

HIGH COMMISSIONER'S NOTICE No. 51 OF 1923.

It is hereby notified for general information that His Royal Highness the High Commissioner has been pleased to make the following Rules of Court under the provisions of section *one*, subsection (4), and section *three* of Proclamation No. 3 of 1922, which facilitates the reciprocal enforcement of judgments and awards in the United Kingdom and the Bechuanaland Protectorate, and enables like provisions to be extended to judgments obtained in a superior court in any part of His Majesty's Dominions outside the United Kingdom.

By Command of His Royal Highness  
the High Commissioner.

H. J. STANLEY,  
Imperial Secretary.

High Commissioner's Office,  
Capetown, 16th June, 1923.

BECHUANALAND PROTECTORATE.

RULES OF COURT

MADE UNDER SECTION *one* (4) AND SECTION *three* OF  
PROCLAMATION No. 3 OF 1922.

1. Any application under section *one* (1) of the Proclamation for leave to have a judgment obtained in the High Court in England or Ireland or in the Court of Session in Scotland or in a Superior Court of any part of His Majesty's Dominions outside the United Kingdom to which the Proclamation extends registered in a Court of Assistant Commissioner or Magistrate shall be made *ex parte* or by summons to such Court of Assistant Commissioner or Magistrate. If the application is made *ex parte* the court may direct a summons to be issued.

2. The application shall be supported by an affidavit of the facts exhibiting the judgment or a verified or certified or otherwise duly authenticated copy thereof and stating that to the best of the information and belief of the deponent the judgment creditor is entitled to enforce the judgment and the judgment does not fall within any of the cases in which under section *one* (2) of the Proclamation a judgment cannot properly be ordered to be registered. The affidavit must also, so far as the deponent can, give the full name, title, trade or business and usual or last known place of abode or business of the judgment creditor and judgment debtor respectively.

3. The affidavit and summons (if any) shall be intituled

“In the matter of the High Commissioner's Proclamation No. 3 of 1922 and in the matter of a judgment of the .....(describing the Court) obtained in .....(describing the cause or matter) and dated the.....day of.....19....”

4. The summons (if any) for leave to register shall (unless otherwise ordered by the Court) be served in the same manner as a summons in an action is required to be served. The judgment debtor shall not be required to enter any appearance thereto.

5. Any order giving leave to register shall be drawn up by or on behalf of the judgment creditor and when the order is made on a summons the order shall be served on the judgment debtor, but where the order is made on an *ex parte* application no service of the order on the judgment debtor shall be required.

6. The order giving leave to register the judgment shall state the time within which the judgment debtor is to be entitled to apply to set aside the registration. Such time shall ordinarily be 14 days, but the Court may allow a longer time in accordance with the distance from the Court of the place where the judgment debtor resides, and the postal facilities with that place.

7. The register of judgments ordered to be registered under the proclamation shall be kept by the Clerk of the Court of Assistant Commissioner or Magistrate, and the judgment shall be registered therein in accordance with the order giving leave to register it.

8. The register shall be arranged in alphabetical order in the surname of the judgment debtor, and there shall be entered in the register the date of the order for registration and of the registration, the name, title, trade or business, and usual or last known place of abode or business of the judgment debtor and judgment creditor, and the amount for which the judgment is signed, and any special directions in the order for registration as to such registration and/or execution thereon and the particulars of any execution issued thereon.

9. Notice in writing of the registration of the judgment must be served on the judgment debtor within a reasonable time after such registration. Such notice shall (in the absence of an order by the Court as to the mode of service thereof) be served on the judgment debtor in the same manner as a summons is required to be served, but the Court may at any stage of the proceedings authorize or direct some other mode of service, and if it does so the service shall be effected in accordance with such authority or direction.

10. The notice of registration shall contain full particulars of the judgment registered and of the order for such registration, and shall state the name and address of the judgment creditor or of his solicitor or agent on whom and at which service of any summons issued by the judgment debtor may be effected. The notice shall state that the defendant is entitled, if he has grounds for doing so, to apply to set aside the registration, and shall also state the number of days for applying to set aside the registration limited by the order giving leave to register.

11. The party serving the notice shall, within three days at most after such service, indorse on the notice or a copy or duplicate thereof the day of the month and week of the service thereof, otherwise the judgment creditor shall not be at liberty to issue execution on the judgment; and every affidavit of service of such notice shall mention the day on which such indorsement was made. The three days limited by this rule may under special circumstances be extended by order of the Court of Assistant Commissioner or Magistrate.

12. The judgment debtor may at any time within the time limited by the order giving leave to register after service on him of the notice of the registration of the judgment apply by summons to the Court of Assistant Commissioner or Magistrate to set aside the registration or to suspend execution on the judgment and the Court on such application if satisfied that the case comes within one of the cases in which under section *one* (2) of the proclamation no judgment can be ordered to be registered or that it is not just or convenient that the judgment should be enforced in the Bechuanaland Protectorate, or for other sufficient reason may order that the registration be set aside or execution on the judgment suspended either unconditionally or on such terms as the Court thinks fit, and either altogether or until such time as it shall direct; provided that the Court may allow the application to be made at any time after the expiration of the time herein mentioned.

13. The summons referred to in rule 12 shall be an ordinary summons intitled in the same manner as the affidavit referred to in rule 3.

14. No execution shall issue on a judgment registered under the proclamation until after the expiration of the time limited by the order giving leave to register after service on the judgment debtor of notice of the registration thereof: provided that the Court making the order for such registration may at any time order that execution shall be suspended for a longer time.

15. Any party desirous of issuing execution on a judgment registered under the proclamation, must produce to the proper officer an affidavit of the service of the notice of registration or the return of the Messenger of the Court who effected such service.

16. A writ of execution on a judgment registered under the Proclamation may be worded thus:—

“ Which said sum of money and interest were lately in .....(describing the Court of Assistant Commissioner or Magistrate in which the judgment was obtained), etc., “ and which judgment has been duly registered in.....(describing the Court) pursuant to Proclamation No. 3 of 1922.”

17. Any application under section *two* of the Proclamation for a certified copy of a judgment obtained in a Court of Assistant Commissioner or Magistrate shall be made *ex parte* on an affidavit made by the judgment creditor or his solicitor giving the particulars of the judgment and showing that the judgment debtor is resident in the United Kingdom or in some (stating what) part of His Majesty's Dominions outside the United Kingdom to which the Proclamation extends and stating to the best of his information and belief the title, trade, business or occupation of the judgment creditor and judgment debtor respectively and their respective usual or last known places of abode or business.

18. The certified copy of the judgment shall be an office copy, and shall be stamped with the stamp of the Court of Assistant Commissioner or Magistrate issuing the same and shall be certified by the clerk of the court as follows:—

I certify that the above copy judgment is a true copy of a judgment obtained in the ..... (describing the Court) and this copy is issued in accordance with section *two* of Proclamation No. 3 of 1922.

(Signed) Clerk of the Court.

19. In these rules the expression “ The Proclamation ” means Proclamation No. 3 of 1922 as amended by Proclamation No. 67 of 1922, and the definitions contained in sections *four* and *five* of the Proclamation shall apply.

20. The fees set out in the schedule to these rules shall be payable in respect of the registration of judgments under Proclamation No. 3 of 1922.

SCHEDULE OF FEES.

	s.	d.
On filing affidavit in support of application ... ..	6	0
Any other affidavit ... ..	3	0
On issuing summons for leave to register ... ..	12	0
Any other summons ... ..	12	0
On the order for registration ... ..	10	0
On issuing execution: The same fee as on a judgment of the Court of Assistant Commissioner or Magistrate.		
Other fees the same as those payable in the Court of Assistant Commissioner or Magistrate.		