



**THE SUMMARY INSTALMENT ORDERS (DISTRICT COURTS)
RULES 1970, AMENDMENT NO. 3**

DAVID BEATTIE, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 30th day of November 1981

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 152 of the Insolvency Act 1967 and 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.

RULES

1. Title and commencement—(1) These rules may be cited as the Summary Instalment Orders (District Courts) Rules 1970, Amendment No. 3, and shall be read together with and deemed part of the Summary Instalment Orders (District Courts) Rules 1970* (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the 1st day of January 1982.

2. Summary Instalments Orders Record Book—Form 2 in the First Schedule to the principal rules is hereby amended by omitting the words "Particulars of judgment the basis of the application (including reference to plaint or writ)", and substituting the words "The basis of the application, i.e., consent or judgment (including reference to plaint or writ) or debtor's application".

3. New forms substituted—The First Schedule to the principal rules is hereby amended by revoking forms 3 and 5, and substituting the forms 3 and 5 set out in the Schedule to these rules.

*S.R. 1970/271 (Reprinted with Amendments Nos. 1 and 2 incorporated: S.R. 1981/182)
Amendment No. 3 (Increase in application fee): S.R. 1981/195

4. Notice to debtor of application for a summary instalment order—Form 6 in the First Schedule to the principal rules is hereby amended by revoking the first paragraph of the Explanatory Note, and substituting the following paragraph:

“Section 146 (1) of the Insolvency Act 1967 provides that:

“(a) A debtor; or

“(b) A creditor with the consent of the debtor; or

“(c) A creditor of a debtor against whom a judgment for the payment of a sum of money has been obtained—

may apply to a District Court for a summary instalment order in respect of the debtor’s debts. An order can be applied for only if it is alleged that the debtor is unable to pay forthwith his debts that would be provable in his bankruptcy and that his total unsecured debts that would be provable in his bankruptcy are not more than \$4,000.”

5. Summary instalment order—Form 14 in the First Schedule to the principal rules is hereby amended by omitting the expression “\$1,000”, and substituting the expression “\$4,000”.

6. Supervision fees—The Second Schedule to the principal rules is hereby amended—

(a) By omitting the expression “5 percent”, and substituting the expression “7½ percent”;

(b) By omitting the expression “\$20”, and substituting the expression “\$100”.

SCHEDULE

Rule 3

NEW FORMS 3 AND 5 SUBSTITUTED IN FIRST SCHEDULE
TO PRINCIPAL RULES

Form 3

R. 7

APPLICATION BY A DEBTOR FOR A SUMMARY INSTALMENT ORDER
(General Title—Form 1)

I,, the above-named debtor, state:

1. That I am indebted to the several persons mentioned in the accompanying statement of my affairs in the total sum of \$..... (of which the sum of \$..... is owing to unsecured creditors).

2. That I am unable to pay forthwith the debts that would be provable in my bankruptcy.

3. That the total unsecured debts that would be provable in my bankruptcy are not more than \$4,000.

4. That I propose to pay my debts in full (or to the extent of..... cents in the dollar) by weekly (or 2 weekly or 4 weekly or monthly) instalments of \$.....

AND PURSUANT to section 146 of the Insolvency Act 1967, I HEREBY APPLY for a summary instalment order in respect of my debts.

Dated this day of 19.....

.....
Debtor

To the Registrar of the District Court at

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

Form 5

R. 9

APPLICATION BY A CREDITOR FOR A SUMMARY INSTALMENT ORDER
(General Title—Form 1)

I, [*Insert full name, address, and occupation*], (on behalf of [*Insert full name, address and occupation*]*) a creditor of the above-named debtor, state:

*1. That I or ([*Insert full name*]) obtained judgment against [*Insert full name*], the above-named debtor, in the District (or High) Court at on the day of 19....., for the sum of \$....., and that the sum of \$..... is still due and owing under that judgment.

*2. That I attach hereto a certificate of that judgment.

*3. That this application is made with the consent of the above-named debtor.

4. That the above-named debtor, is indebted to me in the sum of \$..... (which sum includes the amount owing under the judgment*). This sum is made up as follows:

Amount of debt	Nature of debt	Date debt payable
\$		

Total		

5. That I believe that the above-named debtor is unable to pay forthwith the debts that would be provable in his bankruptcy.

6. That I believe, after reasonable inquiry, that the total unsecured debts that would be provable in the bankruptcy of the above-named debtor are not more than \$4,000.

AND PURSUANT to section 146 of the Insolvency Act 1967, I HEREBY APPLY for a summary instalment order in respect of the debts of the above-named debtor.

Dated this day of 19.....

.....
Creditor.

To the Registrar of the District Court at

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

*Delete if inapplicable.

P. G. MILLEN,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These rules, which come into force on 1 January 1982, amend the Summary Instalment Order (District Courts) Rules 1970. The amendments, except those made by regulation 6, are consequential on the provisions of the Insolvency Amendment Act 1981.

Regulation 6 increases the fees that are payable to supervisors.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 3 December 1981.

These rules are administered in the Department of Justice.