

STATUTORY INSTRUMENT

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THE MAGISTRATES' COURTS (SMALL COMMERCIAL CLAIMS) RULES, 2021

ARRANGEMENT OF REGULATIONS

ORDER 1-PRELIMINARY

1. Application.
2. Interpretation.
3. Non-application of PN No. 41 of 1966.
4. Application of practice and procedures.

ORDER 2-CONSTITUTION OF THE COURTS

1. Chief Justice to constitute Small Claims Commercial Courts.
2. Jurisdiction.
3. Exempted claims.
4. Agreement to exclude jurisdiction of Court to be of no effect.
5. Incidental jurisdiction.
6. Court sittings.
7. Adjournments.
8. Language to be used.

ORDER 3-COURT USERS' GROUP

1. Establishment and functions.
2. Composition.
3. Tenure.
4. Registrar to be Secretary.
5. Resignation and replacement of a member.
6. Meetings.

ORDER 4 - COMMENCING PROCEEDINGS

- 1 Proceedings.
- 2 Claim form.
- 3 Issue of claim form.
- 4 Consequences of non-compliance.

ORDER 5 - PARTIES

- 1 Joinder of parties.
- 2 Service.
- 3 Misjoinder and non-joinder of parties.
- 4 Representative capacity.
- 5 Partners.
- 6 Alteration of parties.

ORDER 6 - SERVICE OF CLAIM

- 1 Service of claim.
- 2 Service of claim how effected.
- 3 Substituted service.
- 4 Service out of judicial district.
- 5 Electronic service.
- 6 Indorsement of service.

ORDER 7 - DEFAULT CLAIM

- 1 Application for default claim.
- 2 Notice of intention to defend.
- 3 Judgment for claimant.
- 4 Enforcement.
- 5 Application for summary judgment on counterclaim.
- 6 Setting aside of default claim.

ORDER 8 - INTERIM AND INTERLOCUTORY APPLICATIONS

- 1 Application ex-parte.
- 2 Application inter-partes.

ORDER 9 - JUDGMENT ON ADMISSION

- 1 Judgment on admission.
- 2 Where claimant accepts.
- 3 Where claimant refuses.
- 4 Payment into Court.

ORDER 10 - DEFENCE, SET OFF AND COUNTERCLAIM

1. Defence, set-off and counterclaim.
2. Defence bundle.
3. Service of defence, set-off and counterclaim.
4. Magistrate may order separate trial.

ORDER 11 - PRE-TRIAL SETTLEMENT CONFERENCE

1. Assignment of cases.
2. Notification to attend.
3. Non-attendance of parties.
4. Settlement by external parties.
5. Consent judgment.
6. Judgment fees exemption.
7. Proceedings and processes to be without prejudice.
8. Failure of pre-trial settlement.
9. Duration of pre-trial settlement hearing.

ORDER 12 - CASE MANAGEMENT CONFERENCE

1. Form to be issued.
2. Magistrate shall give orders and directions.
3. Duration of case management conference.

ORDER 13 - TRIALS AND ADJOURNMENTS

1. Claimant appears and defendant does not.
2. Defendant appears and claimant does not.
3. Judgment obtained where one party does not appear.
4. Representation.
5. Witnesses and evidence.
6. Summoning of witnesses.
7. Notice to attend.
8. Failure to attend.
9. Oaths and affirmation.
10. Evidence via electronic means.
11. Transcripts and records of evidence.
12. Prohibition of unauthorised recordings.
13. Hearing and Adjournment.
14. Orders of Court to be drawn up, signed and filed.
15. Judgment book.

ORDER 14 - ENFORCEMENT AND EXECUTION

1. Enforcement generally.
2. Seizure and sale.
3. Preservation of goods and chattels.
4. Sale of real property
5. Interpleader claim.
6. Hearing of interpleader claim.
7. Powers of Court.
8. Orders of Court.
9. Duration for enforcement of judgment.

ORDER 15 - APPEALS

1. Appeal.
2. Records of appeal.
3. Hearing of appeal.
4. Appeal shall be by oral hearing.
5. Duration of appeal.
6. Practice and procedure for appeal.

ORDER 16 - COSTS, INTERESTS AND FEES

1. Apportionment of costs, interest and fees.
2. Security for costs.
3. Second Schedule fees.

ORDER 17 - AMENDMENT, REVIEW, VARIATION AND CORRECTION OF JUDGMENT

1. Amendment.
2. Endorsement of amendment.

ORDER 18 - DISPOSAL OF CLAIMS, TIME AND COURT MANAGEMENT

1. Disposal of claims.
2. Enlargement of time.
3. Application.
4. Court reports.

SCHEDULE

STATUTORY INSTRUMENT NO. 8 OF 2021

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THE MAGISTRATES' COURT (SMALL COMMERCIAL CLAIMS RULES, 2021)

ORDER 1-PRELIMINARY

1. These Rules shall apply to small commercial claims in the Application. Magistrates' Courts.

2. In these Rules, unless the context otherwise requires -

"pre-trial settlement" includes, arbitration, mediation, Interpretation negotiation and conciliation;

"business entities" include, companies, partnership, enterprises and other forms of business arrangements recognised by law;

"consular officer" means, any person appointed as consul general, consul, vice consul or consular agent by a foreign State and holding a valid exequatur or other authorisation to act in Sierra Leone in that capacity;

"Court" means a Small Claims Commercial Court constituted under Order 2 Rule 1;

"electronic means" include, emails, SMS text messages, What's App messages and all other forms of electronic communication application recognised by the Court;

"judge" means, a justice of the Superior Courts of Judicature;

"judicial district" includes, such judicial districts as the Chief Justice may from time to time establish;

"Registrar" includes, the Master and Registrar of the High Court of Sierra Leone, a Deputy Master and Registrar, a Principal Assistant Registrar, Senior Assistant Registrar and a person appointed to perform the duties of a Registrar of the Court;

"small claim" means a liquidated claim of commercial nature, wherein the value of the claim is below 50,000,000.00 Leones.

New application of PN No. 41 of 1966)
Application of practice and procedures.

3. The Magistrates' Courts (Civil Procedure) Rules, 1966s (P.N. 41 of 1966) shall not apply to claims under these Rules.

4. Where no other provision is made by these Rules, or any other enactment, the procedure and practice in the High Court shall apply in so far as they are not inconsistent with these Rules.

ORDER 2 - CONSTITUTION OF THE COURTS

Chief Justice to constitute Small Claims Commercial Courts.

1. (1) The Chief Justice may constitute Small Claims Commercial Courts in such Judicial Districts as the Chief Justice may consider necessary.

(2) A Court constituted under sub-rule (1) shall comprise

(a) a Magistrate, sitting alone; or

(b) a Magistrate sitting as a mediator or conciliator at a Pre-trial Settlement hearing.

Jurisdiction.

2. (1) The jurisdiction of the Court shall be limited to liquidated claims of a commercial nature, wherein the value of the claim is below 50,000,000.00 Leones.

- (a) claims made under customary law other than appeals of commercial nature from the Local Courts;
- (b) matters relating to claims for wages, workers' compensation, occupational health or safety, unemployment compensation and other matters relating to industrial relations;
- (c) criminal matters with the exception of criminal contempt relating to pending matter before the Court;
- (d) actions which are beyond the jurisdiction of the Court, notwithstanding any agreement of the parties thereto;
- (e) claims for divorce, custody or maintenance including arrears in maintenance;
- (f) cases involving the validity of a will;
- (g) claims for damages for defamation;
- (h) claims for damages for malicious prosecution or wrongful imprisonment or arrest;
- (i) claims for damages for adultery or seduction;
- (j) an action for trespass under the Public Order Act, 1963 (Act No. 46 of 1965);
- (l) an action against a consular officer; or
- (m) an action against a foreign State.

(2) Where an agreement contains an arbitration clause, Court shall stay proceedings and refer the matter for arbitration.

5. (1) In an action wherein the sum claimed does not exceed Incidental jurisdiction. jurisdiction of the Court -

- (a) the Court may enquire into and hear evidence upon the whole account, even though that account relates to items and transactions exceeding the jurisdiction of the Court;
- (b) the Court shall not be deprived of that jurisdiction merely because it is necessary for the Court, in order to arrive at a decision, to give a finding upon a matter beyond its jurisdiction.

(2) A claim exceeding the jurisdiction of the Court shall not be split with the object of recovering it in more than one claim, if the parties to those actions and the point at issue in those claims are the same.

6. The Court shall sit at such times and places as may be necessary for the convenient and speedy dispatch of business. Court sittings.

7. An adjournment of a Court sitting shall not exceed 72 hours. Adjournments.

8. (1) The business of the Court shall be conducted in English. Language to be used.

(2) Where a party to the proceedings is not conversant with the language being used in the court, the party shall be allowed, or provided with, an interpreter upon his own cost.

(3) Whenever a language other than English is used in my proceedings, the Court shall keep an electronic record of the proceedings in that language.

ORDER 3-COURT USERS' GROUP

Establishment
and functions.

1. There shall be a Court Users' Group which shall be responsible to make recommendation to the Chief Justice on matters of Court practice.

Composition.

2. The Court Users' Group shall consist of -

- (a) the Magistrate of the Court, who shall be the Chairman;
- (b) a member nominated by the Sierra Leone Bar Association, who ordinarily practises within the judicial district of the Court;
- (c) a member nominated by the Attorney General and Minister of Justice, who is ordinarily resident within the judicial district of the Court;
- (d) a member nominated by the Minister of Trade, who is ordinarily resident within the judicial district of the Court; and
- (e) 2 other persons nominated by the Chamber of Commerce who are ordinarily resident within the judicial district of the Court;

Tenure.

3. The tenure of office of a member of the Court Users' Group, other than the Chairman, shall be for a term of 2 years and shall be renewable for a further term of 2 years only.

Registrar to
be Secretary.

4. The Registrar of the Court shall be the Secretary to the Court Users' Group.

Resignation
and
replacement
of a member.

5. (1) A member of a Court Users' Group may resign from his position by tendering a letter of resignation to the Chairman.

7

(2) Where a member of a Court Users' Group tenders a Meetings letter of resignation under sub-rule (1), the Chairman shall seek for a replacement of that member from the appropriate authority.

6. The Court Users' Group shall meet at least once every 3 months.

ORDER 4-COMMENCING OF PROCEEDINGS

1. (1) Proceedings shall be instituted in a Court in the judicial district in which - Institution of proceedings.

- (a) a claimant resides or carries on his business at the time of the commencement of the claim;
- (b) a defendant resides or carries on his business at the time of the commencement of the claim;
- (c) the cause of action or claim arose wholly or in part; and
- (d) the property or thing, which is the subject matter of the claim is to be found.

2. (1) A person who is desirous of instituting a claim before the Court shall complete and file the claim form as set out in Form No. 1 of the First Schedule.

(2) A claim form completed and filed in sub-rule (1) shall be accompanied by -

- (a) copies of every document to be relied on at the trial; and
- (b) the full address, telephone number and other electronic contacts of the claimant or his solicitor, including: email address, SMS text contacts and WhatsApp Messaging contacts, all of which shall together constitute a claim bundle.

Issue of
claim form.

3. (1) The Registrar of the Court shall, being satisfied that the requirement of Rules 2 have been met and the claimant has paid the prescribed fees, stamp, sign and issue the claim form out of the Registry.

(2) After a claim form has been issued from the Registry under sub-rule (1), the Registrar shall cause the action to be entered into the cause book.

Consequences
of non-
compliance.

4. (1) A claim bundle that is not in compliance with Rule 2 shall not be accepted by the Registrar for the purpose of filing.

(2) Where a claim form in Rule 2 has been served on behalf of the claimant and he fails to take further steps to prosecute his claim within 30 days, the Registrar upon his own motion supported by an affidavit, shall apply to the Court for the claim to be struck out and expunged from the cause book.

ORDER 5 - PARTIES

Joiner of
parties.

1. (1) A person, in whom the right to a relief claim is alleged to exist, may join as claimant, whether jointly, severally or in the alternative.

(2) A person, against whom a right to a relief claim is alleged to exist, may be joined as defendant whether jointly, severally or in the alternative.

(3) The Court may with the approval of the person or persons to be added as claimant, add the names of such persons.

Service.

2. The Registrar shall within 72 hours cause the party who has been joined or added to a claim to be served with the court bundle as in the manner provided for in Order 6.

Misjoiner
and non-
joiner of
parties.

3. (1) Where at any stage of the proceedings, any of the parties allege that he has been improperly or wrongly joined, he may apply to the Court for his name to be struck out.

(2) The Court may strike out the names of any person or

4. (1) Where a claimant sues or a defendant is sued in a representative capacity, the particulars shall show in what capacity he sues or is sued. Representative capacity.

(2) Where more than one person have the same interest in an action, one or more of such persons may sue for himself and on behalf of the others.

(3) The Court may authorise one or more persons who are sued together to represent themselves and the others.

5. (1) A person claiming or being liable as a partner carrying business within the jurisdiction of the Court, although resident in some other judicial district may sue or be sued in the name of his firm. Partners.

(2) A party to a claim may in such case apply to the Court for the parties who are partners to declare the names of the other partners of the firm.

(3) The Court shall, on an application made under sub-rule (2), make an order for such names to be given.

6. (1) Where a party dies, after a claim has been brought, a person who can show that the cause of action is transmitted to him or that the liability of the person who is dead is transmitted to some other person, he may apply to the Court for an order that he or such other person be substituted for the original party in the action. Alteration of parties.

(2) The Court shall, on receipt of an application under sub-rule make an order on such terms as it may deem just.

ORDER 6-SERVICE OF CLAIM

1. Service of claim shall be by -

- (a) a bailiff of the Court, or if the defendant attends at the office of the Court, any other officer of the Court;
- (b) a party to the proceedings or some person in his permanent and exclusive employ; or

Service of claim.

Service of
claim how
effected.

(c) a solicitor of a party or a solicitor acting as an agent for such solicitor or some person employed by a solicitor to effect service.

2. Service of a claim under Rule 1 shall be effected by delivering a certified copy if -

- (a) on an individual, to him personally;
- (b) on a firm, company or corporation, to one of the partners, or to a director, or to the Secretary, or by leaving the same at the principal place of business in Sierra Leone of the firm, company or corporation, or to anyone having, at the time of service, apparent control of the business or management of the company, firm or corporation;
- (c) on a Chiefdom Council, Local or Municipal Authorities to a Council member, the Chief Administrator or any other principal officer or their solicitors;
- (d) on a Local Government Authority, to the Chairman of the Local Council;
- (e) on the Government of Sierra Leone, to the Attorney-General.

Substituted
service.

3. Where a Magistrate is satisfied by affidavit that service of a claim cannot be effected as in Rule 2, the Magistrate may make an order for substituted service in one or other of the following manner

- (a) by delivery thereof to an agent of a party or some other person;
- (b) by publication in the Gazette or newspaper circulating within the jurisdiction of the

- (c) by notice placed at the Court house or some other place of public resort of the district wherein the proceedings have been instituted;
- (d) by leaving or affixing a copy at the last residence or place of business of the party;
- (e) by electronic means; or
- (f) in such other manner as the Court may direct.

4. (1) Where a defendant is not resident in the judicial district of the Court the claim form shall be forwarded to the Magistrate of the judicial district in which the defendant resides to be endorsed for service and shall then be served in the manner specified in this Order.

Service out
of judicial
district.

(2) Other documents shall be served without such previous endorsement.

5. (1) Where necessary, service of claim may be effected electronically by way of e-mail and other electronic means as the Electronic Magistrate may deem fit.

service.

(2) Where a service of Court process is effected electronically, a copy of such service shall be simultaneously copied to the Court's registry and for the avoidance of doubt, a sent status report shall be deemed as proof of service by electronic means under these Rules.

6. A person serving a court document under this Order, shall within 3 clear days after service indorse on the document the day, month and year of such service and shall immediately after the service file a copy of such document in Court.

Indorsement
of service.

7. Where service of a claim has been effected under these Rules, the same may be proved either by production of a copy of the document served bearing an acknowledgement of such service signed by the person on whom it was served or by an affidavit of service as set out in Form No. 2 of the First Schedule.

Proof of
service.

ORDER 7 - DEFAULT CLAIM

Application
for default
claim.

Notice of
intention to
defend.

Judgment
for claimant.

Enforcement.

Application
for summary
Judgment on
counterclaim.

Setting aside
of default

1. Where a claimant institutes an action for a debt or liquidated demand, he may after the claim form has been issued and served upon the defendant, swear to an affidavit, stating the facts on which his claim is based and that in his belief, the defendant has no defence to the action.

2. (1) Upon receipt of the affidavit, the Registrar shall issue a Notice as set out in Form No. 3 of the First Schedule, calling upon the defendant within 7 days, if he intends to defend the action, to state his intention to defend and to file his defence or counterclaim.

(2) Upon the receipt of such notice from the defendant to defend the claim, the Registrar shall enter the case on the cause list and notify the parties of the date of the hearing.

3. Where a defendant fails to deliver his notice of intention to defend within the time prescribed in rule 2, the claimant may on proof of service of the claim form and the Registrar's notice upon the defendant and payment of the prescribed fees, obtain judgment for the amount claimed in the claim form.

4. A judgment obtained under Rule 3 shall be -

(a) entered in the Register of Default Judgements; and

(b) enforced as a regular judgment of the Court.

5. (1) Where a defendant to an action has served a counterclaim on the claimant, the defendant may on the grounds that the claimant has no defence to a claim made in the counterclaim, or to a particular part of such a claim, apply to the Court for judgment against the claimant on that claim or part of the claim.

(2) The Rules relating to Judgement for the claimant and enforcement in Rules 3 and 4 respectively shall apply in relation to an application under sub-rule (1).

6. A default action

ORDER 8-INTERIM AND INTERLOCUTORY APPLICATION

1. (1) An application by a party not made during the course of a hearing shall be made orally to the Magistrate in chambers. Application ex-parte.

(2) The Magistrate may direct that an application under this Order be made in writing on notice to a party interested or likely to be affected.

(3) Where a Magistrate thinks that it is a matter fit to be disposed of ex-parte, he may make the necessary order, which shall not last for more than 7 days, subject to the right of any party interested or affected to apply for its discharge.

2. (1) Where the Magistrate has directed that notice is to be given to a party, the matter shall be disposed of on a date fixed by the Magistrate. Application inter-parties

(2) A Magistrate shall within 3 days from the date the application is made, dispose of an application under this Order.

ORDER 9 - JUDGMENT ON ADMISSION

1. (1) A person sued may, in the presence of the Magistrate and on oath, admit the whole or only part of the claim before the Court. Judgment on admission.

(2) A claimant may accept or refuse to accept the amount paid as full settlement of the claim before the Court.

2. (1) Where a claimant accepts the amount paid as full settlement of a claim, the Magistrate shall enter judgment for the amount that the defendant admitted together with the costs incurred up to the time of payment. Where claimant accepts.

(2) A judgment entered under sub-rule (1) shall be deemed a regular judgment of the Court.

3. Where a claimant refuses to accept the amount paid as full settlement of a claim and elects to proceed with the action and recovers less than the amount paid into Court, no order for costs incurred after payment shall be made in his favour. Where claimant refuses.

4. (1) Where a sum of money is paid into Court, notice of such payment shall be given to the claimant by the Registrar as soon as possible but, in any event, not later than 3 days from the date the payment was made to the Court.

(2) Money paid into Court before trial shall be paid out to the claimant.

ORDER 10 - DEFENCE, SET-OFF AND COUNTERCLAIM

1. (1) A person upon whom a claim form has been served shall file a notice of intention to defend as set out in Form No. 3 of the First Schedule.

(2) A defendant may defend, set-off or counterclaim against the claim of a claimant by completing and filing a defence, set-off or counterclaim as set out in Form No. 4 of the First Schedule.

(3) Particulars of notice of intention to defend, set-off or counterclaim shall be filed within 14 days from the date of service of the claim form on the defendant.

2: A defence, set-off or counterclaim under Rule 1, shall be accompanied by -

- (a) a notice of intention to defend under Rule 1;
- (b) the completed Form No. 3 under Rule 1;
- (c) copies of every document to be relied on at the trial; and
- (d) the full address, telephone number and other electronic contacts of the defendant or his solicitor including, email address, SMS text contact, WhatsApp Messaging contact and any other manner in which writing can be replicated,

which shall constitute the defence bundle.

3. Notice of defence, set off or counterclaim shall be filed by the defendant and served by the Registry of the Court on a claimant in the same manner as a claim form. Service of defence set-off and counterclaim.

4. Where the Magistrate thinks fit, he may order that a set off or counterclaim be tried separately from the claim endorsed on the claim form. Magistrate may order separate trial.

ORDER 11 - PRE-TRIAL SETTLEMENT CONFERENCE

1. (1) The Registrar shall -

Assignment of cases.

- (a) within 24 hours after a defence, set-off or counterclaim is filed; or
- (b) where the time for the filing of a defence, set-off or counterclaim has elapsed, assign the matter to a Magistrate to conduct a pre-trial settlement hearing.

(2) Case assignment under sub-rule (1), may be undertaken on a random basis through electronic means.

(3) A Magistrate shall set a date for the first hearing in not more than 3 days from the date the matter is assigned.

2. (1) A party to the pre-trial settlement hearing shall be informed of the date, time and place of the hearing. Notification to attend hearing.

(2) Parties may be informed either in their presence or by a Notice of Hearing as set out in Form No. 5 of the First Schedule.

(3) Where a party fails, without just cause, to attend a pre-trial settlement hearing, the Magistrate may -

- (a) strike out the claim, if the non-complying party is the claimant;
- (b) strike out the defence and counterclaim if the non-complying party is a defendant;

(c) order a non-complying party to pay costs;
and

(d) make such other orders as he may deem just.

Non-attendance of parties. 3. Where none of the parties attend the pre-trial settlement hearing for 3 consecutive times, the Magistrate may strike out the claim and order costs to be paid by the parties.

Settlement by external parties.

4. At a pre-trial settlement hearing, the Magistrate may, if the external parties wish that a particular person or body settle the claim

(a) refer the claim to that person or body;

(b) give directives and stipulate the time limit for such settlement, which shall not exceed 14 days.

Consent judgment.

5. Where a claim is settled at a pre-trial settlement hearing or by a particular person or body as a consent judgement, the terms of the settlement shall be entered as a full judgment of the Court as set out in Form No. 6 of the First Schedule.

Judgment fees exemption.

6. A judgment entered pursuant to this Order shall be exempt from paying judgment fees.

Proceedings and processes to be without prejudice.

7. During a pre-trial settlement hearing, all proceedings and processes including, oral statements and the records of statement, documents, electronic messages, items, videos and audios shall be without prejudice.

Failure of pre-trial settlement.

8. Where the parties fail to reach a settlement at the pre-trial settlement hearing, the Magistrate shall immediately cause the claim to be entered for trial.

Duration of pre-trial settlement hearing.

9. A pre-trial settlement hearing shall be concluded within 14 days from the date the matter is assigned to the Magistrate.

ORDER 12 - CASE MANAGEMENT CONFERENCE

1. Within 24 hours after the claim has been referred for trial by the Magistrate, the Registrar shall send a Case Management Notice to the parties as in Form No. 7 in the First Schedule Form to be issued.

2. (1) At the case management conference, the Magistrate shall hold a preliminary hearing for the purpose of giving directions for hearing of the claim or counterclaim (as the case may be) including

- (a) a hearing time table and fixing of trial or hearing;
- (b) formulation and settlement of issues in dispute;
- (c) verification of the claim bundle and the defence bundle;
- (d) settlement of documents to be admitted as exhibits at the trial; and
- (e) any other information he deems fit, as appears to the Magistrate to secure the just, expeditious and speedy disposal of the claim or counterclaim.

(2) An order, directive or direction given by the Magistrate under sub-rule (1), shall be complied with within 7 days.

(3) Where a party fails to comply with sub-rules (1) or (2), the Magistrate shall award costs and make further orders to force compliance including, in the case of -

- (a) the claimant, dismiss the claim; or
- (b) a defendant, enter judgment against him where appropriate.

Duration of
case
management
conference.

Claimant
appears and
defendant
does not.

Defendant
appears
and claimant
does not.

Judgment
obtained
where one
party does
not appear.

(4) During the case management conference, the Magistrate shall give directives and orders to secure the just, expeditious and speedy disposal of a claim or counterclaim.

3. A case management conference shall be completed within 4 hours from the commencement of the first session.

ORDER 13 - TRIALS AND ADJOURNMENTS

1. (1) Where a claim is called up for hearing by the Magistrate, the claimant appears and the defendant does not appear, the claimant may prove his claim, so far as the burden of proof lies on him.

(2) The Magistrate may enter judgment for and on behalf of the claimant.

2. (1) Where a claim is called up for hearing by the Magistrate, the defendant appears and the claimant does not, the defendant -

(a) if he has no counterclaim, shall be entitled to judgment dismissing the claim of the claimant;

(b) If he has a counterclaim, then he may prove such counterclaim so far as the burden of proof lies on him.

(2) The Magistrate may enter judgment for and on behalf of the defendant on the counterclaim.

3. (1) A judgment obtained where one party does not appear may be set aside by the court upon such terms as may seem fit, upon an application made within 3 days or as the court may allow.

(2) The Magistrate may, if he thinks it expedient in the interest of justice, adjourn the hearing from time to time but shall not exceed 72 hours between each adjournment.

(3) The Magistrate may after hearing the parties deliver judgment on the day of hearing or reserve judgment for a later date which, shall not exceed 14 days from the date of the last hearing.

4. (1) In proceedings before the Court - Representation

- (a) natural persons may be represented by their solicitors or may represent themselves;
- (b) firms, registered companies and corporations may be represented by either a partner, company secretary or any other principal officer of the firm, company or corporation or their solicitors;
- (c) Chieftain Council, Local and Municipal Authorities may be represented by a Council member, the Chief Administrator or any other principal officer or their solicitors;
- (d) The Government of Sierra Leone shall be represented by the Attorney-General.

5. (1) Parties may testify on their own behalf and tender all Witnesses and necessary documents and call other witnesses to give evidence at evidence at the trial.

(2) A party in a proceeding may apply to the Court for the subpoena of witnesses.

(3) Where a witness is called and he refuses to appear, he may be compelled by a warrant to attend.

6. A party to a claim before the Court, may apply to the Summoning Magistrate for a notice to be issued to a witness for the production of witness, of any document in his possession or control.

7. A notice to attend shall be served in the manner prescribed Notice to attend for the service of claims under Order 7.

Failure to attend.

8. A person served with a notice under Rule 7 and who refuses or neglects, without sufficient cause, to appear or to produce any document required by the notice, may be compelled by warrant to attend and is liable to a fine not exceeding 150,000.00 Leones for each day he fails to appear.

Oaths and affirmation.

9. A witness who refuses to take an oaths, make an affirmation or give evidence shall be cited for contempt of court, in which case the Magistrate shall refer the issue of contempt to the Attorney-General.

Evidence via electronic means.

10. (1) The Court may, on application by a party, allow a witness to give evidence by electronic means at the expense of the applicant.

Transcripts and records of evidence.

(2) The Magistrate shall give directives as to the conduct of the hearing under sub-rule (1).

Prohibition of unauthorised recordings.

11. (1) The Registrar may make an official record of the trial, including electronic recordings.

(2) A party may request from the Registrar for an official copy of transcripts and records of the hearing upon payment of such fees as set out in the Second Schedule.

Hearing and Adjournment

12. A person who makes an electronic recording without the prior approval of the Court, shall be cited for contempt of court, in which case the Magistrate shall refer the issue of contempt to the Attorney-General.

13. (1) Trial shall be conducted by the court from day to day as far as is practicable.

(2) Adjournment may be granted, as a last resort, in unforeseen and exceptional circumstances and such adjournment shall not exceed 72 hours.

(3) In the event of an adjournment at the instance of the Court, the reasons for the adjournment shall be recorded and the Court shall endeavour to fix the hearing date within the shortest possible time.

(4) The entire trial period of a claim under these Rules shall not exceed 30 days from the date the claim is called up for hearing under sub-rule 1.

14. (1) After the delivery of every judgment by the Court, the order of the Court shall be drawn up by any party to the proceedings and the Registrar shall cause a copy to be issued to that person upon payment by him of the prescribed fee. Orders of Court to be drawn up, signed and filed.

(2) An order of the Court that has been drawn up, shall be signed and certified by an officer of the Court not below the rank of Principal Assistant Registrar.

15. The Registrar of the Court shall cause all judgments to be entered in a judgment book to be kept for such purpose. Judgment book.

ORDER 14-ENFORCEMENT AND EXECUTION

1. A judgment given by the Court shall be enforced by the Court and in such manner as the Court may direct. Enforcement generally.

2. On the application of a judgment creditor, the court shall issue a *writ of fieri facias*, directing the bailiff to levy the money due, together with the cost of the execution, by the seizure and sale of the goods or chattels of the judgment debtor wherever found within the jurisdiction of the Court. Seizure and sale.

3. (1) A sale under Rule 2 shall not be made until after 14 days from seizure and after advertisement for at least 7 days, unless the goods or chattels are of a perishable nature. Preservation of goods and chattels.

(2) Goods or chattels seized in execution of a judgment of the Court shall be deposited by the bailiff in a fit and proper place until sold.

4. Execution against real property shall be in the manner provided by the execution against real property in the Real Property Act, 1960 (Cap. 22). Sale of real property.

Interpleader
claim.

5. Where a claim is made by a third person to the goods or chattels seized in execution of a judgment of the Court, the bailiff may take out an interpleader claim, directed to the judgment creditor and the claimant.

Hearing of
interpleader
claim.

6. (1) An interpleader claim under Rule 5 shall be decided by the Court as between the claimant and the judgment creditor.

(2) These Rules shall, with the necessary modifications, apply to the hearing of an interpleader claim as it applies to the hearing of a claim before the Court.

7. (1) Subject to this Order, the Court may, for the purpose of an interpleader proceeding, make such order as to costs or any other direction as it deems fit.

8. (1) The Court may give such judgment or make such order so as to dispose of questions arising in the interpleader proceedings.

(2) Hearings under Rule 6 shall not exceed 14 days from the date the interpleader claim is filed.

Duration for
enforcement
of judgment.

9. Execution and enforcement under these Rules shall not exceed 21 days from the date the judgment of the Court is delivered.

ORDER 15—APPEALS

Appeal.

1. An appeal against a judgment of the Court shall be made to the High Court not later than 14 days of the delivery of the judgment of the Court.

Records of
appeal.

2. (1) The Registrar of the High Court shall compile records of appeal within 7 days of the filing of the notice of appeal and stipulate the cost for the preparation of the records of appeal which shall be borne by the appellant.

(2) The records of appeal shall be sent to the parties.

(3) The Chief Justice, in the case of the Western Area and the Registrar, in the case of the Provinces, shall assign the file to the appropriate Judge in the locality.

3. Where an appeal is assigned to a Judge, it shall come up for hearing within 3 days from the date of assignment. Hearing of appeal.

4. An Appeal shall be by oral hearing of the parties or their solicitors and the Court shall be guided by the record of the proceedings in the Magistrate Court. Appeal shall be by oral hearing.

5. The whole appellate process from the assignment of the appeal before the High Court, to the delivery of judgment shall not exceed 21 days. Duration of appeal

6. The Appeals from Magistrate's Court Rules, 1969 (P.N. No.25 of 1969) shall, with the necessary modifications and adaptations apply to appeals under these Rules. Practice and procedure for appeal.

ORDER 16 - COSTS, INTEREST AND FEES

1. (1) Notwithstanding anything to the contrary contained in these Rules or any other enactment, all fees and costs of any action or proceeding in the Court shall be paid by or apportioned between the parties in such manner as the Court may deem fit. Apportionment of costs, interest and fees.

(2) The interest to be paid in a claim shall be fixed by the Magistrate and such sum shall not exceed 7 per cent and not below 3 per cent of the claim.

(3) A Magistrate shall have power to refuse costs to either party and give such directives and orders to secure the just, expeditious and speedy disposal of the claim or counterclaim.

2. (1) The Court may, with respect to counterclaim, for good cause shown, on the application of the defendant, require the claimant in an action, either at the commencement, or at any other time, to give security for costs to the satisfaction of the Court. Security for costs.

(2) The Court may, on the application of a claimant for good cause shown, require a defendant to give security for costs for any particular proceeding undertaken in his interest.

(3) Upon failure of a party required to give security, the Court may make further order to ensure compliance to sub-rule (2).

3. (1) The fees in the Second Schedule shall be payable in respect of the matters set out therein.

(2) The Registrar shall reject any document for filing if the fees prescribed in the Second Schedule have not been paid.

(3) The fees in the Second Schedule may be paid electronically and the received status report shall be proof of such payment.

ORDER 17-AMENDMENT, REVIEW, VARIATION AND CORRECTION OF JUDGMENT

Amendment.

1. (1) A party may amend, without leave of the Court, a claim, defence, set-off or counterclaim at any time before the matter is fixed for trial.

Endorsement
of amendment.

(2) A Magistrate may, at any time before judgment, grant leave to amend a defect or error in any proceeding before the court, on such terms as the Court may deem fit.

2. An amendment under Rule 1 shall be endorsed, marked and shall be served on the other party as any other process of the Court.

ORDER 18 - DISPOSAL OF CLAIMS

Disposal
of cases.

1. (1) Claims shall be disposed of by the Court within a period of 90 days, from the date on which the claim was filed.

(2) The judgment of the Court may not be rendered invalid by reason of the entire proceedings of the court having exceeded 90 days.

Enlargement
of time.

2. The Court shall have power, before the expiration of any time appointed by these Rules for doing any act or taking any proceedings, to enlarge or abridge the same, upon such terms as the justice of the claim may require.

3. An enlargement or abridgement of time under these Rules

shall be made by application to the Court before the expiration of the Application time limited by these Rules.

4. (1) The Master and Registrar shall ensure that, every month a comprehensive report on the activities of the Court is sent ^{Court} reports. to the Chief Justice.

(2) The report under rule 5 shall contain the following information-

- (a) the nature, number and total value of claim before the Court;
- (b) case load and case clearance rate of the Court; and
- (c) any other report that the Chief Justice may from time to time request.

SCHEDULES

FIRST SCHEDULE

FORMS AND NOTICES

Form No. 1

(Order 4, Rule (2))

THE MAGISTRATES' COURTS (SMALL COMMERCIAL CLAIMS) RULES, 2020
 IN THE MAGISTRATES' COURT OF SIERRA LEONE
 SMALL COMMERCIAL CLAIMS COURT
 THE JUDICIAL DISTRICT
 COMMENCEMENT OF PROCEEDINGS
 CLAIM FORM
 FORM NO. 1

BETWEEN

claimant

and

Defendant

CLAIM FORM

TAKE NOTICE THAT I/WE the claimant (s) herein claim(s) against the defendant(s) below:

1. _____

2. _____

Dated this day of 20.....

claimant (s)

Form No. 2

(Order 6, Rule

IN THE MAGISTRATES' COURT OF SIERRALEONE
SMALL COMMERCIAL CLAIMS COURT
THE JUDICIAL DISTRICT
SERVICE OF COURT PROCESSES
CERTIFICATE OF SERVICE
FORM NO. 2

BETWEEN:

claimant

and

defendant

CERTIFICATE OF SERVICE

I the undersigned Registrar of the Court do verify
..... in the above-named case
duly served upon the claimant /defendant/witness herein on the
day of 20.....

Dated this day of 20.....

.....
Registrar

By
.....
.....

(Order 7, Rule (2), (Order 10, Rule (1))

fm No. 3

IN THE MAGISTRATES' COURT OF SIERRALEONE
SMALL COMMERCIAL CLAIMS COURT
THE JUDICIAL DISTRICT
SUMMARY JUDGMENT
NOTICE OF INTENTION TO DEFEND

BETWEEN:

claimant

and

defendant

TAKE NOTICE that I/we, of
....., defendant/defendants herein,
intends/ intend to defend the claim against me/us in this action before the Court.

ated

this

day of

20.....

defendant/defendants

.....

.....

.....

Form No. 4

(Order 10, Rule (2))

IN THE MAGISTRATES' COURT OF SIERRA LEONE
 SMALL COMMERCIAL CLAIMS COURT
 THE JUDICIAL DISTRICT
 COMMENCEMENT OF PROCEEDINGS
 NOTICE OF DEFENCE, SET OFF AND COUNTER CLAIM

BETWEEN:

.....

claimant

and

.....

defendant

TAKE NOTICE THAT I/WE the defendant(s) herein dispute(s) the claimant's claim
 because:-

- 1.....
- 2.....
- 3.....

I/WE NOW set off/counterclaim the following:

- 1.....
- 2.....
- 3.....

On the following ground(s)

- 1.....
- 2.....
- 3.....

Dated

this

day of

20.....

.....
defendant/defendants

Form No. 6

(Order 11, Rule (5))

IN THE MAGISTRATES' COURT OF SIERRA LEONE
SMALL COMMERCIAL CLAIMS COURT
THE JUDICIAL DISTRICT
PRE-TRIAL CONFERENCE
CONSENT JUDGMENT
BETWEEN:

..... claimant

and

..... defendant

..... Presiding Magistrate

The parties having consented to settle this claim through negotiation/ mediation,
and the session having taken place at
Judicial District on the day of
20..... before
....., and the claim having been resolved in part/
in whole by a Memorandum
of Agreement dated the day of 20.....
judgment is

hereby entered pursuant to Order XI as follows:

- 1.....
- 2.....
- 3.....

GIVEN UNDER MY HAND AND SEAL OF THE MAGISTRATES' COURT

this day of 20.....

IN THE MAGISTRATES' COURT OF SIERRA LEONE
COMMERCIAL CLAIMS COURT
THE JUDICIAL DISTRICT
CASE MANAGEMENT CONFERENCE
NOTICE OF HEARING

BETWEEN:

..... Claimant
and
..... defendant.

TAKE NOTICE that all parties concerned and required to attend before me at
..... On day the
day 20 at the hour of O'clock in the
..... noon to proceed with the Case Management Conference hearing.

Dated this day of 20.....

.....
Registrar

To:
.....
.....

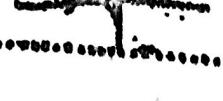
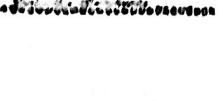
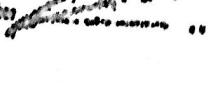


SECOND SCHEDULE

(Order 13, Rule 11, Order 16, Rule 3)

COURT FEES

1. Issuing of Claim	Rs 30,000
2. Search Fees	Rs 10,000
3. Summoning of witnesses	Rs 20,000
4. Filing of Defence Set Off and Counter Claim	Rs 30,000
5. Filing of Defence alone	Rs 30,000
6. Filing of Counter Claim alone	Rs 20,000
7. Entering Consent Judgement	Rs 50,000
8. Addition of parties	Rs 25,000
9. Filing of Affidavits	Rs 10,000
10. Filing of Court Orders	Rs 20,000
11. Issuing of Subpoena	Rs 15,000
12. Execution of warrant	Rs 20,000
13. Filing of Amendment	Rs 30,000
14. Official copies of court documents	
1-10 pages	Rs 25,000
11-20 pages	Rs 30,000
over 20 pages	Rs 50,000
15. Filing of any other Court Document not listed above.	Rs 10,000

Honourable Mr. Justice Desmond Babatunde Edwards	Chairman	
Chief Justice		
Honourable Mr. Justice N. C. Brown-Marke	Member	
Justice of the Supreme Court		
Honourable Mr. Justice Reginald S. Fynn	Member	
Justice of the Court of Appeal		
Honourable Mr. Justice A. R. Monrovia	Member	
Judge of the High Court		
Mr. Easmon Ngakui	Member	
Director of Public Prosecutions		
Mr. D. Durosime Thompson	Member	
First Parliamentary Counsel		
Mr. Baima Konoma	Member	
Representative from the Bar Association		
Mr. Cenfus Macauley	Member	
Representative from the Bar Association		
Mr. Gerald Soyal	Member	
Nominees of the Attorney-General and Minister of Justice.		

FREETOWN,
SIERRA LEONE.