

Seychelles

Seychelles Code of Civil Procedure Chapter 213

Legislation as at 1 December 2014

FRBR URI: /akn/sc/act/1855/24/eng@2014-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 18:52.

Collection last checked for updates: 30 June 2014.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Seychelles Code of Civil Procedure
 Contents

1. Short title 1

Definitions 1

 2. Definitions 1

Sittings of Supreme Court 2

 3. Supreme Court may sit at any time 2

 4. Terms 2

 5. Vacation sittings 2

 6. Applications for hearing in vacation 2

 7. Appeals from lower courts 2

 Section 8. Terms may be altered by rules of court 2

Registry 2

 9. Office hours 2

 10. Books to be kept by the Registrar 2

 11. Registrar to pay receipts daily to treasurer 3

 12. Quarterly return of out-standings to Auditor General 3

 13. Custody of records 3

 14. Clerks of the registry 3

 15. Absence of Registrar 4

 16. Weekly cause list 4

 17. Taxation of bills of costs 4

 18. Security to be given by Registrar 4

Ushers 4

 19. Ushers' execution book 4

 20. Payment of receipts to Registrar 4

 21. Liability for neglect 4

Commencement of action 4

 22. Suits, in what court to be brought 4

 23. Suits to be commenced by plaint 5

 24. Plaint must be signed 5

 25. Copies of plaint 5

 26. Particulars of plaint to be registered 5

 27. Plaint note 5

 28. Prepayment of fees 5

 29. Claims by or against the Government 5

Issue and service of summons	6
30. Summons	6
31. Commencement of suit	6
32. Date of appearance of defendant	6
33. Minimum time for appearance	6
34. Mode of service	6
35. Service on agent	6
36. Service on Government	6
37. On person dwelling in asylum	6
38. On police officers	7
39. On person on board ship	7
40. On person in prison	7
41. On a partnership	7
42. Substituted service	7
43. Court may declare summons served	7
44. Ushers to make return of service to Registrar	7
45. Service of other process	7
46. No service on dies non without leave	8
Service out of the jurisdiction	8
47. No service out of the jurisdiction without leave of court. Mode of service out of the jurisdiction. Notice in lieu of service	8
48. When service out of the jurisdiction is allowed	8
49. Application for leave to serve out of the jurisdiction	9
50. Time for service	9
51. Setting aside service	9
52. Substituted service, out of jurisdiction	9
53. Procedure when defendant does not appear	9
54. Suits begun by service within the jurisdiction may be continued by leave	9
55. Election of domicile for service	10
56. Where defendant out of the jurisdiction has an agent who is not known	10
57. Deposit of deed appointing attorney or agent	10
58. Foreign deed of appointment	10
59. Suits against Curator when allowed	10
60. Government not liable for costs	11
61. Service on parties on certain islands	11

62. Civil Code, art. 1985	11
63. Appearance of Parties Parties appear on date fixed in summons	11
64. Procedure if neither party appears	11
65. Procedure if defendant does not appear	11
66. Procedure if defendant appears subsequently	11
67. Procedure if plaintiff does not appear	12
68. Procedure if only some of the defendants appear	12
69. Setting aside judgment given ex parte	12
70. How parties may appear	12
Pleading and inspection	12
71. Particulars to be contained in plaint	12
72. In money suits	12
73. Capacity of plaintiff and defendant to be stated	13
74. Copies and lists of documents	13
75. Statement of defence contents	13
76. Statement of defence must be filed in registry	13
77. List of defendant's documents	13
78. Copies of documents for court	13
79. Set off	13
80. Counter claim	13
81. Failure to supply lists of documents	14
82. Exception to section 81	14
83. Document not in possession of party	14
84. Inspection of documents	14
85. Non compliance with order for inspection	14
86. Further particulars of plaint	14
87. Further particulars of defence	14
88. Plans	15
89. Copies of particulars to be supplied	15
90. Points of law	15
91. Decision on point of law only	15
92. Striking out pleadings	15
93. Pleadings to be endorsed by attorney or party	15
94. Election of domicile	15
95. Impounding of documents	15

96. Return of documents produced in evidence	15
Possessory actions	16
97. Possessory actions when maintainable	16
98. When possession and trespass are denied	16
99. Possession and ownership	16
100. When petitory action fails	16
101. Petitory action may not be entered until possessory action is disposed of	16
102. Payment into Court Payment into court in full satisfaction of demand	16
103. Acceptance in part satisfaction	16
104. Acceptance in full satisfaction	17
Joinder of causes of action	17
105. When different causes of action may be joined in same suit	17
Consolidation	17
106. When suits may be consolidated	17
Parties	17
107. Who may be joined as plaintiffs	17
108. Suits commenced in name of wrong person	17
109. Who may be joined as defendants	17
110. Option as to joining parties in same suit	18
111. Numerous persons having same interest in one cause	18
112. Misjoinder, adding of parties, etc	18
113. No person to be added as plaintiff without his consent	18
114. Procedure where a defendant is added	18
115. Application to add or strike out parties	18
116. Joinder of sureties	18
Intervention	19
117. Who may intervene and at what time	19
118. Application to be by motion	19
119. Notice to be given	19
120. Intervener must file statement of demand	19
Incidental demands	19
121. Application to be by motion	19
122. With affidavit	19
123. All incidental demands to be made at same time	19
124. Judgment may be given on principal demand only	19

125. Affidavit in reply	19
Hearing	20
126. If defendant admits claim	20
127. If claim denied, statement of defence to be filed	20
128. Failure to file statement of defence	20
129. Hearing and adjournment	20
130. Procedure when suit is settled	20
131. Judgment by consent	20
132. Absence of Judge	21
133. Non appearance at adjourned hearing	21
134. Procedure if parties fail to produce evidence, etc.	21
135. Delivery of judgment	21
136. Payment by instalments	21
137. Hearing of suit in situ	21
138. Expenses to be deposited in advance	21
139. Duties of Registrar to be present in court	22
140. To make entries on record	22
141. To make down evidence in appealable cases	22
142. To mark documents admitted	22
143. Or rejected if party requests	22
144. To register judgment	22
145. Sittings of court open to public	22
Amendments	22
146. Amendment of pleadings	22
147. Clerical error in judgments	23
148. Amendments of errors in proceedings	23
149. Amended pleading to be supplied to adverse party	23
150. Suspension or variation of judgments	23
Conclusions of the Ministère Public	23
151. Matters which must be referred to the Attorney General for conclusions as Ministère Public	23
Witnesses	23
152. Witness summonses	23
153. Payment into court for expenses of witness	23
154. Particulars to be contained in witness summons	24
155. Summons to produce document	24

156. Evidence of person present in court	24
157. Witness summons to be served by an usher	24
158. Time for service	24
159. When witness may depart	24
160. Witness about to leave the jurisdiction	24
161. Witness refusing to give evidence etc., may be fined	24
162. Personal answers rules relating to examination of parties on personal answers	25
163. Procedure to obtain attendance of adverse party, for examination	25
164. Party present in court may be examined	25
165. When the Republic is a party	25
166. Examination when to take place	25
167. Examination may be separate	25
Affidavits	26
168. When court may order facts to be proved by affidavit	26
169. Cross examination	26
170. What affidavits may contain	26
171. Before whom affidavits may be sworn	26
Opposition by third parties	26
172. Who may file opposition to judgment	26
173. Procedure	26
174. Opposition not to delay execution of judgment	26
175. Opposition when judgment is res judicata	26
Abatement	27
176. No abatement if cause of action survives	27
177. Death, bankruptcy, etc., of a party	27
178. Substitution of name on record application by representative of deceased party	27
179. Application by plaintiff or defendant	27
180. Procedure where party is added or substituted	27
181. Summons to compel a party to proceed	27
Discontinuance	27
182. When plaintiff may discontinue suit. Leave of court, when required	27
183. Notice of discontinuance	28
184. Costs of discontinued suit	28
185. Subsequent action may be stayed	28
Peremption of suits	28

186. Want of prosecution	28
187. When peremption does not take place	28
188. Against who peremption takes place	28
189. Peremption must be decreed by the court	28
190. When peremption is inoperative	29
191. Effect of peremption	29
192. Procedure if peremption is decreed	29
193. Costs	29
New trial	29
194. When a new trial may be granted	29
195. Procedure to obtain new trial	29
196. Application, when to be made	29
197. Forgery, fraud or new evidence	29
198. Court may impose terms	30
199. Date for new trial	30
200. Stay of execution	30
201. What issues may be raised at new trial	30
202. Effect of judgment for the applicant	30
203. No new trial of a new trial	30
204. New trial ordered by appellate court procedure	30
Arbitration	30
205. Reference to arbitration	30
206. Objections to award	31
207. When award may be set aside or modified	31
Suits in formâ pauperis	31
208. Who may sue as paupers	31
209. Examination of applicant	31
210. Fees of court	31
211. When suit is one of public policy	31
212. Counsel and attorney may be assigned	32
213. Remuneration	32
214. Pauper may be dispaupered	32
215. Attorney to sign proceedings	32
216. Unnecessary proceedings	32
217. Disbursements	32

218. Recovery of fees	32
Of furnishing of security	33
219. When security may be required	33
220. Time within which security is to be furnished	33
221. Notice of sureties offered	33
222. Objections	33
Damages	33
223. Determination of amount of damages	33
224. Costs	33
Execution	33
225. Procedure on application for execution. Urgency	33
226. Cross judgments	34
227. Foreign judgments	34
228. When property may be seized	34
229. Caption of the body	34
230. Appeal not to operate as stay of execution	34
231. Execution of judgment after appeal	34
232. Duration and extension of validity of warrant or writ of execution	34
233. Execution to issue within six years. Leave to issue in certain cases	35
234. Fines may be recovered by execution	35
235. Police to assist ushers	35
236. Movable property which may not be seized in execution	35
237. Except in certain cases	36
238. Court may appoint person to work land	36
239. Particulars to be contained in application for execution	36
240. Procedure when judgment is for a sum of money	36
241. When judgment is for delivery of movable property	37
242. When judgment is for delivery of, or to place in possession of immovable property	37
243. Civil imprisonment	37
244. Amount recoverable to be endorsed on warrants and writs	37
245. Warrants and writs to be in force for 12 months	37
246. When movable property is insufficient to satisfy judgment	37
247. Attachment	38
248. Validation of attachment	38
249. Hearing of application to validate	38

250. Effect of failure to validate	38
251. Procedure for arrest and imprisonment of judgment debtor	38
252. Examination of judgment debtor	38
253. When a judgment debtor may be imprisoned civilly	39
254. Period of civil imprisonment	39
255. Process of execution notices to be given before sale in execution	39
256. Movable property seized to be sold within one month from seizure	39
257. Postponement of sale	39
258. Witnesses to seizure	40
259. Entry on premises to effect execution	40
260. Property seized to be placed in charge of custodian	40
261. Custodian not to use articles seized	40
262. Dismissal of custodian	40
263. Particulars to be contained in memorandum of seizure	40
264. Merchandise and plate	41
265. Valuable securities	41
266. Private papers	41
267. Copy of memorandum of seizure to be left with person whose goods are seized	41
268. Where property seized is to be sold	41
269. Execution not to be delayed by objections	41
270. How property to be sold	41
271. Particulars to be contained in memorandum of sale	42
272. Usher to return memorandum of execution to Registrar	42
273. Claims by third parties	42
274. Procedure to release property from seizure	42
275. Hearing of application	42
276. Postponement of sale pending hearing of application	42
277. Opposition by creditors	43
278. No suits between creditors	43
279. Procedure when a prior seizure has been effected	43
Provisional seizure and attachment	43
280. Application to seize or attach provisionally	43
281. When application may be granted	43
282. Property seized not to be sold until after judgment	44
283. Validation of provisional seizure	44

284. Procedure to validate provisional attachment	44
285. Effect of judgment against the plaintiff	44
286. What movable property may not be attached	44
287. Exceptions to rule as to non attachment	44
Attachment of salaries and pensions	45
288. Definition of terms	45
289. Opposition to salaries and pensions abolished	45
290. Salaries and pensions when attachable and to what extent	45
291. Form and service of order. Payment of sum attached	45
292. Revocation and amendment of order	45
293. Registrar to report judgments obtained against civil servants	46
294. Effect of order of attachment	46
Summary procedure on bills of exchange	46
295. Special writ; judgment	46
296. Leave to appear	46
297. Leave to appear after judgment in special circumstances	46
298. Deposit of bill, security for costs	46
299. Recovery of expenses, etc	46
300. Writ to all parties to bill	47
301. Application of certain English Acts	47
302. Execution	47
303. Jurisdiction in partnership disputes Supreme Court to decide in matters of partnership	47
Grant of injunctions and orders of sequestration	47
304. Court to have power to issue injunctions pendente lite or after judgment	47
305. Application for injunction may be by motion with notice	47
306. Orders for writs of injunction may be enforced by attachment	47
307. Right of the court to make sequestration orders as to property in dispute	47
308. Procedure to arrive at sequestration	48
309. Expenses of the sequestration, by whom to be paid. Security may be required	48
310. Accounts of sequestrator to be deposited in the Registry	48
Power to appoint commissioner to examine accounts	48
311. Power of court to appoint commissioners to examine accounts	48
312. Court to give commissioner necessary instructions	48
313. Expenses to be deposited in the registry	48
314. Court to direct parties to appear before commissioner	48

315. Powers of commissioner	49
316. Proceedings to be filed in court	49
317. Proceedings in court after inquiry	49
318. Penalties for obstructing commissioner	49
319. Receipts produced in support of items in cases of rendition of accounts to be exempt from registration	49
320. Parties entitled to travelling expenses	49
General provisions	50
321. Periods of time how to be interpreted	50
322. Valuation by experts, attendance	50
323. When Judge may make orders at his own house	50
324. Place of sittings of the court	50
325. Rules of Court	50
326. Repeals	50
327. French Code of Civil Procedure	50
328. Forms	50
Schedule B	54
Schedule C (Section 328)	54
Schedule D (Section 295)	67
Schedule E (Section 295)	68

Seychelles

Seychelles Code of Civil Procedure

Chapter 213

Commenced on 15 April 1920

[This is the version of this document as it was at 1 December 2014 to 30 June 2021.]

*[Act 24 of 1855; Act 30 of 1855; Act 15 of 1860; Act 2 of 1968; Act 12 of 1890; Act 14 of 1915; Act 3 of 1919; Act 34 of 1919; Act 2 of 1945; Act 9 of 1948; Act 41 of 1948; Act 19 of 1955; Act 4 of 1956; Act 1 of 1958; Act 3 of 1959; Act 12 of 1962; Act 14 of 1963; Act 20 of 1968; (*Mauritius Ord.) Proc. 6 of 1920; S.I. 95 of 1975; Act 13 of 1975; Act 5 of 1976; S.I. 72 of 1976; Act 23 of 1976; Dec 8 of 1978; Dec 22 of 1979; Act 6 of 1983; Act 4 of 1986; S.I. 61 of 1988; Act 2 of 1990; S.I. 41 of 1991]*

1. Short title

This Act shall be called the Seychelles Code of Civil Procedure.

Definitions

2. Definitions

In this Act, unless there is anything in the subject or context repugnant thereto, the words hereinafter mentioned shall have or include the meanings following:

"**attorney**" means an attorney at law and includes a barrister when acting as an attorney at law;

"**cause**" shall include any action, suit or other original proceedings between a plaintiff and a defendant;

"**Chief Justice**" means the Chief Justice of Seychelles;

"**Civil Code**" means the Civil Code of Seychelles;

"**dies non**" means a public holiday and includes a day on which the registry is closed;

"**Judge**" means a Judge of the Supreme Court and includes the Chief Justice and a Puisne Judge;

"**judgment creditor**" means a party to a cause or matter in whose favour a judgment or order of the court has been give;

"**judgment debtor**" means a party to a cause or matter against whom a judgment or order of the court has been given;

"**matter**" shall include every proceeding in the court not in a cause;

"**Mauritius Ordinance**" means an Ordinance of the Legislature of Mauritius as extended or applicable to Seychelles;

"**party**" includes every person served with notice or attending any proceeding;

"**Registrar**" means the Registrar of the Supreme Court and includes the Assistant Registrar.

"**Registry**" means the registry of the Supreme Court;

"**suit**" or "action" means a civil proceeding commenced by plaint;

"**Supreme Court**" means the Supreme Court of Seychelles;

"**the court**" means the Chief Justice or a puisne judge sitting in court or in chambers.

Sittings of Supreme Court

3. Supreme Court may sit at any time

Sittings of the Supreme Court may be appointed and holden at any time or times, whether in term or vacation, at the discretion of the court.

4. Terms*

There shall be three terms in each year for the despatch of civil business in the Supreme Court, the first of which terms shall commence on the fifteenth day of January and end on the fourteenth day of April; the second shall commence on the fifteenth day of May and end on the fourteenth day of August; and the third shall commence on the fifteenth day of September and end on the fourteenth day of December. Whenever any of such periods shall commence or end on a dies non, the term shall commence on the day following or end on the day preceding such dies non, as the case may be.

5. Vacation sittings

The Supreme Court may sit during vacation either for the further hearing of part heard cases, or for the hearing of any cause or matter of an urgent nature.

6. Applications for hearing in vacation

Application for the hearing, during vacation, of a cause or matter on the ground of urgency, shall be made to a Judge in chambers, supported by an affidavit setting out the facts of the case and the grounds of urgency. Notice of such application shall be given to the opposite party

7. Appeals from lower courts

During vacation, the Supreme Court shall sit for the disposal of appeals from decisions of magistrates or of Justices of the Peace.

8. Terms may be altered by rules of court

The Chief Justice may, by rules made under this Act with the approval of the President, alter the number of terms to be held in each year, or the days on which the terms shall commence and end.

Registry

9. Office hours

The registry shall be open for the dispatch of business, whether in term time or during vacation, every day from 8 a.m. until 12 noon and from 1 p.m. until 4 p.m., except on Saturdays and public holidays, unless in any particular case the Chief Justice shall direct otherwise.

10. Books to be kept by the Registrar

The Registrar shall keep the following books in accordance with the forms set out in Schedule A—

- (a) a book called the "suitors' deposit book" in which he shall make entries of all sums of money paid into or deposited in court (for which he shall give an acknowledgment in writing to the person by

[Note: S.I. 45 of 1981 made under section 8 for variation of dates of commencement and termination of terms (*Cap. 213 Sub. Leg.*)]

whom any such payment or deposit is made) and in which, when any such money is paid out to the person entitled thereto, the person receiving the same shall enter a receipt therefore;

If any sum of money so paid or deposited in court remains unclaimed for a period of six months, the Registrar shall pay the same to the Principal Secretary of the Ministry of Finance to be held by him on deposit, together with a statement explaining to whom such money is due.

- (b) a book called the "suitors' cash book" in which he shall enter daily all sums of money paid into or deposited in court and all sums of money paid out by him and which book the Registrar shall balance at the end of each day;
- (c) a book called the "revenue cash book" in which he shall enter on the day on which they are received all fees, fines and forfeitures accruing to the Republic from whatever source and receivable by the Registrar;
- (d) a book called the "ushers' fees deposit book" in which he shall enter all sums of money received from suitors for services to be effected by the * ushers of the court, which sums shall be paid out on demand to the usher entitled thereto who shall enter a receipt therefor in the ushers' fees deposit book when payment is made;
- (e) a book called the "register of civil and commercial suits," in which he shall cause to be entered the particulars hereinafter required by this Code and every motion or other application which is to be heard in court which shall be entered in this book in the manner and with the same particulars, so far as may be, as are required by this Code in the case of suits;
- (f) a book called the "chambers application book," in which shall be entered a list of all applications made *ex parte* in chambers, which entries shall be made and numbered in the manner required by this Code in the case of suits and shall state the name and residence of the applicant, the nature of the application and the final order of the court.

11. Registrar to pay receipts daily to treasurer

The Registrar shall pay to the Principal Secretary of the Ministry of Finance daily, on the day next after that on which they are received, the total amount of all fees, fines and forfeitures accruing to the Republic and received by him. If on account of illness or other unavoidable cause he is unable to pay such amounts to the Principal Secretary of the Ministry of Finance on the day next after that on which they were received, or if such next day is a dies non, he shall pay them on the day next following.

12. Quarterly return of out-standings to Auditor General

The Registrar shall at the commencement of each quarter tender to the Auditor General a return of all fees, fines or forfeitures receivable by him, which are due to the Republic and are outstanding.

13. Custody of records

The Registrar shall have the custody of the records of the court and shall carry out the duties assigned to him by this Code or any other law in force for the time being and in regard to the time and manner of carrying out such duties he shall conform to any instructions which he may receive from the Chief Justice.

14. Clerks of the registry

The Assistant Registrar and the clerks of the registry shall be under the direction of the Registrar and shall carry out all orders in regard to their work given by him, subject to the supreme control of the Chief Justice.

* [Note: See section 23(3) of the Courts Act (Cap. 52)]

15. Absence of Registrar

If both the Registrar and the Assistant Registrar are temporarily absent or unavoidably prevented from carrying out their duties, or any of them, the Judge may direct one of the clerks of the registry to carry out any of such duties, and any acts performed by such clerk when so directed shall be as valid and effectual as if done by the Registrar or Assistant Registrar.

16. Weekly cause list

The Registrar shall, in conformity with instructions or directions which he may receive from the Chief Justice, prepare a weekly cause list of all causes and matters set down for hearing in court during the week and shall affix such cause list in a conspicuous place at the entrance of the Supreme Court not later than 9 a.m. on Monday in the week during which such causes and matters are to be heard.

17. Taxation of bills of costs

The Registrar shall tax all bills of costs when requested to do so by any party to any cause or matter, or in the case of bills of cost between solicitor and client, by any person interested.

18. Security to be given by Registrar

The Registrar shall give security for five thousand rupees and the Assistant Registrar for two thousand rupees, respectively, for the due and faithful performance of their duties and for the due accounting for the payment of all monies received by them in performance of their duties.

* Ushers

19. Ushers' execution book

The ushers shall keep a book in the registry called the usher's execution book in accordance with the form in Schedule A and each usher shall enter therein every warrant of execution which he has been required to execute together with the other particulars specified in such form in the several columns thereof.

20. Payment of receipts to Registrar

Every usher levying or receiving any money by virtue of any process of court shall, within three days after the receipt thereof, pay the same into the hands of the Registrar.

21. Liability for neglect

The ushers are liable in damages for neglect in levying execution or for fraud in relation thereto, at the suit of the party prejudiced.

Commencement of action

22. Suits, in what court to be brought

All civil and commercial suits, actions, causes and matters shall be brought before the Supreme Court, save in cases where other provisions is made by law.

*

The ushers' execution book shall be open to the inspection of the Registrar or a Judge

23. Suits to be commenced by plaintiff

Every suit shall be instituted by filing a plaint in the registry.

24. Plaint must be signed

Every such plaint shall be signed by the plaintiff's attorney, or if the plaintiff sues in person, by the plaintiff.

25. Copies of plaint

The plaintiff shall in addition file in the registry as many copies of the plaint and notices of documentary evidence as there are defendants.

26. Particulars of plaint to be registered

On receipt of the plaint the Registrar shall enter in the register of civil and commercial suits the names and places of residence of the parties, the nature of the action and the relief sought.

Such entries shall be numbered in every year according to the order in which the plaints are received and the suit shall bear the same number.

27. Plaint note

At the time of entering the plaint, the Registrar shall give to the plaintiff, or his attorney or agent, a note signed by the Registrar and under the seal of the court, according to the form set forth in Schedule C; and no money shall be paid out of court to the plaintiff, or his attorney or agent, except on production of such note:

Provided that in the event of such note being lost or destroyed, no money shall be paid to any person unless it be proved to the satisfaction of the Registrar that the person applying is the plaintiff or his agent authorised in that behalf.

28. Prepayment of fees

No proceeding shall be had and no process shall be issued by the Registrar, unless upon prepayment into court of the fees established by law in respect of such proceeding or process.

29. Claims by or against the Government

- (1) All claims by the Government of Seychelles against any private person shall be brought in the name of the Attorney General and (subject as hereinafter provided) shall be carried on in the same manner in every respect as suits between private parties.
- (2) All claims against the Government of Seychelles being claims of which the subject matter would have been cognisable by the Supreme Court of Judicature if the claim had been against a private individual may, be preferred in the Supreme Court in a suit instituted by the claimant as plaintiff against the Attorney General as defendant.
- (3) The suit shall be commenced by filing a plaint in the registry.
- (4) All documents which in a suit of the same nature between private parties would be required to be served upon the defendant shall be delivered at the office of the Attorney General.
- (5) Whenever in any such suit a decree is made against the Government, no execution shall issue thereon, but a copy of such decree, under the seal of the court, shall be transmitted by the court to the Minister responsible for Finance who is empowered to order that such measures be taken as

may be necessary to give effect to the decree and if such order provides for the payment of money the payment shall be a charge on the Consolidated Fund.

- (6) No personal liability shall attach to the Attorney General in respect of costs awarded in any suit against the Government.

Issue and service of summons

30. Summons

When the plaint has been entered in the register of civil and commercial suits, the Registrar shall issue a summons, under the seal of the court and signed by him, to each defendant calling upon him to appear in the Supreme Court at a date and time therein stated, to answer the claim. A copy of the plaint shall be served with each summons.

31. Commencement of suit

The summons to appear to a plaint shall be dated on the day on which the suit was entered, and such date shall be the commencement of the suit.

32. Date of appearance of defendant

The day for the appearance of the defendant shall be fixed by the Registrar so as to allow the defendant sufficient time to enable him to appear and answer on such day, according to the distance of defendant's place of residence from the court and to the circumstances.

33. Minimum time for appearance

The time fixed for appearance shall not be earlier than forty eight hours after the service of the summons, except by leave of a Judge. When such leave is granted the words "By leave of the court" shall be written on the face of the summons.

34. Mode of service

Service of the summons shall be effected by delivering or tendering a copy thereof to the defendant personally, or if he cannot be found, to any member more than sixteen years old of the family of the defendant residing with him, or to any agent or manager of the defendant at the place where he carries on his business.

35. Service on agent

If the defendant have an agent empowered to accept service on his behalf, service on such agent shall be sufficient.

36. Service on Government

If the defendant is the Government of Seychelles service shall be effected by delivering a copy of the summons to the Attorney General in his office.

37. On person dwelling in asylum

When a defendant is employed and dwells in any mental hospital or other public asylum, it shall be sufficient service to deliver a copy of the summons to the superintendent of such hospital, who shall cause the same to be delivered to the defendant.

38. On police officers

When a defendant is employed in a police force, it shall be sufficient service to deliver a copy of the summons to the Commissioner of Police who shall cause the same to be delivered to the defendant.

39. On person on board ship

When a defendant is living or serving on board any ship, it shall be sufficient service to deliver a copy of the summons to the person on board who is at the time of such service apparently in charge of such ship, and such person shall cause the same to be delivered to the defendant.

40. On person in prison

If the defendant is in gaol, it shall be sufficient service to deliver a copy of the summons to the Superintendent of Prisons who shall cause the summons to be delivered to the defendant.

41. On a partnership

If the defendant is a partnership(société) and the suit relates to a partnership transaction or to an actionable wrong in respect of which relief is claimable from the partnership(société), service may be made either

- (a) on one of the partners for himself and for the other partners, or
- (b) on any person having the management of the business of the partnership at the principal place of such business.

42. Substituted service

If the defendant cannot be found and there is no agent empowered to accept service on his behalf, nor any other person on whom service can be made, or if the defendant is keeping out of the way for the purpose of avoiding service, it shall be sufficient service to affix the summons on the outer door of the house or place of business of such defendant and a copy thereof in some conspicuous part of the Court House;

43. Court may declare summons served

When service has been made in the manner mentioned in [section 42](#) and the defendant does not appear on the day stated in the summons, the court may either, after making such inquiry as appears, to be necessary, declare the summons to be served and proceed in the absence of the defendant, or give such further order as to service as to the court may seem fit.

44. Ushers to make return of service to Registrar

All summonses, notices, orders or other process of court required by this Code or any law in force or hereafter enacted to be served by the ushers of the court, shall within twenty four hours after such service be returned to the Registrar and the usher by whom such service has been effected shall certify thereon over his signature the day and hour of service and the place and the manner of service.

45. Service of other process

All summonses to witnesses, orders of the court and other process requiring to be served, may be served in the same manner as summonses to appear to a plaint, except where a special mode of service is directed by this Code or by any other law in force.

46. No service on dies non without leave

No summons, notice or other process shall be served on a dies non, or between the hours of six in the evening and six in the morning, except in case of urgency, with the leave of a Judge.

When such leave is granted, the words "By leave of the court" shall be written on the face of the summons, notice or other process. A dies non shall be counted in any computation of time required by this Code, unless any such day shall be the last of such time, in which case it shall be excluded from such computation.

Service out of the jurisdiction

47. No service out of the jurisdiction without leave of court. Mode of service out of the jurisdiction. Notice in lieu of service

- (1) No summons in civil and commercial suits shall be issued or served upon any defendant, whether a citizen of Seychelles or not, outside the jurisdiction of the Supreme Court, without leave of the court.
- (2) Service of such summons shall be effected out of Seychelles in the same way as the summons in a suit is required to be served in the country, colony or jurisdiction in which the service is to be effected and proof of such service having been effected, when required by the Supreme Court, shall be given in the manner provided by the law in force in such country, colony or jurisdiction.
- (3) Where the defendant is not a citizen of Seychelles the summons shall not be served upon him, but notice thereof shall be given to him; such notice in lieu of service shall be in the form set out in Schedule C and shall be given in the manner in which a summons is served.
- (4) The term "summons" in [sections 47](#) to 61 means the plaint with summons.
- (5) [Sections 47](#) to 61 shall not apply to actions on bills of exchange or promissory notes brought under [sections 295](#) to 302.

48. When service out of the jurisdiction is allowed

The issue and service out of the jurisdiction of a summons may be allowed whenever

- (a) the whole subject matter of the suit is land or immovable property situated within the jurisdiction (with or without rents or profits); or
- (b) any act, deed, will, contract, obligation or liability affecting land or immovable property, situate within the jurisdiction, is sought to be construed, rectified, set aside or enforced in the suit; or
- (c) any relief is sought against any person domiciled or ordinarily resident within the jurisdiction; or
- (d) the suit is founded on any breach or alleged breach within the jurisdiction of any contract wherever made, which ought to be performed within the jurisdiction; or
- (e) any injunction is sought as to anything to be done within the jurisdiction, or any nuisance within the jurisdiction is sought to be prevented or removed, whether damages are or are not also sought in respect thereof; or
- (f) any person out of the jurisdiction is a necessary or proper party to a suit properly brought against some other person duly served within the jurisdiction:

Provided that nothing in this section shall be held to prevent a plaintiff commencing a suit against the Curator of Vacant Estates as representing an absentee, in accordance with the Curatelle Act as modified by this Code.

49. Application for leave to serve out of the jurisdiction

Every application for leave to issue and serve a summons on a defendant out of the jurisdiction shall be supported by affidavit stating that in the belief of the deponent the plaintiff has a good cause of action, and showing in what place or country the defendant is or probably may be found, and whether such defendant is a citizen of Seychelles or not, and the grounds upon which the application is made; and no such leave shall be granted unless it shall be made sufficiently to appear to the court that the case is a proper one for service out of the jurisdiction under this Code.

50. Time for service

Any order giving leave to effect such service shall limit a time after such service within which such defendant is to appear to answer the claim. The time so limited shall not (unless the judge see fit to order otherwise), in the first instance, exceed

- (a) one month, where the defendant is in Mauritius or Reunion;
- (b) two months, where the defendant is in India, Africa or Madagascar;
- (c) three months, where the defendant is in Europe or Australia;
- (d) four months, where the defendant is in the United states of America or any other part of the world.

51. Setting aside service

The defendant before appearing shall be at liberty without entering a conditional appearance to serve notice of motion to set aside such service, or to discharge the order authorising such service, or to enlarge the time within which an appearance is to be made.

52. Substituted service, out of jurisdiction

The summons shall be served personally on the defendant; but the court on being satisfied that reasonable efforts have been made to effect personal service thereof may, on the application of the plaintiff, make such order for substituted or other service, or for the substitution for service of notice, by advertisement or otherwise, as may seem just.

Such application shall be supported by an affidavit setting forth the grounds upon which the application is made.

The order made under this section shall specify the time after the substituted or other service has been effected, or after the publication of the notice by advertisement or otherwise, within which the defendant is to appear to answer the claim: such time shall be limited as specified in [section 50](#).

53. Procedure when defendant does not appear

After the time limited by an order made under [section 50](#) or [section 52](#), the court, on proof being shown that the said order has been complied with and that the defendant has not appeared to answer the claim, may direct that the plaintiff shall be at liberty to proceed in the suit in such manner and subject to such conditions as to the court may seem fit:

Provided that the plaintiff shall prove his case in such manner as the court shall direct, and the making of such proof shall be a condition precedent to the plaintiff obtaining judgment.

54. Suits begun by service within the jurisdiction may be continued by leave

When a defendant who has been personally served with a summons in Seychelles quits Seychelles without leaving an attorney or agent to make an appearance for, or represent and defend him, it shall be lawful for the court, after the time within which the defendant so served within the jurisdiction should have appeared to answer the claim, to order that all ulterior orders, summonses, notices and process be not

served personally but be served at the defendant's last place of abode or business in Seychelles; and such service shall be sufficient to entitle the plaintiff to proceed in the action as provided in [section 53](#).

55. Election of domicile for service

In any case where a defendant who is outside the jurisdiction of the Supreme Court has in Seychelles no attorney or agent duly empowered to make an appearance for, or represent and defend him, but has in the particular contract on which he is sued, specially elected a domicile for service, service at such domicile shall, for the particular matters or things for which the domicile was elected, be sufficient not only for the summons, but also for all ulterior orders, summonses, notices or process in the suit;

Provided that in the case of minors or interdicted persons the summons, as well as all ulterior orders, summonses, notices or process in the suit, shall also be served on the Attorney General.

56. Where defendant out of the jurisdiction has an agent who is not known

In case any defendant, who is out of the jurisdiction of the supreme Court, has in Seychelles an attorney or agent duly empowered to make an appearance for or represent and defend him, but such attorney or agent is unknown to the plaintiff, proceedings shall begin and be carried on as herein enacted and as if there were no such attorney or agent:

Provided that it shall be lawful for such attorney or agent to intervene at any stage in the proceedings and by leave of the court to appear for such defendant and defend the action, subject to such terms as to time, costs or otherwise, as the court may think fit, having in view the reasons set forth by such attorney or agent for not having made himself known.

57. Deposit of deed appointing attorney or agent

If the attorney or agent has been appointed by an authentic deed, or by power of attorney whether authentic or under private signatures, it shall be the duty of the notary in Seychelles who has drawn up such deed, or who has received the deposit of such power of attorney, or of the holder of any such power under private signatures where it has not been deposited with a notary, under a penalty not exceeding five hundred rupees, to file in the registry within one month from the date on which such deed or power was drawn up by, or deposited with, such notary, or came into the hands of such holder, as the case may be, a memorandum setting forth the names of the principal and agent. Such memorandum may be inspected without payment of a fee and it shall not be lawful for the plaintiff to pretend ignorance of the same.

58. Foreign deed of appointment

If the power of attorney or other deed appointing an attorney or agent has been drawn up in any place outside the jurisdiction of the Supreme Court, the attorney or agent appointed thereby may deposit the same with a notary in Seychelles, and the provisions of [section 57](#) shall apply thereto.

59. Suits against Curator when allowed

Whenever the Curator of Vacant Estates is vested with any property or right belonging or accruing to an absentee, and a suit is brought against the Curator as representing such absentee, it shall be lawful for the Curator before appearing to answer the claim to apply by way of summons to the court for a stay of proceedings to enable him to communicate with the absentee. The court in making an order on the said application shall have regard to the times specified in [section 50](#), to the nature and circumstances of the case, and to the nature of the process which has been served upon the Curator:

Provided that when the Curator is vested with the estate of an absentee, it shall not be lawful for him to be made a defendant in any suit of tort(délict or quasi délit) committed before the date of the vesting order, for which the absentee is liable, as representing such absentee:

Provided further that the Curator shall not be made a defendant in a suit with respect to a mere right existing or alleged to exist in an absentee when the estate or alleged estate of the absentee consists solely of such right.

60. Government not liable for costs

In no suit against the Curator shall the Government be liable to pay the costs of such suit.

61. Service on parties on certain islands

(1) Service of any document whether personal or otherwise, where the party to be served is on any of the inner islands or the outlying islands shall be effected by leaving two copies thereof with the Registrar, unless such person has in Mahé, Praslin or La Digue an attorney or agent who may be served on his behalf. The two copies so left with the Registrar shall be forwarded by him for service by a person designated by him. Such service shall be effected in the manner provided by [section 34](#) and shall be as valid as service by an usher. The person designated by the Registrar shall be bound to effect service on prepayment of a fee of ten rupees by the party at whose instance the service is to be effected.

(2) In this section

"inner islands" means the islands of Aride, Curieuse, North Cousin, South Cousin, Round(near Praslin), Félicité, Mary Anne, East Sister, West Sister, Frigate, L'Ilot, Récif, Silhouette, North and Les Mamelles;

"outlying islands" means those islands and groups of islands listed in the Schedule to the Peace Officers(Inner Islands and Cap. 157 Outlying Islands) Act.

62. Civil Code, art. 1985

Nothing in [sections 47](#) to 61 shall be held to alter or amend article 1985, paragraph 1 of the Civil Code.

63. Appearance of Parties Parties appear on date fixed in summons

On the day fixed in the summons for the defendant to appear and answer to the claim, the parties shall be in attendance at the Court House in person or by their respective attorneys or agents.

64. Procedure if neither party appears

If on the day fixed for the defendant to appear and answer the claim, or on any other subsequent day to which the hearing of the suit is adjourned, when the case is called on, neither party appears, the suit shall then be dismissed unless the court, for reasons to be recorded, otherwise directs.

When a suit is dismissed under this section, the plaintiff may bring a fresh suit, subject to the law as to prescription.

65. Procedure if defendant does not appear

If on the day so fixed in the summons when the case is called on the plaintiff appears but the defendant does not appear or sufficiently excuse his absence, the court, after due proof of the service of the summons, may proceed to the hearing of the suit and may give judgment in the absence of the defendant, or may adjourn the hearing of the suit *ex parte*.

66. Procedure if defendant appears subsequently

If the court has adjourned the hearing of the suit *ex parte*, and the defendant, at or before such hearing, appears and assigns good cause for his previous non appearance, he may, upon such terms as the court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.

67. Procedure if plaintiff does not appear

If on the day so fixed in the summons, when the case is called on, the defendant appears and the plaintiff does not appear or sufficiently excuse his absence, the plaintiff's suit shall be dismissed.

If the defendant admits the plaintiff's claim or part thereof, the court shall give judgment for the plaintiff for so much of the claim as is admitted. If the defendant has claimed a set off (compensation), the court may proceed to the hearing of the set off and may give judgment thereon.

68. Procedure if only some of the defendants appear

If there be more defendants than one, and one or more of them appear, and the others do not appear, the suit may proceed, and the court shall, at the time of passing judgment, make such order as it thinks fit with respect to the defendants who do not appear.

69. Setting aside judgment given *ex parte*

If in any case where one party does not appear on the day fixed in the summons, judgment has been given by the court, the party against whom judgment has been given may apply to the court to set it aside by motion made within one month after the date of the judgment if the case has been dismissed, or within one month after execution has been effected if judgment has been given against the defendant, and if he satisfies the court that the summons was not duly served or that he was prevented by any sufficient cause from appearing when the suit was called on for hearing, the court shall set aside the judgment upon such terms as to costs, payment into court or otherwise as it thinks fit and shall order the suit to be restored to the list of cases for hearing. Notice of such motion shall be given to the other side.

70. How parties may appear

A party to a cause or matter may, except when otherwise expressly provided by any law for the time being in force, appear in person or by an attorney or barrister at law. A party not resident within Seychelles may appoint some other person by power of attorney to appear on his behalf:

Provided that the court may for sufficient reasons allow any other person to appear on behalf of any party.

Pleading and inspection

71. Particulars to be contained in plaint

The plaint must contain the following particulars:

- (a) the name of the court in which the suit is brought;
- (b) the name, description and place of residence of the plaintiff;
- (c) the name, description and place of residence of the defendant, so far as they can be ascertained;
- (d) a plain and concise statement of the circumstances constituting the cause of action and where and when it arose and of the material facts which are necessary to sustain the action;
- (e) a demand of the relief which the plaintiff claims;
- (f) if the plaintiff has allowed a set off or has relinquished a portion of his claim, the amount so allowed or relinquished.

72. In money suits

If the plaintiff seeks the recovery of money, the plaint must state the precise amount, so far as the case admits.

73. Capacity of plaintiff and defendant to be stated

If the plaintiff sues, or the defendant or any of the defendants is sued in a representative character, the plaintiff must state in what capacity the plaintiff or defendant sues or is sued.

74. Copies and lists of documents

If the plaintiff sues upon a document other than a document transcribed in the Mortgage Office of Seychelles, he shall annex a copy thereof to his plaint. If he rely on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall annex a list thereof to his plaint and shall state where the same may be seen a reasonable time before the hearing.

75. Statement of defence contents

The statement of defence must contain a clear and distinct statement of the material facts on which the defendant relies to meet the claim. A mere general denial of the plaintiff's claim is not sufficient. Material facts alleged in the plaint must be distinctly denied or they will be taken to be admitted.

76. Statement of defence must be filed in registry

The statement of defence shall be filed in the registry and shall form part of the record and the defendant shall in addition supply one copy to the plaintiff, or if there be more than one plaintiff, to each plaintiff, unless the court directs otherwise.

77. List of defendant's documents

If the defendant intends to produce any documentary evidence, he shall annex a list thereof to his statement of defence and shall state where the same may be seen a reasonable time before the hearing.

78. Copies of documents for court

A copy of every document tendered as evidence must be provided for the use of the court, unless the court otherwise directs.

79. Set off

If the defendant relies upon a set off (compensation), his statement of defence must contain particulars of such set off and a statement of the material facts necessary to sustain the same. If the set off depends upon a document, he must annex a copy of such document to his statement of defence.

80. Counter claim

- (1) Subject to subsection(2), where a defendant in any action wishes to make any claim or seek any remedy or relief against a plaintiff in respect of any thing arising out of the subject matter of the action, he may, instead of raising a separate action make the claim or seek the remedy or relief by way of a counter claim in the action; and where he does so the counterclaim shall be added to his defence to the action.
- (2) If, on the application of any party against whom a counterclaim is made, it appears to the court that it is in the interests of justice that the subject matter of the counterclaim be dealt with as a separate action, the Court may
 - (a) order that the counterclaim be struck out;
 - (b) order that it be tried separately; or
 - (c) make such order as it considers appropriate.

81. Failure to supply lists of documents

If either the plaintiff or the defendant omits to comply with sections [74](#) and [77](#) he shall not be allowed to produce in evidence on his behalf at the hearing any document in respect of which such omission has been made without the leave of the court and subject to such terms as the court may direct.

82. Exception to [section 81](#)

Nothing in sections [74](#) and [77](#) applies to documents produced for cross examination of the witness of the other party, or in answer to any case set up by the defendant or handed to a witness merely to refresh his memory.

83. Document not in possession of party

If any document included in the list of documents attached to the plaint or the statement of defence is not in the possession or power of the plaintiff or the defendant, as the case may be, the plaintiff or defendant shall state, if possible, in whose possession it is.

84. Inspection of documents

Each party shall be entitled to demand of the other inspection of any deed, agreement, bill or other document mentioned or referred to in his pleading or in the list of documents annexed thereto or which are or have been in his possession or power, relating to the matter in question, and in the event of such inspection not being granted, the party desiring the same may apply to the court by motion, of which notice shall be given, at least two clear days before the hearing for an order for such inspection, and the court may make an order for inspection in such place and in such manner as it may think fit:

Provided that the order shall not be made when and so far as the court shall be of opinion that it is not necessary either for disposing fairly of the cause or matter or for saving costs.

85. Non compliance with order for inspection

If any party fails to comply with any order for inspection of documents, he shall be liable, if a plaintiff, to have his suit dismissed and, if a defendant, to be placed in the same position as if he had not appeared on the day fixed in the summons to answer the claim.

86. Further particulars of plaint

A defendant may apply on the day fixed in the summons to appear and answer to the claim or prior thereto, for further particulars of the plaintiff's claim, and the court shall direct the furnishing of such particulars as appear to be necessary and may make such order as to costs and the time within which such particulars shall be furnished as may seem just.

87. Further particulars of defence

The plaintiff may apply within four days after the statement of defence has been filed in court for further particulars of the defence or set off, and the court shall direct the furnishing of such particulars as appear to be necessary and may make such order as to costs and the time within which such particulars shall be furnished as may seem just:

Provided however that the court may at any time of its own motion or on the application of either party order particulars or further particulars to be supplied and may adjourn the hearing for that purpose and may make such order as to costs and the time within which such particulars shall be supplied as appears to be just.

88. Plans

The court may order plans for any locus in quo to be supplied by either party in the same manner as particulars.

89. Copies of particulars to be supplied

When particulars are ordered, one copy shall be filed in the Registry and shall form part of the record, and one copy shall be supplied to each plaintiff or each defendant, as the case may be, by the party ordered to supply such particulars, unless the court directs otherwise.

90. Points of law

Any party shall be entitled to raise by his pleadings any point of law; and any point so raised shall be disposed of at the trial, provided that by consent of the parties, or by order of the court, on the application of either party, the same may be set down for hearing and disposed of at any time before the trial.

91. Decision on point of law only

If in the opinion of the court the decision of such point of law substantially disposes of the whole cause of action, ground of defence, set off or counterclaim, the court may thereupon dismiss the action, or make such other order therein as may be just.

92. Striking out pleadings

The court may order any pleading to be struck out, on the ground that it discloses no reasonable cause of action or answer, and in such case, or in case of the action or defence being shown by the pleading to be frivolous or vexatious, the court may order the action to be stayed or dismissed, or may give judgment, on such terms as may be just.

93. Pleadings to be endorsed by attorney or party

All pleadings, particulars and applications of whatever nature shall be endorsed with the name and address of the attorney of the party on whose behalf they are made, or, if the party sues in person, with the name, description and address of the party. At the head of each pleading or application its description and the title of the suit shall be given.

94. Election of domicile

Every party who is represented by an attorney shall elect domicile in the office of his attorney. If he is not so represented, he shall be deemed to have elected domicile at the place of residence endorsed by him on the pleadings or other application as the case may be, unless he file in the registry a written declaration electing domicile elsewhere within Seychelles.

95. Impounding of documents

The court may, if it sees sufficient cause, direct any document or book produced before it in any suit to be impounded and kept in the custody of an officer of the court for such period and subject to such conditions as the court thinks fit.

96. Return of documents produced in evidence

In suits in which an appeal is not allowed, when the suit has been disposed of, and in suits in which an appeal is allowed, when the time for preferring an appeal has lapsed, or, if an appeal has been preferred, then after the appeal has been disposed of, any person whether a party to the suit or not, desirous of

receiving back any document produced by him in evidence, shall, unless the document is impounded under the preceding section, be entitled to receive back the same:

Provided that no document shall be returned which by force or the judgment has become void or useless. A receipt shall be given on the return of the document by the person receiving it.

Possessory actions

97. Possessory actions when maintainable

Possessory actions (actions possessoires) in which the plaintiff claims to be maintained in, or restored to the quiet enjoyment and possession of land, premises, water rights, or other immovable property or any other right arising out of immovable property, shall only be maintainable when

- (a) the possessory action has been entered within one year from the date of the alleged trespass, and
- (b) the plaintiff has been in quiet and peaceful possession for one full year at least either by himself or by those through whom he claims in virtue of a non precarious (non précaire) title.

98. When possession and trespass are denied

In such actions, if the possession and trespass are denied, it shall not be competent to raise the question of title or ownership.

99. Possession and ownership

Possession and ownership shall not be alleged in the same plaint.

100. When petitory action fails

It shall not be lawful for an unsuccessful plaintiff in a petitory action (action pétitoire) to enter a possessory action.

101. Petitory action may not be entered until possessory action is disposed of

No petitory action shall be entered by a defendant to a possessory action before such possessory action shall have been first disposed of by the court, and the judgment of the court satisfied by the defendant if unsuccessful. Should it be shown to the satisfaction of the court that it is owing to the negligence of the successful plaintiff that the defendant has not satisfied the aforesaid judgment, the court shall on the application of the latter fix a time within which such judgment shall be satisfied; when such time is over, the court shall proceed with the petitory action.

102. Payment into Court Payment into court in full satisfaction of demand

The defendant in any suit may pay into court, at any stage of the suit, such sum of money as he shall consider a full satisfaction for the demand of the plaintiff. Notice of such payment shall be given forthwith by the Registrar to the plaintiff in writing, and the amount shall be paid out to the plaintiff on his application.

103. Acceptance in part satisfaction

If the plaintiff accept such amount only as satisfaction in part of his claim, he may prosecute his suit for the balance; and if the court decides that the amount paid into court was a full satisfaction of the plaintiff's claim, the plaintiff shall pay to the defendant the costs of the suit incurred by him after such payment and the costs incurred by him previous thereto, so far as they are caused by excess in the plaintiff's claim.

104. Acceptance in full satisfaction

If the plaintiff accept such amount as satisfaction in full of his claim, he shall file in court a statement to that effect and the court shall pass judgment accordingly, and shall make such order as to the costs of the suit as shall appear to the court to be just under the circumstances.

Joinder of causes of action**105. When different causes of action may be joined in same suit**

Different causes of action may be joined in the same suit, provided that they be between the same parties and that the parties sue and are sued respectively in the same capacities, but if it appear to the court that any of such causes of action cannot be conveniently tried or disposed of together, the court may, either of its own motion or on the application of the defendant, order separate trials of any of such causes of action, or may make such other order as may be necessary or expedient for the separate disposal thereof, or may order any of such causes of action to be excluded, and may make such order as to costs as may be just.

Consolidation**106. When suits may be consolidated**

If more than one suit has been entered by the same plaintiff against the same defendant or if more than one suit has been entered by different plaintiffs against the same defendant in respect of claims arising out of the same transaction or series of transactions or if cross suits have been entered between the same parties, and the parties sue and are sued respectively in the same capacities, the court may either of its own motion or on the application of any of the parties order such suits or any of them to be consolidated and tried as one suit, if it appear to the court that they can be conveniently tried or disposed of together, and the court may make such other order as may be necessary or expedient for the purpose of trying such suits together, and may make such order as to costs as may be just.

Parties**107. Who may be joined as plaintiffs**

All persons may be joined in one suit as plaintiffs in whom the right to any relief claimed is alleged, whether jointly, severally or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found entitled to relief, for such relief as they or he may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the court in disposing of the costs of the suit otherwise direct.

108. Suits commenced in name of wrong person

Where a suit has been commenced in the name of the wrong person as plaintiff, or where it is doubtful if it has been commenced in the name of the right plaintiff, the court may, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person with his consent to be substituted or added as plaintiff upon such terms as the court thinks just.

109. Who may be joined as defendants

All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

110. Option as to joining parties in same suit

The plaintiff may, at his option, join as parties to the same suit all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

111. Numerous persons having same interest in one cause

Where there are numerous persons having the same interest in one cause or matter, one or more of such persons may sue or be sued, or may be authorised by the court to defend in such cause or matter, on behalf of or for the benefit of all persons so interested, subject to such notice to the persons interested as the court may direct.

112. Misjoinder, adding of parties, etc

No cause or matter shall be defeated by reason of the misjoinder or non joinder of parties and the court may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

The court may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the court to be just, order that the names of any persons improperly joined, whether as plaintiffs or defendants, be struck out, and that the names of any parties, whether plaintiffs or defendants, who ought to have been joined, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the cause or matter, be added.

113. No person to be added as plaintiff without his consent

No person shall be added as a plaintiff without his consent in writing thereto.

114. Procedure where a defendant is added

Where a defendant is added or substituted, the plaint shall, unless the court direct otherwise, be amended in such manner as may be necessary, and a summons with a copy of the amended plaint attached shall be served on the new defendant and the proceedings as against such party shall be deemed to have begun only on the service of such summons. The court may order a copy of the amended plaint to be served on or supplied to the original defendant.

115. Application to add or strike out parties

Any application to add or strike out or substitute a plaintiff or defendant may be made to the court at any time before trial by motion, or at the trial of the action in a summary manner.

116. Joinder of sureties

If on the day the plaint is made returnable, the defendant to a suit moves for leave to join as parties to the suit one or more persons alleged to be liable as sureties, the court shall grant the defendant a reasonable time within which to join such persons. In such case the defendant shall serve upon the person alleged to be so liable a copy of the plaint but it shall not be necessary to serve upon such person a copy of the order of the court directing him to be joined as a party.

If no such application is made on the return day of the plaint or if the plaint has not been served upon the surety within the time fixed by the court, it shall be lawful for the court to proceed with the principal action and adjudicate separately upon the question of the security.

Intervention

117. Who may intervene and at what time

Every person interested in the event of a pending suit shall be entitled to be made a party thereto in order to maintain his rights, provided that his application to intervene is made before all parties to the suit have closed their cases.

118. Application to be by motion

An application to intervene in a suit shall be made by way of motion with an affidavit containing the grounds on which the applicant relies in support thereof.

119. Notice to be given

Notice of such motion shall be served upon all the parties to the suit.

120. Intervener must file statement of demand

If leave to intervene is granted by the court, the intervener shall, within the period fixed by the court, file a statement of his demand and of the material facts on which it is based and shall at the same time supply a copy of such statement to the other parties to the suit.

Incidental demands

121. Application to be by motion

Either party to a suit may, in the course of such suit, apply to the court by way of motion to make an incidental demand.

122. With affidavit

The motion shall be accompanied by an affidavit of the facts in support thereof and shall be served upon the adverse party.

123. All incidental demands to be made at same time

All incidental demands shall be made at the same time. The costs of any subsequent incidental demand made on grounds which already existed at the time when a prior demand was made shall be borne by the party making such demand.

124. Judgment may be given on principal demand only

The court may, in its discretion, give judgment in the principal demand only, if the incidental one be of a nature unjustly to delay the plaintiff in the principal demand, and afterwards give judgment upon the incidental demand.

125. Affidavit in reply

If the adverse party contests the incidental demand he shall file an affidavit in reply, unless the court otherwise direct.

Hearing

126. If defendant admits claim

If on the day fixed in the summons for the defendant to appear, the defendant appears and admits the plaintiff's claim, judgment shall be given for the plaintiff.

127. If claim denied, statement of defence to be filed

If the defendant denies the plaintiff's claim or any part thereof, the court shall adjourn the case to a date to be fixed by the court and shall order the defendant to file a statement of defence on or before such date.

If there are more than one defendant, with different defences, separate statements of defence shall be filed by such defendants. The court may, if it think fit, give judgment for the plaintiff for such part of the claim as is admitted by the defendant to be due:

Provided however that, if the defendant appears in person and the plaintiff's claim is for less than five hundred rupees, the court, if it think fit, may allow the defendant to make his statement of defence verbally, which statement shall be recorded by the Registrar, and may either hear the suit forthwith or fix another date for the hearing:

Provided also that the court may, at any time after the parties have appeared, proceed to hear the suit, if the parties are ready and consent thereto.

128. Failure to file statement of defence

On the date to which the suit has been adjourned under the last preceding section, the parties shall appear and the Court shall then adjourn the suit to a date to be fixed by the court for the hearing.

If the defendant has neglected to file his statement of defence within the time ordered by the court, the court may either give judgment for the plaintiff on his claim or grant further time, subject to such order as to costs, as to the court may seem fit.

129. Hearing and adjournment

On the date fixed by the court for the hearing of the suit, the parties shall appear and the court shall proceed to the hearing of the suit. The court may, at any stage of the suit, if sufficient cause be shown and subject to such order as to costs as to the court may seem fit, grant time to the plaintiff or defendant to proceed in the prosecution or defence of the suit and may adjourn the hearing of the suit.

130. Procedure when suit is settled

If on the day fixed in the summons for the defendant to appear, or on any subsequent day before judgment has been given, the parties or the plaintiff if no set off has been pleaded, appear in court and state that the suit has been settled, the suit shall be struck out and no suit shall thereafter be brought between the same parties in respect of the same cause of action.

131. Judgment by consent

The parties may at any stage of the suit before judgment, appear in court and file a judgment by consent signed by both parties, stating the terms and conditions agreed upon between them in settlement of the suit and the amount, if any, to be paid by either party to the other and the court, unless it see cause not to do so, shall give judgment in accordance with such settlement.

132. Absence of Judge

When by reason of the illness or unavoidable absence of the Judge, the court cannot be held, the Registrar shall call into court all the parties to the cases fixed for the day and all witnesses summoned for such day, and shall adjourn the court to such other day as he may deem expedient.

133. Non appearance at adjourned hearing

If on the day to which the hearing of the suit has been adjourned by the court or by the Registrar under [section 132](#), the parties or any of them fail to appear, the court may proceed to dispose of the suit in one of the manners directed in that behalf by sections [64](#), [65](#) and [67](#) or may make such order as it thinks fit.

134. Procedure if parties fail to produce evidence, etc.

If any part to a suit to whom time has been granted fails to produce his evidence or to cause the attendance of his witness or to perform any other act necessary to the further progress of the suit, for which time has been allowed, the court may, notwithstanding such default, proceed to decide the suit forthwith.

135. Delivery of judgment

- (1) At the conclusion of the hearing of the suit, the court shall deliver judgment at once or on some future day of which notice shall be given at the conclusion of the hearing to the parties or their attorneys or agents(if any).
- (2) Where on the day fixed for delivery of judgment, the court is not prepared to deliver judgment, a yet future day may be appointed and announced for the delivery of judgment.
- (3) The judgment shall be dated and signed by the judge in open court at the time of delivering it.

136. Payment by instalments

The court may, save where otherwise provided by law, when delivering judgment make such orders concerning the time or times at which, and by what instalments, any debt or damages or costs for which judgment shall be obtained in the said court, shall be paid and all such moneys shall be paid into court unless the court otherwise direct. Such orders may be made subject to payment of interest on the amount of the judgment debt remaining unpaid, or to the finding of security therefor by the judgment debtor.

137. Hearing of suit in situ

The court may in any suit, either of its own motion or at the request of any party to the suit, if the court be of opinion that the hearing of the suit will be facilitated thereby

- (a) direct that such suit or any witnesses in the suit be heard on the land or premises in dispute between the parties to the suit or at any place where any matter in dispute in such suit has occurred, or
- (b) may proceed to such land or premises or place for the purpose of inspection only, without hearing witnesses, but the parties shall have the right to be present at such inspection.

The court shall notify the parties of the place and the date of the time of such hearing or inspection, in sufficient time to enable them to be present.

138. Expenses to be deposited in advance

The expenses of such hearing or inspection shall be deposited in the registry in advance by the party requesting it, but the court may make such order as to the party by whom such expenses are to be borne as it thinks fit.

139. Duties of Registrar to be present in court

The Registrar shall be present at every sitting of the court and shall accompany the Judge when hearing evidence on any land or premises in dispute or at any place where any matter in dispute in the suit has occurred, but he needs not be present when the Judge proceeds to such land, premises or place for the purpose of inspection only, unless the Judge otherwise directs.

140. To make entries on record

The Registrar shall enter in the record of every cause or matter the date or dates on which it is called on, the names of the parties appearing and of the lawyers, if any, by whom they are represented, and the name, description and place of residence of every person who has given evidence.

He shall also make an entry of all orders and judgments of the court, of all admissions made, of all objections taken and the ruling of the court thereon and of any other matter which appears to be requisite or which the Judge shall direct to be noted, and he shall note the authorities cited by either party.

141. To make down evidence in appealable cases

In all cases in which an appeal lies, the Registrar shall in addition take down in writing and attach to the record the evidence of the witnesses and the answers of a party examined on personal answers.

142. To mark documents admitted

Any document admitted in evidence shall be marked in the Registrar with a distinguishing number or letter and with the title of the cause or matter to which it relates and shall be attached to the record.

143. Or rejected if party requests

In all cases in which an appeal lies, any document tendered in evidence but not admitted by the court shall be similarly marked by the Registrar for the purpose of identification, and as having been rejected and shall be attached to the record, if the party tendering the same in evidence so require.

144. To register judgment

The Registrar shall enter in the register of civil and commercial suits, against each cause or matter, the judgment or final order of the court therein.

145. Sittings of court open to public

All sittings of the court shall be open to the public except when the law directs that they shall be held with closed doors, but the court may, in any particular cause or matter, if the court think necessary in the interest of public order or decency, order all persons not directly interested in such cause or matter, or any particular class of persons, to leave the court, during the hearing.

Amendments

146. Amendment of pleadings

The court may, at any stage of the proceedings, allow either party to alter or amend his pleadings, in such manner and on such terms as may be just, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties:

Provided that a plaint shall not be amended so as to convert a suit of one character into a suit of another and substantially different character.

147. Clerical error in judgments

Clerical mistakes in judgments or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the court on motion.

148. Amendments of errors in proceedings

The court may at any time, and on such terms as to costs or otherwise as the court may think just, amend any defect or error in any proceedings, and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings.

149. Amended pleading to be supplied to adverse party

Where a pleading is amended by order of the court, the pleading shall be redrawn in its amended form and a copy thereof supplied to the opposite party if the court so order, subject to any order as to costs which the court may think fit to make.

150. Suspension or variation of judgments

The court may, after hearing both parties, alter, vary or suspend its judgment or order, during the sitting of the court at which such judgment or order has been given.

Conclusions of the Ministère Public

151. Matters which must be referred to the Attorney General for conclusions as Ministère Public

The following matters shall be referred to the Attorney General for his conclusions as Ministère Public, but there shall henceforth be no obligation upon him to give conclusions as Ministère Public, in any matter referred to him, unless required to do so by the court, and no judgment shall be held to be invalid for want of such conclusions whenever such matter shall have been referred to him according to law:

- (a) matters relating to the guardianship of minors;
- (b) matters in which one of the parties is represented by a curator;
- (c) matters concerning presumed absentees or matters in which such absentees are interested;
- (d) matters relating to the interdiction of persons or the appointment of advisers (conseils judiciaires).

Witnesses

152. Witness summonses

Any party to a cause or matter may obtain, on application to the Registrar of the court, summonses to persons whose attendance is required to give evidence or to produce documents.

153. Payment into court for expenses of witness

The party applying for a summons shall, before the summons is granted, pay into court a sum of money sufficient to defray the travelling and other expenses of the person so summoned, and for one day's attendance. He shall state in his application the description and the place of residence of the witness whom he desires to summon.

154. Particulars to be contained in witness summons

Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document or for both purposes; and any particular document which the person summoned is called upon to produce shall be described in the summons with reasonable accuracy.

155. Summons to produce document

Any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

156. Evidence of person present in court

Any person present in court may be required by the court to give evidence or to produce any document then and there in his actual possession or power.

157. Witness summons to be served by an usher

Every summons to a witness to give evidence or produce a document shall be served by an usher of the court in the manner prescribed in this Code for the service of a summons on a defendant, as nearly as may be.

158. Time for service

The summons shall in all cases be served a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the Court House. A summons shall not be issued less than twenty-four hours before the time when the attendance of the witness is required, without the special leave of the court.

159. When witness may depart

No person so summoned and attending shall depart unless and until

- (a) he has been examined or has produced the document and the court has risen, or
- (b) he has obtained the leave of the court to depart.

160. Witness about to leave the jurisdiction

If a witness be about to leave the jurisdiction of the court, or if other sufficient cause be shown to the satisfaction of the court why his evidence should be taken immediately, the court may upon the application of either party take the evidence of such witness at any time after the commencement of the cause or matter. Sufficient notice of the application shall be given to the adverse party.

161. Witness refusing to give evidence etc., may be fined

Every person summoned to give evidence or to produce a document or to appear in court to give his personal answers not upon oath, who shall fail without sufficient cause to comply with the summons or who departs contrary to the provisions of [section 159](#) or who being in court refuses without sufficient reason to give evidence or to be sworn when required by the court, may be ordered by the court to pay a fine not exceeding one hundred rupees and a warrant may be issued to bring such person before the court.

162. Personal answers rules relating to examination of parties on personal answers

- (1) Any party to a cause or matter may examine the adverse party on his personal answers as to anything relevant to the matter at issue between the parties.
- (2) If a party to any cause or matter be the Republic, a public establishment(établissement public), a corporation or a body having a legal entity, such party shall be bound to appoint a special attorney to give his personal answers in such cause or matter. If on the day fixed for the appearance of any such party to give his personal answers, no such attorney appears on behalf of such party, and no satisfactory reason for such attorney's non-appearance is given, the facts, matters and things alleged by the adverse party may be held to have been admitted:

Provided however that administrators, managers or agents of such party may also be called upon to give their personal answers on matters which are within their personal knowledge, and the court may in its discretion attach whatever weight it thinks fit to such answers.

- (3) If a party to a cause or matter be incapable in law of contracting (incapable), he shall give his personal answers through his guardian, curator or other legal representative.

163. Procedure to obtain attendance of adverse party, for examination

Whenever a party is desirous of obtaining the personal answers not upon oath of the adverse party, he may apply to the Judge in court on the day fixed for the defendant to file his statement of defence or prior thereto, or he may petition the court *ex parte* at any time prior to the day fixed for the hearing of the cause or matter to obtain the attendance of such adverse party and the court on sufficient ground being shown shall make an order granting the application or petition. And the party having obtained such order shall serve a summons, together with a copy of the order, on the adverse party to appear in court on the day stated therein.

164. Party present in court may be examined

If a party to the cause or matter is present in court at the hearing of the case, he may be examined on his personal answers with the permission of the Judge, without any previous application.

165. When the Republic is a party

In no cause or matter where the Government or the Republic is a party shall the Minister represent or be regarded as the agent of the Government or of the Republic nor shall the Minister be made a party to such cause or matter or be summoned thereto on personal answers or otherwise except as an ordinary witness. In any such cause or matter the Attorney General shall represent the Government or the Republic.

166. Examination when to take place

The examination on personal answers shall be in open court at the hearing of the cause or matter, but no party having closed his case shall be allowed thereafter to examine the adverse party on his personal answers.

167. Examination may be separate

If more than one person be called by either party to a cause or matter to give personal answers, the court may direct that each such person shall give his answers out of the hearing of the others.

Affidavits

168. When court may order facts to be proved by affidavit

The court may at any time for sufficient reason order that any particular fact or facts may be proved by affidavit or that the affidavit of any witness may be read at the hearing, on such conditions as the court thinks reasonable:

Provided that where it appears to the court that either party *bona fide* desires the production of a witness for cross-examination and that such witness can be produced, an order shall not be made authorising the evidence of such witness to be given by affidavit.

169. Cross examination

Upon any motion, petition or application, evidence may be given by affidavit; but the court may, on the application of either party, order the attendance for cross-examination of the person making any such affidavit.

170. What affidavits may contain

Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except on interlocutory applications, on which statements as to his belief, with the grounds thereof, may be admitted.

171. Before whom affidavits may be sworn

Affidavits may be sworn in Seychelles —

- (a) before a Judge, a Magistrate, a Justice of the Peace, a Notary or the Registrar; and
- (b) in any cause or matter, in addition to those mentioned in paragraph (a) before any person specially appointed for the purpose by the court.

Opposition by third parties

172. Who may file opposition to judgment

Any person whose interests are affected by a judgment rendered in a suit in which neither he nor persons represented by him were made parties, may file an opposition to such judgment.

173. Procedure

Such opposition shall be formed by means of a principal action to which the parties to the suit, in which the judgment sought to be set aside was obtained, shall be made defendants.

174. Opposition not to delay execution of judgment

Such opposition by a third party shall not delay the execution of the judgment sought to be set aside unless the court orders a stay of execution.

175. Opposition when judgment is *res judicata*

Execution of judgments ordering a party to give up possession of an immovable property shall not be stayed by an opposition to such judgment made by third parties whenever such judgments are *res judicata* between the parties to the original suit.

Abatement

176. No abatement if cause of action survives

A cause or matter shall not become abated by reason of the death, bankruptcy or insolvency, or change of status or of capacity, of any of the parties, if the cause of action survives; and, whether the cause of action survives or not, there shall be no abatement by reason of the death of either party between the hearing and the judgment.

177. Death, bankruptcy, etc., of a party

In case of the death, bankruptcy or insolvency, or change of status or of capacity, of a party to a cause or matter, the court may order that any necessary party be added or that any person entitled to represent the party who has died or become bankrupt or insolvent, or being the successor in interest of any such party, be substituted for such party.

178. Substitution of name on record application by representative of deceased party

Any person claiming to be the representative of a deceased plaintiff or for a deceased defendant may apply to the court to substitute his name on the record for that of the deceased plaintiff or the deceased defendant, as the case may be. The application shall be by petition served on the defendant or the plaintiff, as the case may be.

179. Application by plaintiff or defendant

Any plaintiff or defendant may apply to the court to substitute any person alleged to be the representative of a deceased defendant or of a deceased plaintiff for the deceased defendant or the deceased plaintiff, as the case may be. Such application shall be by petition served on the person whom it is desired to substitute.

180. Procedure where party is added or substituted

If the court order any party to be added or any person to be substituted under sections [177](#), [178](#) or [179](#), the cause or matter shall proceed in the same manner as if such person or parties had been parties at the commencement of the cause or matter.

181. Summons to compel a party to proceed

When the plaintiff or defendant in a cause or matter dies and the cause of action survives, but the person entitled to proceed fails to proceed, the defendant or the person against whom the cause or matter may be continued may apply by summons to compel the plaintiff or the person entitled to proceed within such time as may be ordered; and in default of such proceeding, judgment may be entered for the defendant, or, as the case may be, for the person against whom the cause or matter might have been continued.

Discontinuance

182. When plaintiff may discontinue suit. Leave of court, when required

The plaintiff may, at any time before the statement of defence has been filed, or after it has been filed before taking any other proceeding in the suit (save any interlocutory application) by notice in writing to the Registrar, wholly discontinue his suit against all or any of the defendants or withdraw any part of his claim and thereupon he shall pay such defendant's costs of the suit, or if the suit be not wholly discontinued, the costs occasioned by the part of the claim so withdrawn. Such costs shall be taxed, and such discontinuance or withdrawal, as the case may be, shall not be a defence to any subsequent action.

Save as in this section otherwise provided, it shall not be competent for the plaintiff to discontinue the suit without leave of the court, but the court may at any time before judgment, upon such terms as to costs, and as to any other suit, and otherwise as may be just, order the suit to be discontinued, or any part of the claim to be struck out.

The court may, in like manner, and with the like discretion as to terms, upon the application of a defendant, order the whole or any part of his alleged grounds of defence to be withdrawn or struck out, but it shall not be competent for a defendant to withdraw his defence or any part thereof without such leave.

183. Notice of discontinuance

The Registrar shall on receipt of such notice in writing forthwith give notice to the defendant of such discontinuance or withdrawal.

184. Costs of discontinued suit

The defendant may recover the costs of a suit which has been discontinued under [section 182](#) in the same way as if such costs had been granted by a judgment of the court.

185. Subsequent action may be stayed

If any subsequent suit shall be brought before payment of the costs of a discontinued suit, for the same, or substantially the same cause of action, the court may, if it thinks fit, order a stay of such subsequent suit, until such costs shall have been paid.

Peremption of suits

186. Want of prosecution

All causes and matters are extinguished for want of prosecution when no proceeding has been taken therein during three years.

187. When peremption does not take place

Peremption does not take place when proceedings are compulsorily stayed by any incidental proceeding, an interlocutory judgment, reference to experts, arbitrators, or commissioners or when the record cannot be found.

188. Against who peremption takes place

Peremption takes place against the Republic, public establishments(établissements publics), and all persons even such as are represented by guardians and curators, without prejudice to any action in damages against the administrators of such establishments, and such guardians and curators for any loss incurred through their fault or negligence.

189. Peremption must be decreed by the court

Peremption to be effective must be decreed by the court upon a motion made to that effect by one of the parties to the suit in respect of which presumption is alleged to have taken place.

Notice of such motion shall be given to the other parties to such suit.

190. When peremption is inoperative

Any valid act of procedure made by one of the parties in a suit, although made after the lapse of three years, renders peremption inoperative, if made before notice of the motion mentioned in [section 189](#) is given to the adverse party.

191. Effect of peremption

Peremption puts an end to the cause or matter, but it does not extinguish the right of action itself.

192. Procedure if peremption is decreed

The parties to a cause or matter in respect of which peremption has been decreed by the court to have taken place, shall not be entitled to avail themselves of any act of procedure done in the course of such cause or matter.

193. Costs

If peremption is decreed by the court to have taken place with respect to a cause or matter, the court shall, unless good cause be shown to the contrary, require the plaintiff to pay the costs of such cause or matter.

New trial

194. When a new trial may be granted

A new trial may be granted on the application of either party to the suit—

- (a) where fraud or violence has been employed or documents subsequently discovered to be forged have been made use of by the opposite party;
- (b) when new and important matter or evidence, which after the exercise of due diligence was not within the knowledge of the applicant or could not be produced by him at the hearing of the suit, has since been discovered or become available;
- (c) when it appears to the court to be necessary for the ends of justice.

195. Procedure to obtain new trial

Application for a new trial shall be made by petition supported by an affidavit of the facts, and shall be served on the opposite party in the same manner and subject to the same rules as to time for appearance as in the case of plaints.

196. Application, when to be made

Application for a new trial must be made,—

- (a) if judgment was given against the defendant in default, within three months from the date when execution of the judgment was effected or from the earliest date on which anything was paid or done in satisfaction of the judgment;
- (b) in all other cases, within three months from the date of the judgment.

197. Forgery, fraud or new evidence

Where a new trial is applied for on the grounds of forgery, fraud or new evidence, the period of three months mentioned in [section 196](#) shall only run from the day on which the forgery or fraud shall have

been known or the new evidence discovered, provided that in the last two cases there is written proof of the day on which such fraud or new evidence shall have been discovered.

198. Court may impose terms

The court may grant an order for a new trial on such terms, if any, as to costs and finding of security for the amount for which judgment was given at the first trial, or such other terms as to the court may seem fit.

199. Date for new trial

When a new trial is granted, the court shall fix a date for the hearing.

If the adverse party does not appear on the hearing of the petition for the new trial and an order is made granting the application, the party in whose favour the order is made shall summon the adverse party to appear on the date fixed by the court for the new trial and the trial shall then proceed in all respects as if it has been a first trial.

200. Stay of execution

The court may grant a stay of execution pending the hearing of the new trial.

201. What issues may be raised at new trial

It shall not be competent for the applicant to raise any other issues at the new trial except those alleged in his application for such new trial.

202. Effect of judgment for the applicant

If, at the new trial, judgment be given in favour of the applicant, all sums of money paid under the first judgment shall be returned to the applicant and the parties shall be put back in the same position as if there had been no first trial, unless the court orders otherwise.

203. No new trial of a new trial

Whenever an application for a new trial shall have been made and refused or whenever a new trial has been granted and adjudicated upon, it shall not be lawful for the same party to apply again for a new trial of the same suit or for a new trial of such new trial.

204. New trial ordered by appellate court procedure

If, on appeal, a new trial be ordered by the appellate court, either party may file in the registry of the Supreme Court the original judgment or order of the appellate court, or a copy of the formal judgment or order certified to be correct and sealed by the Registrar of the appellate court, and within one month after filing such judgment or order such party shall apply to the Registrar to fix a date for the hearing of such new trial and shall summon the adverse party to appear on the date fixed for the new trial and the trial shall then proceed in all respects as if it had been a first trial, subject however to any order made by the appellate court.

Arbitration

205. Reference to arbitration

The court may, in any cases other than those mentioned in article 1004 of the French Code of Civil Procedure, with the consent of both parties to the suit, and also in any case in which the law permits arbitration independently of such consent, order such suit, with or without other matters within the jurisdiction of the court in dispute between such parties, to be referred to arbitration, to such person or

persons, and in such manner and on such terms, as the court shall think reasonable and just, and if more than one arbitrator has been appointed, it may appoint an umpire if it thinks fit.

Such reference shall not be revocable except with the consent of the court:

Provided that nothing in this section shall be deemed to prevent persons from submitting their dispute to arbitration in accordance with the provisions of Book Three of the French Code of Civil Procedure, without an order of the court.

206. Objections to award

When the award of the arbitrators or umpire has been filed in court, the Registrar shall give notice to the parties. If no objection to the award be filed in the registry within 10 days from the receipt of such notice by either party, the court shall give judgment in accordance with the award.

207. When award may be set aside or modified

An award shall not be objected to and shall not be set aside except on one of the following grounds—

- (a) corruption or misconduct of an arbitrator or umpire;
- (b) either party having been guilty of fraudulent concealment of any matter which ought to have been disclosed or of wilfully misleading or deceiving the arbitrator or umpire;

Provided however that an award may be modified by the court after hearing both parties, if it has left undetermined any of the matters referred to arbitration or if it has determined any matter not referred to arbitration, or if the award contains some obvious error; or, in any such case, the court may send the award back to the arbitrator or umpire to be modified.

Suits in formâ pauperis

208. Who may sue as paupers

Any person may on application to the court be admitted to sue or defend as a pauper, but no person shall be so admitted unless he satisfies the court —

- (a) that he is not worth three hundred rupees, his wearing apparel and the subject matter of the suit or other proceeding before the court excepted; and
- (b) that he has reasonable grounds for suing or of defence.

209. Examination of applicant

The court may examine the applicant on oath or take such other evidence as may be requisite to enable it to decide on the application.

210. Fees of court

A person admitted to sue or defend as a pauper shall not be liable to pay any fees of court, but unless the court certify in writing that the suit is one of public policy(ordre public), he shall not be exempted from the payment of the stamp or registration dues.

211. When suit is one of public policy

If the court certify that the suit is of public policy, witnesses shall be bound to attend and give evidence, when summoned, without the previous payment of the fees or allowances authorised by law but no witness shall be summoned unless the court is satisfied that the evidence of such witness is necessary for the ends of justice.

212. Counsel and attorney may be assigned

- (1) Where any person is admitted to sue or defend as a pauper, the court may direct that all process issued in connection with the suit shall be served by a member of the Police Force and may, if necessary, assign counsel or an attorney, or both, to assist the person so admitted and counsel or an attorney so assigned shall not be at liberty to refuse his assistance unless he satisfies the court that he has some good reason for refusing. The court shall have the same discretionary powers to assign counsel or an attorney, or both, to assist a person who has been admitted to sue or defend as a pauper, in the preparation of an appeal from any decision or order of the Supreme Court.
- (2) Where counsel or an attorney has been assigned to any person under the provisions of subsection (1) the remuneration of such counsel or attorney for the services for which he has been so assigned shall be of such amount or according to such scale as may be prescribed by regulations made by the Minister and shall be paid to him out of general revenues.

213. Remuneration

Whilst a person sues or defends as a pauper, no person shall take or agree to take, or seek to obtain from him any fee, profit or reward, for the conduct of his business in the court, and any person who takes, or agrees to take, or seeks to obtain any such fee, profit or reward, shall be guilty of a contempt of court.

214. Pauper may be dispaupered

If any person admitted to sue or defend as a pauper gives, or agrees to give, any such fee, profit, or reward, he shall be forthwith dispaupered, and shall not be afterwards admitted again in the same cause to sue or defend as a pauper.

215. Attorney to sign proceedings

No proceeding shall be served, and no petition shall be presented, on behalf of any person admitted to sue or defend as a pauper, except for the discharge of his attorney, unless it is signed by his attorney, if any attorney has been assigned to him.

216. Unnecessary proceedings

It shall be the duty of the attorney assigned to the person admitted to sue or defend as a pauper, to take care that no proceeding is served or petition presented without good cause.

217. Disbursements

No attorney or usher shall be bound in any civil suit brought by or against paupers to make any disbursement of his own moneys.

218. Recovery of fees

If the court order any costs to be paid to any person admitted to sue or defend as a pauper, the court, stamp, or registration fees which would have been paid by such person if he had not been admitted to sue or defend as a pauper and the remuneration of counsel or the attorney which has been paid or is payable under subsection(2) of [section 212](#), shall be deducted from the amount of the costs so ordered to be paid and shall be paid to the Registrar for the benefit of the Republic and shall be recoverable by the Attorney General in the same manner as if the order for cost., had been in his favour. Such costs may be taxed as in other cases.

Of furnishing of security

219. When security may be required

The court may, on the application of the defendant, require the plaintiff to give security for costs in all cases in which under the Civil Code such security may be required and also when the plaintiff is known to be insolvent.

220. Time within which security is to be furnished

Whenever a party to a suit shall have been ordered to furnish security, the court shall, by the same order, fix the time within which such security shall be furnished by such party and accepted or objected to by the other party.

221. Notice of sureties offered

The party to a suit ordered to give security shall give notice to the other party or his attorney of the persons intended to stand as sureties. Such notice shall state the names of the persons suggested as well as the means of such persons.

222. Objections

If the surety is objected to, the matter shall be summarily dealt with by a Judge in chambers.

Damages

223. Determination of amount of damages

Whenever damages or any sum of money to be paid shall not have been definitely determined by the judgment of the court it shall be lawful for the plaintiff, after notice given to the defendant and failure on his part to tender an acceptable amount, to apply to the court by way of motion for an order fixing the amount of such money or damages and the court after hearing the parties shall make an order fixing the amount.

224. Costs

Should the amount tendered by the defendant be found by the court to have been sufficient, costs shall be granted against the plaintiff.

Execution

225. Procedure on application for execution. Urgency

If the party liable fails to satisfy the judgment or to comply with the order of the court, application may be made to the Registrar by the judgment creditor, forty-eight hours after such default, for the enforcement of the judgment or order by means of execution. Before applying for execution, the judgment creditor must have his bill of costs taxed by the Registrar and where the judgment is for a sum of money exceeding sixty rupees or for the delivery of property exceeding sixty rupees in value, the judgment creditor may also obtain from the Registrar a formal judgment stating the substance of the judgment or order and must cause the same to be registered at the Registration Office:

Provided that the court may, on grounds of urgent necessity, direct that a judgment or order be enforced by execution, except in so far as it relates to the costs of the suit, immediately after judgment has been given and before the costs incurred in the suit can be ascertained by taxation, and that the judgment or

order, in so far as it relates to the costs, be enforced by execution so soon as the amount of the costs shall have been ascertained by taxation.

226. Cross judgments

If there be cross-judgments between the parties, execution shall be taken by that party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered, as well as satisfaction of the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

227. Foreign judgments

Foreign judgments and deeds drawn up in foreign countries can only be enforced in the cases provided for by articles 2123 and 2128 of the Civil Code and agreeably with the provisions of the aforesaid articles.

Arbitral awards under the New York Convention, as provided under articles 146 and 148 of the Commercial Code of Seychelles, shall be enforceable in accordance with the provisions of Book 1, Title X of the said Code.

228. When property may be seized

Property whether movable or immovable can only be seized and sold in virtue of an executory title (titre exécutoire) and for a determined and liquidated amount.

Should the claim not be in respect of a liquidated sum of money, the property seized shall not be sold until the amount of money which is due has first been determined by the court.

229. Caption of the body

Caption of the body shall not be granted or enforced until the amount due has first been determined.

230. Appeal not to operate as stay of execution

An appeal shall not operate as a stay of execution or of proceedings under the decision appealed from unless the court or the appellate court so orders and subject to such terms as it may impose. No intermediate act or proceeding shall be invalidated except so far as the appellate court may direct.

231. Execution of judgment after appeal

When the appellate court has given judgment on the appeal, either party may file in the registry of the Supreme Court the original judgment or order of the appellate court, or a copy of the formal judgment certified to be correct and sealed by the Registrar of such court, and such judgment may then be enforced and the taxed costs of the appeal recovered by execution, in the same manner as is provided by this Code in the case of judgments of the Supreme Court, subject however to any order of the appellate court.

232. Duration and extension of validity of warrant or writ of execution

- (1) For the purpose of execution, a warrant or writ of execution is valid in the first instance of 12 months beginning with the date of its issue.
- (2) Where a warrant or writ has not been wholly executed the court may by order extend the validity of the warrant or writ from time to time for a period of twelve months at any time beginning with the day on which the order is made, if an application for extension is made to the court the day next following that on which the warrant or writ would otherwise expire.
- (3) Before a warrant or writ, the validity of which has been extended under this section, is executed the warrant or writ must be sealed with the seal of the court showing the date on which the order extending its validity was made.

- (4) The priority of the warrant or writ, the validity of which has been extended under this section, shall be determined by reference to the date of the original issue thereof.
- (5) The production of a warrant or writ of execution purporting to be sealed as in subsection(3) mentioned, shall be evidence that the validity of that warrant or writ has been extended under this section.

233. Execution to issue within six years. Leave to issue in certain cases

- (1) As between the original parties to a judgment or order, execution may issue at any time within six years from the date of the judgment or order.
- (2) (a) In the following cases, namely—
 - (i) where six years or more have elapsed since the date of the judgment or order,
 - (ii) where any change has taken place, whether by death or otherwise, in the parties entitled or liable to execution under the judgment or order,
 - (iii) where under the judgment or order any person is entitled to relief subject to the fulfillment of any condition which it is alleged has been fulfilled,
 - (iv) where any goods sought to be seized under a warrant or writ of execution are in the hands of a sequestrator appointed by the court, the party alleging himself to be entitled to execution may apply to the court for leave to issue execution accordingly, and the court may, if satisfied that the party so applying is entitled to execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties in relation to the application for leave to issue execution shall be tried in any of the ways in which any question in an action may be tried, and in either case, the court may impose such terms as to costs or otherwise as shall be just.
- (b) Where the court grants leave for the issue of a warrant or writ of execution and the warrant or writ is not issued within one year after the date of the order granting such leave, the order shall cease to have effect without prejudice however to the making of a fresh order.

234. Fines may be recovered by execution

Any fine imposed by the court in virtue of the powers conferred by this Code may be enforced and recovered by execution in the same manner as a judgment of the court.

235. Police to assist ushers

All police officers are authorised and required to assist the ushers of the court in executing any warrant of execution, if called upon to do so by the usher executing the warrant.

236. Movable property which may not be seized in execution

The following movable property may not be seized in execution: —

- (a) things which are declared by law to be immovable property by destination (immeubles par destination);
- (b) the necessary bedding and wearing apparel of the judgment debtor and of his wife and children living with him;
- (c) the books relating to the profession of the judgment debtor, who shall have the right to select those he requires, provided they do not exceed two thousand rupees in value;
- (d) appliances and instruments used by persons teaching or practising science and art, up to the value of two thousand rupees, such appliances and instruments to be selected by the judgment debtor;

- (e) the outfit of soldiers according to rank;
- (f) tools of artisans such as are necessary to enable them to carry on their trade;
- (g) one month's supply of necessary provisions for the judgment debtor and his family living with him.

237. Except in certain cases

The things mentioned in [section 236](#), except those mentioned in paragraph (b) thereof, shall however not be exempt from seizure and sale when the suit is to recover an amount due—

- (a) for board supplied to the judgment debtor;
- (b) to the vendor or maker or manufacturer of the said articles;
- (c) to a person who has lent money to enable the judgment debtor to buy, make or repair such articles;
- (d) for the rent and the harvesting of lands in the tilling of which the said articles shall have been used;
- (e) for the rent of the factories, mills and other works of which they form part;
- (f) for the rent of the premises in which the judgment debtor resides.

238. Court may appoint person to work land

In the case of seizure of cattle and implements of husbandry necessary for the working of lands, it shall be lawful for the court, on the application of the judgment creditor, and after hearing the owner and the judgment debtor, to appoint a fit and competent person to carry on the working of such lands.

239. Particulars to be contained in application for execution

Every application for execution shall be in writing and signed by the judgment creditor or by his attorney, if any, and shall contain the following particulars:

- (a) the title and number of the suit;
- (b) the date of the judgment or order;
- (c) whether any appeal has been entered;
- (d) the amount for which judgment has been given and of the costs;
- (e) what sum, if any, has been paid in satisfaction of the judgment or order; the name of the party against whom the enforcement of the judgment is asked for;
- (g) the nature of the execution asked for.

[Please note: Numbering as in original.]

The taxed bill of costs shall be attached to the application.

The Registrar shall note on the application the date and time when the application is received.

240. Procedure when judgment is for a sum of money

If the judgment is for a sum of money, the Registrar, on receipt of the application, shall issue under the seal of the court a warrant of execution to one of the ushers of the court, who by such warrant shall be empowered to levy such sum of money and also the costs of execution by distress and sale of the movable property of the party named in the warrant.

241. When judgment is for delivery of movable property

If the judgment is for the delivery of any specific movable property, the Registrar shall, on receipt of the application, issue a warrant to an usher of the court to seize such property, if practicable, and to deliver it to the person to whom it has been ordered to be delivered by the judgment of the court.

If the party who has been ordered by the judgment of the court to deliver any such movable property to any person intentionally refuses or neglects to comply with the judgment or order of the court, he may be committed to civil imprisonment for a period not exceeding six months, on the application of the judgment creditor.

242. When judgment is for delivery of, or to place in possession of immovable property

If the judgment be

- (a) for the delivery of an immovable property or
- (b) that any person be placed in possession of immovable property,

the Registrar shall, on receipt of the application, issue a writ to an usher of the court to place in possession of such immovable property the party or person to whom it has been adjudged or who has been ordered by the court to be placed in possession, and if necessary to remove any person bound by the judgment who refuses to vacate such property. If any party or person so removed by the usher in virtue of a writ, re-enters on such property with intent to take possession thereof or to disturb the quiet possession of the party or person placed in possession by the usher, he may be committed by the court to civil imprisonment for a period not exceeding six months on the application of the judgment creditor.

243. Civil imprisonment

Before any person is committed to civil imprisonment under section 241 or 242 such person shall be summoned to show cause why he should not be committed, and if he fail to appear or to show cause to the satisfaction of the court, the court may make such order as to committal as it considers just.

Witnesses may be heard in support of the application and on behalf of the person summoned.

244. Amount recoverable to be endorsed on warrants and writs

The Registrar shall cause to be endorsed on every warrant of execution and on every writ to place in possession of immovable property, the sum of money and the costs adjudged to be paid, together with the approximate amount of the costs of execution of such warrant or writ, and the value of the movable property which the usher shall seize, shall correspond as nearly as may be with the total amount endorsed on the warrant or by the Registrar. If the party against whom such warrant or writ has been issued pay into the registry, or to the usher charged with the execution of the warrant or writ, such sum of money and costs as aforesaid or such part thereof as the judgment creditor shall agree to accept in full discharge, the execution shall be removed and the property seized shall be released from seizure.

245. Warrants and writs to be in force for 12 months

Warrants of execution and writs shall bear the date of the day on which they are issued and shall continue in force for twelve months.

246. When movable property is insufficient to satisfy judgment

If the movable property of the judgment debtor be insufficient to satisfy the judgment and the costs of execution, the Registrar shall on the application of the judgment creditor issue a writ of execution against the immovable property, if any, of the judgment debtor.

Such immovable property shall be seized and sold in accordance with the procedure laid down by the Immovable Property(Judicial Sales) Act and any other law relating to the seizure and sale in execution of immovable property in force for the time being in Seychelles.

247. Attachment

A judgment creditor may apply for an order of attachment(opposition) of any money or movable property due to or belonging to his judgment debtor in the hands of any third person and the Registrar on receipt of such application shall issue an order prohibiting the person in whose hands such money or other movable property is from paying such money or delivering such property to any other person pending the further order of the court.

248. Validation of attachment

Within fifteen days from the date of the issue of the order of attachment, the judgment creditor shall apply to the court to validate the same and the Registrar shall thereupon summon the judgment debtor to appear before the court on such day as shall be fixed by the summons to show cause why such money should not be paid to the judgment creditor, or why such other movable property should not be seized and sold in execution of the judgment.

The third party in whose hands such money or other movable property has been attached shall be summoned to appear at the same time to state what money or other movable property belonging to the judgment debtor is in his hands.

249. Hearing of application to validate

On the day so fixed by the summons, the court shall examine the person in whose hands such money or other movable property has been attached, on oath, concerning the money or other movable property alleged to be due to or to belong to the judgment debtor and shall hear all such evidence as may be produced by the parties or that the court may think fit to call for, and after hearing such evidence the court shall either validate the attachment and direct the money or other movable property to be seized in execution or shall release the same from the attachment.

250. Effect of failure to validate

If no application be made to validate the order of attachment within fifteen days from the date on which it was issued or if the judgment creditor fails, without sufficient excuse, to appear in support of the application to validate it, the attachment shall cease to have effect and the money or other property shall be released from attachment.

251. Procedure for arrest and imprisonment of judgment debtor

A judgment creditor may at any time, whether any other form of execution has been issued or not, apply to the court by petition, supported by an affidavit of the facts, for the arrest and imprisonment of his judgment debtor and the judge shall thereupon order a summons to be issued by the Registrar, calling upon the judgment debtor to appear in court and show cause why he should not be committed to civil imprisonment in default or satisfaction or the judgment or order.

252. Examination of judgment debtor

The judgment debtor on the day on which he has been summoned to appear, shall be examined on oath as to his means and witnesses may be heard on his behalf and on behalf of the judgment creditor.

253. When a judgment debtor may be imprisoned civilly

If the judgment debtor does not appear at the time fixed by the summons or refuses to make such disclosures as may be required of him by the court or if the court is satisfied that the judgment debtor —

- (a) has transferred, concealed or removed any part of his property after the date of commencement of the suit in which the judgment sought to be enforced was given or that after that date he has committed any act of bad faith in relation to his property with the object or effect of delaying the judgment creditor in enforcing his judgment or order; or
- (b) has given an undue or unreasonable preference to any of his other creditors; or
- (c) has refused or neglected to satisfy the judgment or order or any part thereof, when he has or since the date of the judgment has had the means of satisfying it, the court may order such debtor to be imprisoned civilly unless or until the judgment is satisfied.

254. Period of civil imprisonment

The imprisonment which may be ordered under the last preceding section may be for the periods specified by section 10 of the Imprisonment for Debt Act.

Section 10 to 15 of that Act shall apply to and be read with sections 251, 252 and 253 of this Code.

255. Process of execution notices to be given before sale in execution

Every usher execution any process of execution against the movable property of any person, before selling such property, shall give at least four days' notice of the intended sale, by publication in the *Gazette* and by posting up notices on the court notice board, outside the principal post office in Victoria, on the main door of the market place in Victoria, outside the police station nearest to the place where the property is to be sold and on the outer door of the house or place where the property has been seized. Such notices shall state the place and the date and the hour of the intended sale and shall specify in a general manner the nature of the property to be sold:

Provided however that if the property seized by the usher is of a perishable nature and cannot be kept without deterioration for a sufficient time to permit such notice to be given, or if the party whose property has been seized so request in writing, the sale may take place after shorter notice and without any publication in the *Gazette*.

The notices required to be posted up by articles 629 and 645 of the French Code of Civil Procedure shall be posted up at the same places as required by this section in the case of an intended sale in execution.

256. Movable property seized to be sold within one month from seizure

Movable property seized in execution shall be sold by the usher within one month from the date of the seizure, unless the court directs otherwise. If the judgment creditor at whose instance the movable property was seized neglect to cause such property to be sold within the period of one month aforesaid or to obtain an order of the court extending the period within which such sale is to take place, the person whose property has been seized may apply to the court by motion made ex-parte to release such property from seizure.

257. Postponement of sale

If the sale of the property seized is postponed (a) by the court or (b) by the usher to a later date within the period of one month mentioned in the last preceding section, fresh notice of the adjourned sale shall be given by the usher in the same manner as provided by section 225.

258. Witnesses to seizure

The usher executing a warrant shall be accompanied by two witnesses, who shall be citizens of Seychelles, of age, and not nearly related to the usher by blood or marriage.

259. Entry on premises to effect execution

Every usher acting under a warrant to levy, or arrest any party, may open any outer door or window of any dwelling house, or other building, in order to execute such warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot obtain admittance; and he shall be obliged to show his warrant, if required to do so.

260. Property seized to be placed in charge of custodian

The movable property seized by the usher shall be deposited by him in some fit place or may remain in the custody of a suitable custodian (guardian) approved by the usher, until the sale takes place

If the party whose goods have been seized offers a suitable person who is solvent and who is willing to act as custodian without remuneration and at once, such person shall be appointed custodian by the usher.

The judgment creditor, the husband or the wife or near relations by blood or marriage, or servants of the judgment creditor may not be appointed custodians, but the party whose property has been seized and the husband or wife or relations by blood or marriage or servants of such party may be appointed custodians, if they consent and if the judgment creditor consent.

A list of the articles seized shall be given to the custodian by the usher at the time when they are seized.

The usher after seizing any property shall close all the doors and windows of the building or premises in which such property is deposited and shall affix his seals on all such doors or windows and each time that it may be necessary for him to remove any seal so affixed, for the performance of his duties, he shall reaffix such seal on leaving the premises.

261. Custodian not to use articles seized

The custodian is not permitted to make use of the articles seized or to hire them out or to lend them, and he must account for any profit or revenue which they produce. He shall be liable in damages for any failure to comply with the provisions of this section.

262. Dismissal of custodian

A custodian may be relieved of his duties by the Registrar at any time before the sale takes place, on the application of the custodian himself or he may be dismissed by the Registrar on the application of the usher if it be shown that he has been guilty of misconduct or of neglect of his duties. In any such case a new custodian shall be appointed who shall verify the articles seized with the list made by the usher, before commencing his duties.

263. Particulars to be contained in memorandum of seizure

The usher executing the warrant shall return to the Registrar a memorandum of the seizure (procès verbal de saisie) to be filed with the record.

The memorandum shall state the date on which the seizure was made, the name and residence of the plaintiff and of the defendant in the suit, the name of the custodian appointed by the usher, the names of the persons with whom a copy of the memorandum of seizure has been left, and it shall contain a detailed list of the articles seized. It shall be stated whether seals have been affixed by the usher. The memorandum shall be drawn up and signed, both as regards the originals and the copies, by the usher, by the custodian and by the witnesses to the seizure. If the custodian cannot write, mention shall be made of this.

264. Merchandise and plate

If the articles seized include merchandise, such merchandise shall be weighed and measured.

If they include plate (argenterie), the pieces of plate and the plate-marks shall be specified and they shall be weighed.

265. Valuable securities

If the article seized include bank notes, drafts, valuable securities or money in cash, their number and description and the value so far as is apparent, shall be specified in the memorandum and they shall be deposited by the usher with the Registrar.

266. Private papers

If the person whose movable property is seized is not present when the seizure is made, and any room or piece of furniture is found to be locked, the usher shall open such room or piece of furniture in the presence of a police officer and if he finds there any private papers, he shall place them in some suitable receptacle within the building where the property has been seized and shall affix his seals to such receptacle.

267. Copy of memorandum of seizure to be left with person whose goods are seized

A copy of the memorandum of seizure shall be left by the usher with the person whose goods are seized —

- (a) at the time when the property is seized, if the seizure is made at the residence of such person, or if such person is present at the seizure;
- (b) on the same day on which the property is seized, if such person is not present at the seizure but resides within a distance of six miles from the place of seizure;
- (c) within eight days from the date of the seizure, if such person is not present at the seizure and resides more than six miles from the place of seizure.

268. Where property seized is to be sold

Movable property seized in execution shall be sold by the usher by auction at the premises of the person whose property has been seized or at some other suitable place within the district where the seizure has been made:

Provided that if either the usher or the judgment creditor or the judgment debtor is of opinion that no adequate price can be obtained by selling the property at any such place, any of them may apply to a Judge to fix another place for the sale and the Judge shall thereupon fix such place as he shall think fit:

Provided also that silver plate (vaiselle d'argent) or jewellery exceeding one hundred and fifty rupees in value shall be sold at some suitable place in the town of Victoria.

269. Execution not to be delayed by objections

The usher in charge of any warrant of execution or writ to place in possession shall proceed with the execution thereof notwithstanding any objection made by the party against whom such warrant or writ has been issued, but such party in case of need may apply to the court by a reference under article 806 of the French Code of Civil Procedure.

270. How property to be sold

The property seized shall be sold to the highest bidder for cash. If the purchaser makes default in payment, the article purchased by him shall be resold by folle enchère. If the value of the property seized exceeds

the amount which the usher is empowered to levy by the warrant of execution, the usher shall only sell so much of the property as shall be sufficient to realise such sum.

271. Particulars to be contained in memorandum of sale

The usher in charge of the sale shall return to the Registrar a memorandum of the sale (procès verbal en vente) to be filed with the record. The memorandum of sale shall state the date and the hour of the sale and the place where it was held. It shall give the name and residence of each purchaser and the price paid for each article sold. The usher shall attach to the memorandum the notice announcing the sale and a certificate stating where copies of such notice have been posted up and he shall sign the memorandum. The usher is personally responsible for the purchase price of the articles sold. He may not receive more than the amount bid.

272. Usher to return memorandum of execution to Registrar

Every usher executing any warrant for the delivery of specific movable property or any writ to place any person in possession of immovable property shall return to the Registrar, to be filed with the record, a memorandum stating what he has done in execution of such warrant or writ.

273. Claims by third parties

If when any movable property has been seized in execution any third party claims such property or any part thereof, or the proceeds thereof, as his own property, or in the case of a landlord as a distress for rent, such third party may lodge an opposition in the hands of the usher executing the warrant, either against the sale of such property or against payment to the party at whose instance it has been seized, of the proceeds of such sale.

The usher shall record the opposition lodged in his memorandum of seizure.

274. Procedure to release property from seizure

Within three days from the date when such opposition has been lodged, the claimant shall apply to the Registrar for a summons calling upon the party at whose instance the property has been seized to show cause why such property should not be released from seizure.

Failing such application, the opposition shall be of no effect.

275. Hearing of application

The Registrar shall thereupon issue a summons to the judgment creditor to appear before the court on a date to be fixed in the summons, and the court after hearing both parties on oath and their witnesses, if any, shall adjudicate upon the claim and either order the property claimed to be released from seizure or may make such other order as shall be just and may make such order as to costs as it considers fit.

If either party fails to appear on the date fixed in the summons, without sufficient excuse, the court may proceed with the hearing and adjudication in the absence of such party.

276. Postponement of sale pending hearing of application

The court may order that the sale of the property seized be postponed pending the hearing of the summons or that the sale proceed but that the property claimed be excluded from the sale.

If any such order be made, the usher shall give notice thereof and of the date to which the sale has been postponed, in the same manner as notice of a sale in execution must be given under this Code:

Provided that the court shall not make any such order unless the claimant deposit with the Registrar a sum of money sufficient to cover the costs of such notice.

277. Opposition by creditors

The creditors of the party whose movable property has been seized in execution may only lodge an opposition against the proceeds of the sale of such property.

The opposing creditor shall either hand to the usher a written statement of the grounds, of his claim (opposition), or he shall make a verbal claim, which shall be recorded by the usher in writing.

The usher shall thereupon notify the creditor at whose instance the movable property was seized of the opposition lodged.

278. No suits between creditors

No suit shall be brought by the opposing creditor in regard to his claim except against the party whose movable property has been seized, and for the amount of his claim; and no suit shall be brought by other creditors against the opposing creditor in regard to their claims, but such other creditors may make their claims when the proceeds of the property sold are being distributed.

279. Procedure when a prior seizure has been effected

If an usher who is about to seize any movable property in execution finds that such property has already been seized and placed in charge of a custodian, the usher shall not effect a second seizure but he may check the list of articles seized, which list the custodian shall be bound to show him, with the articles found on the premises.

The usher shall seize any articles which have not been included in the list and shall draw up a memorandum of verification (*procès verbal de recolement*) which shall contain a list only of the articles not included in the first seizure.

Such memorandum of verification shall be served upon the party at whose instance the first seizure was made, and shall have the effect of an opposition to the proceeds of the sale.

Provisional seizure and attachment

280. Application to seize or attach provisionally

At any time after a suit has been commenced, the plaintiff may apply to the court to seize provisionally any movable property in the possession of the defendant in the suit or to attach provisionally any money or movable property due to or belonging to the defendant in the suit, which is in the hands of any third person.

The application shall be by petition supported by an affidavit of the facts and shall be signed by the plaintiff or his attorney, if any, and shall state the title and number of the suit.

281. When application may be granted

If the court is satisfied that the plaintiff has a *bona fide* claim, the court shall direct a warrant to be issued to one of the ushers to seize provisionally such property, or shall make an order prohibiting the third person in whose hands such money or other movable property is from paying such money or delivering such property to any other person pending the further order of the court. The order shall be served on the third party by an usher of the court.

The court, before any such warrant or order is issued, may require the applicant to find such security as the court may think fit.

282. Property seized not to be sold until after judgment

The usher making the provisional seizure shall place the property seized in the custody of a responsible person and the property shall not be sold until after judgment has been given in the suit.

283. Validation of provisional seizure

If the plaintiff obtain judgment in his favour, any property provisionally seized shall remain under seizure, unless the plaintiff otherwise request, until the seizure is validated. If no application be made within eight days after judgment has been delivered to validate such seizure, the property seized shall be released from seizure on motion made ex parte by the judgment debtor.

If the provisional seizure be validated, the procedure thereafter shall be the same as in the case of movable property seized in execution after judgment.

284. Procedure to validate provisional attachment

If the plaintiff obtain judgment in his favour, any money or other movable property attached in the hands of a third person shall remain under attachment, unless the plaintiff otherwise request, until the attachment is validated. Within eight days after judgment has been delivered, the judgment creditor shall apply to the court to validate the attachment and he shall within the same period issue a summons(a) to the judgment debtor to show cause why such money should not be paid to the judgment creditor or why such other movable property should not be seized and sold in execution of the judgment and(b) to the third party to appear in court and state what money or other movable property due to or belonging to the judgment debtor is in his hands and the court shall thereupon proceed in the manner laid down in [section 249](#). If the judgment creditor fails to take any of the steps required by this section within the time specified, or if he fails without sufficient excuse to appear in support of his application, the money or other property attached shall be released from attachment on motion made to the court *ex parte* by the judgment debtor and notice of such release shall be given to the third party, at the cost of the judgment debtor unless the court direct otherwise.

285. Effect of judgment against the plaintiff

If a plaintiff, who has seized or attached money or other property provisionally, have judgment given against him, the provisional seizure or attachment shall be removed forthwith and notice thereof shall be given to the third person in whose hands such money or property was attached provisionally, at the cost of the plaintiff.

286. What movable property may not be attached

The following movable property shall not be liable to attachment:

- (a) things which are declared by law not to be liable to seizure in execution;
- (b) alimony(provisions alimentaires) granted by the court;
- (c) sums of money and other things of which a person can dispose, whenever the testator in his will or the donor in the deed of gift has declared such sums of money and other things not to be liable to seizure;
- (d) sums of money or other things payable or due under a will or deed of gift for the maintenance of a person even if not expressly declared in such will or deed of gift to be exempt from seizure.

287. Exceptions to rule as to non attachment

- (1) Alimony granted to a party by the court may however be attached whenever the consideration for the debt is food supplied to the judgment debtor.

- (2) The property mentioned in paragraphs(c) and(d) of [section 286](#) may be attached by judgment creditors whose claims arose after the deed of gift had been executed or the legacy became payable:

Provided, however, that no attachment shall be valid if made without the leave of the court or in excess of the amount fixed by the court.

Attachment of salaries and pensions

288. Definition of terms

In this Code the term "Government" shall include all departments borne upon the annual estimates of revenue and expenditure.

The term "insolvency" shall mean any judicial application for leave to make a cessio bonorum, or for a full discharge of all debts.

The term "insolvent" shall mean any person making such judicial application.

289. Opposition to salaries and pensions abolished

No opposition to the payment or saisie arrêt of any sum of money or of any goods due by way of salary or pension to any person in the employment of the Government or of any partnership, corporation, or person shall, except as hereinafter provided, be in any case made or permitted.

290. Salaries and pensions when attachable and to what extent

- (1) In case of the bankruptcy or insolvency of any person so entitled to salary or pension, the court or a Judge having jurisdiction in such bankruptcy or insolvency, may order that any portion not exceeding one-third of such salary or pension be applied until the final discharge of such bankrupt or insolvent, or for any shorter period, to the payment of the debts of such bankrupt or insolvent.
- (2) It shall also be lawful for the court in actions for the payment of an alimony to order that any portion not exceeding one-third of the salary or pension due to the judgment debtor be applied, for any period of time, to the payment of the alimony awarded.

291. Form and service of order. Payment of sum attached

Such order shall be directed to the Principal Secretary of the Ministry of Finance or to the employer as the case may be, and shall specify the name and position of the bankrupt, insolvent, or judgment debtor, the date of the bankruptcy, insolvency, or judgment awarding the alimony, the person to whom payment is to be made, the amount to be paid per month, and the period for which such payments are to continue. On such order being served by an usher upon the Principal Secretary of the Ministry of Finance, or the employer, it shall be their duty respectively to pay on demand, accompanied by tender of a receipt in writing, to the person appointed by the order to receive payment, on the first day of each month during the continuance of the order, the specified portion of all salary or pension accruing due to the bankrupt, insolvent, or judgment debtor after the date of such service.

292. Revocation and amendment of order

Any such order may, at any time, be revoked or varied by the court or Judge aforesaid.

Such amended order shall be *mutatis mutandis* in the form of an original order, and shall take effect from the date of its service by an usher upon the Principal Secretary of the Ministry of Finance, or the employer as the case may be.

293. Registrar to report judgments obtained against civil servants

It shall be the duty of the Registrar or clerk of the court in which any judgment for debt shall be given against any person in the employment of the Government to report the said judgment to the Minister responsible for Finance for the information of the President.

294. Effect of order of attachment

Any order of attachment given under the provisions of this Code shall have the force and effect of a judgment validating an opposition or saisie arrêt saving the right which any party may have to obtain the removal of the said attachment before the competent court.

Summary procedure on bills of exchange

295. Special writ; judgment

All actions upon bills of exchange or promissory notes commenced within six months after the same shall have become due and payable may be by writ of summons in the special form contained in Schedule D, and indorsed as therein mentioned, and it shall be lawful for the plaintiff, on due proof of personal service of such writ within the jurisdiction of the court, or an order for leave to proceed, and a copy of the writ of summons and the endorsements thereon, in case the defendant shall not have obtained leave to appear and have not appeared to such writ according to the exigency thereof, at once to sign final judgment in the form contained in Schedule E, for any sum not exceeding the sum endorsed on the writ, together with the interest at the rate specified (if not exceeding the legal rate of interest) or if none be specified, the rate of interest allowed by law in such cases to the date of the judgement, and a sum for costs to be fixed by the court, unless the plaintiff claim more than such fixed sum, in which case the costs shall be taxed in the ordinary way, and the plaintiff may, upon such judgment, issue execution forthwith.

296. Leave to appear

The court shall, upon application within the period of twelve days from such service, give leave to appear to such writ, and to defend the action, on the defendant paying into court the sum indorsed on the writ, or upon affidavits satisfactory to the Judge, which disclose a legal or equitable defence, or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Judge may deem sufficient to support the application, and on such terms as to security or otherwise as to the Judge may seem fit.

297. Leave to appear after judgment in special circumstances

After judgment the court may, under special circumstances, set aside the judgment, and, if necessary, stay or set aside execution, and may give leave to appear to the writ, and to defend the action, if it shall appear reasonable to the court so to do, and on such terms as to the court may seem just.

298. Deposit of bill, security for costs

In any proceedings under this Code, it shall be competent to the Court or a Judge to order the bill or note sought to be proceeded upon, to be forthwith deposited with an officer of the court, and further to order that all proceedings shall be stayed until the plaintiff shall have given security for the costs thereof.

299. Recovery of expenses, etc

The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in protesting the same, for non-acceptance or nonpayment, or otherwise, by reason of such dishonour, as he has under this Code for the recovery of the amount of such bill or note.

300. Writ to all parties to bill

The holder of any bill of exchange or promissory note may, if he thinks fit, issue one writ of summons, according to this Code, against all or any number of the parties to such bill or note, and such writ of summons shall be the commencement of an action or actions against the parties therein named respectively, and all subsequent proceedings against respective parties shall be in like manner, so far as may be, as if separate writs of summons had been issued.

301. Application of certain English Acts

The provisions of the Common Law Procedure Act, 1852, and the Common Law Procedure Act, 1854, and all rules made under or by virtue of either of the said Acts, shall, so far as the same are or may be made applicable, extend and apply to all proceedings to be had or taken under [section 295](#) to 300.

302. Execution

Judgments recovered under [section 295](#) to 301 upon bills of exchange and promissory notes may be executed by arrest of the body in execution under the provisions of the Imprisonment for Debt Act and of this Code.

303. Jurisdiction in partnership disputes Supreme Court to decide in matters of partnership

The Supreme Court shall have like jurisdiction for hearing and determining as ordinary commercial actions, any matters in disputes between partners relative to the affairs of their partnership, as such court has concerning other matters now triable before it.

Grant of injunctions and orders of sequestration

304. Court to have power to issue injunctions pendente lite or after judgment

It shall be lawful for any plaintiff, after the commencement of his action and before or after judgment, to apply to court for a writ of injunction to issue to restrain the defendant in such action from the repetition or continuance of the wrongful act or breach of contract or injury of a like kind, arising out of the same contract or relating to the same property or right, and such writ may be granted or denied by the said court upon such terms as to the duration of the writ, keeping an account, giving security, or otherwise, as shall seem reasonable and just.

305. Application for injunction may be by motion with notice

Application under [section 304](#) shall be made by way of motion in court upon due notice given to the defendant.

306. Orders for writs of injunction may be enforced by attachment

Orders for writs of injunction issued under [section 304](#) may be enforced by attachment in the same manner and to the same extent as similar writs issued by the Supreme Court of Mauritius.

307. Right of the court to make sequestration orders as to property in dispute

It shall be lawful for the court upon the application of any interested party and applying the provisions of article 1961 of the Civil Code at any time after the entering of the action and before the final judgment of the court, or in the case of an appeal, before the final judgment of the appellate court, has been filed, to order the sequestration of any movable or immovable property, the ownership or possession of which is the subject of any suit or action or as to which any action in cancellation, rescission or resolution of sale has been entered.

The sequestration shall be under such conditions as the court in its discretion may determine.

308. Procedure to arrive at sequestration

The procedure to arrive at such sequestration shall be that provided in sections 123, 124 and 125 of the Immovable Property(Judicial Sales) Act, with the exception that applications shall be made to the Judge, and be returnable before the court, and that publication in the official *Gazette* shall be sufficient publication of such application and of the return-day.

309. Expenses of the sequestration, by whom to be paid. Security may be required

The expenses of the sequestration shall be provided in the first instance by the party applying for the same, and the court may before ordering such sequestration require security to be furnished for the due payment of such expenses.

310. Accounts of sequestrator to be deposited in the Registry

The sequestrator shall be bound to deposit in the registry of the court a copy of the accounts of his administration at the time which may have been specified in the sequestration order, or at any other time which the court may order.

Power to appoint commissioner to examine accounts

311. Power of court to appoint commissioners to examine accounts

In any suit or cause in which an account has to be rendered or in which an examination or adjustment of accounts is necessary, the court may at any stage of the proceedings issue a commission to some fit person, chosen by the parties or in default of agreement by the court, directing him to make an examination or adjustment of such accounts, within such time as may be fixed by the court:

Provided that the court may appoint more than one person as commissioner.

312. Court to give commissioner necessary instructions

The court shall furnish the commissioner with such part of the proceedings and such detailed instructions as may appear necessary and the instructions shall specify whether the commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the points referred for his examination.

313. Expenses to be deposited in the registry

Before issuing any commission under this Code, the court may order such sum as it thinks reasonable for the expenses of the commission to be deposited in the registry, by either party, within such time as may appear necessary.

314. Court to direct parties to appear before commissioner

Whenever a commission is issued under this Code, the court shall direct the parties to the suit to appear before the commissioner in person or by their agents, counsel or attorneys.

The commissioner shall fix a time and place for proceeding with the inquiry and any adjournment thereof and shall inform the parties. If at the time and place appointed by the commissioner one of the parties fails to appear, the commissioner may proceed *ex parte*; if neither party appears the commissioner shall refer the matter back to the court and the court may thereupon either dismiss the case or make such order as shall appear just under the circumstances.

315. Powers of commissioner

- (1) The commissioner may unless otherwise directed in the order of appointment –
 - (a) examine the parties and their witnesses, if any, on oath concerning the account and any other person whom the commissioner thinks proper to call upon to give evidence in the matter;
 - (b) call for and examine documents and other things relevant to the subject of the inquiry.
- (2) The commissioner may hear verbal evidence in all cases in which verbal evidence is admissible under the Civil Code. The court, when issuing the commission, shall, on the application of either party, decide whether verbal evidence is admissible and shall direct the commissioner accordingly.
- (3) The commissioner shall have the same powers as the court in regard to the administering of the oath to parties and witnesses and any person who commits perjury before such commissioner during the course of an inquiry under this Code shall be liable to be prosecuted before the Supreme Court, and to the punishment provided by section 104 of the Penal Code and the proceedings before the commissioner shall be deemed to be a judicial proceeding before a competent court.
- (4) Any party desiring to summon a witness before the commissioner may apply to the Registrar of the Supreme Court and the Registrar shall thereupon issue a summons in accordance with the ordinary procedure of the Supreme Court as to the summoning of witnesses and any witness failing to appear before the commissioner after having been duly summoned shall be liable to be dealt with by the court in the same way as if he had been summoned to appear before the court. Witnesses shall be entitled to receive remuneration in accordance with the scale in force for the time being for the payment of witnesses in the Supreme Court and their attendance shall be testified by the commissioner initialing their summonses.

316. Proceedings to be filed in court

Within the time fixed in the order of appointment or within such further time as may appear necessary to the court, the commissioner shall file in court the proceedings held by him, and his report if any.

317. Proceedings in court after inquiry

Within seven days from the date of the filing of the proceedings and report the parties may file their objections, and the court after hearing argument thereon on either side may either accept the report or direct that further evidence be heard in court on any point in dispute or refer the matter back to the commissioner for further inquiry and report.

318. Penalties for obstructing commissioner

Whoever insults, obstructs or otherwise interferes with the commissioner while acting in the discharge of his duties shall be liable to prosecution and on conviction to a fine not exceeding eight hundred rupees.

319. Receipts produced in support of items in cases of rendition of accounts to be exempt from registration

Receipts of suppliers of goods, workmen, hotel keepers and others of the like nature, produced in support of the items of an account before the commission or before the court, in case of rendition of account, shall be exempt from registration.

320. Parties entitled to travelling expenses

In all cases in which an account has to be rendered, other than commercial cases, the party rendering the account shall be entitled to his travelling expenses if any, fair remuneration for the preparation of the account, and the cost of filing the account.

General provisions

321. Periods of time how to be interpreted

Whenever any period of time is fixed by the court or by any law for any appearance to be made or any act to be done, the day on which the order is made by the court and the day on which the period specified in such order of the court or by such law expires, shall not, unless otherwise stipulated, be reckoned in computing the period of time fixed by the court or by such law.

322. Valuation by experts, attendance

Whenever any person has been summoned or given notice to be present at a valuation to be made by experts (under the French Code of Civil Procedure) and such valuation is not completed at the first meeting of the experts, but is adjourned to a later date, it shall not be necessary to summon or give notice to such person to be present at the adjourned meeting of the experts.

323. When Judge may make orders at his own house

In cases of emergency, it shall be lawful for a Judge to make at his own residence any order upon any application or petition which could lawfully be made by him at chambers.

324. Place of sittings of the court

The court shall ordinarily sit in the town of Victoria at the building now used by the Supreme Court or in any other building which may be provided by the Government for the use of the court, but the Judge may, if he considers it expedient or convenient in the interests of justice, hold sittings of the court in the Districts of Praslin and South Mahé. Such sittings shall be held in the Court House of the Justice of the Peace in the District in which the court is to be held.

Notice of intention to hold any such sitting of the court shall be given by publication in the *Gazette* and by posting a notice in a conspicuous place outside the Court House in which the court is to be held not less than seven clear days prior to the date on which the court is to be held.

325. Rules of Court

The Chief Justice may, with the approval of the Minister, make rules for more effectually carrying out the provisions of this Code, and may amend or cancel rules made in virtue of the powers conferred by this section.

326. Repeals

The laws, enactment, Ordinance, rules and orders, and the Arrêtés mentioned in the first column of Schedule B are hereby repealed to the extent specified in the second column thereof.

327. French Code of Civil Procedure

Articles of the French Code of Civil Procedure repealed by any law which is repealed by this Code shall remain repealed.

328. Forms

The forms set forth in Schedule C, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned and where no form for any proceeding is given, they shall be looked upon as models and followed so far as possible, according to the requirements of the case.

Schedule A

Section 10 suitors' deposit book

On account of Suitors in the Supreme Court and Magistrate's Court during the month

Monies received by
ending _____ 20

No. of Deposit	Date of Deposit	From whom received	To whom due	Amount	Total	To whom paid	Date of payment	Amount paid to parties	Amount paid to Treasury	Total	Acquitances

Suitors' cash book

Dr

Month of _____ 20

Cr

Date of Deposit	No of Suitor's Deposit Book	Amount received	Total	Date of payment	No. of Suitors' Deposit Book	Amount	Total

Revenue cash book

Month of _____ 20

No. of cash book	Date of receipt	Registered No. in				Particulars	Fees of Court	Refunds	Total
		Civil	Chambers	Civil	Criminal				
					Suprem. Court				
					M. Court				

Process servers' fees deposit book

Month of _____ 20

No. of deposit	Date of deposit	No of cause				From whom received	Amount	Name Of Process Servers	Date of payment	Amount paid	We the undersigned acknowledge to have received the sum opposite our respective names
		Civil	Chambers	Civil	Criminal						
					Suprem. Court						
					M. Court						

Register of civil and commercial suits

Month of _____ 20

No of cause	Date of		Plaintiff's name	Defendant's name	Nature of claim	Nature of judgment	Reference
	Plaint	Judgment					

Chambers application book

Month of _____ 20

No. of application	Date of application	Applicant's name	Nature of application	Decision

Process servers' execution book

Section 19

No of plaintiff	Plaintiff	Defendant	Date of Order			Date of Judgment	Date when warrant was applied for	Amount of debt or damages and costs due	Date of levy or arrest	Amount paid into court by process server R.s C.	No. of deposit book	Date of deposit	Date of return of warrant	Remarks
			Prov	Seiz	Wt									

Schedule B

Laws, enactments, etc., repealed

French Code of Civil Procedure	Articles 1 to 47 inclusive.Articles 59 to 72 inclusive.Articles 75 to 123 inclusive.Articles 138 to 172 inclusive.Articles 188 to 192 inclusive.Articles 295 to 301 inclusive.Articles 324 to 351 inclusive.Articles 363 to 442 inclusive.Articles 474 to 625 inclusive.Articles 826 to 831 inclusive.Articles 857 to 864 inclusive.Articles 1029 to 1042 inclusive.
Mauritius Ordinance No. 34 of 1852 .	All that has not yet been repealed except Section 34 and Section 61
Rules and Orders for regulating the practice of District Courts of Mauritius in Civil matters and Forms of Proceedings therein, proclaimed by Proclamation of 27 th March, 1890.	All that has not yet been repealed except Rule 53 to 58 inclusive and Rules 96 and 98.
Mauritius Ordinance No.22 of 1853 .	Sections 3, 4, 5, 7, 10,11,12,13.
Mauritius Ordinance No.16 of 1869 .	Section 6.
Mauritius Ordinance No. 15 of 1871 .	The whole.
Mauritius Ordinance No.8 of 1872 .	The whole.
Mauritius No 17 of 1876.	In Section 1 the words "in any of the cases provided for by Articles 10 and 11 of Ordinance No.34 of 1852 ."
Mauritius Ordinance No.37 of 1881 .	The whole.
Arrêté 20 July, 1808, (Decaen No.177).	Article 2 to 6 inclusive.Article 8 to 33 inclusive.Article 36 to 44 inclusive.Article 46 to 54 inclusive.
Arête 7 th December, 1808.(Decaen No.182).	The whole

Schedule C (Section 328)

Form 1 - Plaintiff's note entering plaint

In the Supreme Court.

No. of plaint

Plaintiff.

Versus

Defendant.

R.S

Fees paid.....

The above cause was entered on the day of and will be tried in the said Court on the..... day.... of.... 20.... at....

Of the clock in the forenoon.

Registrar of the Court.

Memorandum:

1. If you obtained a judgment against the defendant, all moneys are ordered to be paid into Court, and must not be received by you.
2. Bring this note when you come into Court, or the office, for any purpose connected with the cause.
3. Money will be paid out of Court only on production of this note, and upon our or your agent's personal attendance.

Form 2 - Summons to appear to a Plaintiff

In the Supreme Court.

Against

Plaintiff.

Defendant

WHEREAS a plaint numbered has been filed in the Registry of the Supreme Court on the day against you the above-named Defendant.

You are hereby summoned to appear at a sitting of the Supreme Court to be held at o'clock in the forenoon of the day of

in the Year Two thousand and to answer the said plaint.

Registrar of the Supreme Court.

A copy of the above-mentioned summons and plaint has been duly served by me the undersigned Process Server at of the clock on the day of

in the Year Two thousand and by delivering the same to the said

Process Server in and for the Supreme Court

Form 3 - Notice to be given by the Attorney for the Plaintiff to the defendant out of the jurisdiction in lieu of summons

In the Supreme Court. In Re:

A.B. of Victoria, Mahé.

Versus

C.D of defendant

Plaintiff

Take notice that the said Plaintiff A.B. electing his legal domicile in the office of the undersigned Attorney has by leave of His Lordship a Judge of Seychelles date the day of 20 commenced an action against you C.D. in the Supreme Court of Seychelles and has filed a plaint with summons in the Registry of the said Supreme Court(copy of which is hereto annexed) and that the said Plaintiff has further obtained leave to give his notice thereof to you the said C.D. in lieu of serving the said plaint with summons upon you, out of the Jurisdiction to wit at

And further take notice that in accordance with the said order you are to appear to answer the said plaint in the said Supreme Court within

months after service of this notice upon you.

Dated at Victoria, Mahe, Seychelles, this day of 20

Of street, Victoria.

Attorney for A.B. the Plaintiff

To

C.D the Defendant of

Form 4 - Judge's order granting leave to file a plaint with summons against a defendant out of jurisdiction and to give notice thereof in lieu of serving the same out of the jurisdiction

In the Supreme Court Civil Side No.

Versus

In Re:

A.B. of Mahé Plaintiff

C.D. of Defendant

Upon reading the foregoing application and affidavit leave is hereby granted to the Plaintiff A.B of to commence an action in the Supreme Court against the Defendant C.D by filing his plaint with summons in the registry of the said Supreme Court and to give notice of the same to the said Defendant out of the jurisdiction to wit at

I further order the defendant to appear to answer the said plaint in the Supreme Court within months after service of this order upon him.

Chambers, Court House, Victoria, Mahé, Seychelles this day of

Judge.

Form 5 - Summons to a Defendant out of the jurisdiction to answer to a Plaint

In the Supreme Court. Civil Side No.

Plaintiff Against

Defendant

WHEREAS a Plaint numbered has, by leave of His Lordship

a Judge of the Supreme Court of Seychelles, dated the day of has been filed against you the above-named Defendant, and leave to have the summons issued and served upon you, the said Defendant out of the jurisdiction, to wit at

has further been obtained.

You are hereby summoned to appear to answer the said plaint in the Supreme Court within months after the said service.

Registrar of the Supreme Court.

A copy of the above mentioned summons, judge's order, and plaint has been duly served by me, etc.

Form 6 – Summons to Witness

In the Supreme Court. Civil Side No.

A.B Plaintiff.

Between and

C.D. Defendant.

To

You are hereby required to attend at the Supreme Court aforesaid on the day of , two thousand and at the hour of in the forenoon, to give evidence in the above-mentioned cause on behalf of the abovenamed(Plaintiff or Defendant) and to bring with you and produce at the hearing of the above suit the following documents, viz: --

In default of your attendance you will be liable to a penalty not exceeding One Hundred Rupees.

Given under the seal of the Court, this day of two thousand and

Registrar of the Supreme Court.

Form 7 - Order for costs to Defendant where Plaintiff does not appear

In the Supreme Court. (L.S)		Civil Side No.
A.B.		Plaintiff
Between	and	
C.D.		Defendant.

Defendant.

WHEREAS the Plaintiff in this cause has not now appeared either by himself or his attorney, at a Court held on the day of

being the day appointed for the trial thereof, to prosecute the same against the Defendant, and the Defendant has appeared in person(or by his attorney) and it was awarded that the Plaintiff pay the sum of by way of costs and satisfaction for the trouble and attendance of the Defendant in that behalf, and it is ordered that the Plaintiff do pay the same to the Registrar of the Court, at his Office on the

day of

Given under the seal of the Court, this day of 20 By the Court:

Registrar of the Supreme Court

Form 8 – Judgment against defendant for payment of debt or damages

In the Supreme Court. Civil Side No.

A.B. Plaintiff.

(I.S Between and

C.D. Defendant.

Upon hearing this cause at a Court held at on the day of it is adjudged that the do recover against the sum of for his debt(or damages by him sustained) and Rs. for cost of suit, amounting together to the sum of Rs.

By the court:

Registrar of the Supreme Court.

Form 9 – Bond to be subscribed by every clerk or process server and his security

In the Supreme Court, Seychelles.

Know all men by these presents, that(Clerk or Process Server’s name, as well as names of the securities) are held and firmly bound to the Republic, in the sum of good and lawful money to be well and truly paid to the Republic, for which payment well and truly to be made, we do hereby bind ourselves jointly and severally, our heirs, executors and administrators and every of them firmly by these presents, dated this day of

In the Year of Our Lord Two thousand and

WHEREAS the above bounden(Clerk or Process Server name) has been duly appointed to be a(Clerk or Usher) of the Supreme Court. Now the conditions of the above obligation are such that if the said(Clerk or Process Server) do and shall well and truly perform and execute the duties and functions of the said office and trust, and further, if the above bounden(Clerk or Process Server’s name) do not and shall not during the time he shall continue to be such(Clerk or Process Server) as aforesaid, commit any act contrary to the aforesaid duties and functions and shall truly and faithfully execute all warrants, writs or orders with which he may be entrusted, and make and render true and just accounts of all money, goods and merchandise which may come to his hands as such(Clerk or Process Server) as aforesaid and furthermore, if the above bounden(Clerk or Process Server’s name) do and shall in the event of his resigning the office of(Clerk or Process Server) return and deliver when required, to the Registrar of the Supreme Court the commission, appointment, or authority, instructions, and directions, which he now has received, or may hereafter receive and shall faithfully

and honestly demean and conduct himself in the said office or charge, then the above obligation to be void, otherwise in full force and virtue.

Signed and delivered in the presence of

(signature) (signature of Witnesses).

Form 10 - Summons to show cause why the new trial of a cause should not be ordered

In the Supreme Court.

A.B. Plaintiff

Between and

C.D Defendant.

Take notice that on day of the said Defendant has applied for a new trial of the said cause, upon the following grounds(state the grounds):

And further take notice, that in pursuance of an order of the said Court, dated the day of you are hereby summoned to show cause at a sitting of the said Court, to be held at on the

Day of 20 at o'clock in the forenoon, why the said new trial should not take place.

Given under the seal of the Court this day of 20

Registrar of the Supreme Court.

Form 11 - Summons after unsatisfied judgment

In the Supreme Court. Civil Side No.

A.B Plaintiff.

Between and

C.D. Defendant.

WHEREAS at a Court holden at the Court House, Victoria, Mahé, Seychelles on the day of in the Year two thousand

The above named Plaintiff obtained a judgment against you for the payment of Rupees and Cents plus the sum of Rupees and Cents for costs, which said judgment remains still unsatisfied.

You are therefore hereby summoned to appear at a Sitting of the Supreme Court to be holden at o'clock in the forenoon on

The day of in the Year Two thousand and your means of satisfying the said judgment.

And take notice that if you do not appear in obedience to this summons, you may by order of this Court be committed to the common jail of Victoria, Mahé, Seychelles.

Given under the seal of the Court, this day of

In the Year Two Thousand and

Registrar of the Supreme Court

Form 12 - Opposition in the hands of a third party

In the Supreme Court. Civil Side No.

Between A.B. Plaintiff

and

C.D. Defendant.

and

E.F. Garnishee

WHEREAS an application dated the day of in the year two thousand and has been made to

Judge of the Supreme Court of Seychelles, by

These are to allow the said to attach in your hands all sums of money and other property whatsoever you now owe or may owe on whatever account to the above-named Defendant, especially the sum of Rupees.

the object of the present attachment being to secure payment of the sum of rupees due to the said Plaintiff under the above application, and all costs that may be incurred by the said Defendant.

Issued by order of the aforesaid Judge this day of in the year two thousand and

Registrar of the Supreme Court.

The aforesaid Garnishee, residing at Process Server's Return

In pursuance of the above-mentioned Order, I, the undersigned Process Server, duly repaired to the aforesaid residence of the said Garnishee, where being, I delivered to a copy of this attachment,

duly certified by me on the day of in the Year two thousand and Process Server in and for the Supreme Court.

(N.B. –If the Garnishee makes any special declaration, it is to be added here by the Process Server).

Form 13 - Summons to Garnishee

In the Supreme Court

Between A.B Plaintiff

and

C.D. Defendant

and

E.F. Garnishee.

WHEREAS by an order of the above Court, dated the day of two thousand and

the above-named Plaintiff has attached in the hands of you the above-named Garnishee, all sums of money and other property whatever which you may owe to the above named Defendant;

Take notice that you are hereby summoned to appear before the said Court on the day of two thousand and at the hour of in the forenoon to show cause why you should not be ordered to pay over the above-named Plaintiff, out of any sums of money due by you to the above-named Defendant the sum of Rupees and Cents being the amount in principal and costs due by the said Defendant to the said Plaintiff in virtue of a judgment of the Supreme Court given on the

day of two thousand and plus the costs of present action.

Dated this day of two thousand and By the Court:

To Registrar of the Supreme Court.

Garnishee.

Form 14 - Summons to Defendant

In the Supreme Court. Civil Side No.

Between A.B Plaintiff.

and

C.D Defendant

and

E.F. Garnishee.

WHEREAS by an order of the above Court, dated the day of

two thousand and the above-named Plaintiff has attached in the hands of the above-named Garnishee all sums of money and other property whatsoever which the latter may owe to you the above-named Defendant.

Take notice that you are hereby summoned to appear before the said Court on the day of two thousand and

the hour of in the forenoon to show cause why the said Garnishee should not be ordered to pay over the said Plaintiff out of any sum on money due by him, the said Garnishee, to you, the said Defendant, the sum of Rupees Plaintiff as awarded by a judgment of the Supreme Court given on the day of two thousand and plus the costs of present action

dated this day of two thousand and

Registrar of the Supreme Court.

To Defendant.

Form 15 - Summons to Plaintiff on Interpleader

In the Supreme Court. Civil Side No.

Between A.B Claimant.

and

C.D Judgment Creditor

and

E.F. Judgment Debtor.

WHEREAS of hath made a claim to goods and chattels(or money, etc., or for certain rent due, etc.) which have been seized and taken in execution under and by virtue of process issuing out of this Court in this action, you are, therefore, hereby summoned and required to be and appear before the said Court on at the hour of

In the forenoon when the said claim will be adjudicated upon, and such order made thereupon, as the Court shall seem fit.

Given under the seal of the Court this day of in the year 20

Registrar of the Supreme Court.

Form 16 - Interpleader summons to defendant

In the Supreme Court Civil Side No.

Between A.B Plaintiff.

and

C.D Judgment Creditor

You are hereby summoned to appear at a sitting of the Supreme Court to be holden at on the day of 20

at the hour of in the forenoon, touching a claim made by the Plaintiff to certain goods and chattels(or to the proceeds of the sale of certain goods and chattels, or for certain rent due on, etc.) seized and taken against you in execution under process issued out of the Court.

Given under the seal of the Court this day of 20

By Order of the Court: Registrar of the Supreme Court.

Form 17 – Notice of motion

In the Supreme Court. Civil Side No.

Between A.B. Plaintiff and

C.D. Defendant

Take notice that this Honourable Court will be moved on the
day of or as soon thereafter as Counsel can be heard, for a(Here state the subject matter of the intended motion.)
Dated this day of 20
Plaintiff's Attorney.

Form 18 - Notice of payment into Court

In the Supreme Court. Civil Side No.
I do hereby give you notice that the above-named has paid into Court the sum of
in full satisfaction of your demand in this action together with costs incurred by you therein. Dated this day of 20
Registrar of the Supreme Court.

Form 19 - Affidavit of pauper

In the Supreme Court. Civil Side No.
EX PARTE
I, A. of
Make oath and say that I am not worth three hundred Rupees in the world, save my wearing apparel and the
matter in question mentioned in the Petition hereunto annexed.
Taken and sworn at the Registry of the Supreme Court on the Day of 20
Before me
Registrar of the Supreme Court.

Form 20 - Minute of Family Council

In the Supreme Court.
Be it remembered that on the day of in the Year of Our Lord Two thousand and And before me President of
Family Councils.
On the application of the of the minors
The relatives and friends of the said minor have assembled under my presidency for the purposes as hereunder
set forth.
Composition of the Family Council On the Paternal Side.
1.
2.
3.
On Maternal Side.
1.
2.
3.
All of them being of age.

And after the said members having been sworn by me to give each and every of them conscientiously his opinion on the matter now submitted, and after having considered the said matter with me declare that

President of Family Councils.

Form 21 - Recognisance by party appealing

In the Supreme Court. Civil Side No.

Between A.B		Plaintiff
	And	
C.D		Defendant.
Be it remembered, that on this	day of	in the year two thousand and of and of

hereby acknowledge to owe to the Republic the sum of Rupees for which payment well and truly to be made the said and jointly and severally bind themselves, their heirs and administrators, by these presents.

The condition of the above recognisance is such that if the said

shall appear and prosecute the appeal lodged by him against a judgment given by the Judge on the day of in the year two thousand and and prosecute his said appeal to its conclusions, before the Court of Appeal within

after notice of appeal was given by him the said appellant to the Judge and pay such costs as the said Court may award on such appeal then and in such case, this recognisance to be null and void, otherwise to remain in full force and effect.

Taken and acknowledge by the said]

]

at my Chambers, the day and year first]

before written, before me:] Registrar of the Supreme Court

Form 22 - Provisional seizure warrant

In the Supreme Court. Civil Side No.

Between A.B Plaintiff

and

C.D Defendant

To Process Server in and for the Supreme Court and to all members of the Police Force.

WHEREAS on this day the of in the year one thousand nine hundred and , on the application of of

Supported by an affidavit, it was ordered by His Lordship , Judge of the Supreme Court, that a provisional seizure be forthwith made upon the goods and chattels of the said

of in order to secure payment of the sum of

being the amount due to the plaintiff by the said defendant for as specified in the said application.

These are therefore to command you the said Process Server, to seize all the goods and chattels of the said wherever they may be found, and then place under safe custody until otherwise disposed of according to law. And you are also hereby directed to certify to me what you should have done by virtue of this warrant.

Given under my hand and the seal of the Supreme Court, this day of in the year of Our Lord One thousand and Registrar of the Supreme Court.

Form 23 - Warrant to levy

In the Supreme Court. Civil Side No. Between A.B Plaintiff

and

C.D. Defendant

To process server in and for the Supreme Court and to all members of Police Force.

WHEREAS on the day of in the year one thousand nine hundred and in the Supreme Court it was awarded by His Lordship Judge, that

Should pay to the sum of Rupees

and Cents together with the costs of the suit, on pain, in default thereof, of a levy being made on the goods and chattels of the said

AND WHEREAS the said has not yet paid the aforesaid sum of Rupees nor the said sum of Rupees

and Cents and further Rupees being the amount of the aforesaid costs of suit, by distress and sale of the goods and chattels of the said

And it is hereby ordered and directed that the goods and chattels so to be distrained shall be sold and disposed of within one month after such distress unless the said sum of Rupees and Cents plus the aforesaid costs of suit, for which such distress shall be made together with the reasonable charges of taking and keeping such distress, be sooner paid. And you are also hereby commanded to certify unto me what you shall have done by virtue of this Warrant.

Given under my hand at the Supreme Court this day of In the year of our Lord two thousand

Registrar of the Supreme Court

Awards Rs.

Costs Rs.

Levy Rs.

Return to the above warrant

In execution of the present warrant, I certify that I have this day seized the household furniture, goods, chattels and effects of the within-named and have made and signed the inventory of the same hereunto annexed.

Form 24 - Warrant to apprehend witnesses refusing to obey summons

In the Supreme Court. Civil Side No.

To Commissioner of Police, and to all other members of the Police Force. WHEREAS on the day of I Chief Justice/Judge, did issue to of

my summons requiring him to attend personally before me at the hour of

on at the Supreme Court, then and there to give evidence touching a certain complaint depending before me on behalf of

against and whereas the said summons has been duly served on the said and yet the said

hath failed to appear at the time and place so appointed, now you are hereby authorised and required to arrest the person of the said and him to bring before me at the hour of on

at the Supreme Court.

Given under my hand and seal at aforesaid this day of in the year

Judge.

Form 25 - Writ of execution against real property

In the Supreme Court. Civil Side No.

Between A.B Plaintiff

and

C.D. Defendant.

To Process Server in and for the Supreme Court.

WHEREAS, on the day of two thousand and the aforesaid Plaintiff obtained a judgment in this Court against the aforesaid Defendant for the sum of Rupees and Cents for principal and Rupees and cents for costs, amounting together to the sum of Rupees and cents and it was thereupon ordered by the Court the said Defendant should pay the said sum

and whereas

in default of payment according to the said order, a warrant of execution was issued on the Day of two thousand and

Against the goods and chattels of the said Defendant and the distress thereunto made has proved insufficient.

These are therefore to require and order you to make and levy by seizure and sale of the real estate of the said Defendant in whatever District it may be situated the sum of Rupees and Cents being the amount still due to the aforesaid Plaintiff under the said judgment and also the sum of Rupees and Cents being the costs of execution.

Given under the seal of the Supreme Court, this day of two thousand and

Registrar of the Supreme Court.

Form 26 - Writ habere facias possessionem

In the Supreme Court. Civil Side No.

To A.B

One of the Process Server of the Supreme Court.

WHEREAS on the day of 20 at a sale by licitation before the Judge of a plot of ground to the extent of situated at Mahé at the place called, bounded the said sale prosecuted between

and the said Judge awarded the said plot of ground to on the date aforesaid, and

WHEREAS prevents the said from taking possession of the said sale prosecuted between

and the said Judge awarded the said plot of ground to on the date aforesaid, and

WHEREAS prevents the said from taking possession of the said land;

Therefore I command you that after the expiration of days to reckon from the instant, you cause the said to have possession of the above described plot of ground, and in what manner you shall have executed this Writ make it appear to me immediately after the execution thereof.

And I further command you to make and levy by distress and sale of such property of the said as may be levied upon by the existing law of Seychelles wheresoever the same may be found within the jurisdiction of this Court the sum of for costs and also the cost of this execution.

Dated this day of 20

Registrar of the Supreme Court.

Form 27 - Writ of injunction

In the Supreme Court. Civil Side No.

To

A.B. of the Supreme Court.

WHEREAS on the day of an order was made by His Lordship Judge of the Supreme Court that a writ of Injunction should issue to restrain you the said

from continuing(to cut wood and take timber or any other injunction applied for) in a certain forest being in land belonging to

situate at the place called in the District of

(the said land being that possession and ownership of which is claimed by

as per Statement of Claim served upon you on the) until the first motion day or any other day fixed by the Judge to hear the matter.

I therefore hereby enjoin and command you the said from henceforth altogether and absolutely to abstain from cutting wood, etc.,

Until the said Court shall make order to the contrary. Dated this day of 20

Registrar of the Supreme Court.

Form 28 - Warrant for giving possession of tenement

In the Supreme Court.	Civil Side No.	
Between A.B.		Plaintiff
and		
C.D		Defendant.

WHEREAS at a Court duly holden at the Court House, Victoria, Mahé, Seychelles, on the day of it was adjudged in the above said suit that the above

Plaintiff should recover against the above Defendant possession of situated at together with a sum of Rupees for principal, and Rupees for costs of suit amounting in all to the sum of Rupees and it was ordered that the said Defendant do on the day of

quit and deliver up possession of to the said Plaintiff and pay the above sum of Rupees AND WHEREAS the said Defendant has not quitted and delivered up possession of the said

to the said Plaintiff nor paid the said sum pursuant to the said order.

These are therefore to require and command you to give possession of he said to the plaintiff forthwith.

And these are therefore further to require and command you forthwith to make and levy by distress and sale of the goods and chattels of the Defendant wherever they may be found within Seychelles for the said sum of Rupees

plus the sum of Rupees being the costs of this warrant and execution, or such part and so much thereof as may be sufficient for the satisfying of this execution.

Given under my hand and the seal of the Supreme Court this in the year of Our Lord two thousand and

Registrar of the Supreme Court.

Schedule D (Section 295)

To C.D., of, in the district of We warn you that unless within twelve days after the service of this writ on you, inclusive of the day of such service, you obtain leave from a Judge of the Supreme Court to appear, and do, within that time, appear in the Supreme Courtin action at the suit of A.B., the said A.B. may proceed to judgment and execution.

Witness, etc.

MEMORANDUM TO BE SUBSCRIBED ON THE WRIT:

N.B. – This writ is to be served within six calendar months from the date hereof, or, if renewed, from the date of such renewal, including the day of such date, and not afterwards.

INDORSEMENT TO BE MADE ON THE WRIT BEFORE SERVICE THEREOF:

This writ was issued by E.F., of Attorney for the plaintiff, or this writ is issued in person, by A.B., who resides at (mention the town, street, and number of the house of the plaintiff's residence).

INDORSEMENT

The Plaintiff claims(Rupees, principal and interest, or Rupees, balance of principal and interest) due to him as the payee(or indorsee) of a bill of exchange or promissory note, of which the following is a copy:-(here copy bill of exchange or promissory note, and all indorsements upon it.)

And if the amount thereof be paid to the plaintiff or his Attorney within days from the service hereof, further proceedings will be stayed.

NOTICE

Take notice that if the defendant do not obtain leave from a Judge of the Supreme Court within twelve days after having been served with this writ, inclusive of the day of such service, to appear thereto, and do not within such time cause an appearance to be entered for him in the Court out of which this writ issues, the plaintiff will be at liberty, at any time after the expiration of such twelve days, to sign final judgment for any sum not exceeding the sum above claimed and the sum of Rupees for costs, and issue execution for the same. Leave to appear may be obtained may be obtained on application at the Judge's chambers, Court House, Victoria, supported by affidavit, showing that there is a defence to the action on the merits, or that it is reasonable that the defendant should be allowed to appear in the action.

INDORSEMENT TO BE MADE ON THE WRIT AFTER SERVICE THEREOF

This Writ was served by X.Y. on L.M.(the defendant) on the day of in the year 20.

By X.Y.

Schedule E (Section 295)

In the Supreme Court.

On the day of in the year 20....., (day of signing judgment)

A.B. in his own person (or by C.D. his Attorney) sued out to writ:] a writ against E.F., indorsed as follows:

[Here copy indorsement of plaintiff's claim]

And the said E.F. has not appeared:

Therefore it is considered that the said A.B recover against the said E.F. Rupees, together with Rupees for costs.

[Here copy indorsement of plaintiff's claim]

And the said E.F. has not appeared:

Therefore it is considered that the said A.B recover against the said E.F. Rupees, together with Rupees for costs.