Reprint

as at 3 December 2007

Summary Instalment Orders (District Courts) Rules 1970

(SR 1970/271)

Summary Instalment Orders (District Courts) Rules 1970: revoked, on 3 December 2007, by section 443(2) of the Insolvency Act 2006 (2006 No 55).

PURSUANT to the District Courts Act 1947 and to section 152 of the Insolvency Act 1967, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following rules.

Contents

		Page
1	Title and commencement	3
2	Interpretation	3
	Part 1 Preliminary matters	
3	Rules to be part of the District Courts Rules 1948	4
4	Forms	4
5	Court records	4
6	Court may extend time	5

Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

These rules are administered in the Department of Justice.

Part 2
Applications for orders

Applications by debtors

7	Application for an order by a debtor	5
8	Notice of the application	5

Applications by creditors

9	Application for an order by a creditor	5
10	Notice of the application	5
11	failure of debtor to comply with notice	6
12	Costs of the application	6
13	Notice of the application	7
14	Stay of proceedings pending hearing	7

Part 3
Filing of objections and hearing of application

15	Objections by creditors	9

The hearing

16	Proceedings at the hearing	9
17	Form of the order	10
18	Bond	10

Part 4
The duties of the supervisor and the debtor, etc

19	The obligations of the supervisor	10
20	Proofs of debt	11
21	Proofs of debt where no supervisor is appointed	11
22	Proofs of debt received late	11
23	Money received by a supervisor	12
24	Advice to creditors of dividend	13
25	Application to Court for replacement of a supervisor	14
26	Supervisor and debtor to render accounts	14
27	Direction regarding salary or wages	15

Part 5
Setting aside, rescission, variation, or discharge of orders, action on default, and miscellaneous matters

28	Review of summary instalment order	15
29	Second application for an order	15
30	Wilful failure to comply with terms of order	16
31	Action on failure of debtor to meet instalments	16
32	Action on completion or termination of administration	16

33	Fees and costs	17
33A	Power to waive fees	17
33B	Payment of fee may be postponed pending determination of application for waiver or review	19
33C	Recovery of postponed fee	19
33D	Power to refund fees	20
34	Service	20
	Schedule 1 **Forms**	21
	Schedule 2 **Fees**	39

---

1 Title and commencement

(1) These rules may be cited as the Summary Instalment Orders (District Courts) Rules 1970.

(2) These rules shall come into force on the 1st day of January 1971 (being the date appointed for the commencement of the Insolvency Act 1967).

Subclause (1) was amended, as from 1 April 1980, by rule 2(2) Summary Instalment Orders (District Courts) Rules 1970, Amendment No 2 (SR 1980/57) by substituting the word "District" was substituted for the word "Magistrates" in the title of the Summary Instalment Orders (District Courts) Rules 1970.

2 Interpretation

In these rules, unless the context otherwise requires,—

The Act means the District Courts Act 1947

The Court or **Court** means a District Court presided over by a District Court Judge and having civil jurisdiction

Debtor means a person in respect of whom a summary instalment order is applied for or made

Insolvency Act means the Insolvency Act 1967

Order or **summary instalment order** means a summary instalment order made under Part 16 of the Insolvency Act 1967

Registrar means the Registrar of a Court; and includes a Deputy Registrar of that Court

Supervisor means a person appointed to supervise the compliance of a debtor with the terms of a summary instalment order

A reference to a numbered form is a reference to the form so numbered in Schedule 1 to these rules.

Part 1
Preliminary matters

3 Rules to be part of the District Courts Rules 1948

(1) These rules shall be deemed part of the District Courts Rules 1948.

(2) Where the Insolvency Act or these rules provide for an application to the Court and no form of application or no form of procedure is prescribed, the provisions of the District Courts Rules 1948 and the general practice of the Court shall apply.

(3) These rules shall be so construed as to secure the just, speedy, and inexpensive determination of any proceedings.

4 Forms

(1) Where any form in Schedule 1 hereto is prescribed or authorised to be used, such variations may be made therein as the circumstances of any particular case may require.

(2) Every notice, order, or other document issued out of a Court pursuant to Part 16 of the Insolvency Act or these rules shall be signed by a District Court Judge or the Registrar

(3) All documents relating to summary instalment orders shall be intituled in the manner shown in form 1.

Regulation 4(2) was amended by rule 3 District Courts Rule 1948 Amendment No 16 (SR 1980/55) by omitting the words "and sealed with the seal of the Court".

5 Court records

The Registrar of every Court shall keep a record book in form 2, in which book shall be entered particulars of every application for a summary instalment order and the result of every such application.

6 Court may extend time

Where by these rules, the time for doing any act or thing is limited, the Court may on application extend the time, either before or after the expiration thereof, upon such terms and conditions (if any) as it thinks fit.

Part 2
Applications for orders

Applications by debtors

7 Application for an order by a debtor

An application by a debtor for a summary instalment order shall be in form 3 and shall be accompanied by a statement of the affairs of the debtor in form 4 verified by statutory declaration.

8 Notice of the application

(1) When an application by a debtor is filed, the Registrar shall appoint a day for the hearing of the application by the Court, and shall send a notice in form 7 to all creditors listed by the debtor of the time and place of the hearing.

(2) The Registrar shall also send to the debtor notice of the time and place of hearing in form 8.

Applications by creditors

9 Application for an order by a creditor

An application by a creditor for a summary instalment order shall be in form 5, and shall be filed in duplicate.

10 Notice of the application

A copy of the application together with a notice in form 6 and a copy of form 4 shall be served on the debtor calling upon him to file in the Court within 14 days of the date of the notice a statement of his affairs in form 4, verified by statutory declaration.

11 failure of debtor to comply with notice

(1) If the debtor fails to file within the prescribed time the statement required by rule 10 hereof the applicant may apply to the Court for a summons in form 9 calling upon the debtor to appear and be examined on oath as to the facts relevant to the application.

(2) The summons shall be served personally on the debtor and the person effecting service shall at the time of service pay or tender to the person served the sum estimated to be payable to him for allowances and travelling expenses, but not fees, pursuant to the Witnesses and Interpreters Fees Regulations 1974:

Provided that no such allowances and expenses shall be payable unless the sum so estimated exceeds 50 cents.

(3) If the debtor fails to attend and no just excuse is offered for his failure, the Court, if satisfied that the summons was duly served on him and that the allowances and expenses payable under subclause (2) hereof were paid or tendered to him, may issue a warrant in form 10 for his attendance at the hearing.

(4) The provisions of subclauses (7) to (18) of rule 198 the District Courts Rules 1948 shall, with the necessary modifications, apply to an examination under this rule.

Regulation 11(3) was amended, as from 23 December 1971, by rule 2(1) Summary Instalment Orders (District Courts) Rules 1970, Amendment No 1 (SR 1971/285) by inserting the word "may".

Subclause (2) was amended by substituting the "Witnesses and Interpreters Fees Regulations 1974", being the corresponding enactment in force at the date of this reprint, for the revoked "Witnesses and Interpreters Fees Regulations 1969".

12 Costs of the application

A creditor making an application for an order may, within 1 month of the making of an order or within such further time as the Court may allow, apply to the Court for taxation of his costs as prescribed by rule 33 hereof and a certificate of costs which the Registrar of the Court may give in form 11. A copy of any such certificate shall be sent by the Registrar to the supervisor or, if no supervisor is appointed, to the debtor.

13 Notice of the application

Upon the debtor filing a statement of his affairs the Registrar shall take the action required by rule 8 hereof as in the case of an application by a debtor:

Provided that the notice to the debtor of the time and place of hearing shall be served personally on him and the person effecting service shall at the time of service pay or tender to the person served allowances and travelling expenses as provided in rule 11 hereof.

14 Stay of proceedings pending hearing

(1) At any time between the filing and the hearing of an application for a summary instalment order the Court in which the application is filed may suspend proceedings on any judgment or order of that Court against the debtor, or on any execution, judgment summons, or order of committal issued against the property or person of the debtor in respect of any debt included in the debtor's list of creditors whether issued by the Court in which the application is filed, or issued by any other District Court and sent for execution to the Court in which the application is filed.

(2) Any other Court in which a judgment or order has been obtained against the debtor, or from which an execution or order of committal was issued against the debtor, or to which an execution or order of committal issued by any other District Court has been sent for execution, may in like manner, on proof that an application for a summary instalment order in respect of his debts has been filed, suspend proceedings on the judgment, order, execution or order of committal.

(3) If in any such case the bailiff is in possession under a warrant of execution, the Court may on application order the bailiff to withdraw from possession until after the hearing of the application for a summary instalment order.

(4) A District Court Judge may, if he thinks fit, on application by the bailiff made in accordance with rule 282 of the District Courts Rules 1948 make an order for payment by the execution creditor to the bailiff of any possession fees or expenses incurred by the bailiff which are not recovered out of the money (if any) received under the execution.

(5) Where proceedings are suspended under this rule, costs already incurred by the creditor or ordered to be paid under subclause (4) hereof shall form part of the debt due to the creditor unless the Court otherwise orders.

(6) An order suspending proceedings shall be in form 12.

(7) Where a stay or suspension is requested under section 148 of the Insolvency Act or this rule in respect of proceedings taken in a Court other than that in which the application is filed, the Registrar of the Court in which the application is filed shall on the request of the debtor issue to him a certificate in form 13.

(8) Any warrant suspended or stayed under this rule or section 148 of the Insolvency Act may, subject to that section, be reissued with the leave of the Court and upon such conditions as the Court thinks just.

(9) While any proceedings are suspended under subclause (1) or subclause (2) of this rule the debtor shall not sell, assign, charge, pledge, or dispose of his property or any part thereof without the prior consent of the Court.

(10) Where proceedings are suspended or stayed under this rule or under section 148 of the Insolvency Act any money received under any process by any Registrar shall be dealt with as follows:

(a) If a summary instalment order is made in the Court receiving the money, such money shall be dealt with as that Court shall direct:

(b) If a summary instalment order is made in any other Court, such money shall be paid by the Registrar of the Court receiving the money to the Registrar of the Court in which the summary instalment order is made and the last-mentioned Registrar shall deal with the money as the Court directs.

Part 3
Filing of objections and hearing of application

15 Objections by creditors

Any creditor who desires to object at the hearing of the application to the making of an order or, where the debtor is the applicant, to any part of the debtor's proposal, may give written notice of his objection to the Registrar and the debtor and the applicant creditor (if any) not less than 3 clear days before the day appointed for the hearing of the application, and shall state the grounds of his objection. The notice may be in the form of a letter.

The hearing

16 Proceedings at the hearing

Upon the application coming before the Court for hearing—

(a) The debtor shall attend in person unless the Court otherwise directs, and he may be heard on any matter affecting the application, and may also be examined on oath by any person who has a right to be heard, and shall answer all questions put to him and allowed by the Court:

(b) The debtor shall bring with him to Court all books of account and other documents relating to his debts:

(c) If the debtor fails to attend and no just excuse is offered for his failure, the Court, if satisfied that the notice was duly served on him and that the allowances and expenses payable under rule 13 hereof were paid or tendered to him, may issue a warrant in form 10 for his attendance at the hearing:

(d) Any person who satisfies the Court that he is a creditor, whether or not he has received a notice of the application, may attend the hearing and be heard on the application together with such witnesses as he may call:

(e) Where the applicant is a creditor who resides or carries on business more than 30 miles from the Court in which the application is to be heard, evidence by affidavit shall be admissible on his behalf in accordance with the Dis-

trict Courts Rules 1948 and if the applicant does not appear at the hearing and an affidavit has been lodged he shall be deemed to have appeared at the hearing and to have tendered the evidence in the affidavit:

(f) The Court may, if the evidence tendered is insufficient to enable it to assess the merits of the application or the ability of the debtor to comply with any proposal made or for other cause, adjourn the hearing of the application for an inquiry and report from a suitable person:

(g) The Court may appoint the Registrar as supervisor if no other person is willing to act.

17 Form of the order

On the making of an order, an order in form 14 shall be drawn up, and a copy shall be served on the debtor and sent to any supervisor appointed by the Court. A notice in form 15 of the making of the order shall be sent to all known creditors (including those whose debts are in dispute) by the supervisor or by the Registrar if no supervisor is appointed.

18 Bond

(1) Any bond required by the Court under Part 16 of the Insolvency Act shall be in form 16 and shall, unless the Court otherwise directs, be given to the Registrar to enure for the benefit of the Registrar for the time being.

(2) Every such bond shall be:

(a) Given at the expense of the person giving it; and

(b) Lodged with the Registrar before the supervisor enters upon his duties.

Part 4
The duties of the supervisor and the debtor, etc

19 The obligations of the supervisor

Every person appointed a supervisor shall be bound to undertake and perform diligently the duties of a supervisor in terms of the order and of the Insolvency Act and of these rules until

the order made by the Court is set aside, rescinded, or discharged or until he resigns with the leave of the Court.

20 Proofs of debt

(1) Every creditor shall within 14 days of the making of an order lodge a proof of debt in form 17 and shall, if called upon, at his own expense prove his debt to the satisfaction of the supervisor.

(2) On the receipt of a proof of debt the supervisor shall consider it and note on the proof of debt form whether he admits or rejects the claim (either wholly or in part) and the date of his decision.

(3) Notice of the rejection of a claim (either wholly or in part) shall be given forthwith by the supervisor to the creditor in form 18.

(4) Any objection by a creditor to the acceptance or rejection of a claim (either wholly or in part) by the supervisor shall be filed within 21 days of the rejection or acceptance of the proof. Notice of every such application shall be served on the supervisor and the debtor, and, if applicable, the creditor whose claim is being objected to, and the debtor shall and the supervisor and the creditor may appear and be heard on the application.

(5) Every creditor who has lodged a proof shall be entitled to see and examine the proofs of other creditors at all reasonable times.

(6) A creditor may with leave of the supervisor from time to time amend his proof by submitting a fresh proof of debt in form 17.

21 Proofs of debt where no supervisor is appointed

Forthwith after the making of an order without the appointment of a supervisor, the Registrar shall send to creditors notice in form 15. The Registrar shall consider all proofs of debt submitted and shall take the action required by a supervisor by rule 20 hereof in relation thereto.

22 Proofs of debt received late

(1) If, after a summary instalment order has been made, any person claims that the debtor has incurred liability to him before

the making of the order, and that the amount due to him has not been included in the administration due to no fault on his part, he may send to the supervisor, or to the Registrar of the Court in which the order was made if no supervisor has been appointed, proof of debt in form 17 and, if the supervisor or the Registrar accepts the proof, the debt may be included in the administration of the estate of the debtor. If the proof of debt is not so accepted, the creditor may apply to the Court for a direction in relation thereto.

(2) Any person who, after the making of an order, becomes a creditor of the debtor, may send to the supervisor, or if no supervisor has been appointed, to the Registrar, a proof of debt in form 17. If the supervisor or Registrar accepts the proof, the person so applying may in terms of the Insolvency Act be included as a creditor in the administration of the estate of the debtor, but shall not be entitled to any dividend under the order until the creditors included in the administration as having been creditors before the making of the order have been paid. If the proof of debt is not accepted by the supervisor or Registrar, the creditor may apply to the Court for a direction in relation thereto.

(3) If the amount of any debt proved under subclause (1) or subclause (2) of this rule is such that its inclusion in the administration may appreciably affect the performance of the order the supervisor or, if no supervisor has been appointed, the debtor shall apply to the Court for a variation of the terms of the order.

(4) Any creditor whose proof of debt is admitted late under subclause (1) of this rule, shall be entitled to participate in dividends payable after the date of admission of his debt but he shall not be entitled to disturb the distribution of any dividend declared before he proved his debt.

Regulation 22(2) was amended, as from 23 December 1971, by rule 2(2) Summary Instalment Orders (District Courts) Rules 1970, Amendment No 1 (SR 1971/285) by substituting the words "form 17" for the words "form 10".

23 Money received by a supervisor

(1) Unless the Court otherwise directs pursuant to subclause (6) of this rule, all money paid to a supervisor under an order shall be paid into a bank to the credit of an account opened in the

name of the debtor, the supervisor, and such other person (if any) as the supervisor considers desirable.

(2) All payments made out of the account shall be made by cheque.

(3) Unless otherwise provided in the order, payments to creditors shall be made every 2 months during the currency of the order.

(4) Notwithstanding the provisions of subclause (3) of this rule, where any dividend (other than a final dividend) payable to a creditor, is of a sum less than $2, the supervisor may if he thinks fit retain that and any subsequent dividend and accumulate those sums. When the accumulated sum equals or exceeds $2 the supervisor shall pay it to the creditor.

(5) Notwithstanding anything to the contrary in these rules, a supervisor may if he thinks fit liquidate any debt, the total amount of which payable to a creditor under the order is less than $5, in preference to other proved debts of greater amount.

(6) It shall not be necessary for a supervisor to comply with subclause (1) of this rule if the supervisor accounts for the money paid to him under the order in an alternative manner that is approved by the Court either generally or in any particular case. The Court shall not give its approval under this subclause unless it is satisfied that any debtor whose money is accounted for in the alternative manner will be receiving adequate training in handling his money and budgeting his income.

Regulation 23(1) was amended, as from 23 December 1971, by rule 3(1) Summary Instalment Orders (District Courts) Rules 1970, Amendment No 1 (SR 1971/285) by inserting the words "Unless the Court otherwise directs pursuant to subclause (6) of this rule,".

Subclause (6) was inserted, as from 23 December 1971, by rule 3(2) Summary Instalment Orders (Districts Courts) Rules 1970, Amendment No 1 (SR 1971/285).

24 Advice to creditors of dividend

Remittances of dividends to creditors shall be accompanied by an advice note identifying the payment and the period to which it relates. Form 19 may be used.

25 Application to Court for replacement of a supervisor

(1) The debtor or any creditor included in the administration of the estate or the supervisor or the Registrar may apply to the Court for a discharge of the supervisor from his obligations under the order.

(2) If satisfied that the appointment of another supervisor is desirable, the Court may:

(a) Discharge a supervisor from further obligations under the order on such conditions, whether as to the payment of money received by him or otherwise, as the Court may direct, including a requirement for the filing in the Court of a statement of account showing all amounts received and paid by the supervisor under the order and for the audit of accounts as provided by rule 26 hereof; and

(b) Appoint as supervisor another suitable person who is willing to supervise the compliance of the debtor with the terms of the order.

(3) Where another supervisor has been appointed under this rule the order shall have effect as if the substituted supervisor were named therein.

26 Supervisor and debtor to render accounts

(1) Within 1 month or such longer period as the Registrar may allow after a period of 6 months from the making of an order and at the end of every subsequent period of 6 months until the order is set aside or rescinded or discharged or its administration completed, the supervisor or, if no supervisor has been appointed, the debtor, shall file in the Court accounts, supported by a bank statement or other statement of account showing his receipts and payments during the previous period of 6 months.

(2) All accounts filed by a supervisor or debtor under this rule shall be inspected by the Registrar and may be audited at any time by any person whom the Registrar may appoint, and the supervisor or debtor shall for the purpose of the audit produce to the auditor appointed all books of account, documents, and papers relating to the administration of the affairs of the debtor.

(3) The costs of the audit shall be deemed part of the costs of administration payable by the debtor.

Regulation 26(1) was amended, as from 23 December 1971, by rule 4(1) Summary Instalment Orders (Districts' Courts) Rules 1970, Amendment No 1 (SR 1971/285) by inserting the words "or other statement of account".

27 Direction regarding salary or wages

A direction to an employer to pay a debtor's salary or wages to a supervisor shall be in form 20. The direction shall be served upon the employer either personally or by leaving it at or sending it by registered post addressed to the employer at his place of residence or business or at any of his places of business.

Part 5
Setting aside, rescission, variation, or discharge of orders, action on default, and miscellaneous matters

28 Review of summary instalment order

(1) Every application under subsection (13) or subsection (14) of section 146 of the Insolvency Act shall be made on notice, but it shall not be necessary to serve the application on the creditors unless the Court so directs. Rule 143 of the District Courts Rules 1948 shall be read subject to the provisions of this subclause.

(2) The supervisor or, if no supervisor has been appointed, the Registrar, shall give notice in form 21 to all creditors of any variation made by the Court in the order or of the setting aside, rescission, or discharge of the order.

29 Second application for an order

Where a debtor has filed an application for a summary instalment order and the Court has refused to make such an order, or where such an order (whether made on the debtor's application or on the application of a creditor) has been set aside or rescinded or discharged, no person may make another application in any Court for such an order within 6 months thereafter without first obtaining the leave of the Court in which the order was refused, set aside, rescinded, or discharged.

30 Wilful failure to comply with terms of order

If the debtor wilfully fails to comply with the terms of an order made against him, the supervisor shall notify the Registrar and all creditors.

31 Action on failure of debtor to meet instalments

Upon the failure of a debtor to make any payment in accordance with the terms of a summary instalment order, the debtor or supervisor may apply to the Court for an order that all proceedings stayed under section 148 of the Insolvency Act be not resumed or commenced, and that order shall have like effect as a stay of proceedings under the said section 148.

32 Action on completion or termination of administration

(1) After the debtor has met all his obligations under any order or where the order has been set aside, rescinded, or discharged, the supervisor, or the debtor if no supervisor has been appointed, shall, not later than 1 month after the debtor has paid the final instalment due under the order or the order has been set aside, rescinded, or discharged, as the case may be, file in the Court a notice in form 22 that the administration is complete or terminated. The notice shall be accompanied by a statement of account supported by a bank statement or other statement of account showing all amounts received and paid under the order. If the Registrar so directs the accounts shall be audited by a person appointed by him as required by rule 26 hereof.

(2) Any money paid under an order and remaining unclaimed on the completion of the administration of the order shall be paid into Court to be held by the Registrar in his Trust Account and disposed of in terms of the Public Finance Act 1977 or any regulations or instructions made thereunder.

Regulation 32(1) was amended, as from 23 December 1971, by rule 4(2) Summary Instalment Orders District Courts) Rules 1970, Amendment No 1 by inserting the words "or other statement of account".

Subclause (2) was amended by substituting the "Public Finance Act 1977", being the corresponding enactment in force at the date of this reprint, for the repealed "Public Revenues Act 1953".

33 Fees and costs

(1) The fees of Court to be taken in respect of proceedings under Part 16 of the Insolvency Act or these rules shall be those specified in Schedule 2 hereto.

(1A) Subclause (1) is subject to rules 33A and 33B.

(2) A supervisor may, if he so desires, charge the fees prescribed in Schedule 2 hereto to defray the costs of administering the order including his own expenses.

(3) For the purposes of section 149(1) of the Insolvency Act and rule 12 hereof the costs allowable to a creditor shall include all disbursements for fees of Court, witnesses' fees, expenses, and allowances and other necessary payments together with solicitors' costs on the appropriate scale prescribed in Schedule 2 hereto.

(4) The Court may in its discretion disallow the whole or any part of any costs.

Subclause (1A) was inserted, as from 1 July 2004, by rule 3 Summary Instalment Orders (District Courts) Amendment Rules 2004 (SR 2004/169).

33A Power to waive fees

(1) A person (the **applicant**) otherwise responsible for the payment of a fee required in connection with a proceeding or an intended proceeding may apply to a Registrar for a waiver of the fee.

(2) The Registrar may waive the fee payable by the applicant if satisfied,—

(a) on the basis of 1 of the criteria specified in subclause (3), that the applicant is unable to pay the fee; or

(b) that the proceeding,—

(i) on the basis of 1 of the criteria specified in subclause (4), concerns a matter of genuine public interest; and

(ii) is unlikely to be commenced or continued unless the fee is waived.

(3) For the purposes of these rules, an applicant is unable to pay the fee sought to be waived if—

(a) the applicant has been granted legal aid in respect of the matter for which the fee is payable; or

(b) the applicant has not been granted legal aid in respect of the matter for which the fee is payable and the applicant—

(i) is dependent for the payment of his or her living expenses on a benefit of a kind specified in any of paragraphs (a) to (e), (h), and (j) of the definition of **income-tested benefit** in section 3(1) of the Social Security Act 1964; or

(ii) is wholly dependent for the payment of his or her living expenses on New Zealand superannuation under the New Zealand Superannuation and Retirement Income Act 2001 or a veteran's pension under the War Pensions Act 1954; or

(iii) would otherwise suffer undue financial hardship if he or she paid the fee.

(4) For the purposes of these rules, a proceeding that concerns a matter of genuine public interest is—

(a) a proceeding that has been or is intended to be commenced to determine a question of law that is of significant interest to the public or to a substantial section of the public; or

(b) a proceeding that—

(i) raises issues of significant interest to the public or to a substantial section of the public; and

(ii) has been or is intended to be commenced by an organisation that, by its governing enactment, constitution, or rules, is expressly or by necessary implication required to promote matters in the public interest.

(5) An application under subclause (1) must be made in a form approved for the purpose by the Secretary for Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

Rules 33A to 33D were inserted, as from 1 July 2004, by rule 4 Summary Instalment Orders (District Courts) Amendment Rules 2004 (SR 2004/169).

Subclause (3)(b)(ii) was amended, as from 21 April 2005, by section 9(2) New Zealand Superannuation and Retirement Income Amendment Act 2005 (2005 No 42) by substituting the words "New Zealand Superannuation and Retirement Income Act 2001" for the words "New Zealand Superannuation Act 2001".

33B Payment of fee may be postponed pending determination of application for waiver or review

(1) A Registrar may, on application by a person who is awaiting the determination of an application under rule 33A or section 123A of the District Courts Act 1947, postpone the payment of the fee to which the application relates until the date on which the person is notified of the determination.

(2) A Registrar may exercise the power under subclause (1) if satisfied that the person awaiting the determination of his or her application would be prejudiced if the matter to which the fee relates did not proceed before the determination.

(3) An application under subclause (1) must be made in a form approved for the purpose by the Secretary for Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

Rules 33A to 33D were inserted, as from 1 July 2004, by rule 4 Summary Instalment Orders (District Courts) Amendment Rules 2004 (SR 2004/169).

33C Recovery of postponed fee

(1) This rule applies to a fee (the **fee**) that has been postponed under rule 33B.

(2) If the effect of a determination under rule 33B or section 123A of the District Courts Act 1947 is that the fee is not to be waived, the fee—

(a) must be paid, without delay, to the Registrar; and

(b) is recoverable as a debt due to the Crown in any court of competent jurisdiction.

(3) Following a determination that has the effect referred to in subclause (2), the person responsible for paying the fee may not take a step in the proceeding to which the fee relates unless the fee is paid.

(4) This rule has effect subject to rule 33B during any period that the question of the waiver of the fee is the subject of a pending application under section 123A of the District Courts Act 1947.

Rules 33A to 33D were inserted, as from 1 July 2004, by rule 4 Summary Instalment Orders (District Courts) Amendment Rules 2004 (SR 2004/169).

33D Power to refund fees

(1) A Registrar may, on application made to him or her, refund a fee that has already been paid if satisfied that—

(a) no application, under rule 33A, for a waiver of the fee was made; and

(b) the fee would have been waived, in accordance with rule 33A, had that application been made; and

(c) the criteria that would have justified that waiver still apply at the date of the application for the refund.

(2) An application under subclause (1) must be made in a form approved for the purpose by the Secretary for Justice unless, in a particular case, the Registrar considers that an application in that form is not necessary.

Rules 33A to 33D were inserted, as from 1 July 2004, by rule 4 Summary Instalment Orders (District Courts) Amendment Rules 2004 (SR 2004/169).

34 Service

(1) Subject to the provisions of these rules, where in any proceedings under Part 16 of the Insolvency Act or these rules any summons, notice, or other document is required to be served on any person, service shall be personal service in accordance with rule 85 of the District Courts Rules 1948.

(2) Subject to the provisions of these rules, any notice or other document required or authorised by Part 16 of the Insolvency Act or these rules to be sent or given to any person may be sent or given by leaving it at or by sending it by prepaid letter post to—

(a) In the case of the Registrar, the office of the Court; and

(b) In any other case, the address for service, or, if there is no address for service, at the person's last known or usual place of abode.

(3) A notice or document sent by post in accordance with subclause (2) of this rule shall be deemed to have been given at the time at which the letter would have been delivered in the ordinary course of post.

Schedule 1
Forms

Form 1 R 4(3)
General form of title of proceedings

In the [District Court] Held at ..... Application No .....

In the matter of Part 16 of the Insolvency Act 1967; and

In the matter of (an application for*) a summary instalment order in respect of the debts of ....., of ....., [Occupation]

*Delete if inapplicable

Form 2 R 5
Summary instalments orders record book

Form 2—*continued*

[*District Court*] *at* .....

Date of Filing	Number of Application	Applicant	Debtor	The basis of the application, ie, consent or judgment (including reference to plaint or writ) or debtor's application	Date of decision	Decision	Name of Supervisor	[District Court Judge] or Registrar	Fees

22 Form 2 was amended, as from 1 January 1982, by regulation 2 Summary Instalment Orders (District Courts Rules) 1970, Amendment No 3 (SR 1981/332) by substituting the words "The basis of the application, ie, consent or judgment

Form 2—*continued*

(including reference to plaint or writ) or debtor's application" for the words "Particulars . . .".

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 3 was substituted, as from 1 January 1982, by regulation 3 Summary Instalment Orders (District Courts) Rules 1970, Amendment No 3 (SR 1981/332).

Form 4

RR 7, 10

Statement of debtor's affairs

(General Title—Form 1)

I, AB, of [*Insert place of abode and occupation*], the above-named debtor, solemnly and sincerely declare that:

1. I am ..... years of age.
2. I am at present employed as [*State occupation*] by [*State name and address of employer*] at a wage of $..... a week.
3. (My weekly income from other sources amounts to approximately $..... and is derived from [*State source*]) or (I have no income apart from my wages.)
4. My average weekly earnings (after deduction of income tax) amount to $..... (including overtime).
5. My regular weekly outgoings comprise: [*Give full particulars, including, if living in rented premises, the name and address of the landlord and the amount of the weekly rent.*]
6. (I am married) *or* (I am separated from my wife or divorced from my wife or a widower) *or* (I have never been married).

*7. Apart from amounts paid by me to my wife by way of maintenance my wife has no income (*or* an income amounting to approximately $..... a week).

8. My dependants are: [*State names, ages, and relationship*].
9. The statement hereunder marked "A" is a true statement showing all of my property.
10. The statement hereunder marked "B" is a true statement showing particulars of my debts.
11. I am unable to pay the debts forthwith (*and am seeking a summary instalment order) because: [*Give reasons*].

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.

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

Justice of the Peace *or* Solicitor *or* Notary Public. [*Or other person authorised to take a statutory declaration.*]

*Delete if inapplicable.

Form 4—*continued*

"A"

STATEMENT OF ASSETS

Description	Approximate Value $
Total	

"B"

PARTICULARS OF DEBTS

Part I: Unsecured Debts

Name of Creditor	Address	Amount of Debt	Nature of Debt	Name and address of any other person liable [*State how eg guarantor, joint debtor, etc*]	Has Court Action Been Commenced? If so give name of Court
The following debt(s) is/are disputed:					

Part II: Secured Debts (including liabilities under hire purchase agreements, etc)

Name of Creditor	Address	Amount of Debt	Nature of Debt	Name and address of any other person liable [*State how eg guarantor, joint debtor, etc*]	Security for Debt and value	Has Court Action Been Commenced? If so give name of Court
The following debt(s) is/are disputed:						

NOTE—If you are in doubt consult a solicitor or the Registrar immediately.

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	Total 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-name 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

Form 5 was substituted, as from 1 January 1982, by regulation 3 Summary Instalment Orders (District Courts) Rules 1970, Amendment No 3 (SR 1981/332).

Form 6

R 10

Notice to debtor of application for a summary instalment order

(General Title-Form 1)

To [*Insert name and address of debtor*]

This is to give you notice that an application has been made to this Court for a summary instalment order in respect of your debts and that you are required to file in the [District Court] at ..... within 14 days of the date of this notice the enclosed statement of affairs duly completed.

A copy of the application is attached. The application will be heard in this Court at a later date which will be separately notified to you. You must attend on that day. If you fail to do so you may be arrested without further notice.

EXPLANATORY NOTE

What is a summary instalment order?

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.

If an order is made a person is usually appointed by the Court to assist the debtor in the management of his financial affairs. While the order remains in force this person, who is called a supervisor, is responsible for supervising the way in which the debtor manages his money matters. He advises the debtor and assists him in budgeting for the living expenses of himself and his family and plans with him for the payment of his outstanding debts.

How does it help you?

The scheme is designed to give practical assistance and guidance to people who find themselves in financial difficulties and are unable to meet their debts as they become due. If a supervisor is appointed in your case he will be concerned only with your financial position and will not involve himself in the other personal affairs of you or your family. The supervisor may require your employer to pay your wages or salary to him for deposit in a separate bank account. This account will stand in his name and yours, and perhaps in the name of some other person such as your wife if you are married.

While the order is in force no creditor whose debt comes within the scheme may start or continue any Court proceedings to obtain payment from you except with the leave of the Court.

Form 6—*continued*

What must you do?

The first thing required of you is complete the enclosed statement of your affairs and return it to me as quickly as possible but certainly not later than ..... The rules of Court require you to do this. If you do not a summons may be issued to compel your attendance at Court for examination on oath.

It is most important that this statement be complete and accurate. You must be very careful to see that you list all your creditors. If you need any assistance you should not hesitate to seek advice either from your solicitor, if you have one, or from the office of the Court. The form must be signed by you before one of the people listed at the bottom of it or before me.

You must also gather together all your wage slips and other records of your earnings, bank and cheque books, bank statements, accounts, hire purchase or other agreements, Court documents and all other papers, documents, or books, which relate in any way to your financial affairs. These will be needed in the preparation of your statement of affairs and you will later be required to produce them in Court at the hearing of the application.

The hearing of the application

At the hearing of the application any of your creditors are entitled to be present and may object to the making of the order.

Summary

You will see that this scheme is designed to give you practical help. Although the costs of administration have to be met by you these costs are small and will be considerably less than the Court costs and solicitors' fees which will be added to your debts if your creditors take individual proceedings against you. If an order is made and you obey its terms and co-operate with the supervisor no further Court proceedings will be issued against you and you will not be able to be adjudged a bankrupt or be committed to prison for debt. At the end of the period of the order your financial affairs should be restored to a sound basis and you will have had experience in family budgeting to assist you from then on.

If you have any questions at all or wish to know more about the scheme you should get in touch with me or your solicitor without delay.

Dated this ..... day of ..... 19.....

.....
Registrar.

Form 6, Explanatory Note first paragraph was substituted, as from 1 January 1982, by regulation 4 Summary Instalment Orders (District Courts) Rules 1970, Amendment No 3 (SR 1981/332).

Form 7

RR 8(1), 13

Notice to creditors of application for a summary instalment order

(General Title—Form 1)

To [*Insert name and address of creditor*]

NOTICE is given that an application has been filed in this Court for a summary instalment order in respect of the debts of ..... (hereinafter called the "debtor").

The debtor (or ....., a creditor) is the applicant. *The debtor proposes to pay his creditors in full (*or* to the extent of ..... cents in the dollar) by weekly (*or* 2 weekly *or* 4 weekly *or* monthly) instalments of $.....

In the debtor's statement of affairs (*or* examination on oath), a copy of which may be inspected at this office by you or your solicitor on request, you have been listed as (*or* stated to be) a creditor for $..... (*but the debtor disputes his liability to you).

The application is to be heard in this Court on ..... day, the ..... day of ..... 19..... at ..... o'clock in the ..... noon. You are entitled to be heard at this time on any matter relating to this application and may object to the making of an order or to the terms of any proposal made by the debtor. If you wish to do so you should notify me, and the debtor (*and the applicant) of this fact at least 3 clear days before the date of hearing given above. This notice must be in writing (but may be by letter) and must state the grounds of your objection.

If a summary instalment order is made it is usual for the Court to appoint a person to supervise the debtor's compliance with the terms of the order and to assist him with his financial affairs. One of his duties is to write to you and send you a form to enable you to prove your debt.

If you are in doubt about any matter relating to the application you should get in touch with your solicitor or with me immediately.

Dated this ..... day of ..... 19.....

.....
Registrar.

*Delete if inapplicable.

Form 8

RR 8(2), 13

Notice to debtor of date of hearing of application for a summary instalment order

(General Title—Form 1)

To [*Insert name and address of debtor*]

Take notice that the application for a summary instalment order in respect of your debts will be heard in this Court on ..... day, the ..... day of ..... 19....., at ..... o'clock in the ..... noon.

You must appear at the above time and place and bring with you to this Court all books of account, invoices, and any other documents and papers relating to your financial affairs.

If you fail to attend the hearing and no just excuse is offered for your failure, a warrant may be issued to arrest you and bring you before the Court without further notice.

Dated this ..... day of ..... 19.....

.....
Registrar.

Form 9

R 11(1), (2)

Summons to appear for examination on oath

(General Title—Form 1)

To [*Name, address, and occupation of debtor*].

You are hereby summoned to attend at the [District Court] at ..... on ..... day, the ..... day of ..... 19....., at ..... o'clock in the ..... noon to be examined on oath as to the facts relevant to the above-mentioned application in respect of your debts.

Dated this ..... day of ..... 19.....

.....
Registrar.

Instructions to Debtor

1. This summons has been issued because you failed to file a statement of your affairs within the prescribed time.
2. The purpose of this summons is to bring you before the Court for examination on oath as to the facts relevant to the application.
3. If you fail to attend for examination and no just excuse is offered for your failure, a warrant may be issued to arrest you and bring you before the Court without further notice.
4. If you are in doubt, consult a solicitor or the Registrar immediately.

Form 10

R 11(3), 16(c)

Warrant where debtor fails to appear

(General Title—Form 1)

To a Bailiff of the [District Court] at .....
(*or* To a Constable at .....)

The above-named [*Insert full name of debtor*], who was given notice (*or* summoned) to appear at this Court on ..... day, the ..... day of ..... 19....., in connection with an application for a summary instalment order in respect of his debts, has failed to appear and has offered no just excuse for his failure.

I am satisfied that the notice (*or* summons) was duly served on him and that the prescribed allowances and expenses were paid or tendered to him.

I DIRECT you to arrest the said ([*Insert full name of debtor*] and bring him to the [District Court] at ..... on ..... day, the ..... day of ..... 19..... at ..... am (pm).

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

.....
[District Court Judge]

Form 11

R 12

Certificate of costs allowed to applicant on making of summary instalment order

(General Title—Form 1)

THE costs allowed to the applicant on the making of a summary instalment order in this Court on the ..... day of ..... 19..... are hereby certified as being:

Court fees and other disbursements	$
Solicitor's fees	$
Witnesses' fees and expenses	$
	$

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

.....
Registrar.

Form 12

R 14(6)

Order suspending proceedings on any judgment, order, execution, judgment summons, or order of committal

(General Title—Form 1)

UPON the application of ..... and the Court being satisfied that an application for a summary instalment order under Part XVI of the Insolvency Act 1967 in respect of the debts of ..... has been filed in this Court (*or* the [District Court] at .....) and that the application remains to be heard and determined IT IS ORDERED THAT proceedings on the judgment (*or* order) (*or* execution issued) (*or* judgment summons) (*or* order of committal made) in an action wherein ..... is the plaintiff and the above-named AB is the defendant and taken in the [District Court] at ..... be suspended pending the hearing and determination of the said application (and that the defendant be discharged from custody under the said order of committal*).

Dated this ..... day of ..... 19.....

.....
Registrar.

Form 13

R 14(7)

Certificate of application for or making of summary instalment order

(General Title—Form 1)

I, hereby certify that:

(a) On the ..... day of ..... 19..... [*an application for*] a summary instalment order was made in respect of the debts of A.B.

*(b) The application remains to be heard (*or* will be heard on ..... day, the ..... day of ..... 19.....).

Dated this ..... day of ..... 19.....

.....
Registrar.

*Delete if inapplicable.

Form 14

R 17

Summary instalment order

(General Title—Form 1)

WHEREAS [*Insert full name*], the above-named debtor (*or* a creditor of the above-named debtor), has applied to this Court under section 146 of the Insolvency Act 1967 for a summary instalment order in terms of Part 16 of that Act: And whereas the application was heard in this Court on the ..... day of ..... 19..... and the Court was satisfied that the total unsecured debts of the debtor are not more than $4,000:

NOW THEREFORE it is ordered that the debtor shall pay by weekly (*or* 2 weekly *or* 4 weekly *or* monthly) instalments of $..... such of his debts as are proved to the satisfaction of the supervisor or this Court. The first of such instalments to be paid on ..... day, the ..... day of ..... 19..... Those instalments shall continue to be paid until the debts are paid in full (*or* to the extent of ..... cents in the dollar) or until the expiration of a period of 3 years from the date of this order, whichever is the sooner.

*[*Insert full name, address, and occupation*] (hereinafter called the supervisor) is hereby appointed to supervise the compliance of the debtor with the terms of this order.

*The supervisor is hereby required to provide in favour of the Registrar of the [District Court] at ..... a bond in the amount of $..... to secure compliance by the supervisor of his obligations under Part 16 of the Insolvency Act 1967.

(*or* if no supervisor is appointed)

*Subject to the proviso to subsection (7) of section 146 of the Insolvency Act 1967, the provisions of Part 16 of that Act shall apply as if the said [*Insert full name of debtor*] were the supervisor.

*The supervisor is authorised to direct the employer or employers for the time being of the said [*Insert full name of debtor*] to pay his wages or salary or any part thereof to the supervisor.

*The supervisor is authorised to supervise the payment out of the wages or income of the debtor of the reasonable living expenses of the debtor and his family.

AND it is hereby further ordered that [*Include any special conditions*]

Dated this ..... day of ..... 19.....

.....
Registrar.

*Delete if inapplicable.

Schedule 1, Form 14 was amended by regulation 5 Summary Instalment Orders (District Courts) Rules 1970, Amendment No 3 (SR 1981/332) by substituting the expression "$4,000" for the expression "$1,000".

Form 15

RR 17, 21

Notice to creditors of the making of a summary instalment order

Re ....., a debtor

To [*Insert name and address of creditor*]

I, [*Insert name and address*], HEREBY GIVE YOU NOTICE that on the ..... day of ..... 19..... the [District Court] at ..... made a summary instalment order in respect of the debts of [*Insert name and address of debtor*] in terms of Part 16 of the Insolvency Act 1967 (*and that I was appointed to supervise the compliance of the debtor with the terms of the order).

The order may be inspected at the office of the Court.

The debtor is required by the order to pay his debts in full (*or* to the extent of ..... cents in the dollar) by weekly (*or* 2 weekly *or* 4 weekly *or* monthly) instalments of $.....

Subject to payment of these instalments and to [the Summary Instalment Orders (District Court) Rules 1970], all creditors whose debts are proved to my satisfaction or that of the Court will receive pro rata instalments in reduction of their debts in accordance with the amount thereof.

Please complete and return the accompanying proof of debt form to me within 14 days of the date of the order as shown above. If your claim is rejected, wholly or in part, you will be notified. (*The debtor states that his liability to you is in dispute and you are requested to prove your debt to my satisfaction.)

Under paragraph (c) of section 147 of the insolvency Act 1967 any creditor may, in accordance with rule 20(4) of [the Summary Instalment Orders (District Courts) Rules 1970], object to the acceptance or rejection by me of any proof of debt.

Your attention is drawn to section 148 of the Insolvency Act 1967 which prohibits, except in certain circumstances, the commencement or continuation of proceedings against the person or property of the debtor in respect of your debt.

Dated this ..... day of ..... 19.....

.....
Supervisor (*or* Registrar).

*Delete if inapplicable.

Form 16

R 18

Bond

(General Title—Form 1)

KNOW all men by these presents that I, ..., of ....., [*Occupation*], am held and firmly bound unto ....., the Registrar of the [District Court] at ..... in the sum of $....., for which payment well and truly to be made to the said ....., or to such Registrar for the time being, I do bind myself, and my executors and administrators, firmly by these presents.

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

WHEREAS a summary instalment order in respect of the debts of ..... of ..... was made under Part 16 of the Insolvency Act 1967 by the [District Court] at ..... on the ..... day of ..... 19....:

AND WHEREAS ..... of ..... was appointed to supervise the compliance of the debtor with the terms of the order: AND WHEREAS the Court required the supervisor to provide a bond in the amount of $..... to secure compliance by him of his obligations under Part 16 of the Insolvency Act 1967:

Now the condition of the above-written bond is that, if the above-bounden supervisor duly and faithfully performs all duties required of him in the terms of the said summary instalment order and that Part of that Act and any rules made thereunder, the above-written obligations shall be void, but otherwise shall remain in full force.

Signed by the above-named .....
in the presence of:

[*Witness to add to his signature his place of abode and calling or description*]

Form 17

RR 20, 22

Proof of debt-summary instalments

Re ....., a debtor

I, [*Insert full name, address, and occupation*] (on behalf of [*Insert full name, address, and occupation*]*) a creditor of the above-named debtor, hereby claim that the above-named debtor is indebted to me (*or* [*Insert full name*]) in the sum of $..... incurred in respect of the following:

Date Debt Incurred	Particulars of Account (for Goods Supplied or Otherwise)	Amount
		$

*Delete if inapplicable

If the debt is secured, the following information should be given.

Date Security Given	Property Secured	Type of Security	Estimated Value of Property Secured

Dated this ..... day of ..... 19.....

.....
Creditor.

WARNING—It is an offence to make any statement in this form knowing it to be false or misleading. This form should be completed and returned within 14 days of the making of the order.

Form 18

R 20(3)

Notice of rejection of creditor's claim

To [*Insert name and address of creditor*]

Re ....., a debtor

You are hereby notified that your claim (to the extent of $.....*) against the above-named debtor has been rejected on the following grounds:

[*State grounds*]

You may within 21 days of the date hereof, by application to the [District Court] at ....., object to the rejection.

Dated this ..... day of ..... 19.....

.....
Supervisor (or Registrar)

*Delete if inapplicable.

Form 19

R 24

Advice of dividend

To [*Insert name and address of creditor*]

Re ....., a debtor

I enclose a cheque for $..... being a dividend of ..... cents in the dollar in respect of the debt of $..... owed to you by the above-named debtor and included under the summary instalment order made in respect of his debts. This dividend is derived from payments made by the debtor between ...../...../..... and ...../...../.....

.....
Supervisor.
...../...../.....

Form 20

R 27

Direction to employer regarding payment of wages or salary

(General Title—Form 1)

To [*Insert full name and address for employer*]

Pursuant to a summary instalment order made in the [District Court] at ..... on the ..... day of ..... 19....., a sealed copy of which order is attached, and to the authority given to me by that order, I HEREBY DIRECT that all (from the) salary or wages payable to the above-named [*Insert full name of debtor*] while in your employ (the sum of $..... per .....) *or* (all sums in excess of $..... per .....) shall until further notice be paid to me at ..... (*or* into account No ..... at [*State name and address of bank*] to the credit of [*State names*]) and declare that my receipt (*or* the receipt of the bank) shall be a sufficient discharge to you for all money so paid. The first payment to be made on the pay day next following the date on which this direction is served upon you.

You are notified that, in terms of section 146 of the Insolvency Act 1967, any payment wilfully made by you to any person in contravention of this direction shall not discharge you from liability to me in respect of the amount so paid, unless the payment is made with the consent of a [District Court] or to some person, other than the debtor, who has a prior legal claim thereto.

Dated this ..... day of ..... 19.....

.....
Supervisor.

Form 21

R 28(2)

Notice of the setting aside, rescission, discharge, or variation of a summary instalment order

(General Title—Form 1)

To [*Insert name and address of creditor*]

Take notice that the summary instalment order made in the [District Court] at ..... on the ..... day of ..... 19..... in respect of the debts of the above-named debtor has been set aside (*or* rescinded *or* discharged *or* varied in the following respect: .....).

Dated this ..... day of ..... 19.....

.....
Supervisor (*or* Registrar).

Form 22 R 32

Notice of completion or termination of administration

(General Title—Form 1)

NOTICE is hereby given that the administration of the debts of the above-named debtor in accordance with the terms of a summary instalment order made in the Court on the ..... day of ..... 19..... has been completed (*or* terminated).

I attach a statement of account, supported by a bank statement, showing all amounts received and paid under the order.

*I attach also my trust account cheque for $..... being unclaimed money to be disposed of in terms of rule 32 of [the Summary Instalment Orders (District Courts) Rules 1970].

Dated this ..... day of ..... 19.....

.....
Supervisor.

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

*Delete if inapplicable.

Schedule 2 R 33

Fees

Schedule 2 was amended, as from 1 January 1982, by regulation 6 Summary Instalment Orders (District Courts) Rules 1970, Amendment No 3 (SR 1981/332) by substituting the expression "7.5 percent" for the expression "5 percent", and by substituting the expression "$100" for the expression "$20".

Schedule 2 was amended, as from 17 August 1981, by rule 2 Summary Instalment Orders (District Courts) Rules 1970, Amendment No 3 (SR 1981/195) by substituting the expression "10.00" for the expression "8.00". This value was further increased to "12.00", as from 1 July 1992, by regulation 2 Summary Instalment Orders (District Courts) Rules 1970, Amendment No 5 (SR 1992/143).

Court fees	$
On filing an application for a summary instalment order	12.00
Supervision fees	

Court fees	$

The amount that may be charged by a supervisor for administering an order shall be not more than 7.5% of the amount disbursed to creditors or $100 whichever is the greatest

Solicitors Costs on Creditors' Application for Summary Instalment Order	$
Preparing application	2.00
Appearance in Court where debts listed by debtor —	
Do not exceed $250.....	7.00
Exceed $250 but do not exceed $750.....	9.00
Exceed $750	11.00

P J BROOKS,
Clerk of the Executive Council.

Certified for the purposes of section 7 of the Regulations Act 1936, this 14th day of July 1981

J K McLay, *Attorney-General.*

Issued under the authority of the Regulations Act 1936.
Date of notification of principal regulations in *Gazette*: 17 December 1970.

Insolvency Act 2006

Public Act	2006 No 55
Date of assent	2006-11-07
Commencement	see section 2

1 Title

This Act is the Insolvency Act 2006.

2 Commencement

This Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more orders may be made bringing different provisions into force on different dates.

Part 17
Offences and miscellaneous provisions

Subpart 1—4Miscellaneous provisions

444 Transitional provisions

(1) In this section,—

1967 Act means the Insolvency Act 1967 as if it had not been repealed by this Act, and any rules or regulations made under that Act

commencement means the commencement of Parts 1 to 7 of this Act

past event means any of the following that has occurred before commencement

(a) issuing a bankruptcy notice:
(b) filing a petition for adjudication:
(c) filing an application for a summary instalment order:
(d) the making of a proposal:
(e) the making of a compromise:
(f) filing an application for an order for the administration of an insolvent deceased estate.

(2) The 1967 Act continues to apply, to the exclusion of this Act, to any past event and to any step or proceeding preceding, following, or relating to that past event, even if it is a step or proceeding that is taken after commencement.

(3) For the avoidance of doubt, nothing in subpart 7 of Part 3 permits the cancellation of an irregular transaction that was completed before this section came into force, if that transaction could not have been cancelled if this section had not come into force.

Contents

1 General
2 About this eprint
3 List of amendments incorporated in this eprint (most recent first)

Notes

1 General

This is an eprint of the Summary Instalment Orders (District Courts) Rules 1970. It incorporates all the amendments to the Summary Instalment Orders (District Courts) Rules 1970 as at 3 December 2007. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please see "Making online legislation official" under "Status of legislation on this site" in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

Insolvency Act 2006 (2006 No 55): section 443(2)