



## THE DISTRICT COURTS RULES 1948, AMENDMENT NO. 24

PAUL REEVES, Governor-General

### ORDER IN COUNCIL

At Wellington this 27th day of November 1989

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 122 of the District Courts Act 1947, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following rules.

#### ANALYSIS

1. Title and commencement
2. Extension of civil jurisdiction
3. New headings and rules inserted

*Discovery in Aid of Execution*

- 236A. Financial statements
- 236B. Order for examination of judgment debtor
- 236C. Examination of judgment debtor outside Court district
- 236D. Non appearance of judgment creditor or witness at examination
- 236E. Record of examination
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*Review of Registrar's Decision*

- 236G. Review of Registrar's decision

*Contempt*

- 236H. Contempt procedures
- 236I. Hearing of contempt proceedings where judgment debtor outside Court district

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*Attachment Orders*

- 256A. Attachment orders

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7. Solicitors' costs in respect of judgment summonses and attachment orders
8. Saving Schedules

## RULES

**1. Title and commencement**—(1) These rules may be cited as the District Courts Rules 1948, Amendment No. 24, and shall be read together with and deemed part of the District Courts Rules 1948\* (hereinafter referred to as the principal rules).

(2) Except as provided in subclause (3) of this rule, these rules shall come into force on the 1st day of January 1990.

(3) Rule 2 of these rules shall come into force on the 1st day of December 1989.

**2. Extension of civil jurisdiction**—(1) The principal rules are hereby amended—

- (a) By omitting from rule 77 (5) (as amended by rule 3 (1) (a) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000”, and substituting the expression “\$50,000”:
- (b) By omitting from rule 78 (as amended by rule 3 (1) (b) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000”, and substituting the expression “\$50,000”:
- (c) By omitting from rule 170 (as amended by rule 3 (1) (c) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000”, and substituting the expression “\$50,000”:
- (d) By omitting from rule 171 (as amended by rule 3 (1) (d) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000” in each place where it occurs, and substituting in each place the expression “\$50,000”:
- (e) By omitting from rule 244c (as inserted by rule 3 of the District Courts Rules 1948, Amendment No. 22) the expression “\$12,000” in both places where it occurs, and substituting in both places the expression “\$50,000”:
- (f) By omitting from rule 265 (as amended by rule 3 (1) (e) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000” in both places where it occurs, and substituting in both places the expression “\$50,000”:
- (g) By omitting from rule 271 (4) (as amended by rule 3 (1) (f) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000”, and substituting the expression “\$50,000”:
- (h) By omitting from rule 293 (2) (e) (as amended by rule 3 (1) (g) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000”, and substituting the expression “\$50,000”:
- (i) By omitting from rule 328 (as amended by rule 3 (1) (h) of the District Courts Rules 1948, Amendment No. 16) the expression “\$12,000”, and substituting the expression “\$50,000”.

(2) Rule 3 of the District Courts Rules 1948, Amendment No. 16 is hereby consequentially revoked.

**3. New headings and rules inserted**—The principal rules are hereby amended by revoking rule 236, and substituting the following headings and rules:

\*S.R. 1948/197 (Reprinted with Amendments Nos. 1 to 17: S.R. 1981/259)  
 Amendment No. 18: (Revoked by S.R. 1987/43)  
 Amendment No. 19: S.R. 1986/358  
 Amendment No. 20: (Revoked by S.R. 1988/30)  
 Amendment No. 21: (Revoked by S.R. 1989/14)  
 Amendment No. 22: S.R. 1988/277  
 Amendment No. 23: S.R. 1989/14

*“Discovery in Aid of Execution*

“236A. **Financial statements**—(1) Every notice under section 84A (1) of the Act requiring a judgment debtor to complete a financial statement shall be in the form No. 67A.

“(2) Every financial statement required to be completed under section 84A (1) of the Act shall be in the form No. 67B.

“236B. **Order for examination of judgment debtor**—(1) Every order under section 84B of the Act for examination of a judgment debtor or, if the judgment debtor is a corporation, an officer of a judgment debtor, shall be in the form No. 67c.

“(2) Where 2 or more judgment debtors are liable under the same judgment or order, the judgment creditor may apply for an order for examination in respect of any one or more of them. A separate application shall be filed in respect of each debtor whom the judgment creditor wishes to be examined, and fees shall be paid and costs allowed in respect of each such application.

“(3) Where the judgment creditor wishes to apply for an examination in respect of a judgment debtor that is a company, it shall not be necessary to name in the application a particular officer who is to appear at the examination.

“236C. **Examination of judgment debtor outside Court district**—(1) Where the judgment debtor neither resides nor carries on business within 35 kilometres of the Court in which the application for the order of examination is made, the order may provide for the attendance and examination of the judgment debtor before the Court for the district in which he or she resides or carries on business.

“(2) Where a direction is made under subclause (1) of this rule,—

“(a) The Registrar of the Court in which the order was made shall send all documents in his or her custody relating to the proceedings to the Registrar of the Court where the examination is to take place; and

“(b) The Registrar of the Court where the examination is to take place shall appoint a date and time for the examination and arrange for service of the notice in accordance with section 84B of the Act; and

“(c) The Court where the examination takes place may, on completion of the examination, exercise any of the powers referred to in section 84E of the Act; and

“(d) On completion of the examination, all documents relating to the proceedings shall be returned to the Court which made the order for examination unless, at the examination, an order has been made for the transfer of the proceedings under Part XVII of these rules.

“236D. **Non appearance of judgment creditor or witness at examination**—(1) Subject to subclause (2) of this rule, where the judgment creditor does not appear at an examination, the Court may, on the application of the judgment debtor, conduct the examination and make such order or give such directions as are authorised by section 84E of the Act.

“(2) Where it appears to the Court that the examination cannot fairly proceed owing to the absence through illness, accident, or other reasonable cause of either the judgment creditor or a witness, the Court

may adjourn the examination, subject to the payment of such costs and travel expenses as it thinks just.

“(3) In no case shall an adjournment of an examination be made *sine die*.

“236E. **Record of examination**—(1) The Court shall make or cause to be made a written record of the date and time of each examination and of the terms of anything done by the Court under section 84E of the Act upon completion of the examination.

“(2) The Court shall, at the conclusion of the examination, provide every party to the proceedings who is present at the examination with a copy of the record made under subclause (1) of this rule in respect of that examination.

“(3) The Registrar shall also send a copy of that record to every party to the proceedings who is not present at the examination.

“236F. **Warrant of arrest**—Every warrant to arrest a judgment debtor issued under section 84c of the Act shall be in the form No. 67D.

“*Review of Registrar’s Decision*”

“236G. **Review of Registrar’s decision**—(1) Every notice of application under section 84N of the Act for review of any order or direction made by a Registrar shall be in the form No. 67E.

“(2) Every such application shall specify the grounds on which it is made in sufficient detail to fully advise both the Court and other parties of the issues involved.

“*Contempt*”

“236H. **Contempt procedures**—(1) Every application under section 84O (1) of the Act for an order that the judgment debtor undergo periodic detention shall be in the form No. 67F.

“(2) Every supporting affidavit under section 84O (2) of the Act shall be in the form No. 67G.

“(3) Every such application shall specify the grounds on which it is made in sufficient detail to fully advise both the Court and other parties of the issues involved.

“(4) The application shall be signed by the judgment creditor or by the judgment creditor’s solicitor, or by an agent duly authorised in writing by the judgment creditor to sign the application. The supporting affidavit shall be made by any such person who is conversant with the facts required to be stated in the affidavit.

“(5) If the application is signed by an agent, an authority in the form No. 67H shall be filed with the application. No fee shall be payable on the filing of any such authority.

“(6) On the filing of the application, the Registrar shall—

“(a) Enter the application in the books of the Court and fix a date and time for the hearing of the application; and

“(b) Notify the applicant of the date and time fixed for the hearing of the application.

“(7) A copy of the application and supporting affidavit shall, not less than 14 days before the date of the hearing, be served personally on the judgment debtor, and shall be accompanied by a summons in the form No. 67I requiring the attendance of the judgment debtor at the hearing of the application.

“(8) Every order for periodic detention issued under section 84O (1) of the Act shall be in the form No. 67J.

“(9) Every warrant to arrest a judgment debtor issued under section 84O (4) of the Act shall be in the form No. 67K.

**“236i. Hearing of contempt proceedings where judgment debtor outside Court district—**(1) Where the judgment debtor neither resides nor carries on business within 35 kilometres of the Court in which the application for an order that the judgment debtor undergo periodic detention is made, the Court may direct that the hearing should take place before the Court for the district in which the judgment debtor resides or carries on business.

“(2) Where a direction is made under subclause (1) of this rule,—

“(a) The Registrar of the Court in which the summons is issued shall send all documents in his or her custody relating to the proceedings to the Registrar of the Court where the hearing is to take place; and

“(b) The Registrar of the Court where the hearing is to take place shall appoint a date and time for the hearing and arrange for service of the summons and accompanying documentation in accordance with rule 236H (7) of these rules; and

“(c) The Court where the hearing takes place may, on completion of the hearing, exercise any of the powers of the Court which issued the summons; and

“(d) On completion of the hearing, all documents relating to the proceedings shall be returned to the Court which issued the summons unless, at the hearing, an order has been made for the transfer of the proceedings under Part XVII of these rules.”

**4. New heading and rule relating to attachment orders inserted—**The principal rules are hereby amended by inserting, after rule 256, the following heading and rule:

*“Attachment Orders*

**“256A. Attachment orders—**Every attachment order made under section 84C of the Act shall be in the form No. 75A.”

**5. Forms—**(1) The Second Schedule to the principal rules is hereby amended by revoking the form No. 67, and substituting the forms Nos. 67A to 67K set out in the First Schedule to these rules.

(2) The Second Schedule to the principal rules is hereby further amended by inserting, after the form No. 75, the form No. 75A set out in the Second Schedule to these rules.

**6. Court fees in respect of judgment summonses, attachment orders, and examinations—**(1) The Third Schedule to the principal rules (as substituted by the District Courts Rules 1948, Amendment No. 23) is hereby amended by omitting item 4, and substituting the following item:

“4.\* Filing (on amount owing under judgment):

- |  |   |    |       |
|--|---|----|-------|
| <ul style="list-style-type: none"> <li>(a) Application for an attachment order; or</li> <li>(b) Application for any warrant of distress, of committal, for recovery of specific chattels, or for recovery of land; or</li> <li>(c) Application under section 84B of the Act for an order for examination of judgment debtor</li> </ul> | } | 40 | 100”. |
|--|---|----|-------|

(2) The Third Schedule to the principal rules is hereby further amended by omitting item 9, and substituting the following item:

“9. Filing, pursuant to rule 237, application for examination of party, for each party .. .. . 100”.

**7. Solicitors’ costs in respect of judgment summonses and attachment orders**—The Fifth Schedule to the principal rules (as substituted by rule 15 of the District Courts Rules 1948, Amendment No. 19 and amended by rule 6 of the District Courts Rules 1948, Amendment No. 22) is hereby amended by omitting item 27, and substituting the following item:

“27. Preparing application for attachment order .. .. . 30”.

**8. Saving**—Where, at the commencement of the 1st day of January 1990, proceedings in relation to any application made under rule 236 of the principal rules for examination of a judgment debtor have not been completed, those proceedings may be continued and completed under the principal rules as if these rules had not been made.



SCHEDULES

FIRST SCHEDULE

R. 5 (1)

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED

R.236A (1)]

[D.C. 67A

NOTICE TO JUDGMENT DEBTOR REQUIRING  
COMPLETION OF FINANCIAL STATEMENT

Plaint No. ....  
Warrant No. ....

In the District Court  
held at .....

Between  
.....,  
of ..... [Occupation],  
Judgment Creditor (Plaintiff)  
and  
.....,  
of ..... [Occupation],  
Judgment Debtor (Defendant)

On the ..... day of ..... 19 ....., in the District  
Court held at ....., the above-named judgment creditor  
obtained a judgment (or order) in this proceeding for the payment of the  
sum of \$ ....., including costs.

The judgment creditor is entitled to enforce payment of this sum by you.  
You are required, pursuant to section 84A of the District Courts Act 1947,  
to complete and return the attached statement about your financial  
position within 14 days after the date on which this notice is served on  
you.

You should send the completed form to this address—

.....  
.....  
[State Address]

Dated at ....., this ..... day of ..... 19.....

.....  
(Solicitor for)  
Judgment Creditor.

To the Judgment Debtor

FIRST SCHEDULE—*continued*

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—*continued*

## NOTES—

**1. Attendance at Court**

You may be required to attend before the Court for oral examination about your income and expenditure, assets and liabilities, and whether and how you can pay the amount owed to the judgment creditor.

**2. Payment**

If you pay the amount due within 14 days after the date on which this notice is served on you, you need not complete or return the attached statement.

You should pay the amount due to the judgment creditor at the address shown or you may instead pay it at any office of the District Court. Court offices are open to the public from ..... to ..... on Mondays to Fridays inclusive.

**3. Help or information**

If you need any help to complete the attached statement, you should consult your solicitor or a Citizens' or Legal Advice Bureau or community law centre if one is operating in your district, or talk to the staff at the District Court.

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FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236A (2)]

[D.C. 67B

STATEMENT OF FINANCIAL MEANS OF JUDGMENT DEBTOR  
(Title—As in form 67A)

I, ....., of .....,  
[Occupation], the above-named judgment debtor, state as follows:

1. My income before tax for the 52 weeks before the date of this statement  
was as follows: [Use "Nil" where applicable]

Item	Particulars	\$
(a)	Salary, wages, or other personal earnings from [State name and address of employer]:	.....
(b)	Superannuation, pension, or benefit (including any from overseas) [State name of payer and benefit number]:	.....
(c)	Accident compensation:	.....
(d)	Interest and dividends:	.....
(e)	Amount received from boarders (including children over 16 years of age):	.....
(f)	All other sources of income [Specify]	.....
	Total income in the 52 weeks	\$.....

2. My present weekly income (before tax) from all  
sources is \$.....

3. My expenses for the 52 weeks before the date of this statement were as  
follows:

Item	Particulars	\$
(a)	Income tax:	.....
(b)	Rent [State name and address of landlord]:	.....
(c)	Rates:	.....
(d)	Mortgage payments [State name and address of mortgagee]:	.....
(e)	Repairs on home:	.....
(f)	Car maintenance, running, and registration:	.....
(g)	Food and household supplies:	.....
(h)	Insurance and superannuation:	.....
(i)	Medical and hospital benefits:	.....
(j)	Electricity, gas, and fuel:	.....
(k)	Telephone:	.....
(l)	Clothing:	.....
(m)	Child maintenance, care, and education:	.....
(n)	Maintenance for previous marriage partner:	.....
(o)	Entertainment:	.....
(p)	Fares:	.....
(q)	Hire purchase payments [State name of person to whom paid, and amount outstanding]:	.....

FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

(r) Other expenses [Specify]: .....  
Total expenses in the 52 weeks \$.....

4. My present weekly expenses are \$.....

5. The following people live with me and their expenses are included in the total in clause 3 of this statement:

[List full names, ages, and relationship of all such members of household]

6. My assets (both in New Zealand and elsewhere) are as follows:

Item	Particulars	\$
(a)	Land and buildings [State address and capital value]:	.....
(b)	Motor vehicles [State make, year, and value]:	.....
(c)	Money in bank accounts [Specify banks]:	.....
(d)	Money not in bank or invested:	.....
(e)	Money lent or in hands of any person [State name and address]:	.....
(f)	Government stock, shares, debentures, or bonds [State details]:	.....
(g)	Livestock [State details]:	.....
(h)	Interest in business, stock in trade, or venture of any kind [State details]:	.....
(i)	Any other property or assets not specified above, including interest in any estate [State details]:	.....
	Total assets	\$.....

7. The property specified in items [Specify] of clause 6 of this statement is mortgaged or otherwise secured to [Full name] of [Address] for the sum of \$.....

8. My unsecured debts are as follows:

Amount of debt	Name and address of person to whom owed
.....	.....
.....	.....

9. I expect to have to meet the following liabilities within the next 6 months:

Nature of liability	Amount \$	Name and address of person to whom owed
.....	.....	.....
.....	.....	.....

All the information given in this statement is true and correct.

I am aware I may have to show in Court that the information is true.

Dated at ....., this ..... day of ..... 19 .....

.....  
Judgment Debtor.

FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236B (1)]

[D.C. 67c

ORDER FOR EXAMINATION OF JUDGMENT DEBTOR

(Title—As in form 67A)

On the application of [*State name of applicant*], the Court orders that you (*or where debtor is a company, an officer of the company*) do attend at the District Court at ....., at the date and time specified below, to be examined as to your income, expenditure, assets, liabilities, and generally as to your means for satisfying the judgment debt.

The Court also orders that you do produce—

Amount owing on judgment	\$.....
Subsequent Court fees and solicitor's costs	\$.....
Fees and costs of this examination	\$.....
Total amount now payable	\$.....

Dated at ....., this ..... day of ..... 19 .....

.....  
(Deputy) Registrar.

You are required to attend for the examination at the District Court at .....  
....., on ..... day, the ..... day of ..... 19..... at ..  
..... o'clock in the fore/after noon.

.....  
(Deputy) Registrar  
of Court of Examination.

To the Judgment Debtor

NOTES FOR JUDGMENT DEBTOR—

1. Attendance at Court

You **MUST** attend at the District Court for an examination at the time and place shown above. You may be represented at the examination by a barrister or solicitor if you wish.

2. Warrant for arrest

If you do not attend at that time and place, or at any subsequent time and place to which the examination is adjourned, a warrant may be issued for your arrest.

3. Payment

If you pay the amount due (which is shown above) before the date of the examination, you need not attend.

FIRST SCHEDULE—*continued*

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—*continued*

You should pay the amount due to the judgment creditor at the address shown or you may instead pay it at any office of the District Court. Court offices are open to the public from ..... to ..... on Mondays to Fridays inclusive.

**4. Help or information**

If you need any help or information about the examination, you should consult your solicitor or a Citizens' or Legal Advice Bureau or community law centre if one is operating in your district, or talk to the staff at the District Court.

## NOTES FOR JUDGMENT CREDITOR—

*[Delete if application made by judgment creditor]*

**1. Application by judgment debtor**

This order for examination has been made on the application of the judgment debtor.

**2. Attendance at Court**

As judgment creditor, you are entitled to appear at the examination at the time and place shown above and to examine the debtor about his or her means.

If you do not attend, an order relating to enforcement of the judgment may still be made. The Court can stay any proceedings for enforcement or make an order varying an existing order.

**3. Help or information**

If you need any help or information about the examination, you should consult your solicitor or a Citizens' or Legal Advice Bureau or community law centre if one is operating in your district, or talk to the staff at the District Court.

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FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236f]

[D.C. 67D

WARRANT TO ARREST JUDGMENT DEBTOR FOR ATTENDANCE AT  
EXAMINATION

(Title—As in form 67A)

To a Bailiff at the District Court at .....  
(or To a Constable at .....).

WHEREAS the District Court at ..... made on the .....  
day of ..... 19 ..... an order for the examination of [State name of  
judgment debtor] of [Address].

And whereas—

\* The order could not be served:

\* The judgment debtor did not appear at the examination:

\* The examination was adjourned to the ..... day of .....  
19 ..... at the District Court at ..... and the judgment  
debtor failed to appear.

Now, therefore, I do command you, by virtue of the powers given to me  
by section 84c of the District Courts Act 1947, that, unless the total  
amount stated below is sooner paid, you do arrest the judgment debtor  
and bring the judgment debtor before the Court as soon as possible to  
enable the examination to take place.

Amount owing on judgment	\$ .....
Subsequent Court fees and solicitor's costs	\$ .....
Total amount now payable	\$ .....

Dated at ....., this ..... day of ..... 19.....

.....  
District Court Judge/Registrar.

\*Delete if inapplicable

\_\_\_\_\_

FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236G]

[D.C. 67E

NOTICE OF APPLICATION FOR REVIEW OF REGISTRAR'S DECISION  
(Title—As in form 67A)

TAKE notice that the above-named judgment creditor (judgment debtor, or as the case may be) will apply to a District Court Judge at ..... on [To be filled in by the Registrar] ..... day the ..... day of ..... 19 ....., at ..... o'clock in the fore/after noon, for a review of the order (or direction) of the Registrar in these proceedings made at the District Court at ..... on the ..... day of ..... 19....., relating to ..... [Specify order or direction to be reviewed].

The grounds on which this application is made are—  
..... [Specify grounds]

.....  
(Solicitor for) Judgment  
Creditor (Judgment Debtor).

To the Registrar of the District Court at .....  
and

To the Judgment Debtor (Judgment Creditor).

This application is filed by .....  
whose address for service is at .....



FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236H (1)]

[D.C. 67F

APPLICATION FOR ORDER THAT DEBTOR UNDERGO PERIODIC DETENTION  
(Title—As in form 67A)

I, ....., the above-named judgment creditor, hereby apply for an order that ....., the above-named judgment debtor (or one of the above-named judgment debtors) undergo periodic detention on the grounds that the judgment debtor is in contempt of Court because—

- (a) The judgment debtor has sufficient means to pay the judgment debt but refuses to do so; and
- (b) All other methods of enforcing the judgment have been considered or tried and are inappropriate or unsuccessful.

Dated at ....., this ..... day of ..... 19.....

.....  
(Solicitor for)  
Judgment Creditor.

To the Registrar of the District Court at .....  
and  
To the Judgment Debtor.

\_\_\_\_\_

FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236H (2)]

[D.C. 67G

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ORDER THAT DEBTOR  
UNDERGO PERIODIC DETENTION  
(Title—As in form 67A)

I, ....., of ....., [Occupation], make oath and say—

- (1) That, on the ..... day of ..... 19 ....., in the District Court held at ....., I, [or where affidavit not made by judgment creditor, state name of judgment creditor], the above-named judgment creditor obtained a judgment in this action against the above-named judgment debtor for the sum of \$ ..... (including costs).
- (2) That the debtor is also liable for further costs of \$ ..... resulting from [Specify nature of costs].
- (3) That the said judgment (or the sum of \$ ....., part of the said judgment) is still unsatisfied.
- (4) That, on the ..... day of ..... 19 ....., in the District Court held at ....., the judgment debtor was, pursuant to section 84B of the District Courts Act 1947, examined as to his or her income, expenditure, assets, and liabilities and generally as to his or her means for satisfying the judgment debt.
- (5) That I believe that the judgment debtor has sufficient means to pay the judgment debt but refuses to do so. The grounds for my belief are [State concisely the reasons for that belief].
- (6) That the following methods of enforcing the judgment have been tried [State methods tried and why unsuccessful].
- (7) That the following other methods of enforcing the judgment have been considered [State other methods considered] but I believe they are inappropriate because [Give reasons for belief].
- \* (8) That I am duly authorised by the judgment creditor to make this affidavit on the judgment creditor's behalf.

.....  
[Signature of Deponent]

Sworn at ....., this ..... day of ..... 19 ....., before me—

.....  
Registrar.  
Solicitor.  
Justice of the Peace.

\*Note: Add where judgment creditor does not make the affidavit.



FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236H (5)]

[D.C. 67H

AGENT'S AUTHORITY TO SIGN APPLICATION

(Title—As in form 67A)

I, ....., the above-named judgment creditor, hereby authorise ..... of ..... [Occupation] to sign on my behalf an application under section 84o of the District Courts Act 1947 for an order that the above-named judgment debtor (or one of the above-named judgment debtors) do undergo periodic detention for contempt of Court.

Dated at ....., this ..... day of ..... 19.....

.....  
Judgment Creditor.

To the Registrar of the District Court at .....

\_\_\_\_\_

FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236H (7)]

[D.C. 67i

SUMMONS TO JUDGMENT DEBTOR REQUIRING ATTENDANCE AT HEARING OF  
APPLICATION FOR PERIODIC DETENTION

(Title—As in form 67A)

WHEREAS the judgment creditor has applied for an order that you undergo  
periodic detention for contempt of Court.

And whereas a copy of that application and a copy of the supporting  
affidavit, setting out the grounds for the application, are attached to this  
summons.

You are hereby summoned to attend at the District Court at ..... ,  
at the date and time specified below, to show cause why an order requiring  
you to undergo periodic detention should not be made.

Dated at ....., this ..... day of ..... 19.....

.....  
District Court Judge/Registrar.

You are required to attend for the hearing at the District Court at  
....., on .....day, the ..... day of ..... 19.....  
at ..... o'clock in the fore/after noon.

.....  
(Deputy) Registrar  
of Court of Hearing.

To the Judgment Debtor

NOTES—

**1. Attendance**

You **MUST** attend at the District Court at the time and place shown  
above.

**2. Warrant for arrest**

If you do not attend at that time and place, a warrant may be issued for  
your arrest.

**3. Payment**

If you pay the total amount due before the date of hearing, you need  
not attend.

You should pay the amount due to the judgment creditor at the address  
shown or you may instead pay it at any office of the District Court.  
Court offices are open to the public from ..... to ..... on  
Mondays to Fridays inclusive.

**4. Periodic detention**

The Court can make an order that you undergo periodic detention if it is  
satisfied beyond reasonable doubt that—

- (a) You have sufficient means to pay the judgment debt but refuse to do  
so; and

FIRST SCHEDULE—*continued*

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—*continued*

(b) All other methods of enforcement have been considered or tried and are inappropriate or unsuccessful.

**5. Examination as to income, etc.**

You may be asked questions about your income and expenditure, assets and liabilities, and generally as to your means for satisfying the judgment debt. You should bring with you any information that may help the Court decide if you are able to pay.

**6. Legal Aid**

You are also entitled to apply for offenders legal aid if you wish to have legal representation but cannot afford it otherwise. The Registrar can help you to apply.

**7. Help or information**

If you need any help or information, you should consult your solicitor or a Citizens' or Legal Advice Bureau or community law centre if one is operating in your district, or talk to the staff at the District Court.

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FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236H (8)]

[D.C. 67J

ORDER FOR PERIODIC DETENTION  
(Title—As in form 67A)

WHEREAS on the ..... day of ..... 19 ....., in the District Court held at ....., the above-named judgment creditor obtained a judgment (or order) in this proceeding against the above-named judgment debtor for the payment of the sum of \$ ....., including costs.

And whereas the total outstanding under that judgment or order is now \$ ..... (including costs and disbursements).

And whereas the Court is satisfied that—

- (a) You have sufficient means to pay the judgment debt but refuse to do so; and
- (b) All other methods of enforcing the judgment have been considered or tried and are inappropriate or unsuccessful.

NOW THEREFORE, YOU ARE HEREBY ORDERED TO UNDERGO PERIODIC DETENTION FOR A TERM OF ..... MONTHS FOR CONTEMPT OF COURT.

The Court orders as follows:

1. That you shall report to the Work Centre at ..... on ..... day the ..... day of ..... at ..... o'clock in the fore/after noon; and
2. That thereafter you shall report at that Work Centre—
  - \* (a) On ..... occasions in each week during the term of the order.
  - \* (b) On one occasion in each week during the term of the order and on such other occasion or occasions in each week as the Warden may from time to time specify.
  - \* (c) On such number of occasions in each week during the term of the order as the Warden may from time to time specify; and
3. That the maximum duration of each period of custody shall be 9 hours and the aggregate in any one week shall not exceed 15 hours.

Dated at ....., this ..... day of ..... 19 .....

.....  
District Court Judge/Registrar.

To the Judgment Debtor

\_\_\_\_\_

FIRST SCHEDULE—*continued*

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—*continued*

NOTES—

1. If you pay the full amount of the debt before starting your term of periodic detention, you do not need to start the term.
2. If you pay the full amount of the debt during the term of periodic detention, you do not need to continue the term.
3. Payment should be made to the judgment creditor at the address shown or to any office of the District Court. Court offices are open to the public from ..... to ..... on Mondays to Fridays inclusive. If payment is made to the judgment creditor, you should also notify the Court.



FIRST SCHEDULE—continued

NEW FORMS 67A, 67B, 67C, 67D, 67E, 67F, 67G, 67H, 67I, 67J, AND 67K  
PRESCRIBED—continued

R. 236H (9)]

[D.C. 67k

WARRANT TO ARREST JUDGMENT DEBTOR FOR ATTENDANCE AT CONTEMPT  
PROCEEDINGS

(Title—As in form 67A)

To a Bailiff at the District Court at .....  
(or To a Constable at .....).

WHEREAS on the ..... day of ..... 19 ..... the  
above-named judgment creditor applied for an order that [State name of  
judgment debtor] of [Address] undergo periodic detention for contempt of  
Court.

And whereas—

\* A copy of the application could not be served:

\* The judgment debtor did not appear at the hearing of the application:

Now, therefore, I do command you by virtue of the powers given to me  
by section 84O (4) of the District Courts Act 1947, that, unless the total  
amount stated below is sooner paid, you do arrest the judgment debtor  
and bring the judgment debtor before the Court as soon as possible to  
enable the application to be heard.

Amount owing on judgment	\$ .....
Subsequent Court fees and solicitor's costs	\$ .....
Total amount now payable	\$ .....

Dated at ....., this ..... day of ..... 19.....

.....  
District Court Judge.

\* Delete if inapplicable.

\_\_\_\_\_

R. 5 (2)

SECOND SCHEDULE

NEW FORM 75A PRESCRIBED

R. 256A]

[D.C. 75A

ATTACHMENT ORDER

(Title—As in form 70)

To: [Full Name of Employer] of [Address]

The Court is satisfied that you are the employer of [Full name of judgment debtor] of [Address] (referred to as 'the debtor').

On the ..... day of ..... 19..... in the District Court held at ....., judgment was given against the debtor for \$..... (including costs.)

The debtor has not paid the judgment debt and, after an examination as to the debtor's means, the Court has made this attachment order.

The Court orders that while this order remains in force, you are required whenever any salary or wages becomes payable to the debtor, to deduct from it the sum of \$..... for each week.

BUT IF, IN ANY WEEK, THE DEDUCTION WOULD REDUCE THE NET EARNINGS PAID TO THE DEBTOR BELOW THE PROTECTED EARNINGS RATE OF ..... PER WEEK, YOU MUST ADJUST THE AMOUNT OF THE DEDUCTION SO THAT THE DEBTOR RECEIVES THE PROTECTED EARNINGS RATE.

The first deduction is to be made on the pay day following the date on which you receive this order. A deduction is to be made on every subsequent pay day until ..... [Specify date] or until the judgment debt has been paid in full.

The money deducted is to be paid to ..... at ..... [Address] by the 20th day of the month next after the month in which the deduction was made.

You are not required to make deductions for more than the total amount payable shown below:

Judgment Debt	\$.....
Subsequent Court fees and solicitor's costs	\$.....
Fees and costs on application for this order	\$.....
Total amount payable	\$.....

Dated at ....., this ..... day of ..... 19.....

.....  
District Court Judge/Registrar.

SECOND SCHEDULE—*continued*NEW FORM 75A PRESCRIBED—*continued*

## NOTES—

1. Section 84F of the District Courts Act 1947 defines the term “salary or wages” to include—
  - (a) A retiring allowance or pension or other payment of a similar nature:
  - (b) Earnings related compensation under the Accident Compensation Act 1972 or the Accident Compensation Act 1982:
  - (c) A benefit within the meaning of Part I of the Social Security Act 1964. That section defines the term “employer” to include a person or body making payments of a kind referred to in paragraphs (a) to (c) above.
2. This attachment order—
  - (a) Applies whether or not the contract of employment in respect of which the salary or wages are due existed at the date of the order:
  - (b) Is subject to certain attachment orders and deduction notices made under the Family Proceedings Act 1980, the Summary Proceedings Act 1957, and the Social Security Act 1964:
  - (c) Prevails over and has priority to any assignment or charge created by the debtor whether before or after the making of the order.
3. It is an offence to fail without reasonable excuse to comply with this order.
4. If you do not make payments as required, you could be sued for the amount owing.
5. You must notify the Registrar of the District Court within 7 days if the debtor leaves or is dismissed from your employment.
6. It is an offence to dismiss or alter the debtor’s position in your business or undertaking to the debtor’s prejudice because of this order.
7. If you are forced to reduce the amount of any deduction from the debtor’s salary or wages so as to leave the debtor with the protected earnings rate specified overleaf, you should notify the Registrar of the District Court immediately.
8. If in doubt as to your obligations under this order, you should consult a solicitor or the Registrar at the District Court immediately.  
 Court offices are open to the public from ..... to .....  
 on Mondays to Fridays inclusive.

MARIE SHROFF,  
 Clerk of the Executive Council.

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## EXPLANATORY NOTE

*This note is not part of the rules, but is intended to indicate their general effect.*

These rules amend the District Courts Rules 1948 as a consequence of certain changes to the District Courts Act 1947 made by the District Courts Amendment Act 1989.

Most of these rules come into force on 1 January 1990.

*Rule 2* makes amendments to the principal rules to reflect the increase in the general civil jurisdiction of the District Courts from \$12,000 to \$50,000. This rule comes into force on 1 December 1989.

*Rules 3 and 4* insert new rules relating to the enforcement of judgment debts.

*Rule 5* prescribes new forms required by the new rules inserted by *rules 3 and 4*.

*Rule 6* amends the scale of Court fees contained in the Third Schedule to the principal rules—

(a) By omitting the items relating to applications for judgment summonses and for examinations under rule 236; and

(b) By substituting items relating to applications for attachment orders and for examinations under section 84B of the District Courts Act 1947.

*Rule 7* amends the scale of solicitors' costs contained in the Fifth Schedule to the principal rules—

(a) By omitting the item relating to applications for judgment summonses; and

(b) By substituting an item relating to applications for attachment orders.

*Rule 8* is a savings provision in respect of proceedings in relation to any application made under rule 236 of the principal rules for examination of a judgment debtor. Those proceedings may be continued and completed as if these rules had not been made.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 30 November 1989.

These rules are administered in the Department of Justice.