

LEGAL NOTICE NO. 255

REPUBLIC OF TRINIDAD AND TOBAGO

SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

RULES OF COURT

MADE BY THE RULES COMMITTEE UNDER SECTION 78 OF THE SUPREME COURT OF JUDICATURE ACT, CHAP. 4:01

THE CIVIL PROCEEDINGS (AMENDMENT) (NO. 3) RULES, 2005

1. These Rules may be cited as the Civil Proceedings (Amendment) Citation (No. 3) Rules, 2005.

2. (1) The Civil Proceedings Rules, 1998 are hereby amended as set out in the First Schedule.

(2) Column I of the First Schedule sets out the Rules amended and Column II sets out the extent of the amendment to those Rules.

Amendment
of Civil
Proceedings
Rules, 1998

FIRST SCHEDULE

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
2.	<p style="text-align: center;">PART 2</p> <p>A. Immediately after Rule 2.4 insert the following new Rule:</p> <p>“Powers, authority and jurisdiction of the registrar 2.4A (1) The registrar shall have power to transact all such business and exercise all such authority and jurisdiction as may be transacted and exercised by a judge sitting in chambers in respect of the following matters, that is to say:</p> <ul style="list-style-type: none"> (a) assessments of costs referred to the registrar under Part 67.12(2); (b) applications under section 42 of the Petty Civil Courts Act, Chap. 4:21; (c) the taking of an account when it has been ordered that the account be taken by the registrar; (d) the hearing of judgment summonses under the Debtors Act, Chap. 8:07 and the Rules made thereunder; (e) applications for the grant of probate or letters of administration or the resealing of a grant of probate or administration except where the proceedings are contentious;

FIRST SCHEDULE—*Cont'd*

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
	<p>(f) applications for attachment of debt orders;</p> <p>(g) applications for the renewal of a writ of execution;</p> <p>(h) applications for permission to issue a writ of possession;</p> <p>(i) applications for permission to issue a writ of delivery of specified goods without the alternative of payment of the assessed value;</p> <p>(j) applications for relief under section 18 of the Bills of Sale Act, Chap. 82:32.</p> <p>(2) It shall be lawful for the registrar stationed in Tobago, whenever there is no judge of the court present in Tobago, to make all such orders as may be necessary for the following purposes:</p> <p>(a) for the protection, management and custody of property, the subject matter of or in dispute in proceedings before the court;</p> <p>(b) for granting of interim injunctions including mandatory and freezing injunctions, search orders or the appointing of a receiver when the court can exercise such jurisdiction by interlocutory order;</p> <p>(c) for giving interim authority to any executor or executrix or any receiver appointed by him to dispose of perishable articles, and to pay the money into court,</p> <p>provided always that the registrar stationed in Tobago shall not be bound to make any order under the provisions of this Rule, unless the urgency of the case and the interest of justice shall appear so to require; and provided also that he shall have power to alter, vary or discharge any such order or orders.”.</p> <p>B. Immediately after Rule 2.4A insert the following new Rule:</p> <p>“Powers, authority and jurisdiction of the masters 2.4B (1) Subject to the provisions of this Rule a master shall have power to transact all such business and exercise all such authority and jurisdiction as may be transacted or exercised by a judge in chambers except in respect of the following matters and proceedings, that is to say:</p> <p>(a) matters relating to criminal proceedings or to the liberty of the subject;</p> <p>(b) proceedings for the grant of an injunction or other order under section 23(5) of the Supreme Court of Judicature Act, Chap. 4:01 (hereinafter in this Rule referred to as “the Act”);</p>

FIRST SCHEDULE—*Cont'd*

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
	<p>(c) applications for judicial review or an application for a writ of <i>habeas corpus</i>;</p> <p>(d) application for an order of committal in proceedings to which Part 53 applies;</p> <p>(e) appeals from registrars;</p> <p>(f) applications under section 34 of the Act for leave to institute legal proceedings;</p> <p>(g) proceedings in respect of which jurisdiction is given by any enactment specifically to a judge in chambers and in which the decision of the judge is final;</p> <p>(h) such business, authority and jurisdiction as the Chief Justice may from time to time direct to be transacted or exercised by a judge in person;</p> <p>(i) any other matter or proceeding which by any of these Rules is required to be heard only by a judge.</p> <p>(2) A master shall have power to grant an injunction—</p> <p>(a) in the terms agreed by the parties to the proceedings in which the injunction is sought; or</p> <p>(b) which is ancillary or incidental to a charging order under Part 49.</p> <p>(3) A master shall have power to make a stop order under Part 50.</p> <p>(4) A master shall have the power to make an order under Part 52 for the appointment of a receiver to obtain payment of the judgment debt from the income or capital assets of the judgment debtor and to grant an injunction if, and only so far as the injunction is ancillary or incidental to such an order.</p> <p>(5) Notwithstanding paragraph (1) it shall be lawful for a master in Tobago to make all such orders as can be made by the registrar under Rule 2.4A (2).</p> <p>(6) A master may refer to a judge any matter which he thinks should be properly decided by a judge, and the judge may either dispose of the matter or refer it back to the master with such directions as he thinks fit.</p> <p>C. Amend the Table of Contents and the Contents of this Part accordingly.</p>

FIRST SCHEDULE—*Cont'd*

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
8.2 (2)(b)	<p style="text-align: center;">PART 8</p> <p>Immediately after the words “file his claim” in the third line, add the words “provided that where the claimant at the time of the application for permission has been granted legal aid by the Legal Aid and Advisory Authority the court may grant permission notwithstanding that the claimant is unable to satisfy the court that he has only obtained legal advice within the 7 days prior to the date that he wishes to file his claim”.</p>
20.1(4)	<p style="text-align: center;">PART 20</p> <p>Delete the word “bechanged” and substitute the words “be changed”.</p>
27.3	<p style="text-align: center;">PART 27</p> <p>A. Insert immediately after paragraph (3) the following new paragraphs (4) and (5) respectively:</p> <p>(4) (a) The claimant may apply for relief within 3 months from the date of the service of the defence from the sanction imposed by paragraph (3).</p> <p>(b) In considering whether the court grants relief the court shall have regard only to whether the defendant has suffered any prejudice and Rule 26.7 shall not apply.</p> <p>(c) If the court grants relief the case management conference must take place within 28 days of the order.</p> <p>(5) The application under paragraph (4) shall be made with notice and shall be supported by evidence.</p> <p>B. Renumber the existing paragraphs (4), (5), (6), (7), (8), (9) and (10) as paragraphs (6), (7), (8), (9), (10), (11) and (12) respectively.</p>
36.5(3)	<p style="text-align: center;">PART 36</p> <p>Delete the words “trial judge” and substitute the word “court”.</p>
46.3 (1) (c)	<p style="text-align: center;">PART 46</p> <p>Delete the words “part 53” and substitute the words “Part 53”.</p>
46.4 (1) (b)	<p>Delete the words “part 53” and substitute the words “Part 53”.</p>
47.9	<p style="text-align: center;">PART 47</p> <p>Delete and substitute the following new Rule:</p> <p>“47.9 A writ of delivery for the recovery of goods or payment of their assessed value may not be issued unless that value has previously been assessed or an order has been made under Rule 47.10”.</p>
47.10	<p>Delete the words “an order for delivery” appearing immediately after the word “issue” in the third line and substitute the words “a writ of delivery”.</p>

FIRST SCHEDULE—*Cont'd*

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
63	<p style="text-align: center;">PART 63</p> <p>Delete the heading and substitute the following new heading: “Reference by the Attorney’s Disciplinary Committee”.</p>
63.1 (1)	Delete the word “Roll” appearing in the third line and substitute the word “roll”.
63.1(2)	In the definition of “the committee” delete the word “disciplinary” and substitute the word “Disciplinary”.
65.3	<p style="text-align: center;">PART 65</p> <p>Delete the words “a attorney” in the first line and substitute the words “an attorney”.</p>
67	<p style="text-align: center;">PART 67</p> <p>Delete Appendix A and substitute the following:</p> <p style="text-align: center;">“Appendix A PART 1</p> <p>This part of the appendix sets out the fixed costs applicable to a claim for a specified sum of money:</p> <p>(a) Table 1—which a defendant who does not defend must pay to the claimant, in addition to the amount claimed and the interest and the court fees paid by the claimant, in order to avoid judgment being entered against him under Part 12. These sums are to be entered on the claim form. The table also deals with claims for possession of land or delivery of goods and an application for an attachment of debts order.</p> <p>(b) Table 2—which a claimant is entitled to include as costs in any default judgment under Part 12 in addition to the costs set out in Table 1.</p> <p style="text-align: center;">SCALE OF FIXED COSTS</p> <p style="text-align: center;">TABLE 1</p> <p>1. This table shows the amount to be entered on a claim form or provisional attachment of debts order in respect of attorney’s charges—</p> <p>(a) in an action for payment of a specified sum of money; or</p> <p>(b) in attachment of debt proceedings; or</p> <p>(c) in an action for the recovery of land.</p>

FIRST SCHEDULE—*Cont'd*

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
	<p>2. In addition to the fixed costs the appropriate court fee is to be allowed.</p> <p>(a) Claim not exceeding \$15,000 \$750.00</p> <p>(b) Claim exceeding \$15,000 but not exceeding \$25,000 or a claim for recovery of land or goods \$1,000.00</p> <p>(c) Claim exceeding \$25,000 but not exceeding \$100,000 \$1,200.00</p> <p>(d) Claim exceeding \$100,000 but not exceeding \$500,000 \$1,400.00</p> <p>(e) Claim exceeding \$500,000 but not exceeding \$1m \$1,600.00</p> <p>(f) Claim exceeding \$1m but not exceeding \$5m \$2,000.00</p> <p>(g) Claim exceeding \$5m \$2,500.00</p> <p style="text-align: center;">TABLE 2</p> <p>This table shows additional costs which may be added to the entry of a default judgment under Part 12 or a judgment on admissions under Part 14 for a specified sum of money.</p> <p>(1) Basic costs \$650.00</p> <p>(2) Where there is more than one defendant, in respect of each additional defendant served against whom judgment is entered \$100.00</p> <p>(3) Where an order is made under rule 5.12 (specified method of service), for each defendant served \$800.00</p> <p>(4) Where an order is made under Part 7, for service out of the jurisdiction (to cover the obtaining of an order under Part 7 and service) \$800.00</p> <p>(5) Where judgment is entered on an admission and the claimant accepts the defendant's proposal as to method of payment under rule 14.9 \$650.00</p> <p>(6) Where judgment is entered on admission and the time and rate of payment are not agreed under rule 14.10 \$800.00</p>

FIRST SCHEDULE—Cont'd

Column I <i>Number of the Rule</i>	Column II <i>Extent of the Amendment</i>
	<p>PART 2</p> <p>MISCELLANEOUS ENFORCEMENT PROCEEDINGS</p> <p>The following table shows the amount to be allowed in respect of attorney's charges in the circumstances set out. The appropriate court fee is to be added.</p>
	<p>(1) For filling a request for the issue of a writ of execution \$350.00</p>
	<p>(2) For each attendance at a hearing of—</p> <p>(i) an oral examination;</p> <p>(ii) an application to suspend a writ of execution; or</p> <p>(iii) an application for time to pay where the debt is admitted \$750.00</p>
	<p>(3) For the costs of the judgment creditor where allowed in proceedings for an attachment of debts order or an application for payment out of money in court under rule 51.15—</p> <p>(i) where the amount recovered is less than \$1,000 one half of the amount recovered</p> <p>(ii) where the amount recovered is not less than \$1,000 nor more than \$15,000 ... \$500.00</p> <p>(iii) where the amount recovered exceeds \$15,000 \$800.00</p>
	<p>(4) For the costs of the judgment creditor where allowed in an application for a charging order \$800.00*.</p>

3. In the Appendix to Civil Proceedings Rules, 1998 Prescribed Forms do the following:

- (a) Insert immediately after Form 3 the form set out in the Second Schedule to these Rules as Form 3A.
- (b) Insert immediately after Form 23 the form set out in the Second Schedule to these Rules as Form 24.

SECOND SCHEDULE

FORM 3A: APPLICATION TO PAY BY INSTALMENTS
[RULE 8.15(1)(c)]

(Heading as in Form 1)

The Applicant,..... A.B. (full name), of(full address)
owes the claimant the amount of \$..... claimed on the claim form and cannot pay the amount in one lump sum.

The Applicant applies to the court for an order to pay the amount due by instalments of \$..... per week/month and provides the following information:

1. Marital status: Married Single Other (specify)
2. Age:
3. Dependants: children:.....(state names and ages)
4. Other dependants.....(state names and give details)
5. If employed, state nature of employment and name and address of employer.
6. If self-employed, give particulars of annual receipts of the business and particulars of the expenses of the business.
7. Give details of any job other than main job.
8. Give details of—
 - (a) contracts and other work in hand; and
 - (b) any sums due for work done.
9. If unemployed, say how long unemployed, when last employed, nature of employment and total income received.
10. Pensioner: Yes/No
11. List cash assets and other assets.
12. I live in my own property jointly owned property rented property
lodgings other (specify)
 - (a) My usual take home pay is; or \$.....
 - (b) My pension is \$.....
 - (c) Other income \$.....
 - Total Income \$.....

13. My regular expenses are as follows:

(a) Mortgage	\$.....
(b) Rent	\$.....
(c) Electricity	\$.....
(d) Water and Sewerage rates	\$.....
(e) Cooking gas	\$.....
(f) Telephone	\$.....
(g) Hire Purchase repayments	\$.....
(h) Food	\$.....
(i) School fees	\$.....
(j) Travelling expenses	\$.....
(k) Children's clothing	\$.....
(l) Maintenance payments	\$.....
(m) Others (do not include court orders and debts listed in 14, 15, and 16)	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
Total Expenses	\$.....

14. I am in arrears as follows:

(a) Rent arrears	\$.....
(b) Mortgage arrears	\$.....
(c) Water and Sewerage rates arrears	\$.....
(d) Electricity arrears	\$.....
(e) Telephone arrears	\$.....
(f) Maintenance arrears	\$.....
(g) Others	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
Total Arrears	\$.....

15. I am making court ordered payments as follows: [specify particulars of case(s)] and instalments or amounts ordered to be paid

\$.....

16. I have loans and credit card debts as follows:

.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....

Of the above payments, I am behind with payments (please list)

.....

.....

.....

.....

I declare that the details I have given above are true to the best of my knowledge.

Dated

Signed

Applicant

NOTICE:

The application will be heard by [the Judge in Chambers] [Master xxxxx] on

the day of , at a.m./p.m.

at [xxx xxx xxx]

If you do not attend this hearing an order may be made in your absence.

or

The [Judge in Chambers] [Master] will deal with this application by—

NB This notice of application must be served as quickly as possible on the respondent to the application.

The court office is at [xxx xxx xxx]Telephone number xxx-xxxx, Fax xxx.xxxx.

The office is open between 8.00 a.m. and 4.00 p.m. Mondays to Fridays except public holidays and court holidays.

FORM 24

APPLICATION TO REVIEW DECISION OF MAGISTRATE OR JUSTICE OF THE PEACE
REFUSING/GRANTING BAIL

[Rule 59.2(1)]

Name of Applicant:
Address:
.....
Offence:

If the applicant has been tried and convicted, state court where tried:
.....
Sentence:
.....
Date of conviction:
Date of commitment:

Previous convictions:
.....
.....

If there has not been a trial and conviction state the status of the proceedings:
.....

*Terms on which applicant was admitted to bail:
.....
.....

*If admitted to bail but the applicant is seeking a modification or variation of bail state proposed
modification or variation:
.....
.....

Dated the day of , 20 .

.....
Signature

*Delete where inapplicable.

Made by the Rules Committee this 20th day of September, 2005.

S. SHARMA
Chief Justice

R. HAMEL-SMITH
Judge of the Court of Appeal

P. JAMADAR
Judge of the High Court

J. JEREMIE
Attorney General

R. M. DOYLE
Master of the High Court

E. A. PETERSEN
Registrar of the Supreme Court

A. FITZPATRICK
Attorney-at-law

G. ARMORER
Attorney-at-law

Laid in the House of Representatives this day of
, 2005.

Clerk of the House

Laid in the Senate this day of , 2005.

Acting Clerk of the Senate