

THE JUDICATURE ACT.

Statutory Instrument 13—16.

The Judicature (Court Bailiffs) Rules.

Arrangement of Rules.

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THE JUDICATURE ACT.

Statutory Instrument 13—16.

The Judicature (Court Bailiffs) Rules. *(Under section 48(1)(d) of the Act.)*

1. Citation.

These Rules may be cited as the Judicature (Court Bailiffs) Rules.

2. Interpretation.

In these Rules, unless the context otherwise requires—

- (a) “appointing authority” means chief registrar, deputy chief registrar or assistant registrar;
- (b) “court” means the High Court and any court constituted by or under the Magistrates Courts Act;
- (c) “court bailiff” means any person licensed as such by an appointing authority under rule 5 of these Rules, but does not include a company or association or body of persons corporate or incorporate;
- (d) “execution proceedings” means any proceedings involving the attachment and sale of any property by order of a court in accordance with the Civil Procedure Rules or any other written law providing remedy similar to that provided by the Civil Procedure Act and Civil Procedure Rules for the enforcement of payment of a sum of money or for the placing of any person in possession of property.

3. Authority to perform or make decision of court.

Wherever in these Rules it is provided that a court may do any act or make any decision, other than the appointment of court bailiffs, that act may be done or decision reached by an appointing authority; except that the Chief Justice may by special or general order delegate authority to any other official of a court to do the act or reach the decision.

4. Court bailiffs.

Subject to these Rules, execution proceedings shall be conducted by a person to be designated a court bailiff who shall hold a licence issued by an appointing authority under rule 5 of these Rules and a letter of appointment in the form specified in the First Schedule to these Rules.

5. Authority to license and appoint court bailiffs.

(1) The appointing authority may license and appoint any person to be a court bailiff, if it is satisfied that the person—

- (a) is of good repute and financial standing;
- (b) has adequate facilities for the safe storage of goods;
- (c) is not an undischarged bankrupt or the subject of any bankruptcy proceedings in any country; and
- (d) has not been convicted of any criminal offence involving dishonesty.

(2) The Rules Committee may, from time to time, add to the qualifications specified under subrule (1) of this rule as it may deem necessary.

(3) Before the appointment of a court bailiff and the issuing of a licence in that respect, the appointing authority shall—

- (a) obtain recommendations of the applicant's three referees;
- (b) obtain reports regarding the applicant from—
 - (i) the resident district commissioner;
 - (ii) the district police commander;
 - (iii) the county chief;
 - (iv) the manager of the bank in which his or her account is kept;
- (c) verify the applicant's information; and
- (d) inspect the applicant's facilities of storage.

(4) The licence issued under subrule (1) of this rule shall be annual and shall remain valid until the 31st day of December next following.

(5) A court bailiff may, without an auctioneer's licence required under section 3 of the Auctioneers Act, carry out the business of an auctioneer under section 17(a) of that Act.

6. Application for licence and appointment as court bailiff.

Every application for a licence and appointment as a court bailiff shall be in

writing and shall state—

- (a) the full name, place of business and postal address of the applicant;
- (b) the language in which the applicant is literate and his or her standard of education;
- (c) the facilities and their location the applicant has for the safe storage of goods;
- (d) the name of the applicant's bankers and the address of the branch in which his or her account is kept;
- (e) the permanent place of the applicant's residence; and
- (f) names and addresses of three referees.

7. Court's discretion to grant or refuse a licence.

The appointing authority may grant or refuse a licence under these Rules whether or not an applicant has previously held a licence.

8. Cancellation or suspension of a licence.

(1) The appointing authority may, for good cause, cancel or suspend the licence of a court bailiff; except that—

- (a) the court bailiff shall have been given opportunity to show cause to the appointing authority against any such order of cancellation; and
- (b) any aggrieved court bailiff may appeal to the High Court within thirty days of notification of the cancellation.

(2) Any court bailiff whose licence has been cancelled shall not be eligible for reappointment.

9. Licence fees.

- (1) Licences shall be of two kinds—
 - (a) a general licence, authorising the licensee to carry on the business of a court bailiff anywhere in Uganda; and
 - (b) a local licence, authorising the licensee to carry on the business of a court bailiff only in the place named in the licence.

(2) The fees payable for the licences mentioned in this rule are those specified in the Third Schedule to these Rules.

(3) No court bailiff shall execute a High Court warrant unless he or she holds a general licence.

10. Court bailiff to give security.

A court bailiff shall be required to give a cash security for the faithful discharge of his or her duties in the sum of three thousand shillings for the general licence and nine hundred shillings for a local licence.

11. Valuation of attached property.

(1) Notwithstanding rule 8(2) of Order XXII of the Civil Procedure Rules, where the court is not satisfied with the value attached on each item, it shall review and determine the value of the property attached and where it deems fit and for reasons recorded shall obtain the valuation report.

(2) Where the highest bid of the property is below the value determined under subrule (1) of this rule, the sale shall be subject to the court's approval.

(3) In case of livestock or other animals, either the registrar or chief magistrate shall sanction the arrangement for the safe keeping of the animals before attachment and disposal of the animals.

(4) Before the court issues the attachment warrant it shall have regard to the value of the property to be attached vis a vis the decretal amount. In cases where there is over attachment, the court shall not issue the warrant.

(5) The court bailiff shall make a list of the attached property in triplicate which shall be signed by him or her, the debtor and witnessed. He or she shall send the original to the court that issued the attachment warrant and retain the duplicate for himself or herself and the triplicate for the debtor. When sending the original to the court that issued the attachment warrant, the court bailiff shall state the approximate value of each item.

12. Court bailiff not to sell to himself or herself, etc.

The court bailiff shall not sell any of the attached property to himself or herself or a member of his or her family or a firm or company in which he or she has an interest.

13. Discharge of duties by bailiffs in rotation.

Where there are more court bailiffs than one duly licensed by a court, then the bailiffs shall be called upon in rotation to carry out execution proceedings; except that on application by the party desiring the services of a bailiff, and for cause recorded by the court, a particular court bailiff may be called upon out of turn by the court to act in execution proceedings.

14. Appointment of bailiff other than court bailiff.

Where no court bailiff is available or willing to act in any particular matter, the appointing authority may appoint any other person a bailiff for that particular matter without requiring him or her to be licensed as such.

15. Proceeds and costs of execution.

(1) A court bailiff shall deposit in court all proceeds of his or her execution within seven days of the execution and thereafter submit his or her bill of costs including his or her fees and disbursements for taxation.

(2) Where a court bailiff after execution makes payment into court by cheque, his or her bill of costs shall not be taxed before his or her cheque is cleared.

(3) Cheques by a judgment debtor or by the purchasers of the attached property shall not be made in the name of Uganda Administration.

(4) If execution is prevented on a stay of execution for whatever cause, the court bailiff's costs, if any, shall be paid by the judgment creditor.

16. Insurance of goods in court bailiff's custody.

- (1) A court bailiff shall—
 - (a) take out a general policy of insurance covering the goods that may be in his or her custody and additional policies covering attached expensive items, against theft, damage or destruction by fire; and
 - (b) within fourteen days of taking out a licence show to the appointing authority that he or she has taken out a general policy of insurance.

(2) The appointing authority shall inspect the policy of insurance and any current receipts of premium paid.

(3) Where property to be handled by the court bailiff is over three thousand shillings, he or she shall produce to the appointing authority a cover policy of the estimated value of the property.

17. Remuneration.

(1) A court bailiff, or other bailiff appointed under rule 14 of these Rules shall be entitled to remuneration for his or her services in accordance with the scale of fees specified in the Second Schedule to these Rules.

(2) When in execution proceedings it is necessary for a bailiff to travel outside the limits of the municipality, town or other place where his or her place of business is situated, he or she may claim such additional sum as may, in the opinion of the court, be reasonably necessary to cover the actual cost of the journeys.

18. Remuneration of bailiffs being Government officers.

When the bailiff is appointed under rule 14 of these Rules and is an officer of Government employed on the basis that he or she is remunerated for his or her whole time, then the appropriate fee specified in the Second Schedule to these Rules shall be payable into revenue as court fees.

19. Bailiffs' expenses.

The expenses of a bailiff in respect of advertising, inventories, catalogues, insurance and safeguarding property, including wages of watchperson and rent of premises for storage, shall be payable out of the fees payable to him or her and shall not be charged for additionally; except that with the permission of the court the following additional expenses may be allowed if the court is satisfied that they are necessary and reasonable in the circumstances—

- (a) actual out of pocket disbursement for publication of an advertisement of sale in one or more newspapers;
- (b) actual disbursements by way of wages of a watchperson to safeguard the property while under attachment on premises other than the premises of the bailiff;
- (c) actual disbursement by way of rent for storage of property under

- attachment on the premises of the bailiff; and
- (d) insurance of expensive items if the court thinks fit and a proportion of the general policy taking into account the time the goods have been in his or her possession.

20. Offences and penalties.

(1) Any court bailiff who contravenes or fails to comply with any of the provisions of these Rules or in any way abuses his or her powers commits an offence and is liable on conviction to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding six months or both.

(2) Before the prosecution of the court bailiff, the consent of the Director of Public Prosecutions shall first be obtained, and the prosecution shall not prejudice any civil case that may be brought against him or her.

SCHEDULES

First Schedule.

rule 4.

Forms.

Form A.

Licence.

The Court Bailiffs Rules.

_____ is licensed to be a court bailiff of the
High Court of Uganda/the Magistrates Court¹ of

Chief Registrar, Deputy Chief Registrar,
Assistant Registrar¹

rule 4.

Form B.

Letter of Appointment.

The Court Bailiffs Rules.

_____ is appointed to be a court bailiff of the
High Court of Uganda/the Magistrate's Court¹ of _____

Chief Registrar, Deputy Chief Registrar,
Assistant Registrar¹

¹Delete whichever is inapplicable.

Second Schedule.

rules 17, 18.

Scale of fees.

	Shs.
1. (1) When the sum for which execution has been issued is tendered to a bailiff entrusted with the execution before or at the time of or within an hour after attaching the property, whether movable or immovable, together with his or her legally recoverable fees and expenses to that time	9,000
(2) In any other case—	
(a) on attachment of movable property—	
(i) when the amount of the decree does not exceed 120,000 shillings to include keeping possession for fifteen days	15,000
(ii) when the amount of the decree exceeds 120,000 shillings to include keeping possession for fifteen days	3% of the amount of the decree but not less than 15,000 shillings
(iii) for keeping possession each day after the first fifteen days provided that a minimum fee of 1,000 shillings may be charged, and no fee of more than 6,000 shillings shall be chargeable	.25% of the estimated value
(b) on attachment of immovable property—	
(i) when the amount of the decree does not exceed 120,000 shillings	15,000
(ii) when the amount of the decree exceeds 120,000 shillings	30,000
2. On sale of—	
(a) movable property—	
(i) when the amount of the decree does not exceed 120,000 shillings with a minimum fee of 4,500 shillings	7.5%
(ii) when the amount of the decree exceeds 120,00 shillings up to 300,000 shillings	5.5%
On every 300,000 shillings or part of that amount up to 3,000,000 shillings	2%

	Shs.
On every 3,000,000 shillings or part of that amount up to 30,000,000 shillings	1%
Over 30,000,000 shillings	.5% but not more than 450,000 shillings
(b) immovable property—	
(i) when the amount of the decree does not exceed 120,000 shillings	9,000
(ii) when the amount of the decree exceeds 120,000 shillings but does not exceed 300,000 shillings	7.5% but not less than 9,000 shillings
On every 300,000 shillings or part of that amount up to 3,000,000 shillings	2.5%
On every 3,000,000 shillings or part of that amount up to 30,000,000 shillings	1% but not more than 600,000 shillings
3. On postponement of a sale (payable by the party applying for postponement)—	
(a) of movable property—	
(i) where the amount of the decree does not exceed 120,000 shillings	6,000
(ii) where the amount of the decree exceeds 120,000 shillings	12,000
(b) of immovable property	12,000

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Third Schedule.

rule 9(2).

Licence fees.

1. General licence 45,000 shillings
2. Local licence 25,000 shillings

History: S.I. 64/1987; S.I. 15/1991.

Cross References

Auctioneers Act, Cap. 270.
Civil Procedure Act, Cap. 71.
Civil Procedure Rules, S.I. 71-1.
Magistrates Courts Act, Cap. 13.
