRALTY JURISDICTION)

I—COURT FEES

	\$	c
On administering any oath or declaration in court or in chambers	0	50
On examination before him of any witness before trial	2	00
On any motion in chambers	1	00
On any motion in court	2	00
On a final decree in an uncontested action	2	00
On a final decree in a contested action	10	00
On the assessment of damages, or taking of any account, if assessed or taken by the judge, according to the case.	2	00
On signing or certifying any document	0	50

II—IN THE REGISTRY

1. *For preparing Instruments, etc.*

For sealing any writ of summons or other document required to be sealed	0	25
For preparing any warrant, release, commission, attachment, or other instrument, required to be sealed, or any bail-bond.	1	00
For preparing a receivable order or a receipt for money to be paid out of Court	0	50
For preparing and sending any notice	0	25
For preparing any other document, for every folio	0	20

Note.—The fees for preparing shall include drawing and fair copying or engrossing.

2. *For Filing*

On filing any instrument or other document except minutes and exhibits	0	50
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3. *For Evidence, etc.*

For administering any oath or declaration, except before the judge	0	25
For taking down and certifying the evidence of any witness examined before him, for every folio	0	15

4. *For the Trial, etc.*

On a final decree in an uncontested action	1	00
On a final decree in a contested action	2	00
For attendance before the judge when any order is made or act done, other than pronouncing a final decree	1	00

Note.—The above fees shall include the entry of the decree or order in the Minute-Book.

5. *For References*

For hearing any reference, according to the case, per day	2	00
For preparing the report of a reference	2	00

	\$	c .
<i>6. For Taxations</i>		
For taxing a bill of costs—		
If the bill does not exceed ten folios	1	00
For every folio beyond ten	0	10
<i>7. For Office Copies, etc.</i>		
For an office copy of any document, for every folio (in addition to the fee for sealing)	0	10
For a search of the records by any person not a party to the action	0	25
Note.—No search-fee is to be charged to a party to the action, or to any seaman.		
III—BY THE ASSESSORS		
For each nautical or other assessor, whether at the examination of witnesses or at the trial of an action, or upon any assessment of damages, or taking of an account, according to the case, per day.	From	2·00
	To	10·00
Note.—The above fees shall be paid to the Registrar, for the assessors, and in the first instance by the party preferring the claim.		
IV—BY A COMMISSIONER TO EXAMINE WITNESSES		
For administering any oath or declaration		0·25
For taking down and certifying the evidence of any witness examined before him, for every folio		0·15
V—BY A COMMISSIONER TO TAKE BAIL		
For attending the execution of any bail-bond		1·00
For taking any affidavit of justification		0·25
VI—IN THE MARSHAL'S OFFICE		
For executing any warrant or attachment		2·00
For keeping possession of any ship, goods, or ship and goods (exclusive of any payments necessary for the safe custody thereof), for each day		0·25
Note.—No fee shall be allowed to the Marshal for the custody and possession of property under arrest, if it consists of money in a bank, or of goods stored in a bonded warehouse, or if it is in the custody of a Customs officer or other authorised person.		
On release of any ship, goods, or person from arrest		1·00
For attending the unlivery of cargo, for each day		4·00
For executing any commission of appraisement, sale, or appraisement and sale, exclusive of the fees, if any, paid to the appraiser and auctioneer		2·00
For executing any other commission or instrument		2·00
On the gross proceeds of any ship, or goods, etc., sold by order of the Court—		
If not exceeding \$200	2	00
For every additional \$200 or part thereof	1	00
Note.—If the Marshal, being duly qualified, acts as auctioneer, he shall be allowed a double fee on the gross proceeds.		

	\$	c
On a final decree in an uncontested action	1	00
On a final decree in a contested action	2	00

Note.—If the Marshal or his officer is required to go any distance in execution of his duties, a reasonable sum may be allowed for travelling, boat-hire, or other necessary expenses in addition to the preceding fees.

VII—BY BARRISTER AND SOLICITOR ACTING AS SOLICITOR

Retaining fee	1	00
For preparing a writ of summons (to include attendances in the registry for sealing the same)	1	00
For bespeaking and extracting any warrant or other instrument prepared in the registry (to include attendances)	1	00
For serving a writ of summons or a subpoena	0	50
For taking instructions for a petition or answer	2	00
For drawing a petition or answer	2	00
For taking instructions for any further pleading	0	50
For drawing any further pleading	1	00
For drawing any other document, for every folio	0	10
For fair-copying or engrossing any document, for every folio	0	05
For taking instructions for any affidavit (unless made by the barrister and solicitor or his clerk) or for interrogatories or answers, according to the nature or importance thereof	From	0
	To	2
For taking instructions for brief	From	0
	To	2
For attending counsel in conference or consultation	1	00
For attending to fee counsel	1	00
For attendance on any motion before the judge—		
If with counsel	1	00
If without counsel	2	00
For attending the examination of witnesses before the trial, for each day—		
If with counsel	2	00
If without counsel	4	00
For attendance at the trial, for each day	From	2
	To	6
For attendance at the delivery of judgment, if reserved	1	00
For attendance at the hearing of a reference to the Registrar, for each day—		
If with counsel	From	2
	To	4
If without counsel	From	2
	To	10
For any other necessary attendance before the judge, or in the registry, or on the Marshal, or on the adverse party or barrister and solicitor, in the course of the action	0	50

Note.—Where more than one document can conveniently be filed, or one document can be filed and another bespoken, at the same time, the fee for one attendance only shall be allowed.

	\$	c
For any necessary letter to the adverse party	0-35	
For serving any notice	0-25	
For extracting and collating any office copy obtained from the registry, for every folio	0-03	
For correcting the press, for every folio	0-02	
For attending the taxation of any bill of costs, not exceeding ten folios ..	1-00	
For every folio beyond ten	0-05	

VIII—BY BARRISTER AND SOLICITOR ACTING AS COUNSEL

Retaining fee		2-10
For settling any pleading, interrogatories, or answers, etc.	{	From 2-10 To 8-40
For any necessary consultation in the course of the action	{	From 2-10 To 4-20
For any motion	{	From 2-10 To 6-30
For the examination of witnesses before the trial, for each day	{	From 4-20 To 8-40
For the trial of an uncontested action		4-20
For the trial of a contested action, for the first day	{	From 6-30 To 21-00
For each day after the first	{	From 4-20 To 10-50
For attending judgment if reserved	{	From 2-10 To 4-20
For the hearing of a reference to the Registrar, for each day	{	From 4-20 To 10-50

Note.—Where the same practitioner acts as both counsel and solicitor, he may, for any proceeding in which a counsel's fee might be allowed, charge such fee in lieu of a solicitor's fee.

WITNESSES

The allowances to witnesses for loss of time and travelling expenses shall be according to the scale for the time being in force in the Supreme Court.

SECTION 25—MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) RULES

Made by the Chief Justice

Rules 3rd Oct., 1941 [in force 10th Oct., 1941].

1. These Rules may be cited as the Maintenance Orders (Facilities for Enforcement) Rules.

Definition

2. In these Rules "Act" means the Maintenance Orders (Facilities for Enforcement) Act. (Cap. 54.)

Registration of copy order

3. The certified copy of an order made by a court in England or Ireland or any country or territory of the Commonwealth or any territory under Her Majesty's protection to which the Act applies, and received by the Governor-General under section 3 of the Act, may be sent to the Chief Registrar who shall—

- (a) if the court in which the order was made was a court of superior jurisdiction, register such order in the Cause Book of the Supreme Court; or
- (b) if the court in which the order was made was not a court of superior jurisdiction, forward such order for registration to a magistrates' court in the Division in which the defendant is alleged to reside.

Provisional order and requisition for summons Forms A and B

4.—(1) The certified copy of a provisional order made by a court in England or Ireland or in any such country or territory as aforesaid, and received by the Governor-General under section 6 of the Act, may be sent with the accompanying documents mentioned in the said section and a requisition for the issue of a summons, to the Chief Registrar. Such requisition and summons shall be in accordance with Forms A and B respectively in the Schedule or to the like effect.

(2) The Chief Registrar shall—

- (a) if the court in which the order was made was a court of superior jurisdiction, enter it in the Cause Book of the Supreme Court in the same manner as though the order had been made by the Supreme Court; or
- (b) if the court in which the order was made was not a court of superior jurisdiction, forward such order and accompanying documents to a magistrate in the Division in which the defendant is alleged to reside, together with the requisition for the issue of a summons. The magistrate shall enter the order in the Cause Book of his court in the same manner as though the order had been made by the said court in the first instance, distinguishing it from other entries so as to show that it is entered in pursuance of the Act.

Form B

(3) On receipt of an order as in this rule provided, the Chief Registrar or the magistrate shall issue, and cause to be served on the defendant, a summons in Form B in the Schedule.

Provisional order made in Fiji

5.—(1) When a provisional order made by a court in Fiji, and transmitted to a court in England or Ireland or in any such country or territory as aforesaid, has been remitted to the court which made the order for the purpose of taking further evidence, the clerk of the court shall cause the matter to be brought before the court as soon as practicable.

Form C

(2) Before proceeding to take such evidence the court shall cause notice, in Form C in the Schedule, to be sent to the complainant.

Notice to parties Form D

6. When depositions taken by a court in England or Ireland or in any such country or territory as aforesaid, in connexion with an order remitted to that court for the purpose of taking further evidence, have been sent to a court in Fiji, the clerk of the court shall send notice to the parties concerned of the time and place at which the matter will be considered by the court, and such notice shall be in Form D in the Schedule.

Notice to Registrar Form E

7. When an order made in England or Ireland or in any such country or territory as aforesaid, has been confirmed with or without modification under section 6 of the Act, or the court has decided not to confirm it, where, after confirmation, it has been rescinded or varied, the clerk of the court shall send notice of the court's decision to the Chief Registrar for transmission to the court by which the provisional order was made. Such notice shall be in Form E in the Schedule, and it shall be accompanied by a copy of the provisional order.

Payments, how made and enforced.

8.—(1) When an order has been registered under section 3 of the Act or a provisional order has been confirmed under section 6 of the Act, all payments due under the order shall be made through the court in which such order has been registered or confirmed.

(2) The clerk of the court shall take all necessary proceedings for enforcing payment of any sum due under the order and of the costs of such enforcement, as though such sum were a debt due to the court; and shall send all moneys collected under the order to the Chief Registrar for transmission to the clerk of the court by which the order was made. A statement giving the names of the parties in the case and particulars of the period covered by the payment shall accompany each remittance, the cost of which shall be deducted from the amount to be remitted.

Magistrate may take evidence

9. In any case in which a provisional order under section 6 of the Act has been received and entered by the Chief Registrar under the provisions of these Rules, the Chief Justice may, if it shall appear to him advisable, order that the summons, issued in pursuance of a requisition in that behalf, shall be heard before a magistrate exercising jurisdiction in the Division in which the defendant resides. In this event the magistrate hearing the said summons shall record the evidence taken before him in the form of depositions and shall forward the same when complete to the Supreme Court together with his findings of fact thereon. The Chief Justice shall thereupon make such order on the findings as he shall deem expedient.

SCHEDULE

FORM A

(Rule 4)

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT

(Section 6)

REQUISITION FOR SUMMONS

To the Chief Registrar of the Supreme Court of Fiji:

Whereas upon the application of _____ a provisional order under the
[state title of Act] was made against _____ in the Court holden
at _____ for the payment of _____ towards the maintenance
of _____ :

And whereas a certified copy of the said order together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to me in the manner prescribed:

Now, therefore, I _____, Governor-General of Fiji, in accordance with the provisions of the Maintenance Orders (Facilities for Enforcement) Act, do hereby forward you the said documents and request you to issue or cause to be issued a summons against the said _____ calling upon him to appear before the appropriate court to show cause why the said order should not be confirmed.

Dated at Suva the _____ day of _____, 19 _____
By Command,

FORM B

(Rule 4)

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT

(Section 6)

SUMMONS TO THE DEFENDANT TO SHOW CAUSE WHY
A PROVISIONAL ORDER SHOULD NOT BE CONFIRMED

To _____ of _____ in the _____ Division of Fiji.

Whereas upon the application of _____ a provisional order under the
[state title of Act] was made against you in the Court holden at _____ for the
payment of _____ towards the maintenance of _____

And whereas a certified copy of the said order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed has been transmitted in the manner prescribed to the Governor-General of Fiji who has caused the said order, depositions and statement to be sent to the Chief Registrar of the Supreme Court with a requisition that a summons be issued thereon:

This is therefore to command you to appear on _____ the
day of _____, 19____, at _____ o'clock in
the _____ noon before the [Magistrates' Court or Supreme Court]
at _____ to show cause why the said order made against you should not
be confirmed in accordance with the Act in such case made and provided.

Given under my hand this _____ day of _____, 19____.

Magistrate or Chief Registrar of the Supreme Court.

FORM C
(Rule 5)

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT

In the [Magistrates' Court or Supreme Court] holden at _____
in Fiji. Complainant and _____ Defendant.
To _____ of _____ in Fiji.

Take notice that the provisional order for maintenance made against the
abovenamed defendant on the _____ day of _____, 19____, on
your complaint has been remitted by [name of reciprocating court] Court
at _____ for the purpose of further evidence in the matter being taken.

You are therefore required to appear before the [Magistrates' Court or
Supreme Court] at _____ on _____ the _____ day
of _____, 19____, at _____ o'clock in the _____ noon and
there adduce to the court further evidence touching the following matters.

[Here set out matters.]

Dated the _____ day of _____, 19____.
Clerk of the Court.

FORM D
(Rule 6)

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT

In the [Magistrates' Court or Supreme Court] holden at _____
in Fiji. Complainant and _____ Defendant.
To _____ of _____ in Fiji.

Take notice that certain depositions which may be inspected by you at my
office and of which a copy will be supplied to you on payment of the prescribed fees
have been forwarded to this Court by the _____ Court
in _____ and that the further consideration of the application now
pending for the [confirmation, rescission or variation] of the provisional order
herein will be proceeded with at the [Magistrates' Court or Supreme Court]
at _____ on _____ the _____ day of _____, 19____, at
_____ o'clock in the _____ noon.

Dated the _____ day of _____, 19____.
Clerk of the Court.

FORM E

(Rule 7)

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT

In the [Magistrates' Court or Supreme Court] holden at
in Fiji. Complainant and Defendant.

The order made in the above-mentioned case came before this Court on the
day of , 19 , for [confirmation, rescission or variation]
and after due inquiry the Court arrived at the following decision:—

[Here set out the court's decision.]

Chief Registrar of the Supreme Court or Magistrate.

To the Clerk of the Court at

SECTION 25—SUPREME COURT (REMOVAL OF
JUDGMENTS) RULES

Made by the Chief Justice

Rules 29th Aug., 1947 [in force 5th Sept., 1947].

Short title.

1. These Rules may be cited as the Supreme Court (Removal of Judgments) Rules.

Application for removal

2. An application under section 35 of the Magistrate's Courts Act for the removal of a judgment of a magistrates' court into the Supreme Court shall be made by affidavit in the form contained in the First Schedule (Form No. 1).

Order for removal

3. An order for the removal of a judgment of a magistrates' court into the Supreme Court may be made in the form contained in the First Schedule (Form No. 2).

Entry of judgment in Supreme Court

4. A judgment entered in the Supreme Court following the removal of a judgment of a magistrates' court may be given in the form contained in the First Schedule (Form No. 3).

Fees

5. The fees payable in connexion with the removal of a judgment of a magistrates' court into the Supreme Court shall be those contained in the Second Schedule.

FIRST SCHEDULE

FORM NO. 1

AFFIDAVIT TO LEAD TO ORDER UNDER SECTION 35 OF THE
MAGISTRATES' COURTS ACT

In the Supreme Court of Fiji. Cause No. _____ of 19 ____
In the matter of a civil cause or matter (No. _____ of 19 ____) in the magistrates'
court at _____

Wherein A.B. is Plaintiff and C.D. is Defendant.

I, X.Y. of _____, Barrister and Solicitor in the above-named cause or matter for
the above-named A.B. make oath and say as follows:—

1. On the _____ day of _____, 19 ____, in the magistrates' court at _____
judgment was obtained by the above-named A.B. against the above-
named X.Y. for \$ _____ being₁
and \$ _____ costs amounting together to \$ _____

2. The said judgment still remains unsatisfied to the extent of \$ _____ and
interest amounting to \$ _____, in all \$ _____

3. The said C.D. has no goods or chattels within Fiji which can be
conveniently seized to satisfy the above-named judgment.

4.₂The said C.D. is possessed of land and hereditaments in Fiji which it is
desired to take in execution.

₂The said C.D. is now resident at _____ and it is intended to seek
enforcement of the said judgment in the Supreme Court of _____ by means of
the provisions of the law relating to the reciprocal enforcement of judgments.

Wherefore it is prayed that the Court may be pleased to order that the said
judgment be removed into the Supreme Court and that judgment be entered in the
Supreme Court for the amount due and payable under the judgment of the
magistrates' court together with the costs of this application.

₁State nature of claim.

₂Strike out whichever is inapplicable.

FORM NO. 2
ORDER UNDER SECTION 35 OF THE MAGISTRATES'
COURTS ACT

In the Supreme Court of Fiji. Cause No. of 19
Between A.B. Plaintiff and C.D. Defendant.

The day of , 19 .
Upon reading the affidavit of X.Y. filed the day
of , 19 : It is ordered that the judgment in Cause No.
of 19 , in the magistrates' court at be removed
into the Supreme Court and that judgment be entered in the Supreme Court for the
sum of \$ due under the said judgment of the magistrates' court and the
costs of this application.

By the Court,
Chief Registrar.

FORM NO. 3
JUDGMENT UNDER SECTION 35 OF THE MAGISTRATES'
COURTS ACT

In the Supreme Court of Fiji. Cause No. of 19
Between A.B. Plaintiff and D.C. Defendant.

JUDGMENT

The day of , 19 .
Whereas by the judgment of the magistrates' court at
in Cause No. of 19 , dated , 19 , it was adjudged that the above-
named plaintiff recover against the above-named defendant \$ and
\$ costs amounting together to \$:

And whereas by section 35 of the Magistrates' Courts Act, it is provided that a
judge of the Supreme Court, if satisfied that a person whether resident within Fiji
or not against whom judgment for an amount exceeding forty dollars has been
obtained in a magistrates' court, has no goods or chattels within Fiji which can be
conveniently seized to satisfy the judgment, may by order under his hand and the
seal of the Court remove the judgment into the Supreme Court and upon such
removal judgment shall be entered in the Supreme Court for the amount due and
payable under the judgment of the magistrates' court together with such costs as
the judge may direct:

And whereas in pursuance of the provisions of the abovementioned section an
order was made by a judge of the Supreme Court on the day of
, 19 , directing that the above-named judgment be
removed into the Supreme Court and that judgment be entered in the Supreme
Court for the sum due under the judgment of the magistrates' court and the costs of
the application.

Therefore it is adjudged that the plaintiff do recover against the defendant
\$ and costs fixed at \$7-25 inclusive.

By the Court,
Chief Registrar.

SECOND SCHEDULE

	\$
On filing affidavit	1.00
On sealing order	1.00
On entering judgment	1.00

SECTION 25—SUPREME COURT (INCOME TAX APPEALS) RULES

Made by the Chief Justice

*Rules 3rd July, 1947 [in force 11th July, 1947], 5th Nov., 1962.
Short title.*

1. These Rules may be cited as the Supreme Court (Income Tax Appeals) Rules.

Construction

2. In construing these Rules the expressions herein contained shall have the same meaning as in the Income Tax Act and "Court" shall mean the Supreme Court. (Cap. 201.)

Grounds of Commissioner's appeal to be lodged in Court and copy furnished to taxpayer

3. If the Commissioner is dissatisfied with the decision of the Court of Review and refers the matter to the Court for hearing and determination in accordance with the provisions of section 68 of the Income Tax Act, he shall at the time of making such reference lodge in the Court his reasons for dissatisfaction and he shall furnish a copy of such reasons to the taxpayer when he notifies him that such reference has been made. (Cap. 201.)

Notice to Court of Review and transmission of record

4. Upon receipt by the Court of a reference from the Commissioner under the provisions of section 68 of the Income Tax Act, the Registrar shall give notice thereof to the Court of Review, and thereupon the record of the proceedings, including all books and documents admitted as evidence or tendered as evidence and rejected, the notes of evidence and the decision of the Court of Review, shall forthwith be transmitted by the Court of Review to the Chief Registrar. (Cap. 201.)

Copies of the record

5. The Chief Registrar shall cause a copy of the notes of evidence, and such other documents forming part of the record as he may deem necessary or expedient, to be made at the cost of the appellant for the use of the Court and shall, on the application and at the cost of any party to the appeal, furnish such party with a like copy or any part thereof.

Notice of hearing

6. The Chief Registrar shall give fifteen clear days' notice in writing to the parties of the date fixed for the hearing of the appeal.

Right to begin

7.—(1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant or his barrister and solicitor shall be heard in support of the appeal.

(2) The Court shall then, if it does not dismiss the appeal at once, hear the respondent or his barrister and solicitor and in such case the appellant shall be entitled to reply.

(3) If either party does not appear before the Court on the day fixed, the Court may proceed to hear the appeal *ex parte*.

Grounds of appeal

8. The appellant shall not, except by leave of the Court and upon such terms as the Court may determine, rely on any ground of appeal other than that stated in his reasons for dissatisfaction with the decision of the Court of Review.

Witness summons

9. At the request of either party to the appeal or by the direction of the Court itself, a summons may be issued requiring any person to attend for the purpose of giving evidence in connexion with the appeal, and such summons may require the person summoned to produce any book, document or other record which may be in his possession or under his control, and for such purpose and so far as the same is applicable the rules of court for the time being in force in civil matters in the Supreme Court shall apply.

Referee to examine accounts

10. In any appeal in which an examination of accounts is necessary the Court may refer the accounts to such person as it thinks fit, directing him to make such examination.

Court to give referee instructions

11.—(1) The Court shall furnish a referee appointed under rule 10 with such part of the proceedings and such instructions as appear necessary, and such instructions shall distinctly specify whether the referee is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

(2) The proceedings and report (if any) of the referee shall be evidence in the appeal, but where the Court has reason to be dissatisfied with them it may direct such further inquiry as it shall think fit.

Hearing may be in chambers

12. The authority and jurisdiction of the Court under these Rules may be exercised by the Court in chambers.

Fees

*13. The fees to be taken in the Supreme Court Registry in respect of acts, applications and proceedings in relation to any appeal under these Rules shall be those set out in Part 1 of Appendix 2 of the Supreme Court Rules:

*Substituted by Rules 4th December 1968.

Provided that no fees shall be payable by the Commissioner in relation to any act, application or proceedings by him.

Costs

14. The costs of and incidental to an appeal shall be in the discretion of the Court and the Court shall have full power to determine to whom and to what extent the costs shall be paid.

JUDGES RULES

Notice 9th January, 1967

THESE Rules do not affect the principles—

- (a) That citizens have a duty to help a police officer to discover and apprehend offenders;
- (b) That police officers, otherwise than by arrest, cannot compel any person against his will to come to or remain in any police station;
- (c) That every person at any stage of an investigation should be able to communicate and to consult privately with a solicitor. This is so even if he is in custody provided that in such a case no unreasonable delay or hindrance is caused to the processes of investigation or the administration of justice by his doing so;
- (d) That when a police officer who is making inquiries of any person about an offence has enough evidence to prefer a charge against that person for the offence, he should without delay cause that person to be charged or informed that he may be prosecuted for the offence;
- (e) That it is a fundamental condition of the admissibility in evidence against any person, equally of any oral answer given by that person to a question put by a police officer and of any statement made by that person, that it shall have been voluntary, in the sense that it has not been obtained from him by fear of prejudice or hope of advantage, exercised or held out by a person in authority, or by oppression.

The principle set out in paragraph (e) is overriding and applicable in all cases. Within that principle the following Rules are put forward as a guide to police officers conducting investigations. Non-conformity with these Rules may render answers and statements liable to be excluded from evidence in subsequent criminal proceedings.

RULES

I. When a police officer is trying to discover whether or by whom, an offence has been committed he is entitled to question any person, whether suspected or not, from whom he thinks that useful information may be obtained. This is so whether or not the person in question has been taken into custody so long as he has not been charged with the offence or informed that he may be prosecuted for it.

II. As soon as a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offence, he shall caution that person or cause him to be cautioned before putting to him any questions, or further questions, relating to that offence.

The caution shall be in the following terms:—

“You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence.”

When after being cautioned a person is being questioned, or elects to make a statement, a record shall be kept of the time and place at which any such questioning or statement began and ended and of the persons present.

III.—(a) Where a person is charged with or informed that he may be prosecuted for an offence he shall be cautioned in the following terms:—

“Do you wish to say anything? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.”

(b) It is only in exceptional cases that questions relating to the offence should be put to the accused person after he has been charged or informed that he may be prosecuted. Such questions may be put where they are necessary for the purpose of preventing or minimizing harm or loss to some other person or to the public or for clearing up an ambiguity in a previous answer or statement.

Before any such questions are put the accused should be cautioned in these terms:—

“I wish to put some questions to you about the offence with which you have been charged (or about the offence for which you may be prosecuted). You are not obliged to answer any of these questions, but if you do the questions and answers will be taken down in writing and may be given in evidence.”

Any questions put and answers given relating to the offence must be contemporaneously recorded in full and the record signed by that person or if he refuses by the interrogating officer.

(c) When such a person is being questioned, or elects to make a statement, a record shall be kept of the time and place at which any questioning or statement began and ended and of the persons present.

IV. All written statements made after caution shall be taken in the following manner:—

(a) If a person says that he wants to make a statement he shall be told that it is intended to make a written record of what he says. He shall always be asked whether he wishes to write down himself what he wants to say; if he says that he cannot write or that he would like someone to write it for him, a police officer may offer to write the statement for him. If he accepts the offer the police officer shall, before starting, ask the person making the statement to sign, or make his mark to, the following:—

“I, , wish to make a statement. I want someone to write down what I say. I have been told that I need not say anything unless I wish to do so and that whatever I say may be given in evidence.”

(b) Any person writing his own statement shall be allowed to do so without any prompting as distinct from indicating to him what matters are material.

(c) The person making the statement, if he is going to write it himself, shall be asked to write out and sign before writing what he wants to say, the following:—

“I make this statement of my own free will. I have been told that I

need not say anything unless I wish to do so and that whatever I say may be given in evidence.”

- (d) Whenever a police officer writes the statement, he shall take down the exact words spoken by the person making the statement, without putting any questions other than such as may be needed to make the statement coherent, intelligible and relevant to the material matters: he shall not prompt him.
- (e) When the writing of a statement by a police officer is finished the person making it shall be asked to read it and to make any corrections, alterations or additions he wishes. When he has finished reading it he shall be asked to write and sign or make his mark on the following certificate at the end of the statement:—
“I have read the above statement and I have been told that I can correct, alter or add anything I wish. This statement is true. I have made it of my own free will.”
- (f) If the person who has made a statement refuses to read it or to write the above-mentioned certificate at the end of it or to sign it, the senior police officer present shall record on the statement itself and in the presence of the person making it, what has happened. If the person making the statement cannot read, or refuses to read it, the officer who has taken it down shall read it over to him and ask him whether he would like to correct, alter or add anything and to put his signature or make his mark at the end. The police officer shall then certify on the statement itself what he has done.

V. If at any time after a person has been charged with, or has been informed that he may be prosecuted for an offence a police officer wishes to bring to the notice of that person any written statement made by another person who in respect of the same offence has also been charged or informed that he may be prosecuted, he shall hand to that person a true copy of such written statement, but nothing shall be said or done to invite any reply or comment. If that person says that he would like to make a statement in reply, or starts to say something he shall at once be cautioned or further cautioned as prescribed by Rule III (a).

VI. Persons other than police officers charged with the duty of investigating offences or charging offenders shall, so far as may be practicable, comply with these Rules.

ADMIRALTY JURISDICTION

THE ADMIRALTY JURISDICTION (FIJI) ORDER IN COUNCIL, 1962

Made 26th February, 1962

Coming into Operation 27th February, 1962

Made by Her Majesty with the advice of the Privy Council.

Citation and commencement

1.—(1) This Order may be cited as the Admiralty Jurisdiction (Fiji), Order in Council, 1962.

(2) This Order shall come into operation on the 27th February, 1962.

Admiralty jurisdiction of Supreme Court of Fiji

2. The Colonial Courts of Admiralty Act, 1890, shall, in relation to the Supreme Court of Fiji, have effect as if for the reference in subsection (2) of section 2 thereof to the Admiralty jurisdiction of the High Court in England there were substituted a reference to the Admiralty jurisdiction of that court as defined by section 1 of the Administration of Justice Act, 1956, subject to the adaptation and modification of the said section 1 that is specified in the First Schedule.

Application of provisions of Administration of Justice Act, 1956, to Fiji

3. The provisions of sections 3, 4, 6, 7 and 8 of Part I of the Administration of Justice Act, 1956, shall extend to Fiji with the adaptations and modifications that are specified in Column II of the Second Schedule.

FIRST SCHEDULE

Article 2

ADAPTATION AND MODIFICATION OF SECTION ONE OF THE ADMINISTRATION OF JUSTICE ACT, 1956

In subsection (1) the words "and any other jurisdiction connected with ships and aircraft vested in the High Court apart from this section which is for the time being assigned by rules of court to the Probate, Divorce and Admiralty Division" shall be deleted.

SECOND SCHEDULE

Article 3

PROVISIONS OF PART I OF THE ADMINISTRATION OF JUSTICE ACT, 1956, EXTENDED TO FIJI AND ADAPTATIONS AND MODIFICATIONS THERETO

Column I

Column II

Section 3.....	In subsections (1), (3), (5), (6) and (7) the words "the High Court, the Liverpool Court of Passage, and any county court" shall be deleted and the words "the Supreme Court of Fiji" shall be substituted; In subsection (2) the words "the High Court" shall be deleted and the words "the Supreme Court of Fiji" shall be substituted; In subsection (4) the words "High Court and (where there is such jurisdiction) the Admiralty jurisdiction of the Liverpool Court of Passage or any county court" shall be deleted and the words "Supreme Court of Fiji" shall be substituted; In subsection (8) the words "England and Wales" shall be deleted and the word "Fiji" shall be substituted.
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<i>Column I</i>	<i>Column II</i>
Section 4.....	<p>Subsection (1) shall be deleted and the following subsection shall be substituted:—</p> <p>“(1) No court in Fiji shall entertain an action in personam to enforce a claim to which this section applies unless—</p> <p>(a) the defendant has his habitual residence or a place of business in Fiji; or</p> <p>(b) the cause of action arose within the territorial waters of Fiji; or</p> <p>(c) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the Court. In this subsection “territorial waters of Fiji” include any port, dock or harbour in Fiji.”.</p> <p>In subsection (2) the words “in England and Wales” shall be deleted and the words “in Fiji” shall be substituted, and the words “outside England and Wales” shall be deleted and the words “outside Fiji” shall be substituted;</p>
Section 4 (<i>cont.</i>)	<p>In subsection (5) the words “the High Court” shall be deleted and the words “the Supreme Court of Fiji” shall be substituted;</p> <p>Subsection (6) shall be omitted.</p>
Section 6.....	<p>The words “England and Wales” shall be deleted and the word “Fiji” shall be substituted.</p>
Section 7.....	<p>Subsection (1) shall be deleted and the following subsection shall be substituted:—</p> <p>“(1) Section six hundred and eighty-eight of the Merchant Shipping Act, 1894 (which relates to the detention of ships by customs officers in certain cases) shall cease to have effect, but nothing in this Part of the Act affects the provisions of section twenty-eight of the Wreck and Salvage Act (which relates to the power of a receiver of wreck to detain a ship in respect of a salvage claim)”;</p> <p>Subsection (2) shall be omitted. (Cap. 198.)</p>

COLONIAL PROBATES

COLONIAL PROBATES ACT 1892

55 Vict. c.6.

Act applied to Fiji by Order in Council 30th April 1894.

Controlled by Ministry of the Attorney-General.