

a. 27 43/351
 No. 194.

THE CYPRUS COURTS OF JUSTICE ORDERS AND LAWS,
 1927 TO (No. 2) 1935.

THE MUSSULMAN RELIGIOUS TRIBUNAL RULES, 1937.

H. R. PALMER,
Governor.

His Excellency the Governor, with the advice and assistance of the Chief Justice, in exercise of the powers vested in him by the Cyprus Courts of Justice Orders and Laws 1927 to (No. 2) 1935, and of every other power enabling him in this behalf, hereby makes the following rules:—

1. These rules may be cited as the Mussulman Religious Tribunal Rules, 1937.
2. The Mussulman Religious Tribunal Rules, 1927, and the Mussulman Religious Tribunal Costs and Fees Rules, 1927 and 1930, and the Mussulman Religious Tribunal Rules, 1937, and the Mussulman Religious Tribunal Costs and Fees Rules, 1937, are hereby revoked.
3. Every proceeding before a Mussulman Religious Tribunal shall be instituted by a proceeding to be called an action.

WRIT OF SUMMONS, FORM, CONTENTS, ISSUE AND SERVICE THEREOF.

4. Every action shall be commenced by a writ of summons calling upon every defendant to appear before such tribunal at such time as is therein mentioned.
5. The issue and service of summonses for the attendance of defendants and witnesses shall be effected as nearly as possible in the same manner as in the case of those issued out of District Courts.
6. A writ of summons shall set forth at the head thereof the name of the tribunal out of which it is issued and the name of the place where the action is to be heard. It shall specify the name in full and place of residence of every plaintiff and defendant and shall be addressed to the defendant on whom it is to be served. It shall contain a statement of the relief or remedy claimed, and of the day and hour fixed for the hearing. The date on which the writ is issued shall be stated at the foot thereof.
7. The form of writ of summons in Schedule I hereto may be followed with such variations as the nature of the case may require.
8. The writ of summons shall be signed and sealed by the Judge of the tribunal in which the case is to be heard and when so signed and sealed shall be deemed to be issued.
9. Save as hereinafter provided the day to be specified in the writ of summons for the appearance of the parties before the tribunal shall ordinarily be not less than fifteen days after the date of the issue of such writ of summons, and such writ of summons shall be served not less than seven days prior to the day fixed for the hearing of the action.

In case of urgency a Sheri Judge may specify an earlier day for the appearance of the parties before him, and may give any necessary directions as to the time within which service of the writ of summons is to be effected. A note of any such directions shall be endorsed upon the writ of summons by the Sheri Judge.

10. Where a claim is made against more persons than one in respect of the same cause of action, a separate copy of the writ of summons shall be served upon each defendant.

11. A writ of summons may be issued upon the application of the plaintiff or any person duly authorized by him in that behalf to the satisfaction of the issuing Judge.

12. If for any reason it is impossible for service to be effected in the manner hereinbefore provided, the Sheri Judge may direct in what manner service of the writ of summons shall be effected.

13. Service of a writ of summons upon a defendant shall be proved by the affidavit or oral testimony of the person by whom it was served.

PROCEDURE ON HEARING.

14. Subject to the discretion of the Sheri Judge cases shall be taken in the order of issue, provided that the Sheri Judge may for the better despatch of business call on the cases in any order and if he thinks fit may, notwithstanding any provisions contained in the rules hereinafter set out, adopt any of the following measures :

He may at the beginning of the sitting call out all the cases set down in the list for hearing and in any particular case—

(a) If the plaintiff appears and the Sheri Judge is satisfied that the action is undefended he may give judgment for the plaintiff where the claim is for a liquidated sum, but where the amount claimed is uncertain the Sheri Judge shall require the plaintiff to prove his claim in such way as the Sheri Judge shall think just, and

(b) If the plaintiff appears and if it shall appear that the claim is to recover a fixed sum of money under a written acknowledgment of debt or other contract in writing the Sheri Judge may cause the defendant to be called and sworn and unless the defendant shall deny the plaintiff's claim or disclose such facts as may be deemed sufficient to entitle him to defend may give judgment for the plaintiff.

15. If at the time fixed for the hearing of the action neither the plaintiff nor defendant shall appear, no further proceedings shall be had under the writ unless the Sheri Judge shall on such terms as he may think fit otherwise direct.

16. If at the time fixed for the hearing of the action the plaintiff appears but the defendant does not, the Sheri Judge shall call upon the plaintiff to prove service. After such proof, the Sheri Judge shall proceed to hear the case as if the defendant appeared, and give judgment.

17. If the plaintiff shall fail to prove due service the Sheri Judge may either dismiss the action without prejudice to the right of the plaintiff to issue another writ, or may, if he shall so think fit and if it be alleged that the writ was duly served, adjourn the hearing for proof of such service.

18. If at the time appointed for the hearing of the action the defendant appears but the plaintiff does not appear, the Sheri Judge shall dismiss the action and the plaintiff shall not be entitled to issue another writ in respect of the same cause of action: Provided that if the plaintiff appears before the rising of the Court on the day on which the action is dismissed the Sheri Judge may in any case where the defendant agrees, or in his own discretion and on such terms as to payment of costs or otherwise as he thinks fit if the attendance of the defendant and his witnesses is immediately procurable, hear the case, and in any case, if

the plaintiff appears within the time above mentioned may, in his discretion, give leave to the plaintiff to issue a new writ of summons on payment by him of any costs payable to the defendant under the judgment: Provided also that where the plaintiff proves to the satisfaction of the Sheri Judge that he was hindered by mistake or accident from appearing before the tribunal on the day fixed for the hearing of his action, the Sheri Judge may order that the action be re-instituted and a fresh summons issued.

19. Where the plaintiff and defendant both appear at the time fixed for the hearing of the action, the Sheri Judge shall inform the defendant of the nature of the claim made by the plaintiff and shall enquire whether the defendant admits the claim.

If the defendant states that he admits the plaintiff's claim, the Sheri Judge may, without further proceedings being taken, give judgment for the plaintiff for the relief or remedy to which it appears to him the plaintiff is entitled.

If the defendant states that he does not admit the plaintiff's claim, the Sheri Judge shall call upon the plaintiff to prove his claim and shall hear all such witnesses and consider all such evidence as the plaintiff shall adduce in support thereof.

20. At the conclusion of the plaintiff's case the Sheri Judge shall call upon the defendant to make his defence, and shall hear such witnesses and consider such evidence as he shall adduce.

In any proceeding the defendant may by way of counter-claim set up and call evidence in support of any claim which he may have in respect of the subject matter of the action, and such relief may thereupon be given to him as he might have claimed in an action instituted by himself or his counter-claim may be dismissed.

21. The Sheri Judge may, if he shall so think fit, give leave to the plaintiff to adduce evidence in reply to any evidence by the defendant, and shall have full discretion to regulate the proceedings on the hearing of an action in any manner not being contrary to the provisions of these rules.

22. At the conclusion of the case the Sheri Judge shall give such judgment as he shall think either party entitled to, and shall give such directions as to the costs of the action as he is by these rules empowered to give.

23. A Sheri Judge may adjourn the hearing of an action upon the application of any party thereto or on his own motion and upon such terms as to costs or otherwise as shall appear to him to be just.

24. Every witness called by either plaintiff or defendant may be examined by the Sheri Judge or by the party by whom he is called as a witness, or by both, as may appear to be most convenient, and may at the conclusion of his examination be cross-examined by the other party.

25. The Sheri Judge shall place such mark upon every document received in evidence as shall serve to identify the same.

26. Any party may appear in person or by an advocate of the Supreme Court or where there are several parties to any action having common interests anyone of such parties may be authorized in writing or otherwise by the other or others of them to appear on his or their behalf and the Sheri Judge may, in his discretion, allow any person, being the husband, wife, father, mother, brother or sister, or other near relative of a party to an action, if duly authorized, to appear on behalf of such party and conduct his case.

27. On the hearing of an action the Sheri Judge shall make a note of the following particulars :—

- (a) The date of the hearing ;
- (b) The number of the writ of summons and a note of any counter-claim made by a defendant ;
- (c) whether the parties or any of them are present or absent ;
- (d) The name of each witness called for the plaintiff and for the defendant, and a full statement of the evidence of each witness so far as the same is material ;
- (e) A short description of every document put in evidence, together with the mark placed on such document by the Sheri Judge ;
- (f) A note of the judgment given by him setting forth where necessary the grounds of such judgment, and stating also the amount of any costs directed by him to be paid by either party.

JUDGMENTS, DRAWING UP AND COPIES.

28. Every judgment shall, on the application of any party to the Sheri Judge, be drawn up and shall then be entered in a book to be kept for that purpose, and when so entered shall be signed by the Sheri Judge. Such judgment shall be intituled with the full title and amended title, if any, of the action in which it is given. It shall show which of the parties were present or represented by advocate or otherwise at the hearing and whether any of the parties was not so present or represented. It shall also state as concisely as possible the judgment of the Court.

29. Every judgment when entered shall be dated as of the day on which it was pronounced and shall take effect from that date, and a note shall be made in the book in which it is entered of the date of such entry.

30. A copy of the judgment shall be issued by a Sheri Judge to any person interested applying for the same on payment of the prescribed fee.

EXECUTION.

31. Every Sheri Judge shall, for the purpose of executing any judgment given by him, have power to issue writs of sale of movable property of the judgment debtor.

Subject to the provisions of the Cyprus Courts of Justice Orders and Laws, 1927 to (No. 2) 1935, no such writ shall be enforced against any property which is not found within the local jurisdiction of the Judge who issued it.

Every such writ shall be issued and enforced on the same condition and subject to the same provisions and restrictions as a writ of a like nature issued out of a District Court and shall be according to the form in Schedule I hereto.

32. Where the judgment of a Sheri Judge remains wholly or in part unsatisfied, and no movable property of the judgment debtor sufficient to satisfy the judgment is found within the local jurisdiction of such Judge, the judgment creditor may apply to the District Court or a Judge thereof for execution of the judgment, and that Court or Judge may issue the same writs and orders as though the judgment had been actually given by such District Court, and may stay execution in the same manner as it may stay execution of its own judgment, and shall have in addition all such powers in relation to the execution of the judgment as are specified in Part 9 of the Civil Procedure Law, 1885.

33. Any person applying to the Sheri Judge for the issue of a writ of execution shall produce to the Sheri Judge or the person authorized to issue such writ an office copy of the judgment sought to be executed.

34. Every writ of execution shall be filled up and signed and sealed by the Sheri Judge and when so signed and sealed shall be deemed to be issued, and shall be dated as of the day on which the same was issued.

35. Every writ of execution shall, after the same has been executed, be returned to the Sheri Judge with an endorsement thereon stating what has been done under the authority thereof, and when so returned, shall cease to have any force or effect, but if the judgment remains in whole or in part unsatisfied, a new writ may be issued upon the application of any person entitled to enforce execution.

36. Where a writ of execution has been returned to a Sheri Judge, and remains wholly or in part unsatisfied, the Sheri Judge may, on the application of the judgment creditor, hand to him an office copy of the writ of execution to enable him to produce it before a District Court, on the hearing of any application for further execution.

37. Where any party is desirous of enforcing any judgment granting an injunction or order restraining any party from doing any act he shall apply to the Sheri Judge for a copy of such judgment and file the same with the Registrar of the District Court within the local jurisdiction of which the Sheri Judge sits.

When a copy of a judgment or order has been filed as in this rule provided, the District Court shall, on the application of the party in whose favour the judgment or order was made issue the same writs or orders as though the judgment or order was actually given by the District Court, and may stay execution in the same manner as it may stay execution of its own judgment or order, and shall have all such powers in relation to the judgment as are given to it by the Cyprus Courts of Justice Orders and Laws, 1927 to (No. 2) 1935.

APPEALS.

38. Any party desiring to appeal from the decision of a Sheri Judge may do so by lodging with the Sheri Judge whose decision is appealed against a notice of appeal signed by him or his advocate or other duly authorized representative within one month of the date on which such decision was pronounced.

The appellant shall cause a copy of the notice of appeal to be served upon all parties whose interests are affected by the appeal. Such service shall be made within the time above prescribed for lodging the appeal.

39. The Sheri Judge or a Judge of the Supreme Court may, in regard to any decision given since 1st August, 1936, at any time and notwithstanding that the time limited by Rule 38 has expired, enlarge the time for lodging and/or for serving the notice of appeal.

40. The Sheri Judge shall, as soon as possible after the filing of the notice of appeal as in Rule 38 mentioned make up and forward to the Chief Registrar the file of the proceedings which shall consist of the following:—

- (1) The writ of summons ;
- (2) The filed copy of the decision of the Sheri Judge ;
- (3) The notice of appeal ;
- (4) The notes of the Sheri Judge taken at the hearing of the action in chronological order ;

(5) The written grounds of the decision (if any) ;

(6) All other formal documents, *e.g.* application for summons, etc. ;

Documents and other exhibits put in evidence shall be placed in a separate cover and enclosed with the file of proceedings.

41. The judgment of the Supreme Court disposing of an appeal from the decision of a Sheri Judge shall be executed by the Sheri Judge in the same way and subject to the same conditions as judgments of the Sheri Judge Tribunal.

42. The Chief Registrar shall keep a book in the Form F in Schedule I hereto.

43. The Chief Registrar shall on application furnish to either party a copy of the judgment of the Supreme Court on payment of the prescribed fee.

PROCURING ATTENDANCE OF WITNESSES.

44. If any witness without reasonable excuse fails to appear in obedience to the summons of a Sheri Judge or on appearance refuses to be examined or to give evidence or to produce any document in his possession, the Sheri Judge shall report the matter to the President of the District Court of the district within which the action was instituted, and on proof before such President of a witness so having failed or refused as aforesaid he shall be liable to the like process in all respects as if the failure or refusal had been in proceedings before a District Court.

FORMS.

45. Forms of writs of summons, of summons to witnesses, of writs of execution and for preparing copies of judgments and marriage licences shall be issued to Sheri Judges in forms and books and shall be in the form A, B, C, D and E, respectively, in Schedule I hereto.

The Sheri Judge shall also keep three separate books, the pages of which shall be numbered consecutively, one for the registration of vaqfihs, another for the registration of wills and the third for marriage licences. No writ of summons, summons to a witness, or copy of judgment, and no form of marriage licence or writ of execution shall in any case, or for any reason be issued or detached from its counterfoil except for the purpose of being issued and until the fee prescribed for the issue thereof has been paid.

Any form rendered useless by mistake in writing or otherwise should on no account be detached by a Sheri Judge from its counterfoil.

FEEES.

46. The fees set out in Schedule II hereto shall be taken by the Sheri Judges in respect of the proceedings therein mentioned. These fees shall be taken in cash except in the following cases in which they shall be taken in stamps, to be disposed of as below mentioned :—

- (a) Mileage fees on writs for the sale of movables ;
- (b) Fees for the service of process ; and
- (c) Fees on filing a notice of appeal.

The stamps in these cases shall be affixed in case (a) to the counterfoil of the writ book, in (b) to the counterfoil of the book of application for service, and in (c) to the notice of appeal ; and the Sheri Judges shall cancel the stamps by initialling and dating the same.

47. The Sheri Judges shall supply parties, and may in their discretion supply other persons, with copies of proceedings, certified by such judges as true copies, upon payment of the prescribed fee. Copies supplied to a public officer on behalf of the Attorney-General shall be supplied free of charge.

48. The Rules of Court governing pauper proceedings in District Court actions shall apply to proceedings before the Sheri Judges, who shall have all the powers conferred by such rules on the District Courts and their judges.

COSTS.

49. The Sheri Judge in disposing of any action may direct that all or any of the costs incurred by the party in whose favour the judgment is given shall be paid by the party against whom judgment is given or that each party bear his own costs of the action.

50. The costs of an action shall include :—

- (a) The fees paid in the action ;
- (b) All reasonable expenses of a party and his witnesses in attending the hearing ;
- (c) Sums allowed for service of the writ of summons or of a summons to a witness ; and
- (d) Such sums as the Sheri Judge may in his discretion allow for the services of an advocate appearing on the hearing of an action, not exceeding in any event the amount shown in Schedule III hereto : Provided that he shall not allow any such sum unless it was in his view reasonably necessary to retain an advocate owing to the nature of the questions, whether of law or fact, involved in the action.

MISCELLANEOUS.

51. Where not otherwise provided, service of any document shall be effected in the same manner as by the Rules of Court, 1927, or any rules substituted therefor, is provided for the service of a writ of summons in a District Court action and service may be proved in the same manner as therein provided.

52. In all proceedings before a Mussulman Religious Tribunal any matter for which no special provision is made shall be governed by the general rules of procedure and evidence for the time being in force in the District Courts.

SCHEDULE I.—FORMS.

Form A.—Writ of Summons.

In the Mussulman Religious Tribunal of		19	No.
Between			
	and	of	
		of	Plaintiff,
			Defendant.
To the Defendant.			

This is to command you to appear before the above Tribunal at
on the day of , 19 , at o'clock a.m.,
in an action which has been instituted against you by the above-named Plaintiff.

And take notice that if you shall fail to appear the Plaintiff may prosecute his
action without further notice to you.

The Plaintiff claims :—

Issued at the day of 19 , at a.m.

Form B.—Summons to Witness.

In the Mussulman Religious Tribunal of _____ 19 . No.
 Between _____ of _____
 and _____ Plaintiff,
 _____ of _____
 To (a) _____ of _____ Defendant.

This is to command you to attend the above Tribunal at _____ on the _____ day
 of _____ 19 , at _____ o'clock a.m., and so from day to day,
 until the case has been tried or until you are released by the Court, *to give evidence on*
behalf of the (b) *and to produce the following*
 documents :—

(c)

Dated the _____ day of _____, 19 .

(Seal of the Tribunal.)

- (a) Name of witness called.
 (b) State whether for Plaintiff or Defendant.
 (c) Strike out words in italics which are not required.

Form C.—Writ of Seizure and Sale of Movable Property.

In the Mussulman Religious Tribunal of _____ 19 . No.
 Between _____ of _____
 and _____ Plaintiff,
 _____ of _____
 Defendant.

To the Sheriff of the District of _____

This is to authorize and require you of the goods and movable property
 of _____ of _____ the above-named
 other than those by law exempted from seizure and sale by virtue of a writ of seizure
 and sale in a civil action to levy by seizure and sale the sum of £ _____ (being
 the amount due under the * _____ of this Tribunal dated
 the _____ day of _____ 19 , to the above-named _____).
 And also the sum of £ _____ the amount at which the costs by the said * _____
 directed to be paid have been allowed together with _____ the
 costs of issuing this writ and together also with the costs of execution. And
 this is further to require you to pay the moneys so levied by you (other than your
 costs of execution which you are at liberty to retain out of the said moneys) †
 and in what manner you shall have carried out the directions
 contained in this writ you are to state in writing on the back hereof and you are to
 return this writ with such statement thereon to this Tribunal immediately after you
 shall have executed the same, or shall have failed so to do by reason of the said
 not being possessed of any goods or movable property
 other than as aforesaid of which you shall have had information or knowledge.

Dated the _____ day of _____, 19 .

Sheri Judge.

* Judgment or order.

† Into this Court or to the said

SCHEDULE II.—FEES.

	£	s.	p.
1. On issue of a writ of summons :—			
When claim does not exceed £10	-	5	0
When claim exceeds £10 but not £100 .. .	-	10	0
When claim exceeds £100	1	0	0
When the claim is not in respect of money or property either directly or indirectly	-	10	0
2. On issue of a summons to a witness	-	1	0
3. On entering a judgment or order	-	3	0
4. On sealing a writ of execution :—			
To recover any sum not exceeding £10	-	1	0
To recover any sum exceeding £10 but not exceeding £50 .. .	-	2	0
To recover any sum exceeding £50	-	5	0
5. In addition to the above there shall be paid—in stamps—the following mileage fees on writs for the sale of movables :—			
When the sum to be recovered does not exceed £25	-	2	4½
When it exceeds £25	-	6	0
6. On issue of a copy of proceedings :—			
When the copy does not exceed 200 words in English or 130 words in Turkish	-	1	0
For every additional 100 words or part thereof :—			
(a) In English	-	-	3
(b) In Turkish	-	-	4½
7. On filing an originating application	-	3	0
8. On swearing or filing an affidavit other than one for service :—			
If the claim in the action does not exceed £10	-	1	0
If it does.. .. .	-	2	0
9. There shall be paid—in stamps—for the service of any document in Cyprus, the distance being reckoned along the route approved by the Registrar of the District Court through whom the service is to be effected :—			
(a) Within the limits of the town in which the trial will take place .. .	-	1	0
(b) Within five miles of that town :—			
If the claim does not exceed £25	-	2	0
If it does.. .. .	-	5	0
(c) For each additional mile but with a maximum of 5s. where the claim does not exceed £25 or is not in respect of money or property, and of 10s. in other cases	-	-	3

Provided that when application is made for the simultaneous service of several documents relating to the same action or proceeding to be effected either at the same place or at various places within a distance from one another of three miles in a straight line, there shall be charged the appropriate fee in respect of the document to be served at the place farthest from the town of trial along the route approved by the Registrar, and for every other a fee of $4\frac{1}{2}p.$ only when the claim does not exceed £25 or is not in respect of money or property, and 1s. only in other cases.

- | | |
|--|--------|
| 10. On filing a notice of appeal from any decision of a Sheri Judge—in stamps | - 10 0 |
| 11. On issue of a marriage licence :— | |
| Where the Mukhtar of his village or quarter certifies that the applicant for the licence is not worth more than £50 in all .. | - 2 0 |
| Where such Mukhtar certifies that such applicant is worth more than £50 in all | - 5 0 |
| 12. On issue of a copy of a marriage licence | - 2 0 |
| 13. On registration of vaqfieh :— | |
| When value of property or money does not exceed £100 | 2 10 0 |
| For every additional value of £100 or part thereof | - 10 0 |
| For every amendment of vaqfieh | - 10 0 |
| 14. On registration of wills :— | |
| When amount does not exceed £100 | 2 10 0 |
| For every additional value of £100 or part thereof | - 10 0 |
| For every amendment thereof | - 10 0 |
| 15. On appointment of attorney, or legalization or certification of such appointment | - 3 0 |
| 16. On examining and revising the accounts of a guardian in charge of a minor's estate once in every three years or more, if there is a surplus after deduction of expenses, there shall be taken a fee of $2\frac{1}{2}$ per cent. on the total estate in so far as such surplus suffices to defray the fee, and without touching the capital. If the revision has to be made at the end of one year a third, and if after two years two-thirds, of the above fee shall be taken subject to the conditions aforesaid. If there is no surplus as aforesaid, the duty shall be rendered gratis. | |
| 17. Upon the division of the movable property of a deceased Moslem who has died leaving an heir or heirs under disability, there shall be taken a fee of $2\frac{1}{2}$ per cent. on the value of the share in such property taken by any heir under disability. | |

Save where otherwise stated, the foregoing fees are to be taken in cash.

SCHEDULE III.

*Substituted
by 43/351*

Costs to be allowed to Advocates in Actions and Matters, as well between Party and Party as between Advocate and Client.

	Where the sum recovered or the value of the subject matter of the action	
	Does not exceed £50	Exceeds £50
	£ s. p.	£ s. p.
Instructions to sue or defend :—		
From	— 3 0	— 6 0
To	— 10 0	— 15 0
For examination and taking notes of evidence, each witness whose costs are afterwards allowed on taxation ..	— 2 0	— 2 0
Preparing any written statement of application when required by the Judge and one copy	— 3 0	— 3 0
Preparing notice to produce or admit documents and one copy	— 3 0	— 3 0
Preparing notice of appeal, or notice to vary a judgment, including attendance on Sheri Judge to file	— 3 0	— 4 0
Preparing security bond	— 2 0	— 2 0
Attending Sheri Tribunal on hearing of an action for each day or part of a day :—		
From	— 5 0	— 10 0
To	1 10 0	2 0 0
In cases of special difficulty or importance the Sheri Tribunal may allow fees in excess of the usual scale and fees for a second advocate not exceeding two-thirds of the fees allowed for the leading advocate.		
Attending Sheri Tribunal to hear deferred judgment ..	— 3 0	— 5 0
For instructing an advocate who was not in the Sheri Tribunal to argue an appeal including perusal of papers, from £1 to £3.		

Where a case is adjourned for want of time the Sheri Tribunal may in its discretion allow as advocate's fees for attendance a sum not exceeding half of the fees which would be payable had the case been heard.

Given under the hand and official seal of the Governor and the hand of the Chief Justice at Nicosia, this 27th day of October, 1937.

(M.P. 1462/28/2.)

H. C. STRONG,
Chief Justice.