



THE JUDICIARY
OF GHANA



REGISTRARS'
HAND BOOK

COURT REGISTRARS'

HANDBOOK

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FORWARD

This handbook is developed by the Judicial Training Institute, Ghana (JTI) on behalf of the Judiciary and Judicial Service of Ghana essentially for the Registrar and the staff of the Courts in Ghana. It is presented in a simple form, outlining the requisite essential responsibilities and duties of the Registrar and staff on his registry. We have not assumed any knowledge of the law and legal technicalities in the Registrar and staff and have therefore stated the necessary processes in ordinary day-to-day English to aid understanding. It covers to a very large extent, duties of the court Registrar and other subordinate staff who constitute the cog in the wheels of justice in the country.

The collaborative effort to produce a guide of this kind underscores the fact that Registrars constitute the most essential interface between the public and the justice delivery system in this country. They are the first point of call for most citizens who seek justice more particularly in the rural communities where access to legal representation is seriously constrained. For this reason, those that man these registries must be equipped to provide a high standard of service and ensure improvement in their service delivery. This handbook is a step in this direction.

The handbook may not embody all essential steps covering every critical area of the functions of the Registrar and/or his staff, yet it provides a comprehensive working beginning as a basis for standardizing the work of the Registrar across the nation.

It is our hope that all Registrars manning the various registries of courts and their support staff will diligently study and apply the guidelines contained in this handbook. The handbook should of course be studied alongside other relevant materials concerning the work of the registrar.

Justice J.B.Akamba

Ag. Director, JTI

May,2011

INTRODUCTION

The efficient administration of Courts is essential to the delivery of an effective justice system. Judges and Magistrates cannot undertake their duty of hearing and determining cases in a timely and efficient manner without an efficient team of Court Administrators. The Registrar is therefore an important part of Courtroom Administration.

Special skills are required in order to equip this category of Staff to deal with the administrative needs of a modern Court. It is imperative therefore, to have highly trained Staff to provide administrative support for the Bench.

This handbook is therefore designed to guide Registrars on the expected conduct and competencies required and to discharge their duties with diligence.

Every Registrar is expected to read and understand what is contained in this Handbook.

Registrars are expected to keep this Handbook to hand as a reference which provides a framework within which to execute their duties with efficiency.

It states the standard which Registrars are required to meet and sets out the expected conduct.

Registrars are encouraged to direct any questions they may have to their immediate head in the Region in the first instance and ultimately to the Judicial Secretary, using the appropriate channels of communication and administrative procedures.

Please understand that by accepting an appointment as a Registrar with the Judicial Service of Ghana, you are accepting the current terms and conditions of employment of the Judicial Service of Ghana. You are also required to abide by any other reasonable instructions issued as policy by the Judicial Service.

Kindly also note that if you fail to meet the standards and the duties set out in this handbook, the Judicial Service reserves the right to take disciplinary action against you in accordance with the laid down procedures.

PART ONE (1)

ADMINISTRATION OF THE COURT HOUSE AND REGISTRY

1.A. A COURT REGISTRY

The registrar's office and the registry is usually the first place of contact for all court users such as lawyers and litigants. Cases initiated in the court are filed at the registry. As a result, the services of court staff should be available all the time the office is opened for official duty. The following standard requirements should be provided or met:

- i. The operating times of the court office shall be prominently displayed to the general public.
- ii. The business of the court commences at 8.00 am until 4.00 pm.
- iii. The court premises and environment shall be maintained in a clean condition.
- iv. The court shall maintain a notice board where cause lists, court circulars, court fees and other notices shall be conspicuously displayed.
- v. The court should display in a very spacious place at the court premises materials to educate the public to eschew corruption and to promote fair conduct at all times
- vi. There should also be display signs that direct court users to:
 - a. The court registry and the registrar's office
 - b. The reception and waiting-room
 - c. The filing clerk/cashier's office
 - d. The administration block and finance office
 - e. The court-rooms
 - f. The lawyers robing-room
 - g. The bailiffs' sections
 - h. Typing pool
 - i. Recording/transcription room
 - j. Suggestion boxes shall be placed at various offices within the court precincts
 - k. Information desk
 - l. Toilets and washrooms

The registrar shall dress in conformity with the Judicial Service dress code for staff and present a pleasant appearance at all times. He must also be polite to the court users and staff.

¹ All references to "He" includes "She"

- i. The registrar shall be punctual at work and perform his duties within time according to the rules.
- ii. Court designated officers shall work during office hours and in exceptional or special occasions beyond official hours.
- iii. Only court staff are permitted within the court administrative office areas where their services are needed on official errands.
- iv. No court staff should disclose any information of court records to lawyers and other court users unless in accordance with court rules.
- v. All court staff shall adhere to the Judicial Service dress code requirements.

1.B. THE RESPONSIBILITIES OF THE COURT REGISTRAR

The court registrar is the head of the administration of the court and is in charge of the operations of the registry. The registrar is also the deputy sheriff responsible for carrying out the orders of the court. He is also a keeper of all records of the court and should have adequate record keeping/management skills. All other staff in the registry are under his supervision. The registrar shall be held responsible for any lapses or mistakes committed by his subordinate officers at first instance before investigations are conducted to know whether he took appropriate measures that would prevent sanctions or disciplinary actions against him. The following procedure shall apply:-

- i. The registrar has the responsibility to be respectful and responsible in his dealings with the judges, judicial officers, staff and court users.
- ii. The registrar is responsible for all work in the registry hence it is prudent that he delegates some of his responsibilities to other staff since he cannot perform all alone. Some of the officers who conduct functions on behalf of the registrar are the following:
 - a. Filing/counter clerk or cashier who makes assessment of the appropriate fees, receives money, court fines and issues receipts accordingly. The cashier also makes payment at the bank and prepares monthly revenue returns.
 - b. The duties of the issuing clerk, docket clerk, exhibit clerks, receiving and dispatching clerk among others are duties also assigned by the registrar.
 - c. Bailiffs or deputy sheriff officers perform duties at the instance of the registrar when they serve court processes and execute court orders.
- iii. It is the registrar's responsibility to ensure discipline of the court staff under him and be punctual at work.
- iv. The registrar must be conversant with all aspects of the work in the registry to be able to guide his subordinates and ensure the safe custody of court documents such as record books, court exhibits,

- value books, cash books and other related and relevant books.
- v. The registrar shall maintain cordial relationship with the bench, bar and staff with a view to collaborating with them to update existing practices.
 - vi. For instance, update information by the introduction of monthly and annual attendance forms to the existing staff attendance book. These will be directed to the supervising judges, regional registrars and internal and regional auditors for appropriate disciplinary actions to be taken against staff that unduly absent themselves often from work or vacate their post.
 - vii. The court registrar is the only person responsible for signing official letters and certifying court documents upon being satisfied that they are true and correct.
 - viii. The registrar is responsible for drawing up court orders and giving directions for the execution of court orders.
 - ix. All oaths sworn at the registry must be done before the registrar.
 - x. Only the registrar may use the court metal seal to authenticate an official document and sign same e.g. letters of administration.

1.C. SETTING UP A COURT ROOM FOR HEARING

The courtroom should be set up in a manner that is conducive for judicial work. The environment should be clean, healthy and serene. The following procedure should apply:-

- a. The registrar and court staff shall ensure that the court-room is clean and tidy and sitting arrangements are orderly.
- b. The court clerk shall ensure that the processes filed for court hearing are well arranged in the docket and all relevant law books, documents, exhibits and stamps are available in the court hearing room.
- c. The court clerk shall ensure that court record books are neatly headed in red ink and properly indexed.
- d. The court clerk shall ensure that all court files for the day are available.
- e. The court clerk shall ensure that names of lawyers, who appear before the court, are recorded in the docket for easy reference by the judge/magistrate.
- f. The court clerk shall ensure that the court orderly or court warrant officer assigned to the court is present before the court starts hearing.

1.D. RUNNING A COURT ROOM

1. The court clerk ensures that the judge/magistrate is ushered into the court room.
2. The court clerk shall speak in a clear and loud voice when calling cases,

addressing the public and swearing witnesses.

3. The court clerk shall ensure that cases are called in the order determined by the registrar in consultation with the judge/magistrate.
4. The court clerk shall call a case only on the instructions of the judge/magistrate.
5. The court clerk shall manage sitting arrangements in the court room.
6. The court clerk shall prepare remand warrants, commitment warrants, default warrants and any other warrants for the judge/magistrate's signature.
7. The court clerk shall ensure that he makes entries in the "Things Book" after close of court sittings and draws the registrar's attention to court orders.
8. The court interpreter must be able to speak in a clear voice and interpret proceedings well and be precise with language.

1.E. COURT CAUSE LIST

It is of great importance for court users to know the location of the court buildings and sitting times. The Judicial Service administration therefore finds it prudent to inform the general public about cause lists publication on court notice boards. The following procedure shall apply:-

- i. Cause lists are prepared on time and latest by Fridays before the commencement of work on the ensuing week beginning Monday to Friday.
- ii. The cause list is prepared by the registrar of the court.
- iii. The cause list is prepared from fresh cases due for trial and entered by the registrar in his diary, the docket clerk's diary or the diary of the court clerk.
- iv. The typed cause list shall indicate the specific court and name of judge/magistrate. The suit number and title of the case and the stage reached and signed by the registrar.
- v. The typed cause list shall be displayed on the court notice board.
- vi. There shall be jury list for criminal assizes or sessions.

1.F LIBRARY AND ITS MAINTENANCE

A well equipped library is very essential for reference and research work of the court.

The services of an efficient librarian in court administration will be a great asset for the dispensation of justice. His services will enable judges, magistrates and members of the legal profession, press, court personnel and court users to access the relevant books and information in order to improve justice delivery. The following procedure shall apply:-

- i. The librarian is in charge and control of the facilities of the library, its maintenance and smooth running.
- ii. The library should be furnished with air conditioners and other electronic appliances for the storage of books.
- iii. The librarian shall ensure that furniture is in good condition always.
- iv. The librarian shall ensure that all law books and other reading materials are properly arranged and indexed.

These shall include:-

- Law books on all branches of the law.
 - Acts of Parliament
 - Law reports
 - Statutes, gazettes, law journals
 - Legislative and executive instruments
 - Amendments and repealed laws
 - Legal notices and court circulars
- i. The librarian shall ensure that all books stored in the library are duly stamped with the particular court's rubber stamp indicating e.g. Supreme Court library.
 - ii. The librarian shall ensure that the library is accessible to magistrates, judges, lawyers, press, court users, court personnel and the general public who should abide by the library's rules on silence.
 - iii. The librarian should always be available to attend to library users and respond to enquiries from users of the library.
 - vi. The librarian shall ensure adequate provision of security for the preservation of the library facilities.

PART TWO (2)

2.A. COMMENCEMENT OF ACTION - GENERAL

All court actions commence from the court registry by the issuance of a writ of summons, criminal summons or other court process. This is to ensure that the parties appear before the court for trial of the matters in dispute and their determination through orders, rulings or judgment. The following procedure shall be followed:

2.B. CIVIL PROCEDURE

- a. The registrar receives the writ of summons presented for filing. He ensures that the appropriate fees are paid. Thereafter he opens a docket, provides a registration number for the suit and ensures that the process is entered in a book provided for that purpose. The registrar causes the process to be served on the opposing party by process servers/bailiffs.
- b. When the defendant enters appearance and files a defence, issues are set out for trial. There must be payment of all necessary fees.
- c. In the court room, the registrar is represented by the court clerk who calls out the cases and swears in parties for their evidence. The clerk also receives exhibits.

2.C. CRIMINAL PROCEDURE

Criminal cases deal with offences committed against individuals in the State and which are forbidden by law. Criminal cases are taken in the name of the State or Republic. e.g. "The Republic Vs. Kwesi Ampofo". Commencement of criminal actions in the court is by criminal summons. The following procedure shall apply:

- a. The registrar shall ensure that any criminal summons presented by the police is signed by the magistrate/judge and same returned to the police for service.
- b. Upon presentation of the charge sheet by the prosecution, the court clerk or the officer in charge of the courtroom shall enter it into a registration book designed for that purpose.
- c. The court clerk also enters court notes and the decision of the magistrate/judge in the 'Things Book'.
- d. The registrar has the eventual responsibility to issue out all orders of the court.
- e. Particulars of records to be entered in the 'Things Book' include the

following:-

- i. The court case number
 - ii. The name of the accused person
 - iii. The charge/s against the accused person
 - iv. The date the case was presented
 - v. The name of the prosecutor in charge of the case
 - vi. Plea of the accused person
 - vii. Remarks
- Entries to be made when the case is finally disposed off include: (i) the date the decision of the court was made; (ii) whether the accused was convicted or acquitted; (iii) whether the accused was fined or sentence imposed.
 - A default warrant is issued by the registrar when a fine is not paid and same must be quoted in the book.
 - A committal warrant is issued by the registrar when an accused is convicted and sentenced to a term of imprisonment and same must be quoted in the book.

2.D. ACTIONS IN THE DISTRICT COURT

CIVIL ACTIONS

Civil actions in the District Court are commenced by writ of summons using forms provided in the schedule to the District Court rules or other similar forms with variations to suit whatever circumstances. (See Order 2 Rule 2 of CI 59). A plaintiff or his lawyer is required to apply either orally or in writing to the registrar for a writ of summons to be issued. The writ is then filed out and signed or marked by the plaintiff. The writ must state the plaintiff's claim briefly and in general form together with particulars of the plaintiff's demand in a form which gives the defendant reasonably sufficient information on the details of the plaintiff's claim. Where the plaintiff is illiterate and unable to provide the required particulars in writing, the plaintiff or his agent may narrate the plaintiff's case to any literate person to reduce same into writing. The literate person would use the narrative to produce the particulars according to Form 1 of the first schedule in CI 59. After the complaint has been signed or marked by the plaintiff or the plaintiff's agent, it should be sealed by the registrar and filed at the registry in accordance with Order 3 rule 1 (6) of CI 59.

A party or his lawyer may also prepare a petition and/or motion for filing by the registrar. It is the duty of the registrar of the District Court to act as follows upon such presentation:

- i. To accept any motions and petitions presented for filing.
- ii. To collect the necessary fees and get processes filed
- iii. To register and assign suit numbers and open files for suits.
- iv. To refer the copies for service to the bailiffs/process servers for action.
- v. To take the case dockets to court for the trial hearing to begin at the appropriate time.

2.E. APPLICATION FOR WRIT OF SUMMONS

The above process can be summarized as follow:

Upon submission of application for writ of summons, the registrar:

- i. Receives and files the application for issuance of the writ of summons whether defended or undefended. All fees for applications must be paid.
- ii. The writ of summons is then issued to the applicant.
- iii. The writ of summons is completed and signed by the plaintiff and returned to the registrar who forwards it to the magistrate for signature.
- iv. After the signature, the registrar seals and registers the writ of summons and allots a suit number to it.
- v. He opens a case docket for it.
- vi. He refers a copy to the bailiff or process server for service on the defendant
- vii. Upon receipt of responses from the defendant, the registrar files it and refers copies for service on the plaintiff/complainant.
- viii. When the case is ready for hearing the registrar takes the case file to the court for hearing to commence.

2.F. FAMILY TRIBUNAL

At the family Tribunal the magistrate sits with two other panel members to handle cases in respect of child custody, maintenance, and paternity issues etc. The registrar receives processes for commencement of actions, and ensures fees for filing are paid until the matter is ready for hearing when he takes the docket to court.

2.G. CIRCUIT COURT/HIGH COURT

Civil actions in the High Court and Circuit Court are commenced by writ of summons, petitions and motions. These are prepared by the parties or their lawyers and presented to the registrar of the court for sealing/filing. When these are presented the registrar's duty is to accept them. Upon presentation to the registrar, the following process is followed:

- i. Refers them to the counter clerk for assessment and collection of the necessary fees.
- ii. Upon payment of the fees they are filed or sealed with the court seal or stamp.
- iii. They are registered and allotted suit numbers and files called case dockets are opened for them.
- iv. The registrar refers the processes so filed/sealed to the court bailiff or a licensed process server for service.
- v. Processes presented by the person against whom the action has been commenced (defendant) in response when received are also assessed and filed upon payment of the fees.
- vi. A registrar shall not reject any processes presented for filing
- vii. The defendant's responses are also referred to the court bailiff or licensed process servers for service.
- viii. After exchanging processes when the cases are ready for hearing the case files/dockets containing all pleadings and processes filed are taken to court for the trial to begin.
- ix. Upon the completion of processes, all the pleadings are placed in the case file opened for that suit or action, and taken to court for the trial to begin.

PART THREE (3)

COURT JURISDICTION

3.A. HIERARCHY OF COURTS AND THEIR JURISDICTION

• Article 126 of the 1992 Constitution of Ghana, establishes the Superior Court of Judicature and such lower courts or Tribunals as Parliament may by law establish to administer justice according to law. The Superior Courts are :-

- The Supreme Court
- The Court of Appeal
- The High Court and the Regional Tribunals

The High Court has specialized divisions. These include:

- a. The Fast Track Court
- b. The Commercial Court
- c. The Financial and Economic Crimes Court
- d. The Industrial Court
- e. The Human Rights Court
- f. The Land Court
- g. The Industrial and Labour Court

The lower courts comprise:

- The Circuit Court and the District Court

The District Court has the following divisions:

- The Gender Based Violence Court
- The Juvenile Court
- The Family Tribunal
- The Motor Court.
- The Sanitation Court

i. The Constitution confers judicial power on the judicial committees of the various houses of Chiefs and the Traditional Councils as part of the lower courts of the country.

Accessing the jurisdiction of courts is governed by the general rules of procedure and specific rules for various courts. The general provisions are in the Evidence Act 323, and the Criminal Procedure rules (Act 30). The specific rules are the High Court Civil Procedure rules CI 47 for the High Court and

Circuit Court, CI 59 for the District Court, the Court of Appeal rules CI 19 and the Supreme Court rules CI 16. Registrars in charge of various courts must be knowledgeable about the procedures set out for their courts.

3.B. CIVIL APPEALS IN THE SUPREME COURT

The duties of the registrar of the Supreme Court with regard to civil appeals are as follows:

- i. On receipt of the record of appeal from the Court of Appeal, the registrar shall enter it in the appropriate book and give it a suit/appeal number.
- ii. When the appellant presents his statement of case, the registrar shall ensure that fees are paid before it is filed.
- iii. He shall ensure that the respondent is served with a copy of the statement of case.
- iv. When the respondent files his statement of case in answer, the registrar shall file it upon payment of the appropriate fees.
- v. He shall cause it to be served on the appellant.
- vi. If the appellant files a reply, the registrar shall cause it to be served on the respondent.
- vii. If the appellant fails to file his statement of case within three (3) weeks of having notice that the record of appeal is ready, the registrar shall issue a certificate to that effect to the court.
- viii. The registrar should be abreast with CI 16 of 1996.(the Supreme Court rules)

3.C. REGISTRAR OF THE COURT OF APPEAL IN CIVIL APPEALS

- i. The registrar of the Court of Appeal shall on receipt of the record of proceedings from the High Court or Circuit Court, enter the appeal and allot it a suit/appeal number.
- ii. On receipt of appellant's statement of case, the registrar shall cause it to be filed and copies served on the respondent/s.
- iii. Likewise the respondent's statement of case, if filed should be served on the appellant.
- iv. If the appellant files a reply to the respondent's statement of case, a copy shall be served on the respondent.
- v. If the appellant does not file his statement of case within three (3) weeks of being notified that the record is ready, the registrar shall certify that to the court. The registrar should refer to CI 19 the Court of appeal rules in dealing with all processes.

3.D. CIVIL JURISDICTION OF THE HIGH COURT

The High Court has civil jurisdiction in the following:

- i. All civil matters
- ii. Enforcement of fundamental human rights and freedoms
- iii. Civil appeals from the District Courts and Family Tribunal
- iv. In matters relating to infants
- v. In matters relating to persons of unsound mind
- vi. In maritime matters

3.E CIVIL JURISDICTION OF THE CIRCUIT COURT

The jurisdiction of the Circuit Court is provided in the Courts Act, Act 459 as amended. It covers;

- i. All civil matters where the value or claim does not exceed GH¢10,000.00.
- ii. All actions between landlord and tenant.
- iii. All matters involving ownership, possession and occupation of land.
- iv. Appointment of guardianship and custody of infants.
- v. Probate and administration matters where the value does not exceed GH¢10,000.00.
- vi. Interpleader in respect of land attached in execution by the Circuit Court.
- vii. The registrar should refer to Section 41 of Act 459 (as amended) for guidance.

3.F. CIVIL JURISDICTION OF THE DISTRICT COURT

The jurisdiction of the District Court in civil matters is as provided in the Courts Act 459 and CI 59 as follows:

- i. In all civil matters where the value or claim does not exceed GH¢5,000.00.
- ii. In all claims for relief by way of interpleader in respect of property attached in execution of decree made by the District Court.
- iii. In civil matters between landlord and tenant.
- iv. In actions relating to ownership, possession etc. where the value does not exceed GH¢5,000.00.
- v. In divorce, paternity, custody of children etc. where the law applicable is customary law.
- vi. In applications for probate/letters of administration where the value of the estate does not exceed GH¢5,000.00.
- vii. The registrar should refer to section 47 of the Court's Act for full details of the jurisdiction of the District Court.
- viii. In matters relating to children (Juvenile) and Family Tribunal.

3.G. COURT FILES AND RECORD KEEPING

The court registrar is a keeper of records and liable for any lapses that may occur in the registry such as misfiling and misplacements. To surmount the onerous challenge of manning a successful registry, the registrar must ensure strict vigilance and supervision. The following procedure shall apply:-

- i. The registrar shall designate registration books for all classes of court processes. These are;
- ii. An inventory book.
- iii. A stock register.
- iv. A court process book.
- v. A movement of documents book.
- vi. A movement of dockets book.
- vii. Court tracer cards.
- viii. An exhibit register book.
- ix. A judgment/ruling/order book.
- x. A proceedings book assigned to typists/recorders for typing.

3.H. OTHER RECORDS

- i. All court documents placed in files must be consecutively numbered and indexed.
- ii. The registrar or his delegated officer must keep a court diary to record dates of hearing part heard cases and execution orders.
- iii. Court documents for action in dockets, record books, exhibits are flagged.
- iv. Court records should be well secured to avoid theft, destructions by termites, damage by wear and tear, rain, improper handling.
- v. There shall be proper arrangement and classification of dockets according to years.
- vi. The registrar shall delegate responsibility to designated officers to handle cases pending/disposed off/transferred for prompt action to avoid delays.
- vii. He shall also designate an officer to prepare cause lists.
- viii. No member of staff shall interfere with court documents that have not been assigned to him/her to work on.
- ix. The court documents are not to be handled by unofficial or unauthorized persons in the Service.
- x. It is the registrar alone who shall deliver court documents to the audit section for their inspection when on official duty or assignment.

3.1. PREPARATION OF DOCUMENTS AND ISSUE OF COURT PROCESSES

Issuing of Court Documents and Proceedings

A registrar or scheduled officer has to pay attention to proper documentation and maintenance of proceedings. This is important for ensuring that whatever records come out of the court would be accurate and reliable. The following procedure shall apply.

The registrar shall ensure that:

- i. There are no errors or erasures on court documents (e.g. writ of summons) which may cast doubts about the genuineness of such documents.
- ii. All court processes filed are stamped with the official and designated stamp for that particular court.
- iii. The appropriate court document is issued with proper particulars furnished and without omissions in order not to mislead the party to be served.
- iv. All prescribed fees according to the rules are paid and receipted and well documented for verification purposes.
- v. All court processes are well documented in the appropriate books designed for that purpose.
- vi. Policy directives of circulars are brought to the attention of staff in time for compliance.
- vii. Accurate information cautioning court users against acts likely to disrupt proceedings in court are conspicuously displayed to notify court users.
- viii. The registrar shall draw up appropriate court orders as expressly directed by the court to the judge/magistrate for signature.
- ix. Court proceedings are in a correct and orderly form as written in the record book with no omissions as to the sequence of events before certification by the registrar, payment made, receipted and copy released to the payer.
- x. Preparation of appeal records must be accurate and correspond to the indexing of pages.
- xi. There are correct inscriptions on all court record books, registration books, docket/files etc
- xii. Official letters are signed by registrar.
- xiii. The registrar has the power to administer oaths in the registry.
- xiv. The registrar shall certify all court documents when satisfied that they truly reflect what is written in the record book.

3.J. SERVICE OF WRIT OF SUMMONS AND OTHER DOCUMENTS

In order to set the trial process in motion, the registrar must ensure prompt delivery through service of processes issued by the court. This is because the service of the writ of summons and other court processes plays a vital role in activating the justice delivery system. Without service of court documents on a party in a suit or witness for the purpose of notifying them of the litigation, the court would be incapable of proceeding in hearing a matter. Before a matter is ready for hearing the processes that arise after initiating the process are:

- i. Writ of summons to command the attendance or appearance of a party before the court.
- ii. Notice of appearance of a party in court when served with a summons by a court bailiff, licensed private process server or any authorized person.
- iii. Statement of defence/notice of intention to defend an action in response to a writ of summons.
- iv. Reply or statement of defence to an action by a defendant after service of a notice to either admit partly or wholly deny.
- v. Counterclaim to a previous claim by the other party.
- vi. Absconding warrant- An order by the court to arrest a party in a suit who intends to move from his place of residing to an unknown place to avoid being served a court process or disobey a court order.
- vii. Writs filed with the necessary fees for service paid, shall be sealed, entered in court process book and given a suit number.
- viii. Court file/docket shall be opened for every writ issued/filed in court for service on a party.
- ix. Writs filed and sealed with the appropriate fees for service paid, shall be served by a court bailiff, or authorized officer of the court or licensed private process server.
- x. All documents filed in court should be properly checked and neatly placed in the court docket/file for service.
- xi. All documents filed in court are to be carefully checked by the registrar who should ensure that they comply with the rules.
- xii. The registrar shall ensure that any irregularities observed are placed on the court file/docket, and same brought to the attention of the magistrate/judge accordingly.
- xiii. Service of writ of summons and other court documents filed and then paid for, for service on individuals, firms, corporations and government institutions shall be effected as follows:
 - Personal service
 - Commanding officer in the army
 - Head of department in the civil service

- Head of government department
- Parent, guardian, next friend of a minor or disabled person
- Gatekeeper of mental asylum
- Secretary of a company
- By prepaid registered mail
- Captain of a ship
- Master of a vessel
- Keeper of prisons
- Post on a dwelling place
- Substituted service as directed by a court
- Foreign mission through the Judicial secretary or as directed by the Court.

The registrar shall ensure that there is proof of service or non-service endorsed and sworn to that effect within 3 days of service.

- a. That processes filed by the defendants are also served on the plaintiffs personally.
- b. That when appearance is entered by lawyers on the instructions of their clients, service thereafter on lawyers is good service.
- c. The registrar shall ensure that service of processes are not effected on Sundays, Saturdays, the day before Christmas, Christmas day and public holidays, such as Easter, Independence Day, Republic Day and Ramadan.
- d. The registrar should acquaint himself with the rules on service for his court, be it the District Court rules ,Order 4 of CI 59, (2009) or Order 7 of CI 47 High Court (Civil Procedure) rules.
- e. Where a named party to be served with a court process could not be traced for service and an application for an order for substituted service is granted, the registrar shall act as follows:-
 - Draw up an order for substituted service
 - Ensure that the order is signed by the magistrate/judge after which registrar signs his column and seals it.
 - The order drawn up is pasted in the order record book together with the processes to the chief bailiff for direction, to be complied with for service of the order.

If the person to be served is outside the country and an order for service out of jurisdiction is made:

- i. The registrar shall draw up the order after payment of the necessary fees and receipt issued.
- ii. Shall forward 2 copies each of the order as per form 3 of order 8 of CI47 and the notice of the processes to the Judicial Secretary.

- iii. The Judicial Secretary shall cause the Ministry of Foreign Affairs to forward them to the country where the person to be served is resident
- iv. The registrar shall then on receipt of the letter, forward a copy of the order and notice of the processes to be dispatched under cover of a letter by registered post if the court so orders.
- v. The registrar should refer to Order 8 of CI 47 High Court Civil Procedure rules for guidance

3.K. NOTICE OF INTENTION TO DEFEND, APPEARANCE, PLEADINGS, ABSCONDING WARRANT

Time is of absolute importance in the work of the court. Upon the commencement of actions in court, every other process such as filing documents for claims and defence by parties and the exchange of pleadings in general are regulated by time. The extent to which pleadings are allowed vary as between the District Court, Circuit Court and High Court. The registrar must therefore be abreast with the rules and regulations with particular attention to time in order to perform his duties efficiently. The following procedure for pleadings in general shall apply:

- i. Filing of writ of summons and statement of claim
- ii. Filing of appearance/conditional/unconditional appearance
- iii. Notice of intention to defend action
- iv. Filing of defence
- v. Filing of reply
- vi. Filing of defence and counterclaim
- vii. Filing reply to defence and counterclaim
- viii. Filing application for directions for issues to be set out for trial
- ix. Filing additional issues for trial
- x. Amendments shall be filed in the course of processes filed.
- xi. After pleadings and commencement of actions time within which joinder of actions and amendments shall be filed.

3.L. IN THE DISTRICT COURT

When plaintiff issues a writ of summons against a defendant, it is to be placed on the general list and date fixed by the registrar for hearing and defendant shall be served.

- i. The plaintiff may on the other hand issue a writ against the defendant and pray that it be placed on the "undefended list" as the defendant has no defence to the action and the registrar shall fix a date for hearing and defendant served.
- ii. On service of writ on the defendant in respect to the general list, he shall decide to appear in court on the hearing date or file a defence before the hearing date for trial to commence.

- iii. With respect to the "undefended list", the defendant may within five (5) clear days before the hearing date, file a notice of intention to defend accompanied by a sworn affidavit stating his case or defence.
- iv. At the hearing, the court shall if satisfied, order that pleadings be issued and direct the period within which each pleading shall be filed for the commencement of trial. The registrar shall then comply with the order by ensuring that services are effected by a court bailiff or licensed private process server within time.
- v. In respect of landlord/tenant cases where proceedings had taken place at the Rent Control office and recommendations are made to the rent magistrate, the registrar shall issue hearing notices when appropriate fees are paid, receipt issued and respondent served.
- vi. The court shall if it deems fit, order for pleadings to issue and direct the period within which to file each pleading.
- vii. An absconding warrant shall be issued by the court if the plaintiff gives convincing evidence that defendant is evading service and has plans to leave the jurisdiction.
- viii. The plaintiff shall file an ex-parte motion for the arrest of the absconding party.
- ix. Issue warrant immediately for the magistrate to sign upon payment of the prescribed fees. Fees for an absconding warrant are dependent on conveyance and on mileage which must be assessed.

3.M. THE CIRCUIT COURT AND HIGH COURT

1. When a writ is filed, appropriate fees paid, receipt issued, writ sealed, suit allotted a number, a docket opened and the writ is served.
2. The defendant shall within eight (8) days from the date of service on him enter appearance to the suit by filing:
 - a. Notice of entry of appearance
 - b. In respect of writ to be served out of jurisdiction with leave of court, the court shall direct within which time the defendant is to be served and the time to file appearance.
3. The defendant shall after notice of entry of appearance within fourteen (14) days file a statement of defence.
4. The plaintiff shall within seven (7) days of service file his reply to the statement of defence.

3.N. APPEARANCE: ORDER 9 OF C. I. 47

When an action is commenced in the Circuit Court or High Court and a copy served on the defendant, he has to acknowledge receipt by filing a process called notice of appearance in a prescribed form in triplicate within eight (8) days of the receipt of the writ of summons:

- The registrar ensures payment of the fees

- Files the notice of appearance and a copy of it to be served on the plaintiff or his lawyer.

3.O. NOTICE OF INTENTION TO DEFEND

ORDER 8 RULE 3 OF C.I. 59

In commencing an action in the District Court the plaintiff may request that the suit be placed on the undefended list. In this case he supports the application with an affidavit and documents indicating why he feels/thinks the defendant has no defence.

In this case:

- The registrar issues the writ of summons and places it on the undefended list
- He causes the writ of summons, the affidavit and the attached documents to be served on the defendant.
- On receipt of the writ of summons and its attachments if the defendant wishes to contest the case he would file a notice of intention to defend with a supporting affidavit.
- The registrar shall cause them to be served on the plaintiff for the court to determine whether the suit should be placed on general list or not.

3.P. ABSCONDING WARRANT

ORDER 73 OF C.I. 47 - HIGH COURT AND CIRCUIT COURT

ORDER 12 OF C.I. 59 – DISTRICT COURT

When a plaintiff who commences an action against a defendant has cause to believe that the defendant is about to leave the jurisdiction and therefore would not attend court or be available to answer a judgment that may be given against him, the plaintiff may apply to the court as follows:

- a. He applies to the court ex-parte for the defendant to be arrested to provide security for any judgment that may be given against him.
- b. If the plaintiff is able to convince the court that the defendant is about to abscond, the court would grant the order.
- c. Upon the application being granted, the registrar causes the absconding warrant to be issued immediately for the judge to sign upon payment of the fees.
- d. When signed, the registrar entrusts it to the chief bailiff for immediate action.
- e. The defendant when arrested is brought to court immediately for

the court to decide whether he should be given bail. *In view of the Supreme Court decision in Republic Vs. High Court (Fast Track Division), Accra, Ex Parte P.P.E. Ltd and Paul Jurik (Unique Trust Financial Services Ltd) Interested Party (2007 - 2008) SCGLR 188, the court cannot imprison him but admit him to bail for failure to provide a sum as security.

- f. If on his arrest the court is not sitting he should be granted police enquiry bail to enable him report to the court on the next working day.

3.Q. MOTIONS, AFFIDAVITS AND APPLICATIONS

ORDER 20 OF C.I. 47 – HIGH COURT CIVIL PROCEDURE RULES

A motion is an application made to the court or judge orally in open court or typed or written to which an affidavit giving reasons for the application is attached. Its object is to obtain an order or ruling directing some act to be performed in favour of the applicant. The following procedure shall apply to formal applications:

- i. The motion paper shall bear the name of the particular court, the title of the parties in the suit and their addresses, date of the motion signed by the applicant or his counsel and addressed to the registrar of the court
- ii. It shall be directed for service if it is made on notice.
- iii. Alternatively, if it is made without notice or ex-parte, there shall be no indication for service.

In performing his duties as an ex-officio commissioner for oaths, the registrar shall observe the following;

- a. That he accepts affidavits that bear the name of the court, the title of the case/action they relate to.
- b. That the affidavits contain the full names, trades or professions and residential addresses of the persons making the oath.
- c. That the affidavits are made in the first person and in paragraphs numbered consecutively.
- d. That any alterations, interlineations and erasures are authenticated by his initials or stamp at the margin opposite the alterations.
- e. That the words contained in the affidavits are legible and not difficult to read.
- f. That if the person is illiterate, necessitating that the contents be explained in a language familiar to him then, before signing as commissioner for oaths, the registrar makes sure that the affidavit contains a jurat – a statement that the contents of the affidavit has been read and interpreted to the understanding of the deponent in his presence,

- g. That he marks any documents attached to the affidavit and makes a certificate to that effect.
- h. That the persons making the oath sign or thumbprint in his presence.

3.R. AMENDMENTS

ORDER 16 OF C.I. 47 (CIVIL PROCEDURE) RULES OF THE HIGH COURT

ORDER 19 OF C.I. 59 (CIVIL PROCEDURE) RULES OF THE DISTRICT COURT

After the commencement of an action, it sometimes becomes necessary for changes/amendments to be made to processes that have already been filed to bring out the real issues in contention. When that happens the registrar should satisfy himself as to whether the amendment is one that requires leave of the court or not and having satisfied himself will proceed as follows:

- a. When an amended process is presented the registrar sees that the fees are paid before they are filed.
- b. If the amendment is one that does not require the leave of court, copies for service are given to the court bailiff/licensed process server for service.
- c. If the amendment affects the title of the case the necessary amendments are made on the docket in red ink and indicating that it is by a court order and the date of the order.
- d. After the court has granted the order for amendment, the registrar shall ensure that the amended process is served on the other party without delay.

3.S. JOINDER

ORDER 4 OF CI 47 OF THE HIGH COURT (CIVIL PROCEDURE) RULES

ORDER 9 OF CI 59 DISTRICT COURT (CIVIL PROCEDURE) RULES

When an action is filed, either party has the right, by leave of court, to join any person or persons in accordance with the rules of court. Besides, persons other than the parties can also apply to the court to be allowed to join the action if the rules allow. If the court grants/gives an order to that effect, the registrar plays the following role:-

- a. He draws up the order for joinder for the signature of the magistrate/judge before he also signs it.
- b. He ensures that the necessary fees are paid before copies are made available.
- c. He refers the copies of the order to the court bailiff/licensed private

process server for service as directed by the order.

- d. He effects the necessary changes on the case docket in red ink by writing the name of the person joined as either defendant or plaintiff indicating that the person has been joined by an order of court together with the date of the order.

3.T. APPLICATION FOR DIRECTIONS

ORDER 32 OF CI 47

In the High and Circuit Courts when pleadings (exchange of processes filed before a case is ripe for hearing) have closed, the plaintiff prepares and files an application for the court to fix a date for hearing to determine the issues for the trial.

The registrar shall:

- a. See that the necessary fees are paid before filing the application.
- b. Fix a date for hearing of the application bearing in mind that there shall be at least 8 days between the date of service and the date of hearing.
- c. See that the defendant is served before the return date.
- d. If the court grants the directions without fixing a date for hearing and orders the registrar to fix a date, the registrar shall do so on application by any of the parties.

3.U. SUBSTITUTION

ORDER 4 RULE 6 OF CI 47 HIGH COURT (CIVIL PROCEDURE) RULES

ORDER 9 RULE 15 OF CI 59 DISTRICT COURT (CIVIL PROCEDURE) RULES

Upon the death of any of the parties to a suit any person interested in the case may apply to the court to replace the original party. Upon an order of court substituting another person in place of the demised party, the registrar shall:

- a. Draw up the order for substitution.
- b. Ensure that the necessary fees are paid by the applicant.
- c. Ensure that the magistrate/judge signs the order before copies are sent out for service by a private process server. Service shall be on the person directed to be substituted.
- d. Effect the necessary changes by writing the name of the person who has been substituted on the case docket in red ink and indicate that it was done by a court order together with the date of the order.

3.V. CONSOLIDATION OF ACTIONS

ORDER 4 RULE 2 AND ORDER 31 RULE 2 OF C.I. 47 HIGH COURT (CIVIL PROCEDURE) RULES

ORDER 9 RULE 11 OF CI 59 DISTRICT COURT (CIVIL PROCEDURE) RULES

Several cases of a similar nature may be consolidated or joined together and heard as one case by the magistrate/judge. If this order is made, the registrar shall act as follows:

- a. He draws up the order for the signature of the magistrate/judge before he also signs it.
- b. He shall ensure that the necessary fees are paid.
- c. He shall ensure that copies of the order are served on the parties.
- d. He gets the case dockets together and opens a jacket bearing the suit numbers and titles of the cases consolidated for them, indicating that it is by a court order and the date of the order.

3.W. INJUNCTION AND RECEIVER AND MANAGER

ORDER 27 OF CI 47 HIGH COURT (CIVIL PROCEDURE) RULES

ORDER 20 OF CI 59 DISTRICT COURT (CIVIL PROCEDURE) RULES

The registrar and staff play essential roles in the preservation of properties being litigated upon. It is the duty of the registrar to ensure that orders of the court for injunction are issued out. Also orders for appointments of receivers and managers are carried out as follows:

- a. The registrar shall ensure that the party in whose favour the order is made pays the fees.
- b. Upon payment of the fees he draws up the order expeditiously.
- c. He makes sure that the original of the order is sealed and pasted in a book created for court orders.
- d. He gets copies of the order served on the parties concerned for their information and compliance.
- e. If it is for appointment of receiver and manager the person appointed has to be served with a copy.
- f. If the property is under the management of a person or persons other than the parties, copy of the order is served on that person(s).
- g. If it is the registrar who is appointed, he takes over the property involved and manages it. [The practice of appointing registrars as receivers and or managers is frowned upon by the courts].
- i. In so doing he has to involve the parties or their agents and should be transparent in managing the property.

- j. The registrar shall file a statement of account every month and place copies on the docket and continue to do so until the case is disposed off or the court discharges him.
- k. When a registrar or some other court official receives remuneration as a receiver or manager, such remuneration shall be paid into the Consolidated Fund (see order 20 rule 4(3) of CI 59).

3.X. REFEREE

ORDER 28 OF C.I. 47 HIGH COURT (CIVIL PROCEDURE) RULES

During the course of the trial, there may be need for some inquiry into any questions or issues of fact to be dealt with, the outcome of which will assist the court to effectively deal with the case. The registrar shall refer to Order 28 of CI 47 for guidance. A party may apply to the court for an order for inquiries to be made:

- a. When the court grants the application and refers the issue to a referee to make the enquiry and report, the registrar shall immediately draw up the order for appointment of the referee.
- b. The drawn up order shall be served on the referee.
- c. On receipt of a notice for hearing of directions from the party who got the order granted, the registrar shall serve the notice together with copies of the order on every other party to the cause or matter.
- d. In fixing the date, the registrar shall have in mind that there should be at least 5 days before the hearing date.
- e. After the enquiry the referee shall submit his report for consideration of the court.

3.Y. TRANSFER OF CASES

SECTION 104 – 108 OF COURTS ACT (1993) ACT 459

ORDER 3 RULE 2 OF THE HIGH COURT (CIVIL PROCEDURE) RULES CI 47

The Chief Justice may by a signed order transfer a case from a judge or magistrate or tribunal to any other judge or magistrate and from one court to any other competent court at any time or stage in the course of proceedings, either with or without an application from any of the parties to the proceedings. The order may be general or special. Also, a Justice of the High Court may on his own initiative or on an application by a party, remit to a District Court, a civil cause or matter pending before the Justice which the Justice considers may suitably be proceeded with by that District Court. When an order for transfer is made, the registrar shall:

- a. Draw up the order for transfer without delay.

- b. Forward the case file/docket to the court where the case has been transferred together with the transfer order.
- c. Send to the parties a copy of the covering letter forwarding the docket to the new court for their information.

3.Z. DISCONTINUANCE OF ACTIONS

ORDER 17 OF CI 47 HIGH COURT (CIVIL PROCEDURE) RULES

- a. It is the responsibility of the registrar to ensure that when notices of discontinuance and withdrawal are filed, these notices are brought to the attention of the magistrate/judge in court and properly filed.
- b. Like other processes the appropriate fees are paid.
- c. He has to see that proof of service or non service is placed in the case docket/file before placing it before the judge/magistrate for consideration.

3.A.A PAYMENT INTO COURT

ORDER 18 OF C.I. 47 AND ORDER 17 OF CI 59 DISTRICT COURT (CIVIL PROCEDURE) RULES

- a. The registrar shall see that monies paid into court in satisfaction of claims are supported by notice of payment into court.
- b. The necessary fees should be paid before they are filed.
- c. The registrar has to see to it that the notice of payment is served in good time and the attention of the magistrate/judge is drawn to it. When the money paid into court is being withdrawn by the other party, the registrar shall ensure that notice of acceptance of money paid into court is filed before the amount is paid.

3.B.B RENEWAL OF WRITS ORDER 2 RULE 9 OF CI 47 HIGH COURT (CIVIL PROCEDURE) RULES

All the various writs such as writ of summons and execution have a life span. If the writ of summons is not served or writ of execution not executed for a period of one year, the writ is deemed to have expired and will not be valid until it is renewed.

- a. When an application has been granted by the court for a writ of summons or execution to be renewed, the court clerk shall refer the docket to the registrar who shall cause the original and copies of the writ to be renewed by stamping with a renewal stamp indicating the date of the order for renewal.
- b. If the renewal is in respect of writ of summons which has not been served for one year, then the copies for service which have also been

renewed, are referred to the chief bailiff or a licensed private process server for service.

- c. If it is in respect of a writ of execution the same process is followed except that the renewed writ is minuted upon by the deputy sheriff (registrar) to the deputy sheriff officer (bailiff) for execution to proceed.

3.C.C. REGISTRAR'S SUMMONS

ORDER 37 RULE 4(1)-(4) OF C.I. 47

At the end of every six months, the registrar shall request the process clerk to select from all pending actions, cases in which no steps have been taken for twelve (12) months from the date of the last proceeding. The registrar shall then issue the registrar's summons to be served on the parties to appear before the judge to show cause why the cause or matter should not be struck out for want of prosecution.

PART FOUR (4)

MARRIAGE AND DIVORCE PROCEEDINGS

REGISTRATION OF CUSTOMARY MARRIAGE P.N.D.C.L 112

THE MARRIAGE ORDINANCE CAP 127

4.A.

All proceedings for divorce, nullity, presumption of death and dissolution of marriage, maintenance orders and child custody orders under the Matrimonial Causes Act, 1971, (Act 367) are commenced by petition before the appropriate court. In the High and Circuit Courts, order 65 of CI 47 is the applicable order whereas in the District Courts, order 32 of CI 59 deals with such applications.

The following outlines the procedure that the registrar follows in such applications:-

- a. The Registrar General is the principal registrar of marriages as provided under the Marriage Ordinance.
- b. The Registrar General has delegated the function of registering marriages to the District Assemblies, District Court and to some religious organizations such as churches.
- c. The Registrar General furnishes marriage forms and marriage certificates to these bodies. They in turn make returns of marriages conducted by them to the principal registrar of marriages periodically within the year.
- d. All marriages made under the marriage ordinance are registered on the same type of marriage certificate and have the same legal validity, whether the marriage was conducted in the orthodox churches, metropolitan assemblies or the court.
- e. When an application to contract a marriage under the ordinance at the District Court is brought, the registrar shall ensure that the appropriate forms are completed and paid for and receipts issued. A docket is opened and a suit number allotted and entered in the marriage register.
- f. The parties are made to complete an intended notice of marriage form and the same is duly signed.
- g. The registrar shall cause the said notice to be posted on the court notice board for 21 days during which any person who objects to the performance of the marriage for good reason may so indicate.
- h. If there is no process filed to stop the intended marriage the registrar shall proceed to issue a registrar's certificate to the parties.
- i. The registrar shall then cause the parties to appear before the

magistrate at the court on a date fixed for the marriage ceremony to take place before the magistrate who is the registrar for marriages.

- j. After the ceremony the registrar issues the certificate of marriage signed by the parties and two witnesses for each partner.
- k. The marriage certificate is issued to the couple.
- l. In divorce matters, applications for dissolution of a marriage contracted under the Marriage Ordinance (Cap 127) and the Mohammedan Ordinance (Cap 129) between parties is done either in the Circuit Court or the High Court while the confirmation of dissolution of customary marriages is done at the District Court.

The following procedure shall apply:-

- a. There shall be a petition or request for relief from either party to the court, praying the court to grant an order to make the dissolution lawful and binding on the parties.
- b. The registrar shall ensure that the petition brought is correct for filing and at the appropriate court.
- c. The party who brings the petition is known as the petitioner and the other party who responds or answers is called the respondent. The registrar ensures that these capacities reflect on the process brought to be filed.
- d. The registrar shall ensure that appropriate fees for filing are paid, receipt issued, docket opened, suit number allotted and processes well arranged and service effected accordingly.
- e. The registrar shall ensure that rules for filing processes and pleadings are complied with.
- f. The registrar shall ensure that court judgments and orders are enforced and executed upon necessary applications made to that effect.

4.B. DIVORCE

- a. A Petitioner who wants separation, files a petition for divorce and a copy is served on the respondent indicating the reasons for the petition. Within seven (7) days of service of the petition on the respondent, he has to file an appearance.
- b. After filing appearance, the respondent has to file an answer to the petition within fourteen (14) days.
- c. Following the service of the answer on the petitioner he has to file a reply to the answer within eight (8) days. The pleadings are then brought to a close.
- d. The petitioner then informs the registrar to set down the matter for trial.
- e. The registrar fixes a date within fourteen (14) days, setting down the matter for trial.

- f. If the court grants the petition, the registrar shall then draw up the order for dissolution of the marriage or the certificate of divorce.
- g. The registrar shall ensure that the court's judgments and orders are enforced and executed upon the necessary application made to the court to that effect.

4.C. PROBATE AND ADMINISTRATION

ORDER 66 OF CI 47 HIGH COURT (CIVIL PROCEDURE) RULES

4.C.1 APPLICATIONS

Probate refers to the judicial procedure by which a testamentary document is established to be a valid will.

Applications for probate or letters of administration in respect of the estate of deceased persons may be made to the court with jurisdiction where the deceased had his fixed place of abode at the time of his death.

Notice of the application is made to the registrar of the court with jurisdiction in the area where the property may be found. Property refers to both moveable and immovable property. Any caveat filed in the courts shall be brought to the notice of the court before which the application is pending. The court to which the application is made may take all necessary interim steps for the preservation of the deceased's property or for the discovery or preservation of the will of the deceased.

The court may on its own motion or on application of any person who claims an interest under a will, give notice to the executors under a will to come and prove the will or renounce probate. The executors or any one or more of them shall within fourteen (14) days after receipt of the notice come in to prove the will or renounce probate. The registrar as custodian of wills plays a key role in dealing with applications for probate and administration. In doing so the registrar must comply with the procedures outlined in Order 66 of C.I. 47 or Order 31 of C.I. 59 in respect of applications before the High Court/Circuit Court and District Court respectively. The registrar shall apply the following procedure:-

- i. The registrar shall ensure that the right persons are before him and shall explain the methods for obtaining letters of administration with will annexed and letters of administration without will annexed and probate as the case may be.
- ii. Matters relating to the administration of the estates of deceased persons' are held at the probate division of the District, Circuit and High Courts.

- iii. The applicants who may apply to the court to be granted control for the distribution or sharing of the properties shall be:
 - Executor/executrix
 - Administrator/administratrix
 - Beneficiaries or those who shall inherit the deceased persons (heirs)
- iv. Two types of applications that are brought to the court are for :
 - Letters of administration with will annexed
 - Letters of administration without will annexed.

4.C.2. JURISDICTION

- a. The District Court deals with the grant of probate and administration of the estates of deceased persons' in which the whose value does not exceed GH¢1000.00.
- b. The Circuit Court deals with the grant of probate and administration of the estate of deceased persons in which the value does not exceed GH¢10,000.00.
- c. The High Court deals in the grant of probate and administration of the estate of deceased persons in which the value exceeds that of the Circuit Court and to any amount as it is the highest court with jurisdiction in these matters.
- d. The registrar's responsibilities in the grant of probate and letters of administration are to ensure that the relevant court documentation processes and attachments are correct and the necessary assessed fees are paid and receipts issued to that effect.

4.C.3.

- i. When such processes are filed, a docket is opened and entries made in the cause book and a suit number provided.
- ii. In the grant of letters of administration without will annexed, the requirements are as follows:
 - a. A motion ex-parte stating the particular court, the name of the deceased person, the names of the applicants and their addresses, with accompanying affidavit and attachments addressed to the registrar who fixes a date for hearing the motion before the court.
 - b. The maximum number of applicants for the grant of letters of administration without will annexed is four (4).
 - c. There shall be an affidavit by the head of family stating the name of the deceased person, age, date and place of death, being the last known place of abode of the deceased. It shall name the customary successor/next of kin/ or person

appointed at a family meeting to apply for it; the value of the properties involved, with regard to buildings, farms, cars, cloths and money in bank if any.

- d. Affidavit by the applicants with the above facts stated and attaching an inventory form on the properties mentioned together with burial permit or death certificate. The applicants shall swear the requisite oath of administrator before the registrar.
- e. The processes shall be filed by the registrar upon due payment to the HFC bank for which appropriate receipt is issued.
- f. There shall be a suit number allotted to it and same entered in the cause book. A docket is opened into which the documents are well arranged. A date is fixed for hearing and placed on the cause list and pasted on the court notice board with other cases.

When the application for letters of administration without will is granted the registrar shall ensure the following:

- a. That the next of kin form is typed, signed and posted on the notice board of the court and other courts in the district.
- b. A copy is also posted on the last known place of abode of the deceased person and any other buildings of the deceased person if any.
- c. The Form shall be posted for a period of twenty one (21) days or as the magistrate/judge shall direct.
- d. The registrar shall ensure that after the posting for twenty one (21) days or number of days directed by the court, if there is no caveat or notice filed to stop the grant of the letters of administration to the applicants, there is an affidavit of postings of the notice to the next of kin on the case docket before taking any further action.
- e. The registrar when satisfied with (d) above shall refer the docket to the magistrate or judge for directives.
- f. The magistrate/judge's response shall instruct the registrar to issue the letters of administration.

4.C.4 PROCESS FOR ISSUE

1. The registrar shall cause the applicants to appear before him to enter into bond with two sureties for justification.
2. The bond to be entered before the registrar shall be double the value of the estate of the deceased person.
3. The registrar shall ensure that the estate duty and other fees are paid, receipt issued and quoted on the docket/record book before he issues out the letters of administration.
4. The registrar then issues the letters of administration, signs two (2)

copies and seals them with the court metal seal and other duplicate copies are sealed with the rubber stamps with signed copies indicated.

5. The original copy is given to the applicant who then signs for it in the letters of administration book designed for that purpose.
 6. A duplicate original copy is pasted in the letters of administration record book.
 7. The applicant who collects the letters of administration issued by the registrar shall also sign the record book designed for that purpose after providing the following particulars:
 - Name of deceased person
 - Residential address of deceased person
 - Value of deceased's estate
 - Date and place of death of deceased person
 - Date of death certificate
 - Date of burial permit
 - Name of applicants and residential address
 - Identification card number (Voters ID, NHIS, Passport)
 - Contact number, if any
 - Name of head of family
 - Name of registrar on letters of administration issued.
 - Name of presiding magistrate/judge of the court and date
 - Signature of applicant for collection of letters of administration
- The registrar shall bear in mind always that caveat or notice to stop the grant of probate and letters of administration may be issued before or after the application for probate or letters of administration and should inform the magistrate or judge immediately he receives such information for appropriate orders to be made.

4.C.5. PROCEEDINGS IN RESPECT OF WILLS DEPOSITED IN COURT

With respect to the grant of probate and letters of administration with Will annexed the registrar as the keeper of court documents and records is responsible for receiving wills from the testator/testatrix or from a person who discovers it after the death of the testator. A person who is entrusted with a Will should deposit it with the registrar of the court within 14 days after the death of the testator/testatrix. When a person entrusted with such Will gets knowledge about the death of the testator/testatrix, the following procedure shall apply:

1. The registrar shall ensure that appropriate fees for the deposit of the Will is paid to the court and receipts issued with date and number quoted.
2. The registrar shall ensure that the original copy of the Will and the

- duplicate copy correspond or agree on the face of the document being presented to the court for safe keeping.
3. The registrar shall seal the original Will in the envelope as well as the duplicate copy with the red wax seal in the presence of the testator/testatrix and enter it in the Wills registration book after allotting it a number.
 4. The registrar shall take custody of the original Will and the sealed envelope and return the duplicate copy to the depositor who then signs the Wills register.
 5. The Will register is signed when a will is withdrawn or upon a grant of probate, caveat or collection by a recipient after grant of probate. The following steps shall be followed for a will to be withdrawn after deposit:
 - i. A testator who wants to withdraw his Will has to submit an application with his passport size picture.
 - ii. The registrar ensures that the testator signs for it in the Wills register.
 6. The registrar shall be notified about the death of the testator/testatrix by the solicitor or any interested party or beneficiary of the Will.
 7. The registrar shall ensure that a notice is sent to the family to appear before him at the court at a given date and time stated for the Will to be read.
 8. The registrar shall notify the family, beneficiaries and interested parties to be in the court for the Will to be read.
 9. The registrar shall note that no fee is paid for the reading of the Will. However copies of the Will applied for are paid for.
 10. The registrar shall ensure that at the appointed time, those in attendance shall mention their names and a book sent round for them to write their respective names and signatures.
 11. The registrar shall then present the sealed envelope containing the Will for inspection as to whether it has been tampered with or opened to clear any doubts about it.
 12. The registrar shall then read the Will before those present.
 13. After the Will is read, those empowered to take control for the sharing or the distribution of the deceased person's property shall apply to the registrar for probate and letters of administration with Will annexed to be granted them.
 14. The registrar shall ensure that the application and court processes for the power to control the deceased person's property is filed, receipt issued, entered in a case book and number allotted to it.
 15. The registrar ensures that the original copy of the Will never leaves the registry without an order of the court
 16. File/docket shall be opened and court documents with the original copy of the Will well arranged and sent to court.

17. Unlike letters of administration, no postings are made under grant of probate
18. The registrar shall ensure that when order for probate is granted, the estate duty and other fees are paid, receipts issued and quoted with dates in the docket and record book.
19. The registrar shall ensure further that the proceedings in the record book agree with the original order by the court before the registrar certifies the copy of the Will and attaches it to the probate issued.
20. The registrar shall paste the original probate with the court metal seal in the probate record book designed for that. The other copy with the court metal seal on it together with as many certified copies of the Will with rubber stamp of the court seal on it are given to the applicants.
21. It is important for the registrar to ensure that he discharges his duties with diligence and in accordance with the rules and regulations of the court.

4.C.6. NOTICE OF A CAVEAT

ORDER 31 rule 11 OF CI 59

A person who claims to have an interest in the estate of a deceased and who wishes that the grant of probate or letters of administration is not made without notice to that person may file a caveat.

A caveat may be filed either before or after an application for probate or letters of administration but before the grant.

If a caveat is filed before an application for probate or letters of administration is made, the registrar shall bring this to the attention of the court i.e. as soon as the application is filed

- i. When a caveat/notice is filed the court shall direct the registrar to give notice to the applicant or his lawyer who in turn will duly warn the caveator/caveatrix to file an affidavit of interest in the estate.
- ii. When the caveator/caveatrix disobeys the warning, the registrar shall inform the magistrate/judge to go on with the case to issue the probate or letters of administration and where the court considers it fit, it shall direct that notice be served on the caveator.
- iii. In case there is understanding and agreement between the parties as to who should obtain probate and letters of administration, the court shall order the registrar to remove the caveat from the file/docket and grant the order.
- iv. Where the parties fail to agree on the person to whom a grant shall be made, the court:
 - a. Shall summarily determine who is entitled to the grant of probate or letters of administration, or

- b. Order the applicant to issue a writ against the caveator within fourteen days from the date of the order, to determine who is entitled to the grant of probate or letters of administration.
- v. In cases where the executors fail to take probate or renounce probate, any person interested in the estate of the deceased may apply for letters of administration with Will annexed and the registrar shall ensure that the appropriate fees for filing processes are paid. He then fixes a date for the attendance of the applicants in court for an order to be made to that effect.

There shall be created in addition to the Wills register a caveat register to facilitate the registrar in his duties to be abreast with caveat processes filed with reference to estate matters of deceased persons pending at the court.

The Wills register shall include the particulars below:-

- a. Registration number
- b. Name of testator/testatrix
- c. Date of depositing Will with counterfoil receipt number
- d. Name of person who prepared the will
- e. Depositor of Will with residential address & contact number
- f. Signature of depositor of Will
- g. Withdrawal of Will if any
- h. Name and address of withdrawer of Will
- i. Residential address and contact number
- j. Identification Card number e.g. Voters ID, Passport
- k. Name of person requesting for Will to be read
- l. Evidence of testator/testatrix's death e.g. death certificate/burial permit
- m. When probate granted
- n. If caveat filed and case disposed of (registrar to state)
- o. Name, address and recipient of probate with signature
- p. Remarks by registrar

CAVEAT REGISTER

The caveat register shall include the particulars below:-

- i. Registration number
- ii. Title of case
- iii. Name of caveator/caveatrix
- iv. Date of filing caveat
- v. Date of filing affidavit of interest, if any
- vi. Date when case was sent to court
- vii. Date when case was disposed of and order by the court
- viii. Remarks

PART FIVE (5)

ENFORCEMENT OF JUDGMENTS AND ORDERS, STAY OF EXECUTION, INTERPLEADER SUMMONS AND TAXATION

ORDER 43 OF CI 47 HIGH COURT (CIVIL PROCEDURE) RULES

ORDER 21 OF CI 59 DISTRICT COURT (CIVIL PROCEDURE) RULES

5.A. ENFORCEMENT OF JUDGMENTS AND ORDERS

Courts of law make various orders, rulings and decisions resulting from the trial process. These orders, rulings and decisions or judgments should be obeyed by all especially the parties and those affected by those outcomes. Where there is failure to comply, the successful party may apply to the court using the following procedure to ensure compliance: -

- The successful party in the judgment/ruling/order delivered, files an application to the registrar of the court to issue enforcement processes.
- The registrar ensures that appropriate fees for the application are paid for which receipts are issued. The application is filed/sealed, entered in a book and service directed to be effected.

The enforcement processes of the court are as follows:

- Formal decree at the District Court
- Entry of judgment after trial at the Circuit and High Courts
- Drawn orders
- Garnishee summons

The registrar shall ensure that the enforcement processes are served.

5.B. EXECUTION PROCESS

- The registrar shall, upon an application for execution processes to be issued and carried out, ensure that the appropriate fees are paid, receipt issued and when no motion for stay of execution and/or proceedings has been filed and pending, shall direct the deputy sheriff officer to proceed with execution.
- The execution processes which are not served but carried out are as follows:-
 - a. Writ of Fieri Facias
 - b. Writ of possession
 - c. Writ of attachment

- d. Writ of delivery
- e. Writ of sequestration
- The losing party may after the court order has been carried out, file a document to stop the order or prevent the court from seizing his property or selling it by public auction.
- The registrar shall ensure that all processes filed before the court are fully determined before he takes further steps in the matter.
- The registrar shall comply with the final order of the court.
- The registrar shall tax all amounts awarded as costs and ordered by the court.

5.C. STAY OF EXECUTION

At any time during execution, if an application for stay of execution is brought to the notice of the registrar (deputy sheriff), he shall cause the execution to stop to await the outcome of the application.

- In the High Court or the Circuit Court, the writs of execution are prepared by the victorious parties or their counsel and presented for sealing and enforcement. It shall then be the duty of the registrar to ensure that appropriate fees are collected before sealing and referring them to the deputy sheriff officer (bailiff) for execution.
- The registrar shall note that judgments/orders are not enforced or executed until after seven (7) clear days after the date of the judgment/order.
- The registrar should also note that enforcement/execution has to wait for seven (7) days after an application for stay of execution has been refused or dismissed, and there is no appeal.

5.D. INTERPLEADER SUMMONS/NOTICE OF CLAIM

ORDER 48 & 44 RULE 12 OF CI 47

Sometimes some properties which have been seized by the registrar (deputy sheriff) on application of a judgment creditor for sale in settlement or satisfaction of a judgment may turn out not to belong to the judgment debtor. When the registrar receives notice from a person claiming that the property belongs to him but not the judgment debtor, the appropriate process for relief is an interpleader application.

The significance and impact of interpleader summons is to ascertain the true owner of a property seized from a judgment debtor in order to determine who should receive the property and avoid multiple liability.

There are four types of interpleader summons, two in the District Court

- District Court interpleader
- Dispossessed person's interpleader

And two in the Circuit/High Court

- Sheriff interpleader
- Stakeholders interpleader

The responsibility of the registrar is to ensure that:

- i. The appropriate fees are paid.
- ii. He issues an interpleader summons for the magistrate to sign.
- iii. He fixes a date and gets the interpleader summons served on the judgment creditor and the person making the claim to come to court for the determination of the ownership of the property.

5.E. DISPOSSESSED PERSON'S INTERPLEADER

Upon receipt of a motion from any person who is not a party in the case that he has been dispossessed of his landed property because it has been seized in execution of a judgment, the registrar shall:

- a. Collect the statutory fees and file the motion.
- b. Ensure that the motion is served on the judgment creditor or the purchaser as the case may be for determination by the court.

Notice of Claim by Other Person (Order 44 Rule 12 of CI 47)

If the registrar of either the High Court or Circuit Court receives a notice from any person to the effect that a property seized in execution belongs to him and not the judgment debtor for filing, the registrar shall:

- a. Take the filing fees before filing the notice
- b. Prepare and file a notice of the claim and cause it to be served on the judgment creditor and calling on the judgment creditor to either admit or dispute the claim within four (4) days
- c. If the judgment creditor responds admitting the person's claim, the registrar shall withdraw the execution and get the judgment creditor to pay the expenses incurred before receipt of the notice admitting the claim.
- d. If the judgment creditor fails to respond within the 4 days or if he responds disputing that person's claim, the registrar may make an ex-parte application to the court for an order directing the claimant and the judgment creditor to appear in court for the determination of the issue.
- e. On granting the application, the registrar shall draw up the order and serve copies on the claimant and the judgment creditor to appear in court on a given date.

STAKEHOLDER'S INTERPLEADER

Where the registrar receives a motion from any person who holds property, money etc. for which two or more persons are likely to lay adverse claims to, the registrar shall:

- After the fees have been paid get it filed.
- Fix a date for the applicant to be heard in court.

5.F. TAXATION

ORDER 74 RULE 1 OF C.I. 47

At the end of a trial or application and after pronouncing judgment, or a ruling, the court may order that costs be taxed.

Upon such an order, the registrar who is also the taxing officer of the court has the responsibility to:-

- i. Give notice to the party in whose favour the order is made to file his bill of costs, cause copies to be made and served on the other side.
- ii. If the other side also files his response, the registrar shall cause copies to be made and served on the party in whose favour the order is made
- iii. After exchanging of the bills, the registrar fixes a date for the taxing of costs.
- iv. After concluding the work, the registrar prepares and files his tax officer's certificate for consideration by the court.

5.G. MODE OF EXECUTION IN THE DISTRICT COURT (Order 21 of CI 59), CIRCUIT COURT AND HIGH COURT – (Order 44 OF C.I. 47)

EXECUTION: - A writ of execution is an authorization by the court in which judgment has been given to an officer of the court to carry the said judgment into effect. The forms of execution vary according to the nature of the judgment entered in favour of the judgment creditor and in accordance with the judgment debtor's assets which is sought to be attached in satisfaction of the judgment. Below is a list of processes available:

1. Writ of fieri facias (Fifa)
2. Writ of possession
3. Writ of attachment/garnishee proceedings
4. Writ of delivery
5. Writ of sequestration (receiver & manager)
6. Order of committal
7. Garnishee proceedings
8. Charging order
9. Distringas

10. Stop order

- In all these processes of execution, there shall be an application made to the registrar of the court who upon assessment of fees payable demands payment. A receipt is issued upon payment and a docket opened.
- The registrar shall note the method of execution in relation to the property of the judgment debtor available to satisfy the judgment debt.
 - The registrar shall also note that a judgment or order for the payment of money is not to be taken as a judgment or order for the payment of money into court.

The procedure to follow is:-

- i. There shall be an ex-parte motion/application for leave to issue a writ of execution by the successful party, judgment creditor or his lawyer.
- ii. The application shall be accompanied by an affidavit with convincing reasons that the losing party/judgment debtor is aware of the proceedings and order of the court.
- iii. The court may grant leave and a just order for the registrar to draw up on the application made for the purposes.
- iv. The application for the issue of the writ of execution shall be made and signed by the successful party or his lawyer.
- v. The registrar/cashier shall file it indicating the date and time of filing.
- vi. The registrar shall before the issue of the writ of execution, satisfy himself by enquiring whether any process has been filed, and whether there is judgment or order, in respect of such process with or without leave of court.
- vii. The registrar shall then indorse the writ; seal and give directions to the bailiffs to execute the court order.

5.H. WRIT OF FIERI FACIAS (FIFA)

The impact and effect of a writ of fieri facias is to 'Cause it to be done or let it be done'. It is the actual seizure of a judgment debtor's property, being goods, personal effects, belongings, movables or immovables to be sold by auction. The money realized is paid to the judgment creditor in satisfaction of the judgment debt and costs with or without interest, based upon an order of the court.

When a judgment creditor or his lawyer files an application ex parte for leave to issue a writ of fieri facias (FiFa), the registrar shall ensure that:

- i. The application is accompanied by an affidavit stating reasons showing that the judgment debtor is aware of the proceedings and the court order.

- ii. The court may grant leave and a just order for the registrar to draw up the order on the application made for that purpose.
- iii. The application for the writ of fieri facias for attachment and seizure shall be made and signed by the judgment creditor or his lawyer.
- iv. The registrar/cashier shall file it with indication of date and time of filing.
- v. The registrar shall before the issue of the writ of execution satisfy himself by enquiring whether any process has been filed, and there is judgment or order for granting leave or where the writ may be issued without leave of the court.
- vi. He then endorses the writ, seals and gives directions to the bailiffs to execute the court order.

5.I. ENFORCEMENT OF JUDGMENT FOR PAYMENT OF MONEY OR ORDER IN AID OF A WRIT.

A judgment or order for the payment of money which is not a judgment or order for the payment of money into court, may be enforced by one or more of the following:

1. Writ of fieri facias (Fifa)
2. Garnishee proceedings
3. A charging order
4. Appointment of a receiver
5. Order of committal

Summons to show cause.

In view of the Supreme Court decision in Republic vs High Court (Fast Track Division), Accra; Ex parte PPE Ltd & Paul Jurik (Unique Trust Financial Services Ltd, Interested Party) (2007-2008) 1 SCGLR 188, this mode of execution is no longer applicable.

5.J. WRIT OF POSSESSION

A writ of possession is issued for the actual recovery of possession of a part or whole of a building or apartment occupied by either a party in a suit or on behalf of someone involved in the suit and this is upon a court order which must be complied with. The application shall conform to the following:

- i. There shall be an ex-parte application by the successful party judgment creditor or his lawyer for leave to issue writ of possession but if the occupants of the property are not aware of the suit, the appliccaation should be on notice.
- ii. The application shall be accompanied by an affidavit stating reasons showing that the judgment debtor is aware of the proceedings and order of the court.

- iii. The court may grant leave and order the registrar to draw up the order for the issue of the writ of possession, which shall be made and then signed by the judge/magistrate and the registrar.
- iv. The registrar/cashier shall file it indicating the date and time of filing.
- v. The registrar shall before the issue of the writ of execution, satisfy himself by enquiring whether any process has been filed, and whether there is a judgment or order granting leave to execute the writ or where the writ may be issued without leave of the court.
- vi. The registrar shall then indorse the writ; seal and give directions to the bailiffs to execute the court order.

5.K. WRIT OF DELIVERY/SPECIFIC DELIVERY

A writ of delivery/specific performance is issued to recover goods in possession of a judgment debtor or his agent as alternative payment in value of the goods assessed upon a judgment and court order and for the payment of any money awarded.

- i. There shall be motion ex-parte by the judgment creditor for leave to issue writ of delivery/specific performance.
- ii. The application shall be accompanied by an affidavit giving reasons to show that the judgment debtor or their agent or representative is aware of the proceedings and order of the court leading to the debt.

5.L. GARNISHEE PROCEEDING AND ORDERS

A garnishee proceeding issues to compel a third party to provide or furnish information about money held by another person or body on behalf of or belonging to the judgment debtor to the court.

- i. There shall be a motion ex-parte by the judgment creditor or his lawyer for leave to issue the garnishee order.
- ii. The application shall be supported by an affidavit stating convincing and reliable sources that the judgment debtor has money or securities held for him by the garnishee (person, bank, society). The application for the garnishee summons shall be made and signed by the successful party or his lawyer.
- iii. The motion seeks a court order for a garnishee summons to be issued and served on the garnishee to appear in court to inform the court whether the judgment debtor has any money with the garnishee which could be used to settle the judgment debt.
- iv. The order shall, if it is deemed fit, be served on the judgment debtor to appear before the court.
- v. The garnishee summons issued upon the ex-parte application is directed to the bank, company, or society or a representative to appear to be orally examined.

- vi. The garnishee shall be examined as to whether it has any property or deeds in their possession belonging to the judgment/debtor or money that could settle the debts and to produce evidence on such issues.
- vii. When the court is satisfied after the examination, it shall make an absolute order for the garnishee to pay the judgment creditor and the registrar shall draw up the order and serve the garnishee accordingly or discharge the garnishee.

5.M. WRIT OF SEQUESTRATION

A writ of sequestration is an order by the court to seize the properties of a disobedient person and to take control until the court gives an order for release or the act of performance is carried out.

- i. A writ of sequestration shall not issue except with leave of the court.
- ii. There shall be a motion on notice by the successful party/judgment creditor stating the grounds for the relief in an accompanying affidavit.
- iii. There shall be personal service on the person against whose property the writ is being issued.
- iv. The parties shall appear before the court to decide on the issues and to give just and appropriate orders which the registrar shall draw up for strict compliance.
- v. The order shall appoint commissioners or receivers and managers which order shall be drawn up by the registrar and served on them.
- vi. A writ of sequestration shall be directed to two (2) or more commissioners to be appointed by the court for that purpose.
- vii. They shall have the legal power or authority to enter any building (immoveable property) against which the court had made an order in this regard.
- viii. They are also responsible to collect rents and profits on the building
- ix. They also take control of moveable items and keep them under sequestration or control sequestration until the court varies or vacates the order.

5.N. CHARGING ORDERS, DISTRINGAS AND STOP ORDERS – ORDER 49 OF C.I. 47 HIGH COURT (CIVIL PROCEDURE) RULES.

In order to enforce its orders or judgments for the payment of money to a person, a court may by order impose on any immovable or interest in immovable property of a debtor, a charge to secure the payment of any monies due or to become due under the judgment or order as may be specified in the order. When the judgment debtor fails to obey the court order the judgment creditor who has knowledge that the judgment debtor has some shares and stocks, funds, securities, government bills and or money paid into court, shall

seek an order from the court to enforce payment of monies due him by a charging order, distringas and stop order.

The following procedure shall apply:

5.O. CHARGING ORDER

- i. There shall be an ex-parte application for leave to issue a charging order.
- ii. The application shall be supported by an accompanying affidavit disclosing the source of information relied upon.
- iii. There may be joined in the application for an order, a plea for the appointment of receiver to enforce compliance of the charging imposed by the order.
- iv. The court may grant leave and a just order for the registrar to draw up such order and be served on the person or the government department to show cause why they should not obey the charging order and the judgment debtor if it so directs.
- v. The court shall on further consideration of the matter, if it deems fit, make an order absolute with or without modification.
- vi. Where it appears to the court that the matter should not be made absolute it shall discharge the order.

5.P. DISTRINGAS

This is a writ to order the sheriff to distrain a defendant's or judgment debtor's property to compel him to perform an obligation in satisfaction of a judgment. It may issue to seize securities, shares etc. to which a judgment debtor is beneficially entitled, as a pledge or indemnification, upon an application to the court.

5.Q. IN RESPECT OF STOP ORDER

In respect of the funds, monies, securities in the custody of the court:-

- i. There shall be an application by a judgment creditor or a person entitled to such interest to the court for an order prohibiting transfer, sale, delivery, payment of funds or other dealing with the funds or any parts of the funds or the income from the funds without notice to the applicant by a stop order.
- ii. There shall be notice of motion served on each person whose interest may be affected by the order applied for by the applicant.
- iii. The court shall determine the issue and if it deems it fit, to grant a stop order which the registrar shall comply with.

PART SIX (6)

CIVIL APPEALS

6.A. APPEALS

ORDER 51 OF CI 47

Provision is made for a person who is aggrieved by the decision or order of a lower court to appeal to a higher court.

An appeal from a civil decision or order of the District Court is heard by the High Court in the region. The procedure for the preparation and transmission of the record of appeal is as follows:

1. The appeal is brought, in the case of a substantive appeal, when the notice of appeal is filed in the District Court (the court below) from which the appeal is made.
2. As soon as practicable after the notice of appeal has been filed, the court below shall cause a copy of the notice of appeal to be served on each of the parties mentioned in the notice.
3. The appellant shall within one month after being notified by the registrar of the court below to deposit in the court below the prescribed fee to cover the expenses of making up and forwarding the record of appeal, also deposit a prescribed sum or give security by bond with one or more sureties to the satisfaction of the court below for the due prosecution of the appeal and for the payment of any costs which the appellant may be ordered to pay.
4. The court below shall compile the record of appeal which shall consist of the original process, the pleadings, if any, certified copies of all documents tendered or admitted in evidence, the notes of evidence, any interlocutory proceedings, orders, the judgment or order of the court below, the notice of appeal and the addresses of the parties or their lawyers.
5. The record of appeal when completed shall be forwarded to the registrar of the High Court together with :
 - a. Certificate that the conditions imposed on the appellant have been fulfilled.
 - b. One copy of the record for the use of the judge and
 - c. The docket or file of the case in the court below containing the papers or documents filed by the parties in connection with it as well as all exhibits tendered in evidence whether admitted or rejected.
 - d. (d) It is the duty of the court below to submit the record of

- appeal to the High Court thirty (30) days after the conditions of appeal have been fulfilled.
- e. (e) The appellant shall bear the cost of his copy and the copies to be used by the judges.
 - f. (f) The respondent shall pay for his copy of the appeal record.

In the case of civil appeals from the High Court or Circuit Court to the Court of Appeal:

1. The registrar ensures that the filing fees have been paid into the bank before filing the notice of appeal
2. He causes a copy or copies to be served on the respondents
3. The registrar shall invite the parties to appear before him on a given date to settle on the documents or processes to be included in the record of appeal.
4. Whether the parties turn up or not, provided there is proof of service on them, the registrar shall proceed and settle the record stating the processes he determines should be part of the record.
5. On the other hand if the parties or their counsel turn up he would record whatever the parties want to be included in the record of appeal.
6. After the settlement, the registrar shall impose conditions for the appellant to fulfill. These include:
 - a. Directing the appellant to deposit a set amount of money to cover the making up and forwarding the record to the Court of Appeal.
 - b. Requesting the appellant to either deposit a further sum of money or enter into bond with sureties for the due prosecution of the appeal and for payment of any money he may be ordered to pay.
7. If the appellant fails to comply with the conditions within the time given him to do so, the registrar shall make a report to the Court of Appeal on a prescribed form for 'Non-compliance'.
8. On the other hand if the appellant fulfills the conditions, the registrar shall cause eight (8) copies of the proceedings to be typed embodying copies of all pleadings filed and copies of all documents tendered during the trial.
9. The registrar shall then forward five (5) copies of the proceedings together with the case docket as well as the original exhibits to the Court of Appeal. He shall also enclose certificates on the prescribed forms to the effect that the notice of appeal has been served and that the conditions imposed by the registrar have been fulfilled.
10. He shall also serve copies of Civil Form 6 certifying that the record has been forwarded to the appellate court on the parties.
11. The registrar should be conversant with the Court of Appeal Rules C.I. 19 (as amended).

6 B. INTERLOCUTORY APPEALS FROM THE DISTRICT COURT: ORDER 51 RULE 16 OF CI 47

A party or an applicant who is dissatisfied with a ruling on a motion heard in the District Court may file an interlocutory appeal against it to the High Court.

In the interlocutory appeal, the registrar of the High Court is guided by the provisions in order 51 rule 16 of CI 47, and shall ensure that the appellant:

- a. Submits to him at least 4 files containing
 - The notice of appeal
 - The motion paper, the supporting affidavit and the exhibits annexed to the affidavit and used in the court below.
 - The respondent's affidavit in opposition with its exhibits used in the court below, if any.
- b. The registrar shall file them upon payment of the appropriate fees
- c. The registrar shall cause to be served on each respondent one file and a certificate of service made.
- d. If the appellant does not file his statement of case within fourteen (14) days the registrar shall make a certificate to that effect to the court.
- e. If the appellant files his statement of case, the registrar shall cause same to be served on the respondents within seven (7) days from the date of filing.
- f. If the respondent files six (6) copies of his statement of case within fourteen (14) days, the registrar shall cause it to be served on the appellant.
- g. Interlocutory appeals from the Circuit Court and High Court lie to the Court of Appeal.

6 C. JUDICIAL REVIEW

ORDER 55 OF CI 47

Apart from dealing with appeals from the lower court, the High Court may also on application quash or vary orders made by the lower court or make restraining orders to stop them from some action. These are in the nature of orders for prohibition, mandamus, certiorari, quo warranto and other injunctions.

When such applications are presented to the registrar of the High Court the following steps shall be taken by the registrar:

- Get the application filed after the necessary fees have been paid.
- Ensure that enough copies have been provided to be served on the respondents and any other interested persons to be served.

- Ensure that all responses and other processes presented are accepted, filed and served on the persons named for service.
- Make a certificate to the court when a party fails to file a paper he is supposed to file within the time specified by the rules to do so.
- When an order is made by the court, it is drawn up without delay upon payment of the requisite fees.
- Ensure that the person, to whom the order is directed, is informed without delay by causing a copy to be served on him.
- Ensure that he refers to Order 55 of C.I. 47 for guidance.

6.D. COURT EXHIBITS

Order 36 Rules 8 To 10 Of CI 47

Exhibits play a vital role in the justice delivery system. Great care shall be taken in handling court exhibits as the strength of a case may depend on exhibits in the delivery of judgments. The following procedure shall apply in handling court exhibits:-

1. The court clerk shall mark all exhibits tendered in evidence or identified during trial.
2. Exhibits that are tendered in evidence during trial are sometimes objected to and then rejected or accepted but which are retained as records of the case.
3. The letters 'I' and 'O' are not written as marks on exhibits as they create confusion.
4. Exhibits tendered by a plaintiff in a case are marked with capital letters of the alphabets such as "A, B, C" onwards.
5. Exhibits tendered in evidence by a defendant in a case are marked with the numerals or numbers "1, 2, 3" and onwards except 'O'.
6. If there are attachments to the exhibits they shall be marked "A, A1, A2, and A3" etc for plaintiff.
7. Alternatively for defendants it shall be "1, 1a, 1b, 1c" etc.
8. In respect of criminal cases it differs as the exhibits tendered are marked with alphabets for the prosecution and numerals for the defence.
9. Exhibits identified are marked "identified" and returned to the prosecutor in criminal cases.
10. The court clerk shall ensure that exhibits tendered in evidence in civil cases are paid for and receipts issued.
11. The court clerk or exhibit clerk shall ensure that he registers the exhibits in the exhibits register and gives them case number.
12. The exhibit is given a tag with the case number/police file number/ the date submitted and signature of recipient having custody of such exhibit.

13. Any exhibit that is being released to court for trial or to the owner shall be signed for in the book designed for the purpose, before collection.
14. If cash is an exhibit, it is taken to the cashier and receipted and paid into the court bank account. The receipt shall be kept on the court file as evidence of the cash exhibit but it shall be by court order.
15. If there is no court order in this direction, the serial number of money notes, the denominations or amount is recorded for trial till the court makes any order accordingly.
16. Exhibits such as dangerous items, not able to be kept in the court, in a safe or secure manner, should be kept by the police on the orders of the court.
17. Documents are kept in the court safe or the exhibit room.
18. If the exhibit is a large item, a photograph shall be taken and a copy kept on the court file.
19. If the exhibit is perishable, the court makes an order for its sale and keeps the money received until the end of the case. A receipt is issued for the money received by the court and kept in the court bank account. The receipt shall be kept on the court file as evidence of the exhibit.
20. Exhibits are kept until the court makes an order for them to be returned or destroyed.
21. There shall be a certificate of destruction of exhibit and signed by all parties and pasted in the order book and copied on the court docket.

PART SEVEN (7)

CRIMINAL PROCEDURE IN THE DISTRICT COURT, CIRCUIT COURT AND HIGH COURT

COMMENCEMENT OF CRIMINAL ACTIONS – SECTION 60 & 61 OF ACT 30

7. A. CRIMINAL PROSECUTIONS

Criminal prosecutions are commenced in our courts by criminal summons and upon arrest by the police.

A police detective officer brings a criminal summons, search warrant or warrant of arrest for the signature of a magistrate or judge.

When a suspect is arrested and charged with a criminal offence at the police charge office, a charge sheet with facts of the case is presented to the court for registration and prosecution.

Alternatively a suspect who fails to report to the police on police enquiry bail may have his surety brought before the court on an application for forfeiture of recognizance bail.

These two processes are brought to the court by a police prosecutor or detective officer for registration and prosecution. The court registry staff shall ensure:

- i. Filing process at the counter – No fees charged
- ii. Recording the charge sheet and facts of the case attached in the 'counter clerk process book' and then to the issuing clerk to allot the appropriate court case number.
- iii. The issuing clerk allots the court case number, enters it in a registration book for the docket clerk to open a court docket jacket or file for that case.
- iv. The docket clerk after opening the docket jacket file makes entries in the 'movement of documents book' and forwards it to the court to be received by the court clerk who signs for it.
- v. At times the court clerk shall enter it in a register and make the necessary recordings.
- vi. The court clerk shall ensure that all registered fresh criminal cases as well as pending cases on the cause list for trial are well arranged in an orderly manner.
- vii. That the court record books are available and headed with red ink in readiness for the court proceedings to commence.

7.B. SUMMARY TRIAL

Summary trials are conducted at the District Court, Circuit Court, and High Court/Regional Tribunal. The trial is by a single magistrate or judge respectively. Juvenile court and Family Tribunal procedure is also summary even though the magistrate sits with two or a maximum of four other panel members in the case of Juvenile Courts and two in the case of the Family Tribunal to determine matters before them. The Regional Tribunals try cases summarily even though the panel consists of the Chairman and two other panel members. A summary trial is devoid of too many formalities and is expeditious and conducted in accordance with part three (3) of the Criminal Procedure Act 30. A trial on indictment at the High Court on the other hand is by a judge sitting with a seven (7) member jury. The conduct of a trial on indictment is very formal.

The following procedure shall apply to summary trials:

- On receipt of the criminal summons under section 62 of Act 30, the registrar shall affix the magistrate's/judge's office stamp on it and place it before the magistrate/judge for signature.
- After the magistrate/judge has signed the criminal summons, the registrar shall return it to the police to be served on the person named on it to appear on the date stated on the summons
- With the attendance of the accused in court, the procedure laid down for trial shall commence.

7.C. JUVENILE COURT PROCEDURE

Section 340 of the Criminal Procedure Code (Act 30) gives exclusive jurisdiction to the Juvenile Court to deal with all criminal cases against juveniles or persons below the age of eighteen (18) years.

The Juvenile Court is duly constituted by a magistrate of the District Court sitting with two to four panel members one of whom shall be a social welfare officer. Note should be taken that:

A juvenile charged with a criminal offence is not put before a court that tries adult criminals.

- a. That the sittings of the Juvenile Court are not held in public.
- b. That persons who are permitted to sit in the Juvenile Court are the police in plain clothes, the juvenile's lawyer, court officials, the juvenile's relations and any person permitted by the court.
- c. That juveniles cannot be remanded into prison custody. They are put in the custody of remand homes, their relations or any other person or place ordered by the court.

- d. That convicted juveniles are not sent to prisons but are detained in correctional institutions, or put in the custody of fit persons appointed by the court or a relative.
- e. That a juvenile convicted by any other court is not sentenced by that court but should be remitted to the Juvenile Court for sentence.
- f. That during the trial of juveniles, probation officers from the department of social welfare are involved who investigate the background of the juveniles to assist the court make appropriate decisions.
- g. That no death sentence shall be passed on a convicted juvenile.
- h. For more details the registrar of the District or Juvenile Court should acquaint himself with Part nine (IX) i.e. Section 340 of Act 30 (Criminal Procedure Code)

7.D. TRIAL BY INDICTMENT

Trial by indictment is preceded by the drawing up of a jury list by the registrar of the District Court to the registrar of the High Court for the trial to take place.

Trial on indictment is by a seven (7) member jury sitting with a High Court judge on very serious offences involving loss of life and other related crimes and which carry severe punishments such as death, life imprisonment, and long periods of imprisonment.

- i. When an accused person is charged with an offence such as murder or manslaughter, he is first put by the police before the District Court, awaiting the bill of indictment, which is the formal statement of charge of the accused person from the Attorney General's department.
- ii. Upon completion of the bill of indictment by the Attorney General's department, it is presented to the registrar of the district court for filing. The registrar of the district court opens a case docket into which the original of the bill of indictment is placed.
- iii. Two copies are given to the police to serve one on the accused person charged and the other copy sent to the Attorney General's department.
- iv. On the date of the preliminary hearing, if the magistrate commits the accused to stand trial, the registrar of the district court shall forward to the registrar of the trial High Court the following:
 - The bill of indictment or summary information
 - The proceedings of the preliminary hearing
 - The committal order
 - All exhibits from the police intended to be tendered during the trial
- v. The registrar of the High Court upon receipt of the above shall register

the bill of indictment and allot it a number.

- vi. The registrar shall prepare a juror's list from a list of staff of the various institutions submitted to him by the registrar of the district court.
- vii. The registrar shall then prepare a calendar of cases to be tried at the next criminal session.
- viii. In respect of trial by indictment when the criminal assizes/session is to begin after the legal vacation in October the registrar shall act as follows:-
 - a. The registrar shall ensure that the bill of indictment and all related processes and records emanating from the committal by the district court have been brought to him and are up to date and same recorded in the cause book with a case number.
 - b. That the court docket is safely kept by him to be presented at the criminal session when due.
 - c. That within a month to the criminal session, he shall prepare a list of cases to be heard called 'calendar of cases' on a designed and approved form and signed by him.
 - d. That copies of the 'calendar of cases' are served on the prison authorities, the police and the Attorney General's department in time, and other copies pasted on the court notice boards.
 - e. That, at the opening of the criminal session, the representative of the registrar in the courtroom (the court clerk) or any other officer of the court shall call the registrar (deputy sheriff) of the court to submit all dockets in his possession together with the list for hearing to the court.
 - f. The clerk shall call out names of all jury men selected for the exercise to respond by their names as failure to respond or absence shall attract a court fine.
 - g. The clerk shall call the names of the prisoners in order as arranged and shall direct them where to stand in the dock and read their charges to them.
 - h. The charges are explained in a local language by the court interpreter and the pleas taken.
 - i. The jury men for the case shall be called to be sworn but with a right for the accused person to raise objection to any of them if he wishes, before the commencement of trial.
 - j. The jury men are selected from a box in which their names are written on pieces of paper and balloted.
 - k. The court clerk swears in the jury who thereafter choose their leader called a foreman.
 - l. The court shall explain their duties or functions to them.
 - m. When judgment or verdict is given, the court clerk shall make entries which are submitted to the registrar who shall comply appropriately with the court order.

7.E. PREPARATION OF JURY LIST

The registrar of a district court prepares a jury list to enable trial by indictment to take place. The list is then forwarded to the registrar of the High Court. The jury list is a compilation of selected members from government institutions to sit in trial of very serious offences known as trial by indictment. Seven (7) jurors are selected and empanelled to sit with a High Court judge to determine the cases.

The registrar of the district court shall ensure the following:

- a. There shall be a letter to government institutions to submit names of qualified staff to act as jurors.
- b. The registrar shall warn all heads of the institutions as to punishment or neglect of their duty.
- c. The registrar shall comply within a prescribed period and time for the exercise which is between 1st and 30th May; and between 1st and 30th November or as the Chief Justice may direct.
- d. The registrar shall ensure compliance with section 210 of Act 30, (1960), for the provision of personal information when required of prospective jurors.
- e. The court shall cause a public sitting in the preparation of the jury list to hear from parties affected and to amend or correct mistakes in drawing up the final list. The final list when prepared shall be forwarded by the registrar of the district court to the registrar of the High Court.
- f. The final list submitted by the registrar serves as the jurors' list for the criminal assizes/session and is revised every year in the same order of events.
- g. The registrar shall refer to the criminal procedure code under section 207 of Act 30, (1960) for guidance as to who is exempt from service as a juror:

Person exempt from jury service include:

- i. the President, the Vice President, the Speaker and Members of Parliament;
- ii. the Justices of the Superior Courts of Judicature, the judges and magistrates of the lower courts, coroners and deputy coroners;
- iii. legal practitioners in actual practice and the other court officers;
- iv. registered medical practitioners and registered dentists in actual practice;
- v. registered pharmacists in actual practice;
- vi. Prison officers and warders;
- vii. Police officers;

- viii. Officers and other members of the armed force;
- ix. Public officers (not those performing clerical duties) employed in the medical, posts and telecommunications, customs, excise and preventive service, railway authority or ports authority.
- x. persons actually officiating as priests or ministers of their respective religions;
- xi. school masters actually engaged in teaching in a school;
- xii. persons employed in a public electric telegraph office or in an electric power station;
- xiii. diplomatic and consular representatives and the salaried functionaries of foreign Governments;
- xiv. editors of daily newspapers; and
- xv. any other persons exempted by the Chief Justice.

Any person convicted for treason, or offence involving fraud and dishonesty unless pardoned is disqualified to be a juror.

- The registrar of the High Court shall inform the judge when a head of a department writes stating reasons for his inability to release a staff to serve as a juror and the court shall determine the matter and take appropriate action.

7.F. INQUEST PROCEEDINGS

When a person dies under strange and doubtful circumstances and the cause of death is unknown, it is presumed that he has died an “unnatural death”. It therefore requires an investigation to be conducted by a coroner to establish the cause of death. The proceeding to unravel the true cause of death is called an inquest. Every magistrate and circuit Judge is a coroner for the district to which he is appointed. The following procedure shall apply.

The process is commenced by a report made by an individual when a dead person is found at a place or public place or by a relation when a person did not die at a hospital or when admitted at a hospital, he shortly dies without the cause of death known. The police shall report to the court for directions and the registrar shall act as follows:-

A police report shall be sent to the court registry for the court to give directions for a post mortem examination of the dead person by a government pathologist to determine the cause of death.

The necessary forms to be sent to the court by the police shall be three (3) sets and are as follows:

SET A

1. Notification of death to coroner by police signed by the police officer and his rank indicated.
2. Notification of death by person in charge of hospital, directed to the magistrate/coroner when a person admitted to the hospital dies shortly and the medical officer does not know the cause of death.

Copies are sent to;

- The medical officer in charge
 - The officer in charge of the Ghana Police Service
 - The pathologist
3. Authority by the coroner for the issue of the permit for burial, directed to :-
The registrar, births and deaths registry.
 4. Direction for a post mortem examination signed by the magistrate/coroner to the pathologist

SET B

It is to be noted that when an Inquest is to be held, the necessary forms and direction are as follows:

1. Direction to make a special examination of the deceased person signed by the magistrate/coroner to the medical officer or pathologist.
2. Request by registrar to police for an inquest docket and information gathered as a report to be forwarded to the court.
3. Coroner's certificate after holding of inquest signed by the magistrate/coroner.
4. Coroner certificate dispensing with holding of inquest signed by the magistrate/ coroner indicating the report of the medical officer/pathologist as to the likely cause of death signed by the magistrate/coroner.

The essence of an inquest is limited to the establishment of the identity of the deceased, the time, place and cause of his death. It is not intended to apportion blame or assign responsibility to anyone for the occurrence under consideration.

When a coroner is requested by or on behalf of the Inspector General of Police to adjourn an enquiry for the circumstances of the death to be investigated to determine whether criminal proceedings shall be instituted, the coroner shall adjourn the inquiry for fourteen (14) days and after that shall adjourn

the inquiry for further periods of fourteen (14) days on similar requests in that behalf.

If, on an inquiry as to a death, the Inspector General of Police requests the coroner to adjourn to enable them institute criminal proceedings for an offence in connection with the death the coroner shall adjourn the inquiry until after the conclusion of the criminal proceedings.

After the conclusion of the criminal proceedings, the coroner may resume the inquiry if the coroner is of a view that there will be public benefit from it failing which the coroner shall transmit the proceedings to the High Court.

The registrar of the District Court before which a person is charged with an offence in connection with the death of a person shall inform the coroner holding the enquiry of the committal for trial and of an appeal against summary conviction of the person charged. – See section 11 of Act 18.

The outcome of the inquiry does not have to name any person as guilty of any offence in connection with the demise of the victim. (See s. 17(2) of Act 18 the Coroner's Act).

7.G. PRACTICE AND PROCEDURE IN RESPECT OF CRIMINAL LUNATICS

1. In the course of a trial or preliminary proceedings if the court has reason to believe that the accused is of unsound mind and consequently incapable of making a defence, it shall enquire into the fact of the unsoundness by:
 - i. Causing the accused to be medically examined and
 - ii. Taking medical and any other available evidence regarding the state of the accused person's mind.
2. Where the court is satisfied from evidence on oath that there is a prima facie case against the accused, but is of opinion that the accused is of unsound mind it shall record a finding to that effect and postpone further proceedings in the case.
3. The court shall however grant the accused bail where the case is one in which bail may be granted, for him to be properly taken care of and shall be prevented from causing personal injury or injury to any other person. The court shall adjourn the matter to a stated time:
4. Where the case is one in which bail may not be granted, or if sufficient security is not given, the court:
 - shall order the accused to be detained in safe custody in a place and manner it may determine, and
 - The court's record or a certified copy of the record shall be transmitted to the Minister through the Judicial Secretary.

5. Upon consideration of the record the Minister may by warrant signed personally by him directed to the court, order the accused to be confined as a criminal lunatic in a lunatic asylum or custody, and the court shall give the directions necessary to carry out the order.
6. A warrant of the Minister given above is sufficient authority for the detention of the accused until the Minister makes a further order in the matter or until the court finding the accused incapable of making a defence, orders the accused to be brought before it again in the manner prescribed under sections 134 and 135 of Act 30/60.

7.H. PROCEDURE WHEN CERTIFIED AS CAPABLE OF MAKING A DEFENCE

1. Where an accused confined in a lunatic asylum or other place of custody under section 133 is found by the medical officer in charge of the asylum or other place of custody to be capable of making a defence, the medical officer shall forthwith forward a certificate to that effect to the Attorney-General.
2. The certificate shall state whether, in the opinion of the medical officer, the accused person is fit to be unconditionally discharged.
3. The Attorney-General shall on receipt of the certificate inform the court which recorded the finding against the accused under section 133 whether it is the intention of the Republic that the proceedings against the accused shall continue or otherwise. (See section 134 of Act 30/60).
4. When the court orders the accused to be detained in safe custody in a place and manner it may determine pending the transmission of the court record to the Minister through the Judicial Secretary the court clerk shall prepare a remand warrant for the magistrate/judge to sign. On top of the remand warrant, the letters "FOR MEDICAL OBSERVATION" shall be boldly written in capital to guide the registrar.
5. The registrar, while awaiting the warrant from the Attorney General's office for the accused to be removed from custody and sent to mental hospital for examination and detention at the lunatic asylum, shall act as follows:-
 - He shall cause two (2) certified true copies of the proceedings to be sent to the Minister for Justice and Attorney General through the Judicial Secretary for his directives or advice.
 - Upon a warrant being received from the Attorney General for the accused person's removal from police custody to be sent to the mental/lunatic asylum, the court shall make an order and the registrar shall ensure compliance.
 - The registrar shall then draw up an order for the accused person to be remanded at the lunatic asylum as a criminal lunatic for

- the examination to be conducted by the doctor.
 - When the Attorney General advises whether to proceed with the case or not the registrar shall act thus -:
6. If fit for trial, a removal order shall be made and drawn up by the registrar for the accused to be brought to face/stand trial.
 7. If the Attorney General decides not to proceed with the case, an order for release shall be made and the registrar shall draw up the order to that effect accordingly.
 8. Upon a report from the medical doctor confirming the accused person to be medically unsound and therefore unfit to stand trial, the court may if it deems fit, start proceedings and take evidence from the medical officer and police witnesses for future references and the registrar shall certify the proceedings.
 9. The registrar shall also certify the proceedings when satisfied that the records in the record book are correct.

7.1. DEPORTATION

Upon convicting a person who is not a citizen of Ghana the judge/magistrate may in passing sentence make a recommendation that the convicted person be deported to his country of origin after serving the sentence.

When such an order is made, the registrar has to take the following steps:

- a. Draw up the certificate of recommendation for deportation without delay for the signature of the judge/magistrate
- b. If the recommendation is made by a lower court (Circuit Court or District Court) three copies of the proceedings are typed out.
- c. Three copies of the certificate of recommendation for deportation, two (2) copies of the record of proceedings and two (2) copies of a covering letter are forwarded to the Judicial Secretary.
- d. Copies of the cover letter without the enclosures are sent to the registrar of the High Court exercising jurisdiction over the trial court and the chief director of the Ministry of Interior, Accra.
- e. It is the duty of the registrar to draw the attention of the judge/magistrate in particular to record the following personal particulars of the person to be deported.
 - His nationality.
 - Place of abode before entering Ghana
 - Date of entry, nature of employment in Ghana, place of residence and length of stay in Ghana.
 - Whether married and nationality of spouse, place of birth of children and dates
 - Whether he wishes to remain in Ghana or where he wishes to return to with reasons.

- f. Where the recommendation is made by the High Court, the deportation order together with the proceedings is forwarded to the Judicial Secretary after the period allowed for filing appeal has lapsed.
- g. On the other hand if an appeal is filed, the registrar has to wait for the result of the appeal and then after forward the order together with the result of the appeal.

7.J. ENFORCEMENTS, EXECUTIONS OF COURT JUDGEMENTS AND ORDERS

Enforcement of court judgments and executions ensure obedience to the rule of law and makes the society feel well protected by creating awareness for all to be law abiding. Court judgments and orders are enforced by court fines, imprisonment, order for return of items to their owners, or executions.

The following procedure shall apply:-

- i. It is the duty of the registrar to ensure that when a court judgment is delivered, it is carried out without delays
- ii. The registrar shall ensure that when court fines are imposed they are paid, receipts issued and entries made in the record book, on the charge sheet and appropriate cash book.
- iii. That default warrants are issued as well as commitment warrants if the fine imposed is without the option of a fine.
- iv. That when an accused person is sent to prison for his failure to pay a fine and serves part of his prison term and later comes to make payment, the proportion served shall be taken out and payment made for the outstanding after which a discharge warrant is issued for the magistrate/judge to sign.

It is the responsibility of the registrar to ensure that court records and exhibits are destroyed upon the order of the court. There must be a certificate to that effect, signed by those entrusted to carry out the order in the presence of police personnel and representatives of the archives department.

7.K. DESTRUCTION OF COURT RECORDS

Court records comprise court documents, perishable goods tendered or identified in trials as exhibits, other recorded items which are health hazards or harmful and not safe for keeping.

When the court gives an order for destruction of court records the following procedures shall apply:

- i. Court documents, records or exhibits shall be destroyed in compliance with the court's order during trial, or after trial.
- ii. There shall be a certificate for destruction of such exhibits entered in a

book and the officers to carry out the directive shall write down their names and append their signatures.

- iii. There shall be an order for destruction drawn up by the registrar.

7.L. PETITIONS, APPEALS IN RESPECT OF CRIMINAL CASES IN THE DISTRICT COURT

When a criminal appeal petition against the decision of the District or Juvenile Court is presented to the registrar of the High Court, the registrar shall act as follows:

- a. The registrar shall ensure that the petition is filed with the date and time indicated.
- b. Open a docket for the petition and allot it a criminal appeal (CRA) suit number.
- c. The respondent, the Attorney-General is served with a copy of the petition or notice of appeal.
- d. The registrar of the trial court from where the case was heard is informed in writing, to submit a copy of the petition if it was filed in the District Court and a request for three (3) copies of the proceedings together with all the exhibits tendered at the trial.
- e. When the proceedings are received from the trial court, a copy is placed in the case file.
- f. The registrar shall fix a date for hearing and inform the parties, the Attorney-General and the accused person in writing together with copies of the proceedings and the hearing date.
- g. The docket is then listed and taken to court.
- h. When the appeal is dealt with, a certificate to that effect is made and forwarded to the trial court with a copy to the prison in which the appellant was serving a sentence. The registrar shall endorse the warrant of commitment presented by the prison authorities if the appeal did not succeed.

7.M. HIGH COURT

When a convict appeals against the decision of the High Court and the notice of appeal is presented to the registrar of the High Court he has to act as follows:

- He will cause it to be filed without assigning it a suit number.
- He will send a copy to be served on the respondent the Attorney-General or his representative.
- Five (5) copies of the notice of appeal should be forwarded to the appellate court (Court of Appeal).
- The registrar causes eight (8) copies of the proceedings embodying copies of documentary exhibits tendered during the trial to be made.

- When the record of proceedings is completed five (5) copies are forwarded to the Court of Appeal together with the original exhibits.
- Copies of the letter forwarding the proceedings to the Court of Appeal are sent to the parties (appellant and respondent) together with copies of the appeal record thus making a total of seven (7) copies sent out.
- The eighth (8th) copy is retained as an office copy.

When the registrar of the Circuit Court receives a notice of appeal against the decision of the Circuit Court in a criminal case, he acts exactly as in respect of criminal appeals from the District Court to the High Court.

PART EIGHT (8)

JUDICIAL ACCOUNTING

8.A. REGISTRAR AS AN ACCOUNTING OFFICER

The registrar as the administrative head of the court registry has the responsibility to account for all monies received at the registry and to control the movement of value books and other financial records. This function is often delegated to the cashier or accounts officer in the registry. To discharge this responsibility he takes the following steps:

- a. He issues official receipts i.e General Counterfoil Receipt (GCR) for all monies received.
- b. He opens and maintains a cash book
- c. He submits his receipt books, cash book and other financial records for checking by the controller of government funds.
- d. He checks the cashier's book regularly.
- e. To check receipt and entries of fines in the record books.
- f. He produces his accounting books and records for auditing when demanded.
- g. He gives replies to financial queries promptly.
- h. He should be conversant with the rules/regulations relevant to his financial duties

The registrar shall not give monies received as court fees, fines and deposit as loans to the staff or any other person.

Unless the court otherwise directs, no money received as court fees, fines or deposit shall be used as investment or for any other purpose other than the official purpose for which it was paid.

Since 2007 payments for court services and fees are made to a designated bank which issues a receipt. The court cashier continues to issue a GCR upon receipt of the bank receipt of payment.

8.B. CHEQUES AND CASH BOOK

THE REGISTRAR AS THE ADMINISTRATIVE HEAD OF THE REGISTRY IS THE ACCOUNT HOLDER OF ANY ACCOUNT OPENED IN THE NAME OF THE COURT REGISTRY.

The following procedure shall apply:-

- a. The registrar has to requisition for value books and strictly control their movement and use.

- b. He has to check, report defects and loss of value books/records promptly to the Controller and Accountant General, the Audit Service and the Judicial Service.
- c. He strictly supervises his subordinates to whom he delegates some of his financial duties.
- d. He displays in front of the counter a notice in English and a language commonly used in the locality, of the need to take an official receipt for all monies paid to the cashier.
- e. He has to be conversant with the schedule of court fees to enable him know the assessment and to supervise the cashier.
- f. He therefore endorses all cheques issued in the name of the court (registrar). Under the present system this requirement is unnecessary because the registrar no longer endorses cheques.
- g. He ensures that receipts issued for cheques in the name of the registrar are endorsed by him and entries are made in the court cash book
- h. He has to ensure that payment out of court is supported by the relevant documents covering the payment of the amount into court.

8.C. PAYMENTS AND DEPOSITS

Almost every aspect of the court work involves money. The registrar as accounting officer of the court has to ensure that all monies paid into court and out of court are properly accounted for. To be able to do this:

- a. The registrar has to ensure that proper assessments for collection of monies are made.
- b. That every payment of money into court is covered by a proper receipt.
- c. That all monies paid in are credited to the proper account head.
- d. That the accounts document such as receipts, cashbooks, pay-in-slips etc. are presented to the controller of government funds for checking.
- e. It should also be noted that it is not all monies paid into court that constitute revenue. The court also receives monies meant for court users e.g. judgment debts, costs, monies for service of documents by licensed private process servers are deposits paid into court pending release among others. It is essential that details and proper entries are made to facilitate withdrawal of these deposits when a demand is made.

The following procedure shall apply:-

- a. The registrar has to ensure that court orders are obtained for withdrawal of deposits.
- b. Application for withdrawal is made by the person entitled to it or his lawyer.
- c. That the claimants are properly identified.

- d. That a court payment voucher is prepared with all the necessary documents (receipts, pay-in-slips etc.) supporting the claim are attached.
- e. That these are forwarded to the Director of Finance for further processing and payment.

8.D. IMPREST ACCOUNT

To facilitate the urgent day to day running of the registry, the main accountant/ financial controller has to release a fixed amount of money to the head of the registry or department on either monthly or quarterly basis. On release of the amount to the registrar/departmental head:

- a. He has to maintain an imprest cash book in which he records the amount and the day it is received.
- b. He should only expend the money upon a request and ensure that the amount is spent on the item for which the imprest has been released.
- c. He shall keep proper documents e.g. receipts for all expenditures.
- d. He shall retire the imprest with supporting documents before a fresh imprest is released to him.

PART NINE (9)

APPENDIX

Precedents of court orders

Specimen forms

Index

The registrar shall be fully conversant with all the Judicial Forms. He/she shall be able to draw up court orders.

TRANSFER ORDER

SUIT NO. B8/79

EKOW ANAMUAH

VS.

ADONGO ABRENGA

Whereas this suit is pending in the High Court at Cape Coast in the Central Region of the Republic of Ghana.

SGD:

CHIEF JUSTICE And whereas it has become desirable for this suit to be transferred to Bolgatanga High Court in the Upper East Region.

Now therefore, under Section 104(1) of the Court Act 1993 (Act 459), I, Chief Justice of the Republic of Ghana do hereby order that this case be entirely transferred from the High Court of Justice, Cape Coast to the High Court of Justice Bolgatanga in the Upper East Region to be dealt with according to law.

It is hereby ordered that the Registrar of the High Court, Bolgatanga do cause the parties to be notified of the transfer.

Given under my hand and the Seal of the High Court this.....day of.....20.....

SGD: JUDICIAL SECRETARY

TRANSFER ORDER

SUIT NO. DC 63/20

ESSI ASANTEWAA
VS.
ADJA APPIAH KWODWO

Whereas the above named case is pending before the District Court at Bole in Northern Region of the Republic of Ghana.

Sgd:
SUPERVISING JUDGE:

And whereas it has become desirable to transfer the matter to the District Court at Daboya in the Northern Region.

Now therefore, under and by virtue of the Powers vested in this court under Section 106(1) of the Court Act 1993 (Act 459), I, supervising High Court Judge for the Northern Region do hereby order and direct that the whole cause or matter be transferred to the District Court at Daboya to be dealt with according to law.

It is hereby further ordered that the Registrar of the District Court at Daboya do cause the parties to be notified of this transfer.

Given under my hand and the Seal of the High Court this.....day of.....20.....

SGD: REGISTRAR

In the High Court of Justice, Accra

SUIT NO. BDMC

SELINA ANTWI PETITIONER

AND

BATHOLOMEOW ANTWI RESPONDENT

SGD
HIGH COURT JUDGE: CERTIFICATE OF DIVORCE

This cause having come on before His Lordship Justice Addo on the 10th day of June 2000 for determination.

And the said Justice Addo having given judgment for the Petitioner.

It is hereby decreed that, the Ordinance Marriage Celebrated at the District Magistrate Court Bimbilla on the 17th July 1980 be and is hereby dissolved as having broken down beyond reconciliation.

Given under my hand and the Seal of the High Court this..... day of.....20.....

SGD: REGISTRAR

In the High Court of Justice, Accra

SUIT NO. L 099/2000

YAW AMACHI PLAINTIFF

VRS

DAVID NKRUMAH DEFENDANT

SGD:
HIGH COURT JUDGE: ORDER FOR INJUNCTION AND
APPOINTMENT OF RECEIVER AND
MANAGER

Upon reading the affidavit of Yaw Amachi of Accra filed on the.....day of.....20..... in support of Motion on Notice For An Order restraining the Defendant herein from interfering or collecting rent in respect of house No. A/67, Accra-North and the affidavit of David Nkrumah filed on the.....day of.....20..... in opposition.

And upon hearing Messrs Adam Kojo and William Adom Counsel for the Plaintiff and the Defendant respectively .

It is hereby ordered that both parties either by themselves, servants, agents etc. be and are hereby restrained from having anything to do with House No. A/67, Accra-North pending the determination of this case.

It is hereby ordered that Seth Afriyie of Accra be

and is hereby appointed as Receiver and Manager of the property until the determination of this case. He shall be entitled to 2% of the proceeds accruing.

It is hereby further ordered that he files a report every three months.

Given under my hand and the Seal of the High Court this.....day of.....20.....

SGD: REGISTRAR

In the High Court of Justice, Accra

SUIT NO. BC 6/99

ADOM KWOWE PLAINTIFF

VRS

WUMBA AFRAM DEFENDANT

AND

ADDA KWOWE APPLICANT

SGD:

HIGH COURT JUDGE:

ORDER FOR SUBSTITUTION

Upon reading the affidavit of Adda Kwowe filed on the.....day of20..... in support of Motion on Notice For An Order to substitute him for the Plaintiff herein.

And after hearing Aaron Kofi Ameyaw, Esq., Counsel for the Applicant herein.

It is hereby ordered that the Applicant Adda Kwowe being the eldest son of the late Adam Kwowe be and is hereby substituted in place of Adam Kwowe as Plaintiff in this suit.

Given under my hand and the Seal of the High Court this.....day of..... 20.....

SGD: REGISTRAR

In the High Court of Justice, Accra

SUIT NO.

ELIZABETH DONK PLAINTIFF

VRS

JOHN JONES DEFENDANT

SGD:
HIGH COURT JUDGE: ORDER FOR SUBSTITUTED SERVICE

Upon reading the affidavit of Elizabeth Donk of Accra filed on the 16th day of June 20 in support of Motion Ex-parte for an order to serve the Writ of summons on the Defendant by Substituted Service.

And upon hearing Kojo Adabi, Esq., Counsel for the Plaintiff/Applicant herein it is hereby ordered that the Writ of summons and the Statement of Claim together with copies of this order be effected on the Defendant as follows:-

1. Posting on the High Court Notice Board, Accra.
2. Posting on the Public Notice Board, Post Office.
3. Posting on the last known place of abode of the Defendant i.e. H/No. Az 49, Zongo where they shall remain for 21 days.

Given under my hand and the Seal of the High Court this.....day of.....20.....

SGD: REGISTRAR

In the High Court of Justice, Accra

SUIT NO.

..... PLAINTIFF

VRS

..... DEFENDANT

REGISTRAR'S SUMMONS
ORDER 37 RULE 4(1) PF C.I. 47

Let all the Parties attend court on the.....day of.....20
.....to show cause why this case should not be struck out for want of
prosecution.

REGISTRAR

TO: PLAINTIFF

..... DEFENDANT

In the High Court of Justice, Accra

SUIT NO.

AB PLAINTIFF/JUDGEMENT/CREDITOR

VRS

CD DEFENDANT/JUDGMENT/DEBTOR

AND

EF CLAIMANT

NOTICE OF CLAIM TO PROPERTY
TAKEN IN EXECUTION

Take Notice that EF the Claimant herein has laid claim to the VW car with Registration No. BXXZ 668 R which has been taken in execution at your instance.

You are therefore within 4 days of receiving this notice, to give me Notice either admitting or disputing Mr. EF's claim.

REGISTRAR

TO: Mr. AB the Plaintiff/Judgment/Creditor.

JUDICIAL SERVICE OF GHANA
 CIRCUIT COURT-AKIM SWEDRU
 EASTERN REGION
 STAFF ATTENDANCE POSITION FOR THE MONTH OF JANUARY 2010
 WEDNESDAY 6TH JANUARY 2010

NO.	NAME OF STAFF	RANK	STAFF NUMBER	SIGNATURE OF STAFF	DATE	INDICATION OF PRESENCE OF STAFF/ ABSENCE FROM DUTY/ OTHERWISE BY REGISTRAR	SIGNATURE OF REGISTRAR/ SECTIONAL HEAD/HEAD OF DEPARTMENT	REMARKS BY JUDGE

- P - Permission
- Ab - Absent
- S - Sick
- ED - Excuse Duty
- L - Leave

NUMERICAL STRENGTH OF STAFF IN REGISTRY
 TOTAL NUMBER OF STAFF ATTENDANCE FOR THE DAY
 TOTAL NUMBER OF ABSENTEEISM FOR THE DAY
 REGISTRARS REMARK OF STAFF ABSENCE FROM DUTY

ANNUAL STAFF ATTENDANCE RETURNS
 CIRCUIT COURT – AKIM SWEDRU
 (EASTERN REGION)

OCTOBER TO SEPTEMBER

NO.	NAME OF STAFF	OCT.	NOV.	DEC.	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.

.....
 REGISTRAR

MONTHLY STAFF ATTENDANCE
CIRCUIT COURT – AKIM SWEDRU
EASTERN REGION

NO.	NAMES20.....					TOTAL
		1 ST WEEK	2 ND WEEK	3 RD WEEK	4 TH WEEK	5 TH WEEK	

..... REGISTRAR