INTRODUCTION

This index is an index to the *Rules of the Supreme Court of the Northwest Territories*, established by regulation numbered R-010-96. The Rules have been analyzed rule by rule, and index entries composed to summarize the contents of each rule. These entries appear under one or more subject headings.

The index contains both general and specific subject headings. Therefore, it may be necessary to look at more than one heading to find all relevant references. For example, **PLEADINGS, ORIGINATING DOCUMENTS** and **ORIGINATING NOTICES** are all headings that may relate to the same subject in more or less detail. Cross references indicate related subject headings or subheadings.

Forms are listed alphabetically under the heading **FORMS**. They are also indexed by subject with their corresponding rules. All other references are to rule numbers.

ABATEMENT

actions, death, 75

ABSCONDING DEBTORS

costs, 548(2) judgments, 548(1) livestock or perishables, 546 property, holding and returns, 544, 545 writs of attachment affidavits, 540(2), 541(a) applications, 540(1), Form 48 bonds, sureties and other security, 541(b) execution, 540(3) returns, 543 service, 542 setting aside, 547

ACCOUNTS

administrators, 551(a), 555 bank. see BANKS discovery of documents inclusion in definition, 218(1) production for inspection, 221(3), 225(4) executors, 551(a), 555 receivers, filing, 451 taking affidavits, 430 debts, judgments or orders, 420 default proceedings, generally, 167(3)(a) default proceedings, third parties, 151(3)(a) delay in prosecution, effect, 428 directions, time, 427, 429 excess charges, 431 filing, 430(2) judgments, insufficient material, 403 partners, writs of execution, 510(6) receipts and documents, production, 430(4) summary judgments, amount only genuine issue, 176(3) trust, see TRUST ACCOUNTS trustees, 551(a), 555

ACTIONS

abatement, death, 75 class, see CLASS PROCEEDINGS commencement certificates of pending litigation, 476 irregularities, effect, 710 mentally incompetent persons, 81

minors, 78 originating notices, 8(2) persons incapable of managing their financial affairs, 80 petitions, 8(3) solicitors, authority, 14, 702 solicitors outside Yellowknife, 11 statements of claim, 8(1) consolidation, 318 continuance, 74, 89(7), 200, 202, 710 defined. 1 delay, see DELAY IN PROSECUTION discontinuance, see DISCONTINUANCE dismissal, see DISMISSAL ioinder. see JOINDER OF ACTIONS new judgments, deemed actions, 422(2) parties, defective for want of, 60 property, protection, 61 solicitors, compensation, 667 stays, see STAY OF PROCEEDINGS waste, prevention, 61

ADDRESSES

contingency agreements, 658(2) examination for discovery experts, 252 persons with knowledge, 251(3) examination in aid of execution, corporations, 513(1) examination out of court solicitors or agents, 359(1)(c) translators, 359(1)(d) foreclosure actions, notice, 576 interpleader, claimants, 456(3) partners, disclosure, 89 payment into court, trusts, persons interested, 207 pleadings, persons delivering, 15(e) service, *see* SERVICE; addresses writs of execution, endorsement, 493

ADJOURNMENT

applications, 392, 394, 396 case management conferences, 284(2)(a) chambers, sittings, 728-730 Court, sittings, 728-730 cross-examination on affidavits, 381(5) examination for discovery, 237(2), 251(2) hearings, settling judgments or orders, 411(4)(b) inquiries, 433(1) juries, sittings, failure to prove facts or documents, 343 special chambers applications, 393 trials

after publication of date, 324 appeals, applications, 341 evidence summaries, non-compliance, 326(6) terms, 340

ADMINISTRATION PROCEEDINGS defined, 549 estates, see ESTATES trusts, see TRUSTS

ADMINISTRATORS

accounts, orders to furnish, 551(a), 555 administration proceedings, parties, 552 directions, 551(c) joinder of actions beneficiaries, 63 judgments or orders, 64, 65 personal claims, 55 payment into court, orders, 551(b) sales, approval and powers, 551(d), 556 solicitors acting as, compensation, 664

ADMINISTRATORS AD LITEM

appointment, 70

ADMISSIONS, see also FACTS admissibility, 295 calls to admit, 294 case management conferences, 284(1)(d) costs consequences, 128 counterclaims, withdrawal, 317 cross-claims, withdrawal, 317 defences, new grounds, 112(3) delay in prosecution, orders, 329(c) discovery of documents, 228 form, pleadings or otherwise in writing, 293 ioinder of issue, 102 law, admissions of, withdrawal, 296 offers to settle, deemed admissions, 185 payment into court, deemed admissions, 185 service, verification, 42 silence, 120 statements of defence, withdrawal, 317 summary judgments or orders, 181 third parties claims, withdrawal, 317

deemed admissions, 147(4), (5)

ADVANCE PAYMENT

disclosure, 217 judgments, 216 releases, deemed and requested, 214, 215

AFFIDAVITS

accounts, taking, 430 addresses for service, 367(4) admissions of service, 42 alterations, erasures, interlineations, 376 applications chambers, use, 380 evidence, 382(3) ex parte, 398 late filing, 395(1) list, 382(4) service, 383 blind deponents, 371 committees, appointment, 565, 566 contents, restrictions, 373(1) corporations, 373(2) court experts, reports, 278(6) court reporters, powers, 722 cross-examination, 381 default proceedings, judgments, 163, 167(3)(a) delay in prosecution, applications, 327(2) discovery of documents business books, inspection, 227 documents in affidavits, production, 225(1) examination for discovery, corrections, 260 exhibits, 377, 378 foreclosure actions affidavits of default, 579(2), Forms 51, 59 affidavits of value, 579(3). Form 52 final affidavits of default, 589(1), Form 54 sales, reports, 586 subsequent relief, 577(3) foreign process, service, 607 form, generally, 367 garnishment, applications for leave, 523(2), (3), 524 illiterate deponents, 371 information and belief, 373(3) interim recovery of personal property, 437 interpleader, 456(3) interpreters, 372 irregularities, 368(4), 374 judgments

Index

consent, filing, 404(2) memoranda of satisfaction, filing, 423(1)(a) signatures, conditions, 414 judicial review, service, 597 minors, disposition of property, 562(2), 563(1) numbers, 367(3) orders, consent, filing, 404(2) originating notices, 24 paragraphs, 367(2) payment into Court. Trustee Act, 207 personal property, recovery, 471(2) petitions, 8(4) reciprocal enforcement of judgments, 620, 628 scandalous, irrelevant or oppressive, 375 security for costs, 632(1) service, substitutional, 38 service out of jurisdiction, 49 summary judgments, 174-176, 181 swearing date and place, 369 irregularities, 368(4) names, 368(2) several deponents, 370 signatures, 368(1) solicitors, 368(3) taxation, affidavits verifying disbursements, 670, 680 taxing officers, powers, 668(1)(a) telecopiers, 379 third parties, default proceedings, 151(3)(a) inals, proof of fact, 351 witnesses, apprehension, 365(2) writs of attachment issuance, 540(2), 541(a) returns, 543 setting aside, 547 writs of possession, issuance, 504(2)

AGE OF MAJORITY, see MINORS

AGENTS

charges, inclusion in definition of costs, 641(c) contingency agreements, signatures, 658(1) examination out of court, addresses, 359(1)(c) garnishment, applications for leave, affidavits, 523(2) interim recovery of personal property, affidavits, 437 pleadings, names, inclusion, 15(e), 16(1)(b), 19(a) reciprocal enforcement of judgments, notice, 629 security for costs, affidavits, 632(1) service admissions, verification, 42 defendants out of jurisdiction, 35, 47(1)(f) documents, personal service, 43 telecopiers, 40 writs of attachment, affidavits, 540(2)(a) writs of execution, addresses, 493

AGREEMENTS

applications, argument in writing, 388 case management conferences, 284(1)(d) certificates of readiness, 320 contingency, see CONTINGENCY AGREEMENTS default proceedings, actions on bonds, 161(5) delay in prosecution, rules, application, 330 experts, appointment, 278(2) judicial review, records, 598(6) persons under disability, 88 pleadings, denials or silence, 124 solicitors, compensation contingency agreements, see CONTINGENCY AGREEMENTS scope, 656 taxation, 654, 687 special cases, 297, 299(4), 302 specific performance, see SPECIFIC PERFORMANCE

AMENDMENTS

admissions, 294(5) committees, appointment, 569 costs, 141 counterclaims, 130(5), (6) defences to counterclaims, 130(5) documents, filed, 140 judgments, default, 170, 171 originating notices, 129(3) petitions, 129(3) pleadings, generally case management conferences, 284(1)(c) consents, 132 defects or errors, 134 delay in prosecution, orders, 329(e) delivery, 138 disallowance, applications, 131 endorsements, 137 expiration of leave to amend, 135 grounds, 129 manner, 136 new matters, 112 real questions in issue, determination, 133 time, 713(3) trials, amendments made at, 139 without leave, 130 proceedings, irregularities, 708 records of the Court, 140 replies, 130(3), (4) statements of claim, 59(1) statements of defence, 130(2), (4) third party proceedings, 130(5) time, 713 writs of execution, 490(a), 696

AMICUS CURIAE appointment and powers, 92

APPEALS

costs, scale on appeal, 650 examination for discovery, directions, 249(3) exhibits, return after, 735 offers to settle, disclosure, rules, 186, 187 payment into court, disclosure, rules, 186, 187 property, inspection, 338 reciprocal enforcement of judgments, 620(e), 628(b) special cases, stays, 302(2) taxation certificates, 675(2) costs, 695(2) evidence, 694 notices, filing, service, time, 693 powers of the Court, 695 repayment, enforcement, 697 Sheriff, fees, 725(5) writs of execution, amendments, 696 trials, adjournment, 341

APPEARANCES

contents, 19 delivery, time, 93 filing, effect on defective service, 39 forms, 93(4), Form 7 judgments, consent, filing, 404 late filing, 159 notice, entitlement after filing, 158, 165 orders, consent, filing, 404 solicitors, undertakings to file, 31 third parties, 147(1), 148, 150

APPLICATIONS (INTERLOCUTORY) adjournment

failure to give notice, 396 chambers lists, withdrawal, 392, Form 26 administration proceedings leave to appear, 552 notices of judgments or orders, variation, 557(7) affidavits, 380, 382(3), (4) case management conferences, 283, 284(1)(f), (2)(e), 288certificates of pending litigation, setting aside, 478 certificates of readiness, 320 chambers affidavits, use, 380 lists, striking from, 395(1) lists, withdrawal, notices, 392, Form 26 orders, signatures, 412(2) rules, variation, 401 telephones, use, 389 time, 386 contempt, 703(1) costs adjournment, 394 generally, 649 late filing, 395 court experts, appointment, 278(2) default judgments, 165(b), 167, 169-171, 421(2) delay in prosecution, 327, 328, 329(b) discovery of documents business books, inspection, 227 documents in possession of non-parties, 231 further information, 226 dismissal, failure to give notice, 396 equitable execution, 522 estates, notices of judgments or orders, variation, 557(7) evidence, affidavits, 382(3) ex parte addresses, 20 conduct money, amounts, 652(2) default judgments, 167(2), 171 evidence, reading in, 354(a) examination for foreign courts and tribunals, 609(2) exhibits, disposal, 735(3) foreclosure actions, 576-578 garnishment, pre-judgment, 523 generally, 398 interim recovery of personal property, 437(3)

4

interlocutory injunctions, 446 mandatory orders, 446

notice, directions, 398(3)(a) orders, duration, 398(3)(b) parties, changes, continuances, 76 pleadings, delivery, time, 93(3) preservation of property, 468 reciprocal enforcement of judgments, 617, 626 service, orders and affidavits, 398(2) service out of jurisdiction, 49(3) setting aside, 398(4) solicitors, death or ceasing to act, 701 stop orders, 473(2) summary judgments, special urgency, 174(2) supporting material, 398(5) third parties, default proceedings, 151(2) writs of attachment, 540, 541 examination for discovery consolidation, 318(2) corporations, 238 leave to withhold information, 255 non-parties, 270 examination for foreign courts and tribunals, 609, 614 exhibits, return, 735 foreclosure actions, sales, 587, 588 fraudulent conveyances, 521 garnishment, 523, 538 inquiries, reports, 434(2) interim recovery of personal property, 437 interlocutory injunctions, 445 interpleader, see INTERPLEADER irregularities. 385, 426, 709 joinder of actions, 58 judgments, 340(2), 402, 403 judicial review, see JUDICIAL REVIEW mandatory orders, 445 medical examinations, 272 memoranda, filing and service, 390 minors, continuances, 86 motions, applications to be made by, 382(1) notices of motion, see NOTICES OF MOTION orders effective date, 400(2) forms, 400(1), Form 27 particulars, requirements, 382(5) variation, 397, 399 partnerships disclosure of names and addresses, 89 writs of execution, 510 payment into court, Trustee Act, 207 pleadings, amendments, 129, 131

property, preservation and inspection, 337, 470 questions of fact and law, disposition, stays, 304(1)(c) receivers, appointment, 449 reservation of liberty to apply, 408 rules, waiver or variation, 401 service irregularities, 44 notices of motion, 383, 384 substitutional, 38 service out of jurisdiction, 49, 51 special chambers applications adjournment or cancellation, 393, 394 contested matters, duration, 387(1) dates, 387(2) pre-hearing briefs, filing, 391, 395(2) service, 387(3), (4) stop orders, 473, 475 summary judgments, see SUMMARY JUDGMENTS telephones, use, 389 third parties default proceedings, 150, 151 defended actions, directions, 153(2), 154 notices, setting aside, 144 trials adjournment, 324, 341 entry, 319(3) postponement, 405 trusts, notices of judgments or orders, 557(7) setting down, completion, 320 withdrawal, notice, 392 writing, applications by, agreements, 388 writs of execution, leave, 486, 490, 510

APPLICATIONS (ORIGINATING), see ORIGINATING NOTICES

ARGUMENT amicus curiae, powers, 92 applications, 382(5), 388 special cases, summaries, 300

ASSESSMENT OF DAMAGES, see DAMAGES; assessment

ASSIGNMENTS choses in action, discovery of documents, 220 examination for discovery, 242 garnishment, fraudulent assignments, 528 interim recovery of personal property, bonds, 439, 443

parties, death, effect, 74 taxation of costs, delivery of documents, 691

ASSOCIATIONS security for costs, 633(1)(d) service, personal, 30(6)

ATTACHMENT garnishment, see GARNISHMENT writs of, see ABSCONDING DEBTORS

AUDITORS examination for discovery, 239

BANKRUPTCY examination for discovery, 243 joinder of actions, 53

BANKS

books, production for inspection, place, 221(3), 225(4) evidence, payment, 356 money paid into court, trust accounts, 210(2), 212

BARRISTERS. see SOLICITORS

BENEFICIARIES accounts, 555 claims, originating notices, 550 inquiries, time, 420 joinder of actions, 63(1) judgments or orders against, 64, 65 payment out of court, 209

BILLS OF EXCHANGE, see NEGOTIABLE INSTRUMENTS

BILLS OF SALE interpleader, adverse claims, 464

BLIND PERSONS affidavits, swearing, 371

BONDS

default proceedings, actions, 161(5) interim recovery of personal property, 439, 443 interpleader, effect, 461(2) security for costs, 636, 640 writs of attachment issuance, conditions, 541(b) livestock and perishables, 546

BURDEN OF PROOF facts, pleadings, 109 trials, addresses, 336

CANADA EVIDENCE ACT examination for foreign courts and tribunals, 609(1)

CARRIAGE BY AIR ACT service out of jurisdiction, 47(1)(0)

CASE MANAGEMENT CONFERENCES

adjournment, 284(2)(a) applications, interlocutory, 284(2)(e) case management, defined, 281 conference judges defined. 281 designation, 282 not seized of the proceeding, 290 powers, 284 costs, 287 delay in prosecution, orders, 329(j) directions to appear, 283 experts, conferral, 284(2)(d) mini-trials, 284(2)(c), 292 non-compliance, parties or solicitors, 288 orders reciting action taken, 286 schedules, 284(2)(b) solicitors, duties, 283, 285 telephone or television conferences, 289 trial judges meetings, powers, 291 mini-trials, restrictions, 292

CERTIFICATES

affidavits blind or illiterate deponents, 371 exhibits, 377(2) evidence, payment, deposit-taking institutions, 356 evidence summaries, non-compliance, 326(4) examination for foreign courts and tribunals, 613(2) examination out of court, translation, 359(1)(d) judgments, signatures, conditions, 415 judicial review, returns, 598 originating notices, 22(k) payment out of court, 211(4) reciprocal enforcement of UK judgments, appeals, 628(b) service out of jurisdiction, Convention, 50 taxation of costs, 675, 725(4) writs of execution, costs. returns, 500, 501, 503

CERTIFICATES OF PENDING LITIGATION

foreclosure, restrictions, 480 issuance, 476(1), Form 41 liens, restrictions, 480 pleadings, claims, inclusion, 476(2) service, with originating document, 477 setting aside, 478, 479

CERTIFICATES OF READINESS

filing, 319 service, 323

CERTIFICATES OF TITLE

originating notices, 22(d) specific performance, filing, 581

CERTIORARI. see JUDICIAL REVIEW

CHAMBERS

adjournment, 728-730 applications, *see* APPLICATIONS; chambers clerk in chambers, 719(1) judgments and orders, 719(2) new judgments, proceedings, 422 sittings, time and place, 727(2) special chambers applications, *see* APPLICATIONS; special chambers taxation, appeals, 693(2)

CHATTEL MORTGAGES

interpleader, adverse claims, 463

CHATTELS. see GOODS, PERSONAL PROPERTY, PROPERTY

CHEQUES. see NEGOTIABLE INSTRUMENTS

CHILDREN, see MINORS

CHOSES IN ACTION

interpleader, inclusion in definition of property, 454

CIVIL CONTEMPT, see CONTEMPT

CLASS PROCEEDINGS

administration proceedings, 550(b), 557 common interests, 62 payments, restrictions, 484 property, protection, 61 representation orders, 71 security for costs, 633(1)(d) waste, prevention, 61

CLERK, see also COURT; officers absence, special duties, 717(2) adjournment, judges not present, 730 amendments, records and documents, 140 applications notices of motion, filing, 382(2) withdrawal, 392 certificates of pending litigation, issuance, 476, 479 certificates of title, filing, 581 chambers, clerk in, acting as, 719 contingency agreements, filing, review, 659, 661 default proceedings, 149, 160 documents, acceptance of non-conforming, 733 duties, generally, 718 examination for discovery, appointment, 248(1) examination for foreign courts and tribunals, 613 exhibits, return or disposal, 735 experts, reports, 278(7) fees inclusion in definition of costs, 641(e) taxation, proof of disbursements, 680(1) fiats, notice, records, 424, 425 foreclosure actions affidavits of value, filing, 579(3) orders nisi, signing, 582 sales, reports, 586 foreign process, service, 607 garnishment payment into court, notice, 537(1) responses, 531, 537(2) summons, issuance, 523(1), 524, 526 wages and salary, 532, 535 judgments, settling and entry, 411-416 judicial review, returns, 595(2), 598 lost documents, replacement, 12 memoranda of satisfaction, 423

7

minors, disposition of property, consent, filing, 563(2) next friends, written authority, 82 notices of intention to tax, filing, 312(2) officer of the Court, 715 offices, 716, 720 orders, sealing, settling, entry, 400(1), 411-416 originating documents, issuance, duties, 9-11 payment into court funds, administration, 210, 211 notice, 190 repayment, 191 pleadings, amendments, endorsements, 137 procedure books, entries, 10(3), 349, 734(2) rules, provisions not included, 4 special cases, filing, 299(3) special chambers applications, 387(2), 391, 393 statements of claim, renewal, 13 taxing officer, acting as, 642 third parties, noting in default, 149 third party notices, filing, 142(3) mals briefs, copies, 325 entry, 319(4) lists, publication, 324(1) writs of attachment, issuance, 540(1) writs of execution amendments, appeals, 696 recovery of money, endorsement, 495 renewal, 498 signatures, 491

COMMENCEMENT OF ACTIONS, see ACTIONS; commencement

COMMITTEES

accounting, 568 appointment, applications affidavits, 565(2) costs, 567 grounds, 565(1) service, 566 continuance orders, variation, 76(4) evidence and procedures, consent, 85 examination for discovery, 241 mentally incompetent persons actions and defences, 81 appointment, grounds, 565(1)(a) persons incapable of managing their financial affairs actions and defences, 80 appointment, grounds, 565(1)(b) payments, restrictions, 484 service, 34 review, 569 solicitors acting as, compensation, 664

COMPROMISES

administrators, executors and trustees, 551(d) estates and trusts, non-joinder of parties, 73 offers to settle, payment into court, 185 persons under disability, 88

CONDITIONS PRECEDENT pleadings, 110

CONDUCT MONEY, see also EXPENSES costs generally, see COSTS in addition to conduct money, 652 defined to include, 641(f) defined, 1 examination for discovery, 248 trials, 363-365

CONFESSIONS, see ADMISSIONS

CONFIDENTIALITY. see DISCLOSURE

CONFLICT OF INTEREST committees, restrictions, 565(2)(e)

CONSENT

administration proceedings. 552(1) admissions, withdrawal, 317 applications orders, variation, 399(2) telephones, use, 389 withdrawal, 392 committees, members, 565(2)(c) costs estates, trust funds, mortgaged property, 665 taxation, independent legal advice, 688 taxation, settlements, 651(2) discontinuance, 309, 310, 312 examination for discovery continuation after filing certificate, 320 videotapes, use, 269 examination for foreign courts and tribunals, 615 examination out of court, 357 interim recovery of personal property, security, 440 interlocutory proceedings, continuation, 320 joinder, plaintiffs and next friends, 58(4) judgments memoranda of satisfaction, 423(1)(a) persons under disability, 88(3) procedure, generally, 404 third parties, deemed admissions, 147(4) juries, removal, 342(1) mini-trials, advisory opinions, disclosure, 292(2) minors, disposition of property, 563 orders applications, ex parte, 398(5) procedure, generally, 404 persons under disability, 85 pleadings, amendments, 132 security for costs, payment out of court, 640 special chambers applications, withdrawall, 393 taxation of costs, 651(2), 688 telephones or audio-visuals, trials, 352 time, enlargement or abridgment, 713(3) trials, applications to adjourn, 324(3)

CONSOLIDATED REVENUE FUND

payment into court, transfers, 213

CONSOLIDATION actions, 318

CONTEMPT. see also WRITS OF SEQUESTRATION appearances, show cause, 703(2) case management conferences, 288(a) corporations examination in aid of execution, 517(2) fines, 705(1)(c) judgments against, enforcement, 507(b) penalties, officers and directors, 706 costs, repayment of excess, 697 declarations, 703(1) discovery of documents orders to produce or inspect, 233(1) solicitors, notice to clients, 233(2) enactments, non-compliance, 704(f) examination in aid of execution. 517 notices, non-compliance, 704(b) oaths, refusal, 704(c)

orders, non-compliance, 704(a) penalties corporations, officers and directors, 706 costs and expenses, 705(2) fines, 705(1)(c) imprisonment, 705(1), 707 parties, proceedings, 705(1)(d) variation, notice, 705(4) waiver, contempt purged, 705(3) solicitors, authority, demands, 14(2) undertakings, non-performance, 704(d), (e) witnesses, answers, 704(c) writs of execution, returns, 503(2)

CONTINGENCY AGREEMENTS

defined, 657 irregularities, 660 memoranda, 658(2), 659 provisions, validity, 662 review, 661 signatures, 658(1) taxation, solicitors ceasing to act, 663

CONTINUANCES actions, 74, 89(7), 200, 202, 710

CONTRACTS joinder of actions, parties. 68, 69 pleadings, denials or silence, 124 service, validity, 36 service out of jurisdiction, 47(1)(b), (f), (g) specific performance, non-compliance, 508

CONTRIBUTION cross-claims, 157 delay in prosecution, prejudice, 328(e) fourth, fifth parties, 145 offers to settle, several defendants, 203, 204 third parties. *see* THIRD PARTY NOTICES, THIRD PARTY PROCEEDINGS

CONTRIBUTORY NEGLIGENCE ACT contribution or indemnity, cross-claims, 157(2)

CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS service pursuant to, 50 CORPORATIONS affidavits, swearing, 373(2) contempt, 507(b), 517(2), 705(1)(c), 706 directors and officers affidavits, swearing, 373(2) contempt, examination, non-compliance, 517(2) contempt, judgments, wilful disobedience, 507(b) contempt, orders, 706 examination for discovery, 238 examination in aid of execution, 513-515, 517(2) property, writs of sequestration, 507(c) examination for discovery, 238 examination in aid of execution directors and officers, 513(1), 517(2) employees, 513(2) property in possession of corporation, 515 property transferred to corporation, 514 mortgages, foreclosure, rules, application, 571(b) pleadings, proof of incorporation, 123 representation by a solicitor. 7 service, personal, 30(3) writs of sequestration, 507

COSTS, see also EXPENSES, TAXATION OF COSTS absconding debtors generally, 548(2) livestock and perishables, 546(2)(b) accommodation, inclusion in definition of conduct money, l accounts, taking, 428(b) administration proceedings, 552, 557(2) admissions, 112(3), 128, 294(4), (7) amendments, 141 amicus curiae, 92 appeals, 650 applications adjournment, 394 costs in the cause, 649 late filing, 395 calculation, 648, Schedule A case management conferences, 287 committees, applications to appoint, 567 conduct money, see CONDUCT MONEY contempt, penalties, 705(2) Court, discretion of, 206, 643 default proceedings debts, liquidated demands and damages, 161(1) defendants, several, striking out, 168

judgments, amendments, setting aside, 170, 421 recovery of goods or land, 162(1) defined, 641 delay in prosecution, 329(a), (g), (h) discontinuance counterclaims, 311(1) cross-claims and third parties, 311(2) defendants, 312, 313 subsequent proceedings, stays, 314 discovery of documents, non-parties, 231(5), (6) estates, persons interested in, 665 examination for discovery further examination by order, 265 non-parties, 270(1) objections, 257(2) examination in aid of execution, 512(1), 513(1)(e), 514 519 foreclosure actions, 590 garnishment garnishee summons, setting aside, 538(2)(c) responses, 531 wages and salary, pre-judgment, 523(5) generally, 643 gross sums, 643(1)(a)guardians ad litem, solicitors acting as, 645 hearings, settling judgments or orders, 411(4)(b) inquiries, 428(b) interim recovery of personal property, orders, 439(3) interpleader applicants, 460(c) Sheriff, 466, 467 judgments, enforcement, acts required, 508 judicial review, 606 legal aid, awards, 646 medical examinations, 274 mortgaged property, persons interested in, 665 new judgments, proceedings, 422(5) offers to settle, consequences accepted offers, 197(6) discretion of the Court, 206 generally, 201 offers immediately before trial, 195 pre-judgment interest, 205 several defendants, 203, 204 withdrawal of offer, 196(3) particulars, delivery, 119(5) payment into court discretion of the Court, 206 effect, generally, 192

Index

plaintiffs, acceptance, effect, 190(3) pre-judgment interest, 205 tender, defence of, 188(4) pleadings amendments, 131 contents, 121 repayment of excess, 697 security, see SECURITY FOR COSTS service out of jurisdiction, setting aside, 51 set-offs, 643(1)(c), 647 settlements, 651 solicitor and client offers to settle, 195, 201, 203 payment into court, 192 summary judgments, 180 solicitors compensation, see SOLICITORS; compensation liability, 644, 697(b), 702(1) special cases, 302 summary judgments, 180 taxation of costs, costs of, 669, 695(2) time, 643(3) transportation, inclusion in definition of conduct money, 1 trials adjournment, evidence summaries, 326(6) facts or documents, failure to prove, 343 non-disclosed documents, production, 230 telephones or audio-visuals, 352 trust funds, persons interested in, payment, 665 writs of execution, recovery, 488, 500 COUNTERCLAIMS see also PLEADINGS actions, effect, 98 admissions, withdrawal, 317 contents, 18 default proceedings, application, 172, 173 defences to counterclaims, see DEFENCES TO COUNTERCLAIMS defined. I delay in prosecution. 327(6), 330(2) discontinuance, see DISCONTINUANCE exclusion, orders, 97 forms, 95(6), Form 8 ioinder of issue, 101 joinder of new parties, 95(1), 96 judgments

balances in favour of one party, 99

effect, 95(3) minors, use, 78 misjoinder, effect, 58(5) offers to settle, rules, application, 187 payment into court rules, application, 187 surrender, 189(4) scope, 95(1) security for costs, definitions, 630(1) service, 94(2) set-offs, 95(2)statements of defence, conjoined, 95(4) stays, lack of defence, 100 styles of cause, 95(7), 96(1) third party proceedings, application, 156 trials plaintiffs, failure to appear, 333 separate, 97

COURT

audience before the Court, 7 defined, 1 experts, 278, 284(1)(k) name, inclusion in pleadings, 15(a) officers, see also CLERK, COURT REPORTERS, SHERIFF absences, special duties, 717 directions, judgments and orders, entry, 416(4) fees, 725, 726 interpleader, applications, 461 interpleader, orders to deposit, 460(a) positions, 715 witnesses, apprehension, 365 offices documents, contents, 732(1)(a) documents, filing, 720 place, 716 payment into, see PAYMENT INTO COURT records, amendments, 140 sittings adjournment, 728 chambers, adjournment into, 729 judges not present, 730 retrials, juries, 347, 348 time and place, 727

COURT REPORTERS, see also COURT: officers duties, generally, 721

examination, oral, powers, 722 examination for discovery, transcripts, 262 examination out of court, appointment, duties, 357, 360 fees inclusion in definition of costs, 641(e) taxation, proof of disbursements, 680(1) officer of the Court, 715 transcripts correction, 723 evidence, admissibility, 724

CREDITORS

estates accounts, 555 originating notices, 550(c) execution, see WRITS OF EXECUTION judgment, see JUDGMENT CREDITORS

CREDITORS RELIEF ACT

garnishment, 526, 528

CROSS-ACTIONS

counterclaims effect, 95(3) generally, see COUNTERCLAIMS delay in prosecution, 327(6)

CROSS-CLAIMS

admissions, withdrawal, 317 Contributory Negligence Act, claims under, 157(2) defined, 157(1) forms, 157(3), Form 11 offers to settle, rules, application, 187 payment into court, rules, application, 187 pleadings, 157(4) service, time, 157(3) trials, determination, 157(5)

CROSS-EXAMINATION

affidavits, deponents, 381 discovery of documents, applications, 226(3) examination for discovery, objections, 251(1) examination out of court, 360(1) experts, 278(8) trials, 339, 351

CUSTODY AND ACCESS

originating notices, 22(1) service out of jurisdiction, 47(1)(n)

DAMAGES

assessment

default proceedings, bonds, 161(5) default proceedings, generally, 167(1)(b) default proceedings, interest, 161(4) default proceedings, several defendants, 169(2) personal injuries, juries, 345 solicitors, undertakings to file, non-compliance, 31 time, continuing causes of action, 344 case management conferences, powers, 284(1)(i) default proceedings, debts and liquidated demands, 161 interim recovery of personal property, 439(3) interlocutory injunctions, undertakings, 447 mandatory orders, undertakings, 447 pleadings, contents, 118 service out of jurisdiction, grounds, 47(1)(f), (i) set-offs, 647 stop orders, undertakings, 473(3) writs of attachment, livestock and perishables, 546(2)(b)

DATES, see also TIME

documents, court, contents, 732(1)(e) exhibits, 734(1) judgments and orders compliance, 410 entry, 416(1) pronouncement, taking effect, 400(2), 407 originating documents, issuance, 10(1)(a), 11(2) pleadings amended, 137 signed, 15(e) statements of claim, currency and renewal, 13 surveillance, reports or films, disclosure, 254 taxation, appeals, 693(3) trials adjournment after date set, 324 case management conferences, 284(1)(1) publication, 324 solicitors, changes after date set, 700 writs of execution, 492

DEATH

actions, devolution and abatement, 74, 75 examination out of court, considerations, 357(2)(b) judges, 409 payment out of court, beneficiaries, 209 persons interested, representatives, appointment, 70 plaintiffs, 77 solicitors, 698(4), 701 witnesses, examination for discovery, 267(1)(a) writs of execution, 490

DEBTORS, see ABSCONDING DEBTORS, JUDGMENT DEBTORS

DEBTS

accounts, 420 default proceedings, 161 garnishment, see GARNISHMENT interpleader debt, inclusion in definition of property, 454 generally, see INTERPLEADER security for debt, adverse claims, 464 personal property, security, recovery, 471 pleadings, 118, 125

DECLARATIONS

contempt, 703(1) interpleader, 459, 460(b) judicial review, 592(2)(b), 599(2) mistrials, 342(2) originating notices, 22(d),(f) solicitors, authority to commence proceedings, 14

DEFAMATION ACT payment into court, offers to settle, disclosure, 186

DEFAULT PROCEEDINGS

affidavits, 163 applications, procedure, 167 bonds for non-performance, 161(5) counterclaims, 172, 173 defences, striking out, 166 debts and liquidated demands, actions, 161 defendants, several, 168, 169 examination for discovery, parties in default, 245 foreclosure actions, 579 judgments inadvertence, amendments, terms, 170 service out of jurisdiction, 50(3)(b) terms, generally, 171, 421 late filing, effect, 159 minors, 164 notice, defendants, entitlement, 158, 161(5), 165 noting in default directions, 160, Form 10

partnerships, denials, 90 solicitors, undertakings to file, non-compliance, 31 statements of defence, withdrawal, deemed default, 316 third parties, 149, Form 10 persons incapable of managing their financial affairs, 164 recovery of goods and land, 162 service, substitutional, 38(4) solicitors, compensation, 667 third parties, 149-152

DEFENCES, see also STATEMENTS OF DEFENCE

alternative, 113 discontinuance, subsequent proceedings, 310 lack of, counterclaims, 100 mentally incompetent persons, 81 minors, 79 new grounds, 112(3) partnerships, 89(2), 90 persons incapable of managing their financial affairs, 80 security for costs, applications, 632(1) striking out, effect, 166 tender before action, 186, 188 third parties, directions, 153, 154

DEFENCES TO COUNTERCLAIMS see also

PLEADINGS defined, 1 delivery, 94(3) denials, silence, insufficiency, 122(2) replies, conjoined, 95(5)

DEFENDANTS, see also PARTIES

interpleader, applications, time, 457 joinder, see JOINDER OF ACTIONS mentally incompetent persons, 81 minors, 79 notice, non-entitlement, failure to file or defend, 158 persons incapable of managing their financial affairs, 80 security for costs, see SECURITY FOR COSTS trials, appearances, effect, 332, 333

DEFINITIONS

Act. 616, 625 action, 1 address for service, 1 administration proceeding, 549 applicant, 454 case management, 281 Central Authority, 50(1) certificate, 50(1) claimant, 454 client, 681 conduct money, 1 conference judge, 281 contingency agreements, 657 Convention, 50(1), 625 counterclaim, 1 Court, 1 court expert, 278(1) cross-claim, 157 defence to counterclaim, 1 defendant, 308, 630(1) deliver. 1 document, 218(1) evidence summary, 326(1) examiner, 234 foreclosure action, 570 health practitioner, 271 internal law, 50(1) interrogatories, 234 joinder of issue, 1 judge, I judgment, 616, 625 judgment creditor, 1, 616 judgment debtor, 1, 616 liquidated demand, 1 mandatory order, 1 order nisi, 570 original court, 616 originating document, 1 originating notice, 1 person, 591 petition, 1 plaintiff, 308, 630(1) pleading, 1 procedure book, 1 property, 454 Public Trustee, 1 receiver, 1, 448 receiving jurisdiction, 50(1) reply, 1

reply to defence to counterclaim, 1 solicitor, 1 statement of claim, 1 statement of defence, 1 telecopier, 1 telecopier telephone number, 40(1) tribunal, 591

DELAY IN PROSECUTION

accounts or inquiries, 428 agreements, notice, 330 applications, 327 orders, terms and directions, 329 prejudice, 327(3)(a), (4), 328 writs of attachment, 545(2)

DELIVERY, see also SERVICE

appearances, 93, 94(3), 147, 148, 159 defences to counterclaims, 94(3) defined, 1 discontinuance, notice, 311(1) examination for discovery interrogatories, answers, 263(2) transcripts, 262(3) notices of withdrawal of defence, 316 particulars, requests for further, 119 pleadings amendments, 130, 138 generally, 94(1) time, 713(3) taxation, documents, 683, 691, 725(1) special cases, summaries, 300 statements of claim, 16(1) statements of defence, 59(2), 93, 147, 148, 159 statements of material facts, further, 119 time, 713(3) writs of delivery, 505, Form 44 writs of possession, 504, Form 43

DEMANDS

demands of notice, see APPEARANCES liquidated, see LIQUIDATED DEMANDS security for costs, residency, 631 solicitors, authority to commence proceedings, 4 writs of execution, returns, 502

DENIALS, see PLEADINGS; denials

14

DIRECTIONS

accounts, taking, 429 administrators, 551 affidavits cross-examination, 381(6) telecopiers, 379(2) certificates of pending litigation, setting aside, 478(2) default, noting in defendants, 160 third parties, 149 delay in prosecution, applications, 327 discovery of documents in possession of nonparties, 231 examination for discovery answers, insufficiency, 251(4) examiners, powers, 249 examination for foreign courts and tribunals, 610(2) executors, 551 experts, 278(4) foreclosure actions, 584 inquiries, 432 interim recovery of personal property, 441(2) joinder of actions, 57, 58 judicial review directions to continue, 605 directions to reconsider, 601 payment into court, repayment, 191 payment out of court, 211(5) procedure books, entries, 349(b) receivers, 450(1)(d), 452 sales of real estate, 559 solicitors, death or ceasing to act, 701 summary judgments refusals or partial grants, 179 special urgency, 174(2) third parties default, noting in, 149 third party defending, 153, 154 unnecessary delay, prevention, 155 trials, telephones or audio-visuals, 352 trustees, 551 writs of execution, 494

DISABILITY. see PERSONS UNDER DISABILITY

DISBURSEMENTS

actions, 667 agreements, 656 bills of costs, contents, 670 liens, 666 party and party costs, taxation, 680 security, 655 solicitor and client costs, taxation, 686(1) trials, telephones or audio-visuals, 352(4)

DISCLOSURE

advance payment, 217 contingency agreements, 659 estates and trusts, compromises, 73(2) mini-trials, advisory opinions, 292(2) notices of judgments and orders, binding effect, 557(6) offers to settle, 186 parties, occupation and residence, demands, 14(3) partnerships, names and addresses, 89 payment into court, 186

DISCONTINUANCE

certificates of pending litigation, 479 contingency agreements, 662(2), 663(4) counterclaims admissions, withdrawal, 317 effect, 98 notices of election, delivery, 311(1) cross-claims admissions, withdrawal, 317 deemed dismissals, 311(2) defences, subsequent proceedings, 310 defendant, defined, 308 examination for discovery, 268 persons under disability, 309(2) plaintiff, defined, 308 statements of defence, withdrawal, 316 third parties admissions, withdrawal, 317 deemed dismissals, 311(2) time, 309 withdrawal, 315-317

DISCOVERY, EXAMINATION FOR. see EXAMINATION FOR DISCOVERY

DISCOVERY, EXECUTIONS, see EXAMINATION IN AID OF EXECUTION

DISCOVERY OF DOCUMENTS

admissions, relevance or admissibility, 228 books copies, verification, 227

production, place, 221(3), 225(4) certificates of readiness, 320 copies, documents of other party, entitlement, 224, 225(5) delay in prosecution, orders, 329(b) document, defined, 218(1) documents in possession of non-parties, 231 documents in power of a party deeming provision, 218(2) disclosure. 219 examination for discovery, production, 229 further production, applications, 226 impounding of documents, 232 insurance policies, 222 notices of non-admission of authenticity, 228(3), (4) notices to inspect, forms, 225(2), (3), Form 14 notices to produce, forms, 225(1), Form 13 orders, non-compliance, contempt, 233 parties, scope, 220 privilege, 219, 226, 229 questions of fact and law, delay, 306 statements as to documents filing, time, 221(1) forms, 221(2)(a), Form 12 incomplete or defective, applications to rectify, 226 information, 221(2)(b) inspection, place and time, 221(2)(c), (3) no documents to disclose, 221(4) service, 221(6) service, deemed admission of authenticity, 228 signatures, 221(5) supplementary, 223 summary judgments, terms, 179(1)(c) mais documents, disclosed, production, 229 documents, non-disclosed, use, 230 setting down, 320

DISMISSAL

applications, 396 cases not made out, 346 contempt, penalties, 705(1)(d)(iii) counterclaims, effect, 98 delay in prosecution, 327 examination for discovery, effect, 268 offers to settle, non-compliance, 200, 202 orders, time, 129(1)(b) plaintiffs, failure to appear, 333 questions of fact and law, disposition, 304(2) security for costs, 631(2), 635(1)(c) solicitors, proceedings commenced without authority, 14, 702 summary judgments, terms, non-compliance, 179(2)

DIVORCE

originating notices, restrictions, 22(l)

DOCUMENTS

amendments, see AMENDMENTS case management conferences, powers, 284(1)(d), (2)(f)construction of originating notices, 22(f) representation orders, 71 contempt, non-production, 704(b) copies, inclusion in definition of costs, 641(d) discovery, see DISCOVERY OF DOCUMENTS endorsements, requirements, 10(2) examination out of court, duty to bring, 357(3) fiats, endorsements, 424(2) filing contents, 732 size and form, 731 special circumstances, 733 irregularities, effect, 6 judgments, signatures, conditions, 414 lost, replacement, 12 originating. see ORIGINATING DOCUMENTS pleadings, precise words, 108 procedure books, entry, 10(3) solicitors, delivery to clients, taxation, 683, 691 special cases, 299(1)(b) statements as to documents, see DISCOVERY OF DOCUMENTS: statements as to documents summary judgments, evidence, 181 taxing officers, powers, 668(1)(b) time, amending, filing, or delivery, 713 trials, failure to prove, 343 witnesses, production, 364

DOMICILE, see RESIDENCY

EMPLOYEES auditors, examination for discovery, 239 examination in aid of execution, 512(3), 513(2)

ENACTMENTS

affidavits, references, 382(5), 398(5) construction of originating notices, service, 47(1)(b) originating notices, use, 22(f) representation orders, 71 contempt, grounds, 704(f) memoranda, references, 390 reciprocal enforcement of judgments, references, 617(2) special chambers applications, references, 391

ENFORCEMENT OF JUDGMENTS AND ORDERS

absconding debtors. see ABSCONDING DEBTORS class proceedings, restrictions, 484 contempt, 705-707 corporations, wilful disobedience, 507 costs, repayment of excess, 697 delay in prosecution, prejudice, 328(d) equitable execution, 522 examination, see EXAMINATION IN AID OF EXECUTION garnishment, see GARNISHMENT injunctions, 508 mandatory orders, 508 minors, restrictions, 484 new judgments, 422(6) non-parties, 482 orders, generally, 481 partnerships, 509-511 payment into court, 483 persons incapable of managing their financial affairs. restrictions, 484 reciprocal. see RECIPROCAL ENFORCEMENT OF JUDGMENTS, RECIPROCAL ENFORCEMENT OF UNITED KINGDOM JUDGMENTS specific performance, 508 summary judgments, stays, 183 taxation, 692

EQUITABLE EXECUTION

applications, 522(1) interim orders, 522(3) orders, 522(2)

ERRORS, see IRREGULARITIES

ESTATES

accounts, 555 administration proceedings, defined, 549 costs, payment by persons interested, 665 debts, claims, leave to appear, 552 joinder of actions, 55, 73 judgments and orders, 64, 65, 554 misconduct, orders, scope, 553 notices of judgments or orders, 557, Form 49 originating notices, 550, 551 payment out of court, circumstances, 209 representation orders, 70, 71 service out of jurisdiction, 47(1)(d)

EVIDENCE

admissions, see ADMISSIONS affidavits, see AFFIDAVITS amicus curiae, 92 applications, 382(3) case management conferences, 284(1)(d) commission, see EXAMINATION OUT OF COURT contempt, penalties, 705(1)(d)(iv) cross-examination, see CROSS-EXAMINATION delay in prosecution, orders, 329(d) discovery of documents claims of privilege, 226(2) documents not previously produced, 230 documents, failure to prove, 343 evidence summaries, 326 examination for discovery non-parties, 270(5) objections, 251(1)(a) transcripts, 262(2) trials, use, 266-268 experts, reports, 278(6), 280 facts, failure to prove, 343 foreign, see EXAMINATION FOR FOREIGN COURTS AND TRIBUNALS insurance policies, discovery, admissibility, 222, 253 judicial review, 595(1), 598 medical examinations, questions, admissibility, 276(3) originating notices, oral evidence, 26 other proceedings, reading in, 354 out of court, see EXAMINATION OUT OF COURT payment, deposit-taking institutions, 356

Index

persons under disability, consent, 85 pleadings applications to amend or strike out, 129(2) filed proceedings, admissibility, 355 restrictions, 106 preservation property, 470(1)(a) testimony, 362 service out of jurisdiction, applications, 49(1) subsequent proceedings, 353 summary judgments, applications, 174(1), 175, 176.181 taxation, appeals, 694 taxing officers, powers, 668(1)(a) transcripts, admissibility, 724 telephones or audio-visuals, 352 witnesses, see WITNESSES

EVIDENCE ACT

examination for foreign courts and tribunals, 609(1) experts, reports, compliance, 280 witnesses, proof of fact, 350

EX JURIS SERVICE. see SERVICE OUT OF JURISDICTION

EX PARTE APPLICATIONS, see APPLICATIONS; ex parte

EXAMINATION, MEDICAL, see MEDICAL EXAMINATIONS

EXAMINATION FOR DISCOVERY

adjournment, 237(2), 251(2) answers correction, procedure, 260 insufficient, effect, 251(4) solicitors, 258 undertakings to provide, 261 appointments, 248 assignees and assignors, 242 auditors, 239 bankruptcy, 243 certificates of readiness, 320 consolidation, 318(2) contempt non-attendance, 704(b) oaths, refusal, 704(c) corporations, 238 defendants, time, 247(2) delay in prosecution, orders, 329(b) entitlement, 235 examiners defined, 234 directions and duties, 249 exhibits, 256 experts, 252 form, oral or written, 236 further, orders, 265 insurance policies, 253 interrogatories answers, delivery, 263(2) defined, 234 filing, 264 forms, service, 263(1), Form 16 non-parties, 270(4) oral examination, rules, application, 263(3) multiple, 246 non-parties, 270 number, 237(1) objections costs, 257(2) cross-examination, 251(1)(b), (c) evidence, 251(1)(a) records, 257(1) parties nominal, 244 noted in default, 245 partnerships, 240(1) persons having knowledge, names and addresses, 251(3) persons outside Territories, 250 persons under disability, 241 plaintiffs, time, 247(1) production, documents disclosed on discovery, 229 questions of fact and law, delay, 306 re-examination, restrictions, 259 scope, generally, 251 sole proprietorships, 240(2) subsequently acquired information, 260 summary judgment, terms, 179(1)(c) surveillance reports or films, 254 transcripts, 262, 270(3) trials, setting down, restrictions, 320 trials, use impeaching testimony, 266(2)

part only, restrictions, 266(3) persons under disability, 266(5) reading in, 266(1) rebuttal, 266(4) subsequent actions, 268 witnesses, unavailability, 267 trustees, bankruptcy, 243 videotapes, 269 withholding information, applications for leave, 255

EXAMINATION FOR FOREIGN COURTS AND TRIBUNALS

applications, 609 consent, evidence taken on, rules, application, 615 examiners, appointment, duties, 610 orders forms, 611, Form 62 setting aside, time, 614 transcripts certificates, transmission, 613, Form 63

rules, application, 612

EXAMINATION IN AID OF EXECUTION

appointments, service, 516 contempt, non-attendance or non-compliance, 517 corporations, 513-515, 517(2) costs, 519 employees, 512(3), 513(2) enforcement, difficulties in, applications, 518 further examination, time, 512(2) persons in possession of property, 515 persons taking property, 514 rules, application, 520 scope, 512(1)

EXAMINATION OUT OF COURT

consent, 357(1) cross-examination, 360(1) documents, duty to bring, 357(3) examiners, appointment, 357(1) objections, 360 orders, considerations, 357(2) persons outside Territories persons not willing, 358(2), 359, Forms 21, 22 persons willing, 358(1), Forms 19, 20 rules, application, 357(5) place and manner, 357(4) re-examination, 360 transcripts, 357(1), 361(3) trials, use, 361

EXECUTION

equitable execution, 522 examination in aid of, see EXAMINATION IN AID OF EXECUTION garnishment, see GARNISHMENT interpleader, see INTERPLEADER replevin, see INTERIM RECOVERY OF PERSONAL PROPERTY trusts, see TRUSTS writs of attachment, see ABSCONDING DEBTORS writs of execution, see WRITS OF EXECUTION

EXECUTORS

accounts, orders to furnish, 551(a), 555 administration proceedings, parties, 552 directions, 551(c) joinder of actions beneficiaries, 63 judgments or orders, 64, 65 personal claims, 55 payment into court, orders, 551(b) pleadings, denials, 127 sales, approval, powers, 551(d), 556 solicitors acting as, compensation, 664

EXEMPTIONS ACT

garnishment, wages and salary, 525(3), 532

EXHIBITS

accounts, taking of, 430 affidavits, 377, 378 court reporters, powers, 722 examination for discovery, 256 filing, 734(1) judicial review, 595(1), 598 procedure books, entries, 349(c), 734(2) reciprocal enforcement of judgments, 620, 628 return, time, 735

EXPENSES, see also CONDUCT MONEY, COSTS case management conferences, non-compliance, 288(b) committees, applications to appoint, 567 contempt, penalties, 705(2) examination out of court, 359(2) experts, 278(9)

Index

interim recovery of personal property, 439(3) interpleader, notices to admit, 463(5) judgments, enforcement, acts required, 508 medical examinations, 275 writs of execution, 500

EXPERTS

case management conferences, 284(2)(d) charges, inclusion in definition of costs, 641(b) court experts, 278, 284(1)(k) evidence summaries, rules, application, 326(7) examination for discovery disclosure, requirements, 252(1) undertakings not to call, 252(2) reports, Evidence Act, compliance, 280 statements, service, 279

FACSIMILE TRANSMISSION, see TELECOPIERS

FACTS, see also ADMISSIONS, QUESTIONS OF FACT AND LAW applications, evidence, 382(3) garnishment, applications for leave, 523(2)(d) joinder of issue, admissions and denials, 102 pleadings inconsistencies, 112 scope, 109, 111 statements of material facts, 106 special cases, 299(1)(a) trials affidavits, 351 failure to prove, 343 witnesses, proof, 350

FEES

agents. 641(c) Clerk, 641(e), 680(1) conduct money, see CONDUCT MONEY costs, inclusion in definition, 641 court officers, 725, 726 court reporters, 641(e), 680(1) dishursements, proof, 680 experts, 278(9), 641(b) interpleader, notices to admit, 463(5) interpreters, 641(e), 680(1) Sheriff, 641(e), 680(1), 725 solicitors, see SOLICITORS; compensation witnesses, 641(f), 680(2) writs of execution, 500, 725

FIATS

applications, ex parte, 398(5) documents, endorsement, 424(2) issuance, notice, 425 procedure books, entries, 424(1)

FINES

contempt, penalties, 705(1)(c)

FIRMS

corporations, see CORPORATIONS partnerships, see PARTNERSHIPS sole proprietorships, see SOLE PROPRIETORSHIPS

FORECLOSURE, see also MORTGAGES

certificates of pending litigation, 480 costs, 590, Schedule A emergency orders, 578 final orders affidavits of default, 589(1), Form 54 forms, 589(2), Forms 55-57 foreclosure actions, defined, 570 notice, applications, 576 noting in default, 579(1) orders nisi affidavits of default, 579(2), Forms 51, 59 affidavits of value, 579(3), Form 52 defined, 570 discharge or variation. 574(3) forms, 579(4), Forms 53, 60 service, 580 signing, 582 rules, application, 571, 572 sales advertisements, 583 directions, 584 publication, notices, 585 reports, 586 tender, 587 vesting orders, 588 service judgment creditors, 46 out of jurisdiction, 47(1)(k) subsequent encumbrancers, 574(2), 578(2), 580(2) statements of claim, 573, Forms 50, 58 subsequent encumbrancers, 574, 578(2), 580(2) subsequent relief, notices of motion, deemed, 577

FORMS

interpretation, generally, 6 Affidavit of Default - Foreclosure, 579(2), Form 51 Affidavit of Default - Specific Performance, 579(2), Form 59 Affidavit of Value - Foreclosure or Specific Performance, 579(3), Form 52 Answers to Interrogatories, 263(2), Form 17 Appearance, 93(4), Form 7 Application for Registration of UK Judgment, 626(1), Form 65 Authority of Next Friend, 82, Form 6 Bond - Interim Recovery of Personal Property, 439(1), Form 36 Bond to Retain Possession of Property, 443(1), Form 37 Certificate of Evidence Taken for Foreign Court, 613(2), Form 63 Certificate of Pending Litigation, 476(1), Form 41 Certificate of Readiness, 319(1), Form 18 Cross-claim, 157(3), Form 11 Direction to Clerk, 149, 160, Form 10 Endorsement on Order to Carry on Proceedings, 76(2), Form 5 Final Affidavit of Default - Foreclosure or Specific Performance, 589(1), Form 54 Form of Assignment, 443(2), Form 38 Garnishee Summons after Judgment, 524, Form 47 Garnishee Summons before Judgment, 523(1), Form 46 Instructions to Examiner, 358(1), Form 20 Interim Order for the Recovery of Personal Property, 438, Form 35 Interrogatories, 263(1), Form 16 Judgment after Trial by Judge Alone, 407(2), Form 30 Judgment after Trial by Judge with Jury, 407(2), Form 31 Judgment for Costs after Acceptance of Money Paid into Court, 407(2), Form 34 Judgment in Court for Amount to be Assessed, 407(2), Form 32 Judgment in Default of Defence - Liquidated Demand, 407(2), Form 28 Judgment in Default of Defence - Recovery of Land, 407(2), Form 29 Judgment pursuant to an Order, 407(2), Form 33

Letter of Request for Examination of Witness out of Jurisdiction, 358(2), Form 22 Notice of Appointment, 248(2), Form 15 Notice of Judgment or Order, 557(5), Form 49 Notice of Motion, 382(2), Form 25 Notice of Withdrawal, 392(1), Form 26 Notice to Attend at Hearing, 364(1), Form 23 Notice to Defendant, 16(3), Form 3 Notice to Inspect Documents, 225(2), Form 14 Notice to Produce Documents, 225(1), Form 13 Order Appointing Receiver, 450(2), Forms 39, 40 Order Confirming Sale and Vesting Order, 589(2), Form 57 Order Determining Agreement for Sale, 589(2), Form 61 Order for Examination in respect of Foreign Proceeding, 611, Form 62 Order for Examination of Persons outside the Jurisdiction, 358(1), Form 19 Order for Foreclosure, 589(2), Form 56 Order for Issue of a Letter of Request to Judicial Authority of another Jurisdiction, 358(2), Form 21 Order for Sale, 589(2), Form 55 Order granting Leave to Register Foreign Judgment under the Reciprocal Enforcement of Judgments Act. 621, Form 64 Order Nisi - Foreclosure, 579(4), Form 53 Order Nisi - Specific Performance, 579(4), Form 60 Order of Chambers Judge, 400(1), Form 27 Order to Produce Prisoner, 366(2), Form 24 Originating Notice, 23(1), 626(2), Form 4 Petition, 8(3), Form 2 Statement as to Documents, 221(2)(a), Form 12 Statement of Claim, 8(1), Form 1 Statement of Claim - Foreclosure, 573, Form 50 Statement of Claim - Specific Performance, 573, Form 58 Statement of Defence and Counterclaim, 95(6), Form 8 Third Party Notice, 142(2), Form 9 Warrant for Committal for Contempt, 707, Form 66 Writ of Attachment, 540(1), Form 48 Writ of Delivery, 505(2), Form 44 Writ of Execution, 496, Form 42 Writ of Possession, 504(4), Form 43 Writ of Sequestration, 506(2), Form 45

FRAUD

absconding debtors, see ABSCONDING DEBTORS

garnishment, 528 joinder of actions, estates and trusts, 73(2) notices of judgments or orders, 557(6) pleadings, requirements, 111, 115, 117

FRAUDULENT CONVEYANCES

sales, applications, 521

GARNISHMENT

answers, filing, copies, 531, 537(2) costs, 531(5) counterclaims, default proceedings, 172, 173 fraud, debts deemed to be due, 528 garnishees compensation, payment into court, 534 discharge, 536 several offices, duty to notify, 527(2) judgments, 533 partnerships, 530 payment into court, notice, 531(1)(a), 537(1) questions, speedy determination, 538 security for costs, deemed plaintiffs, 630(2) summons affidavits, 524 contents, 525 forms, 524, Form 47 irregularities, 539 issuance, 526 service, 527 setting aside, 538, 539 summons, pre-judgment affidavits, 523(2) forms, 523(1), Form 46 irregularities, 523(3) orders for judgment, 533(2) wages and salary, 523(4), (5) wages and salary accrual, deemed, 529 affidavits, 524(b)(ii) exemptions, 525(3), 532 payment into court, statements, 535 pre-judgment, 523

GOODS. see also PERSONAL PROPERTY recovery, default proceedings, 162 sale, pleadings, specific denials, 125(a) writs of attachment, perishables, 546 writs of delivery, non-compliance, 505(3) writs of execution, scope, 487

GUARDIANS

mentally incompetent persons, defences, 81 minors originating notices, 22(1) payments, restrictions, 484 service, 32, 33 service out of jurisdiction, 47(1)(n) persons incapable of managing their financial affairs actions and defences, 80 payments, restrictions, 484 persons under disability continuance orders, variation, 76(4) evidence and procedure, consent, 85 removal or substitution, 87 solicitors acting as, compensation, 664

GUARDIANS AD LITEM

appointment, 83 duties, 84 mentally incompetent persons, defences, 81 minors defences, appointment, 79 service, 32 persons incapable of managing their financial affairs, defences, 80 persons under disability continuance orders, variation, 76(4) examination for discovery, 241 removal or substitution, 87 solicitors acting as, costs, 645

HABEAS CORPUS, see JUDICIAL REVIEW

HEALTH PRACTITIONERS court experts, inclusion in provision, 278(2) medical examinations, see MEDICAL EXAMINATIONS

ILLITERATE PERSONS affidavits, swearing, 371

IMPRISONMENT contempt, penalties, 705, 707

INDEMNITY

cross-claims, 157 delay in prosecution, prejudice, 328(e) fourth, fifth parties, 145 offers to settle, several defendants, 203, 204 third parties, see THIRD PARTY NOTICES, THIRD PARTY PROCEEDINGS

INFANTS, see MINORS

INJUNCTIONS

interlocutory applications, 445 equitable execution, 522(3) orders, time, extension, 446 undertakings, damages, 447 judicial review, relief, scope, 592(2)(b), 599(2) non-compliance, directions, other persons to act, 508 service out of jurisdiction, 47(1)(i)

INQUIRIES

adjournment, 433(1) administration proceedings, accounts, 555 delay in prosecution, 428 judgments or orders, unascertained persons, 420 minors, disposition of property, consent, 563(4) partners, writs of execution, 510(6) place, 433(1) procedure, 433(2) referees, appointment and directions, 432 reports, 434 time, 427

INSPECTION appeals, 338 contingency agreements, 659 documents, discovery, *see* DISCOVERY OF DOCUMENTS judges, 338 juries, 337 preservation of property, 470(1)(b)

INSURANCE POLICIES

discovery of documents, 222(1) evidence, admissibility, 222(2), 253(2) examination for discovery, 253(1)

INTEREST

default proceedings, debts or liquidated demands, 161 delay in prosecution, prejudice, 328(f) offers to settle, pre-judgment interest, 205, 206 payment into court entitlement, 211(6) persons incapable of managing their financial affairs, 208 pre-judgment interest, 205, 206 writs of execution, 494, 500

INTERIM RECOVERY OF PERSONAL PROPERTY

applications affidavits, 437(2) service, 437(3) time, 437(1) availability, 435 directions, non-compliance, 441(2) orders forms, 438, Form 35 service, 441(1)variation, 444 property previously seized, 436 reports, 442 security defendants, 443, Forms 37, 38 plaintiffs, 439, Form 36 releases, 440 stays, 444

INTERLOCUTORY INJUNCTIONS

applications, 445 equitable execution, 522(3) orders, time, extension, 446 undertakings, damages, 447

INTERLOCUTORY APPLICATIONS. see APPLICATIONS (INTERLOCUTORY)

INTERPLEADER

applicants, defined, 454 applications affidavits, 456(3) notices of motion, no proceedings commenced, 456(1) notices of motion, proceedings commenced, 456(2) applications by defendants, time, 457 applications by Sheriff availability, 461(1) bonds and other security, 461(2) executions, different courts, 462(2) executions, several, 462(1) orders, scope, 465 availability, 455 claimants defined, 454 non-compliance or failure to appear, 459 claims, property taken by the Sheriff bills of sale, security for debt, 464 notices of claim, 463(1) notices of receipt, 463(3) notices to admit or dispute, 463(4), (5) restraining orders, 463(6) service, addresses, 463(2) orders, scope, 458, 460 property, defined, 454 security for costs, deemed plaintiffs, 630(2) Sheriff, costs, 466, 467 stays, 457

INTERPRETERS

affidavits, swearing, 372 examination out of court, place, 357(4)(g) fees inclusion in definition of costs, 641(e) taxation, proof of disbursements, 680(1)

INTERROGATORIES

examination for discovery answers, delivery, 263(2) defined, 234 filing, 264 forms, service, 263(1), Form 16 non-parties, 270(4) oral examination, rules, application, 263(3) examination out of court, 359(1)(b)

INTERVENERS appointment and powers, 92

INTESTACY accounts, 555 payment out of court, 209 questions, entitlement, originating notices, 550(c)

INVESTMENTS payment into court, administration of funds, 212

IRREGULARITIES affidavits. 368(4), 374 applications, failure to appear by mistake, 397 commencement of proceedings, correction, 710 contingency agreements, 660 defects of form, 711 facts or documents, failure to prove, 343 forms, 6 garnishment, 523(3), 539 judgments or orders, 426 judicial review, sole ground for relief, 602 pleadings, 133, 134, 711 rules, non-compliance, 708 setting aside, applications fresh steps, effect, 709(2) notices of motion, contents, 385 service, 44 time, 709(1)

JOINDER OF ACTIONS

administrators, 55, 63-65 compromises, estates or trusts, 73 contracts, parties, 68, 69 counterclaims, 58(5), 95(1), 96 defendants, 58, 59, 66, 67 executors, 55, 63-65 misjoinder and non-joinder. 58 multiple causes of action, 52 multiple claims, 56 negotiable instruments, 68 next friends, addition or substitution, 58(4) parties, 58, 76 plaintiffs, 58 property, matters concerning, 72 spouses, 54 sureties, 69 trials, separate, 57, 66(2) trustees, 63-65 trustees in bankruptcy, 53

JOINDER OF ISSUE

admissions and denials, 102 defined, 1 filing subsequent to reply, 103 implied, 104 pleadings deemed closed, 105 scope, 101

JUDGES advance payment, disclosure, 217 chambers, *see* CHAMBERS

chambers, applications, see APPLICATIONS: chambers conference judges, see CASE MANAGEMENT CONFERENCES Court, inclusion in definition of, 1 death, ceasing to be judges, 409 defined. 1 illness, non-attendance, 730 names, judgments and orders, 407(1) offers to settle, disclosure, 186 orders variation 399 payment into court, disclosure, 186 property, inspection, powers, 338 rules, provisions not included in, 4 transcripts, correction, 723 trials generally, see TRIALS mode, 331

JUDGMENT CREDITORS

defined, 1 foreclosure, service, 46 fraudulent conveyances, applications, 521 new judgments, proceedings, 422 reciprocal enforcement of judgments defined, 616 registration, notice, 622, 629 writs of execution, issuance, entitlement, 485

JUDGMENT DEBTORS

defined, 1 examination, see EXAMINATION IN AID OF EXECUTION fraudulent conveyances, 521 new judgments, proceedings, 422 reciprocal enforcement of judgments applications, notice, 618 defined, 616 registration, notice, 622, 629 residences, 620(d)

JUDGMENTS

absconding debtors, 545(2), 548 accounts, debts, 420 adjournment, applications for judgment, 340(2) administration proceedings, 554, 557 advance payment, 216, 217 applications, judgments to be obtained by, 340(2), 402 compliance, time, 410 conditions, non-compliance, 418 contempt, penalties, 705(1)(d)(iii) consent persons under disability, 88(3) procedure, generally, 404 third parties, deemed admissions, 147(4) copies, force and effect, 416(3) costs, payment into court, 190(3) counterclaims, 95(3), 99 Court, powers to order, 129(1)(b) default, see DEFAULT PROCEEDINGS; judgments defendants, joined, 66(3) directions, further, 419 discontinuance, costs, 313 drafting, paragraphs, 406 enforcement, see ENFORCEMENT OF JUDGMENTS AND ORDERS entry delay, 417 filing, 416 new judgments, 422(5) estates, 64, 65, 557 facts or documents, failure of proof, 343 forms, 407, Forms 28-34 garnishees, judgments against, 533, 536 inquiries, unascertained persons, 420 irregularities, correction, 426 issues or questions, separate determination, 405 jury trials, 403 memoranda of satisfaction. 423 minutes, 411 new judgments, 422 offers to settle non-compliance. remedies, 200, 202 terms, incorporation into judgments, 197(7) partial, jury trials, 348(2) parties actions defective for want of, 60 death, effect, 75 failure to attend, effect, 363(2) procedure books, entries, 349(b) questions of fact and law, disposition, 304(2), 405 reasons, notice, 425 reciprocal enforcement generally, see RECIPROCAL ENFORCEMENT OF JUDGMENTS United Kingdom, see RECIPROCAL

ENFORCEMENT OF UNITED KINGDOM JUDGMENTS representation orders, binding effect, 71(2) reservation of liberty to apply, 408 service out of jurisdiction, 47(1)(m), 48 settling, 411 signatures, 412-415 solicitors, undertakings to file, non-compliance, 31 special cases, 301(2) summary, *see* SUMMARY JUDGMENTS taxation, judgments of Court on, 692(1) third party proceedings, 147(4), 151, 152 time, taking of effect, 407 trusts, 64, 65, 557

JUDICATURE ACT receivers, appointment, 449

JUDICIAL REVIEW

applications, proceedings to be known as, 592(1) certiorari, 592(2), 598(2), 599(2) continuing under other procedures, 605 costs, 606 decisions or acts, setting aside, 600 declarations, 592(2), 599(2), 600 directions to reconsider, 601 grounds, establishment, 599(1) habeas corpus, 592(2) injunctions, 592(2), 599(2) irregularities, sole ground for relief, 602 mandamus, 592(2), 599(2) originating notices contents, 594 endorsement, 595 filing, time, 596 service, 597 parties, 603 prohibition, 592(2), 599(2) quo warranto, 592(2), 599(2) records and returns, 595, 598 rules, application, 593 scope, 592(2) stays, 604 tribunals defined, 591 directions to reconsider, 601 returns, 598 service, 597(1)(a)

JURIES

addresses to, 335 advance payment, disclosure, 217 answers, insufficient, retrials, 348 decisions, holidays, validity, 714 disagreements, retrials, 347 judgments, 403 offers to settle, disclosure, 186 payment into court, disclosure, 186 personal injuries, assessment of damages, 345 property, inspection, 337 removal, 342 sittings, adjournment, failure of proof, 343 trials, mode, 331

JURY ACT

removal of juries, 342 trials under, 331

LAND, see also PROPERTY certificates of pending litigation, 476-480 committees, statements, 565(2)(f) conveyances, death, effect, 74 delivery of possession, see WRITS OF POSSESSION equitable execution, 522 minors, see MINORS originating notices declarations of interests and charges, 22(d) partition, 22(j) recovery of possession, 22(a) service out of jurisdiction, 47(1)(a), (b) titles, 22(d) recovery, default proceedings, 162 sales, orders approval, 561 delivery, possession and receipts, 558 directions, 559 proceedings out of court, 560 writs of execution, scope, 487, 488

LEGAL AID PLANS

assistance, costs, 646

LIENS

certificates of pending litigation, 480 interpleader, orders, 460(c), 467(2) solicitors applications, 666

Rules of the Supreme Court of the Northwest Territories

delivery of documents, 691 set-offs, effect, 647, 679

LIMITATIONS

new judgments, 422(1) pleadings, specific, 111 statements of claim, renewal, 13(3)

LIQUIDATED DEMANDS

default proceedings, 161 defined, 1 garnishment, *see* GARNISHMENT pleadings, specific denials, 125(a)

LIVESTOCK writs of attachment, 546

MALICE pleadings, 115

MANAGERS. see RECEIVERS

MANDAMUS. see JUDICIAL REVIEW, MANDATORY ORDERS

MANDATORY ORDERS

applications, 445 defined, 1 directions, other persons to act, 508 time, extension, 446 undertakings, damages, 447

MATRIMONIAL CAUSES originating notices, 22(1), 47(1)(n)

MECHANICS LIEN ACT certificates of pending litigation, 480

MEDICAL EXAMINATIONS

expenses. 275 further examinations, terms, 274 health practitioners defined. 271 nomination by parties, 276(2) orders, naming in, 273 medical documents, copies, 276(1) orders, 272, 273 questions, scope, 276(3) reports, disclosure, 277

MENTAL HEALTH ACT committees, appointment under, accounting, 568

MENTALLY INCOMPETENT PERSONS, see also

PERSONS UNDER DISABILITY actions, commencement, 81 committees appointment, grounds, 565(1)(a) generally, see COMMITTEES defences, 81

MINERS LIEN ACT certificates of pending litigation, 480

MINI-TRIALS directions, 284(2)(c) procedure, 292

MINORS, see also PERSONS UNDER DISABILITY

actions, commencement, 78 age of majority, attainment, 86 default proceedings, judgments, 164 defences, 79 guardians ad litem appointment and duties, 79, 83, 84 costs, solicitors acting as, 645 originating notices, 22(1) payments, restrictions, 484 property, disposition affidavits, 562(2) consent, 563 originating notices, 562(1) witnesses, 564 service, 32, 33, 37(2) service out of jurisdiction, 47(1)(n)

MISREPRESENTATION pleadings, 117

MISSING PERSONS service, 38

MISTAKE, see IRREGULARITIES

MONEY

conduct money, see CONDUCT MONEY garnishment, see GARNISHMENT interpleader, inclusion in definition of property, 454 payment into court, see PAYMENT INTO COURT pleadings, specific denials, 125(a) writs of execution, recovery, 488, 494-496, Form 42

MORTGAGES, see also FORECLOSURE costs, payment by persons interested, 665 judgment creditors, service, 46 minors, 562-564 mortgagees, solicitors acting as, compensation, 664 orders directions, 559

proceedings out of court, 560 originating notices, service out of jurisdiction, 47(1)(k), (l)

MOTIONS. see APPLICATIONS, NOTICES OF MOTION

MUNICIPAL CORPORATIONS service, personal, 30(3)(b)

NEGLIGENCE

contingency agreements, validity, 662(1) contributory negligence, cross-claims, 157(2)

NEGOTIABLE INSTRUMENTS

joinder of actions, parties, 68 payment out of court, 211(3), (4) pleadings, specific denials, 125(b)

NEXT FRIENDS

joinder, consent, 58(4) minors actions, commencement, 78 payments, restrictions, 484 persons incapable of managing their financial affairs actions, commencement, 80 payments, restrictions, 484 persons under disability consent to procedures, 85 removal or substitution, 87 written authority, 82, Form 6

NEXT OF KIN

inquiries, time, 420 judgments or orders against, estates and trusts, 65

NOTICE

accounts, taking, 420, 431 administration proceedings, 557, Form 49 admissions, calls to admit, 294 applications notices of motion, see NOTICES OF MOTION withdrawal, 392, Form 26 contempt non-compliance, 704(b) waiver, 705(4) contingency agreements, review, 661(2) cross-claims, notices of, 157(3), Form 11 default proceedings, entitlement, 158, 161(5), 165 defendants, notices to, 16(3), Form 3 delay in prosecution, agreements, 330(2) discontinuance notices of discontinuance, 309, 319(4)(a) notices of election, counterclaims, 311(1) notices of intention to tax, 312(2)discovery of documents documents in possession of non-parties, 231(2) notices of non-admission of authenticity, 228(3) notices to inspect, 225(2), Form 14 notices to produce, 225(1), Form 13 solicitors, clients, requirements, 233(2) statements, endorsements, 221(2)(c), Form 12 evidence, other proceedings, reading in, 354(b) examination for discovery appointments, 248(2), Form 15 exhibits, production at trial, 256(1) exhibits, return or disposal, 735 fiats, issuance, 425 foreclosure actions, 574, 583, 585 fourth, fifth parties, entitlement, 145 garnishment answers, 537(2) garnishees, offices, service, 527(2) garnishees, orders for judgment, 533 payment into court, 537(1) wages and salary, exemptions, 525(3) inquiries reports, 434(2)

unascertained persons, 420 interpleader notices of claim, 463(1) notices of receipt, 463(3) notices to admit or dispute, 463(4) judgments entry, signatures, 413, 417 memoranda of satisfaction, orders, 423 reasons, 425 minors, service, 33(1) offers to settle acceptance, 197(1)(4)deeming provisions, 185 withdrawal, 196 orders, entry, 417 particulars, requests for further, 119 parties, notices to carry on proceedings, 76(2), Form 5 partnerships, names and addresses, 89 payment into court contents, 210(1)deeming provisions, 185 plaintiffs, acceptance, 190(1),(3) tender before action, 188 Trustee Act. 207 pleadings, allegations, 116 property, interim orders, 468 reciprocal enforcement of judgments, 622, 629 security for costs, compliance, 637 solicitors, changes of representation, 698, 699, 701 special chambers applications, adjournment, 393(2) specific performance, 575 statements of defence, notices of withdrawal, 316 statements of material facts, requests for further, 119 stop orders, 473, 475 taxation, notices of appeal, 693 taxing officers, powers, 668(1)(c), 682(2) witnesses, notices to attend, 363-365, Form 23 writs of attachment, livestock and perishables, 546

NOTICES OF MOTION

affidavits, 382(4) certificates of pending litigation, setting aside, 478 default judgments, 165(b), 167(3)(b), 169(1)(b) examination for foreign courts and tribunals, 614 exhibits, return, 735 foreclosure actions, 576, 577, 578(3) forms, 382(2), Form 25 generally, 382 interim recovery of personal property, 437(3)

interlocutory injunctions, extension, 446(2)(a) interpleader, 456 irregularities, statements, 385 judgments, 405 mandatory orders, extension, 446(2)(a) omissions, 396, 397 parties, changes, continuances, 76 partners, writs of execution, 510(3) personal property, recovery, 471(2) persons under disability, agreements, 88 reciprocal enforcement of judgments, 618, 623 security for costs, 632 service, time, 383, 384 solicitors, removal, 700 special chambers applications, 387 stop orders, payment, 475 summary judgments, special urgency, 174(2) taxation, solicitor and client costs, 682(1) third parties, default proceedings, 151(3) trials, entry, 319(3) trials, postponement, 405

NUISANCE

service out of jurisdiction, 47(1)(i)

OATHS

affidavits, 368 contempt, refusal to swear or affirm, 704(c) court reporters, powers, 722 discovery of documents, 226(3) examination for discovery, interrogatories, 263(2) examination in aid of execution, 512(1), 513(1), 514(1), 515 examination out of court, 357 partnerships, statements of names and addresses, 89(4) taxing officers, powers, 668(1)(a) writs of attachment, livestock or perishables, 546(1)

OFFERS TO SETTLE

acceptance, time, 197 appeals, 187 costs consequences acceptance, 197(6) Court, discretion of, 206 defendants, two or more, 203, 204 generally, 201 offers immediately before trial, 195 offers incorporating terms not in judgments, 202 pre-judgment interest, 205 withdrawal of offer, 196(3) counterclaims, 187 cross-claims, 187 defendants, two or more, 203, 204 disclosure, restrictions, 186 notice, deemed to be compromise, 185 offers accepted, non-compliance, 200 form, writing, 194(2) parties, 193 time, 194(1) persons under disability, approval, 199 stays, 198 third party claims, 187 withdrawal, 196

ONUS OF PROOF

facts. pleadings, 109 trials, addresses, 336

ORDERS

accounts, debts, 420 administration proceedings necessity, 554 notices of judgments or orders, 557 applications effective date, 400(2) ex parte, 398 forms, 400(1), Form 27 particulars, requirements, 382(5) variation, 397, 399 case management conferences non-compliance, 288 reciting action, 286 compliance, time, 410 conditions, non-compliance, 418 consent applications. ex parte, 398(5) procedure, generally, 404 consolidation of proceedings, 318 contempt, non-compliance, 704(a) dates, 400(2), 407 discovery of documents, non-compliance, 233 effect, taking of, 400(2), 407 enforcement, see ENFORCEMENT OF JUDGMENTS AND ORDERS entry copies, 416(2)

delay, 417 filing, 416(1) force and effect, 416(3) officers of the Court, directions, 416(4) telecopiers, affidavits filed by, 379(2) examination in aid of execution, copies, 516 foreclosure actions final orders, 589, Forms 54, 56, 57, 61 orders nisi, 579, Forms 53, 60 vesting orders, 588 irregularities, effect, correction, 6, 426 mandatory, see MANDATORY ORDERS minutes, 411 paragraphs, 406 reciprocal enforcement of judgments, 621, Form 64 representation orders, 70, 71 reservation of liberty to apply, 408 settling, 411 signatures, 412, 413 stop orders, 473-475 time, enlargement or abridgment, 713

ORDERS IN COUNCIL

construction, originating notices, 22(f)

ORIGINATING DOCUMENTS, see also

ORIGINATING NOTICES, PETITIONS, STATEMENTS OF CLAIM certificates of pending litigation, service, 477 contents, 18 defined, 1 issuance endorsements, 10(1) filing, 9 outside Yellowknife, telecopiers, 11 service, see SERVICE service out of jurisdiction, see SERVICE OUT OF JURISDICTION solicitors, authority to commence proceedings, 14, 702

ORIGINATING NOTICES, see also ORIGINATING DOCUMENTS, PLEADINGS

actions, commencement, 8(2) contents, 23 defined, 1 directions, 25 evidence, oral, 26 forms, 23(1), Form 4

Index

irregularities, effect, 710 originating summons, to be taken as, 21 service, 24 summary disposition, 27 use, proceedings administrators, orders and directions, 551 applications, no procedure established, 22(k) committees, appointment, 565 declarations, rights, 22(f) documents, construction, 22(f) enactments, construction, 22(f) estates, directions, 551(e) estates, questions, 550 executors, orders and directions, 551 facts, no substantial dispute, 22(f), (o) intestacy, entitlement under, 550(c) judicial review, 593-597 land, interests, charges and titles, 22(d) land, partition, 22(j) land, recovery of possession, 22(a) matrimonial causes, 22(1) minors, disposition of property, 562(1) persons, none, unknown or unascertained, 22(m), (n) property, future interests, 362 provisions, specific, 22(e) reciprocal enforcement of UK judgments, 626(2) stop orders, 473(2) Trustee Act, directions under, 22(g) trustees, appointment and vesting, 22(b), (c) trustees, compensation, 22(h) trustees, orders and directions, 551 trusts, directions, 551(e) trusts, questions, 550 trusts, variation, 22(i) wills, entitlement, 550(c)

ORIGINATING SUMMONS originating notice, to be taken as, 21

PARTICULARS, see PLEADINGS; particulars

PARTIES. see also DEFENDANTS, PLAINTIFFS actions defective for want of, 60 administration proceedings, 552(1) continuances. orders, 76 death. effect, 74, 75 disability, parties under, see PERSONS UNDER DISABILITY discovery of documents, 220 estates as, 70 examination for discovery, scope, 235 foreclosure, subsequent encumbrancers, 574(1) fourth, fifth parties, 145 joinder of actions, see JOINDER OF ACTIONS judicial review, 603 occupation and residence, disclosure, 14 representation in Court, 7 representative parties, see also ADMINISTRATORS, COMMITTEES, EXECUTORS, GUARDIANS, GUARDIANS AD LITEM, NEXT FRIENDS, SOLICITORS, TRUSTEES administrators ad litem, 70 advance payment, releases, 214, 215 pleadings, denials, 127 pleadings, names, inclusion, 15(b) security for costs, 633(1)(d) statements of claim, capacities, inclusion, 63(2) specific performance, subsequent encumbrancers, 575(1) third parties, see THIRD PARTY PROCEEDINGS writs of execution, change in parties, 490

PARTITION

orders directions, 559 proceedings out of court, 560 originating notices, 22(j)

PARTNERSHIPS

capacity to sue and be sued, 89(1) defences, 89(2) denials by person served as a partner, 90 examination for discovery, 240(1) garnishment, 530 names of partners, disclosure, 89(3), (7) pleadings, denials, 127 service, personal, 30(4), (5) writs of execution partners, 510 partnership property, 509 restrictions, 511

PAYMENT, ADVANCE, see ADVANCE PAYMENT

PAYMENT INTO COURT

administration of funds day of credit, 210(3) interest, 211(6) investments, authorization, 212 payment in, 210(1)payment out, 210(4), 211(3)-(5) administrators, 551(b) appeals, rules, application, 187 costs consequences, 192, 205, 206 counterclaims, rules, application, 187 cross-claims, rules, application, 187 defendants payment, 189 repayment, 191 disclosure, restrictions, 186 estates, administrators ad litem, 70(3) executors, 551(b) gamishment applications for leave, undertakings, 523(2)(e) discharge, 536 garnishees, compensation, 534 notice, 537(1) responses, 531 wages and salary, 532, 535 interim recovery of personal property, security, 439(4) interpleader, orders, 460(a), 464(b) judgments, enforcement generally, 483 minors and persons incapable of managing their financial affairs, 484 notice, deemed to be compromise, 185 offers to settle, terms, 197(4), (5) persons incapable of managing their financial affairs, money recovered on behalf of, 208, 484 plaintiffs, acceptance, 190 pre-judgment interest, 205 preservation of property, orders, 469(b), 471, 472 sales of real estate, 560(a) security for costs, payment out, 640 stop orders, 473-475 summary judgments, terms, 179(1)(a) tender, defence of, 186, 188 third party claims, rules, application, 187 trust accounts closing, 213 opening, 210(2) persons responsible, 211(1)

records, 211(2) Trustee Act, payment under, 207 trustees, 551(b) writs of attachment, property, return, 545(1) writs of execution, endorsement, 495

PEACE OFFICERS

witnesses, apprehension, 365

PERFORMANCE BONDS, see BONDS

PERSONAL PROPERTY, see also GOODS. PROPERTY committees, statements, 565(2)(f) interim preservation, see PRESERVATION OF PROPERTY interpleader, see INTERPLEADER replevin, see INTERIM RECOVERY OF PERSONAL PROPERTY writs of delivery, recovery of specific property, 505

PERSONAL REPRESENTATIVES, see REPRESENTATIVES

PERSONS INCAPABLE OF MANAGING THEIR FINANCIAL AFFAIRS see also PERSONS UNDER DISABILITY actions, commencement, 80 committees appointment, grounds, 565(1)(b) generally, see COMMITTEES default proceedings, judgments, 164 defences, 80 guardians ad litem appointment and duties, 83, 84 costs, solicitors acting as, 645 payments, restrictions, 208, 484 service, 34, 37(2)

PERSONS UNDER DISABILITY, see also MENTALLY INCOMPETENT PERSONS, MINORS, PERSONS INCAPABLE OF MANAGING THEIR FINANCIAL AFFAIRS agreements and compromises, 88 committees, see COMMITTEES continuance, orders disabilities ceasing, 86 variation, 76(4) discontinuance, restrictions, 309 evidence and procedures, consent, 85 examination for discovery, 241, 266(5) judgments, consent, restrictions, 88 offers to settle, approval, 199 representatives, removal or substitution, 87 settlements, restrictions, 88 solicitors, representation, 7, 700

PETITIONS, see also ORIGINATING

DOCUMENTS, PLEADINGS actions, commencement, 8(3), Form 2 defined, 1 discontinuance, *see* DISCONTINUANCE irregularities, effect, 710 service, 8(4)

PLAINTIFFS, see also PARTIES joinder, see JOINDER OF ACTIONS mentally incompetent persons, 81 minors, 78 persons incapable of managing their financial affairs, 80 security for costs, see SECURITY FOR COSTS trials, appearances, 332, 333

PLEADINGS, see also COUNTERCLAIMS. DEFENCES TO COUNTERCLAIMS. ORIGINATING NOTICES, PETITIONS, REPLIES, STATEMENTS OF CLAIM, STATEMENTS OF DEFENCE, THIRD PARTY NOTICES admissions. see also ADMISSIONS costs consequences, 128 defences, 112(3) form, 293 silence, 120 alternative pleadings, 113 amendments, see AMENDMENTS certificates of pending litigation, 476(2) close of, 105 conditions precedent, implied performance, 110 conversations, precise words, 108 costs, 112(3), 121, 128 cross-claims, 157(4) defined. I delivery, see DELIVERY denials bills of exchange, promissory notes, cheques, 125

calls to admit, 294(2),(3) contracts, promises, agreements, 124 costs, inappropriate denials, 128 debts, sale of goods, money, 125 different versions, 122 facts, 102, 109 incorporation, 123 joinder of issue, 102 partnerships, constitution, 127 points of substance, 126 representative parties, claims, 127 documents precise words, 108 referred to, discovery, entitlement, 225(1) evidence, restrictions, 106 facts inconsistencies, 112(2) scope, 109, 111 statements, 106, 119 formal requirements, 15 fraud, 111, 115, 117 incorporation, proof, 123 irregularities, effect, 6, 711 issuance and filing, solicitors, 17 ioinder of issue, see JOINDER OF ISSUE mental conditions, 115 new judgments, 422(7) new matters, 112 notice, allegations of, 116 numbers, 107(2) offers to settle, disclosure, 186 paragraphs, 107(1) particulars debts, expenses or damages, 118 further, requests for, 119 misrepresentation, fraud, etc., 117 records, particulars to be included, 322 payment into court, disclosure, 186 points of law, disposition, 114, 303(1) reciprocal enforcement of judgments, 619, 627 relief, general or other, 121 replies, filing subsequent to, 103 service, see SERVICE silence, effect, 120, 122, 124 specific pleading, matters requiring, 111 statements of material facts, 106, 119 striking out contempt, penalties, 705(1)(d)(i)

generally, 129 time, delivery, amendments, filing, 713(3) trials, evidence, admissibility, 355

POINTS OF LAW, see QUESTIONS OF FACT AND LAW

PRESERVATION OF PROPERTY

disputes respecting title, 469 equitable execution, interim orders, 522(3) notice, interim orders for custody of preservation, 468 parties to proceedings, applications, 470 personal property, title not in dispute, 471 specific funds, orders, 472

PRESUMPTIONS

pleadings, requirements, 109

PRE-TRIAL CONFERENCES, see CASE MANAGEMENT CONFERENCES

PRISONERS production for examination, 366, Form 24

PRIVILEGE

calls to admit, responses, 294(2)(d) discovery of documents documents in the possession of non-parties, 231 generally, 219 production, 229 validity of claim, determination, 226 examination for discovery, surveillance reports, 254

PROCEDURE BOOKS

defined, 1 directions, 349(b) documents filed in proceedings, 10(3) exhibits, 349(c), 734(2) fiats, 424(1) memoranda of satisfaction, 423 notice, filing of reasons for judgment or fiats, 425 originating documents, outside Yellowknife, 11 trials, time, persons present, 349(a)

PROHIBITION, see JUDICIAL REVIEW

PROMISSORY NOTES. see NEGOTIABLE INSTRUMENTS

PROPERTY. see also GOODS, LAND, PERSONAL PROPERTY absconding debtors, seizure and return, 544, 545 committees, statements, 565(2)(f) corporations examination. see EXAMINATION IN AID OF EXECUTION writs of sequestration, 507 equitable execution, 522 estates, see ESTATES fraudulent conveyances, 521 future interests, protection, originating notices, 362 inspection, 337, 338 interim preservation, see PRESERVATION OF PROPERTY interpleader. see INTERPLEADER joinder of actions, 61, 72 judgment debtors examination. see EXAMINATION IN AID OF EXECUTION execution, see WRITS OF EXECUTION minors, see MINORS partnerships, writs of execution, 509-511 protection, actions, 61 replevin, see INTERIM RECOVERY OF PERSONAL PROPERTY trusts. see TRUSTS writs of delivery, recovery of specific property, 505 writs of sequestration, 506, 507

PUBLIC TRUSTEE

committees, applications to appoint, service, 566(b) defined, 1 minors, service, 32 missing persons, service, 38 persons under disability examination for discovery, 241(2) notice, 88

PUBLIC TRUSTEE ACT

committees, appointment under, accounting, 568 mentally incompetent persons under capacity to sue and to be sued, 81 committees, appointment, 565(1)(a)

QUESTIONS OF FACT AND LAW, see also FACTS admissions of law, withdrawal, 296 amendments, pleadings, real questions in issue, 133 case management conferences, powers, 284(1) consolidation of proceedings, grounds, 318 definition of the facts, 305 discovery or inspection, delay, orders, 306 garnishment, speedy determination, 538 inquiries, 432-434 joinder of actions, common questions, grounds, 66 originating notices, 22, 550 points of law pleadings, 114 setting down for hearing, 303(1) trials, disposition at, 303(2) questions of fact, trial by different modes, 307 questions to be tried equitable execution, 522 garnishment, 538 interpleader, 458 judgments, 403, 405 orders, 304 writs of execution, 490(b), 510(5) special cases, see SPECIAL CASES special chambers applications, authorities, 391(1) summary judgments law, only genuine issue, 176(4) refusals or partial grants, terms, 179(1) taxation, referral, 673

QUO WARRANTO, see JUDICIAL REVIEW

RECEIVERS

accounts, filing, 451 applications, 449 defined, 1, 448 directions, 452 discharge, 453 equitable execution, interim receivers, 522(3) orders, 450, Forms 39, 40

RECIPROCAL ENFORCEMENT OF JUDGMENTS

affidavits, contents, 620 applications ex parte, 617 notices of motion, 618 definitions, 616 orders, 621, Form 64 pleadings, styles of cause, 619 registration notices, 622 setting aside, time, 622(b), 623 writs of execution, variation, 624

RECIPROCAL ENFORCEMENT OF UNITED KINGDOM JUDGMENTS

affidavits, 628 applications, 626 definitions, 625 originating notices, 626(2), Form 65 pleadings, styles of cause, 627 registration, notice, 629

RECOGNIZANCES

witnesses, apprehension, 365

RECORDS

Court, amendments, procedure, 140 delay in prosecution, prejudice, scope, 328(c) examination for discovery, objections, 257(1) judicial review, 595, 598 medical, copies, provision, 276(1) payment into court, trust accounts, 211(2) procedure books, *see* PROCEDURE BOOKS trials

filing, 322 service, 323 writs of execution, returns, 501

REFERENCES

case management conferences, powers, 284(1)(j) summary judgments, amounts only genuine issue, 176(3) taxing officers, 673, 682(2)

REGULATIONS, see ENACTMENTS

REPLEVIN. *see* INTERIM RECOVERY OF PERSONAL PROPERTY

REPLIES see also PLEADINGS

defences to counterclaims, conjoined, 95(5) defined, 1 pleadings, filing after, 103

REPORTS experts, 278, 280 foreclosure, sales, 586 inquiries, referees, 434 interim recovery of personal property, Sheriff, 442 medical examinations, 277 trials, telephone witnesses, 352(3)

REPRESENTATIVES, see also ADMINISTRATORS, COMMITTEES, EXECUTORS, GUARDIANS, GUARDIANS AD LITEM, NEXT FRIENDS, SOLICITORS, TRUSTEES administrators ad litem, 70 advance payment, releases, 214, 215 persons interested, representatives, appointment, 71 pleadings denials, 127 names, inclusion, 15(b) representation by a solicitor, 7 security for costs, 633(1)(d) statements of claim, capacities, inclusion, 63(2)

RESIDENCY

affidavits, deponents, 367(1) appearances, 19 disclosure, demands, 14(3) originating notices, service out of jurisdiction, 47(1)(c), (d) reciprocal enforcement of judgments, debtors, 620(d) security for costs, 631, 633(1)(a), 639 statements of claim, 16(1)(d), (e) statements of defence, 19 styles of cause, 15(b)

RULES

affidavits, references, 382(5), 398(5) application, generally, 2 coming into force, 738 contempt, 704(f) examination for foreign courts and tribunals, 612 examination in aid of execution, 520 foreclosure actions, application, 572 judicial review, application, 573 non-compliance, 6, 708 object, 3 provisions not included, effect, 4 repeal, 737 subrules, references, interpretation, 5 time, enlargement or abridgment, 713 transitional provisions, 736

SALARIES, see FEES, GARNISHMENT

SALES

administrators, approval, 551(d), 556 agreements, see SPECIFIC PERFORMANCE; agreements of sale equitable execution, orders, 522 estates, parties, notice, 557 executors, approval, 551(d), 556 foreclosure, see FORECLOSURE; sales fraudulent conveyances, orders, 521 goods, pleadings, specific denials, 125(a) interpleader, orders, 460(a) land, see LAND minors, see MINORS preservation of property, orders, 469(c) trustees, approval, 551(d), 556 trusts, parties, notice, 557 writs of attachments, livestock and perishables, 546

SEALS

foreign process, service, 607 judgments, 416(3) lost documents, replacement, 12 orders, 400(1), 416(3) originating documents, issuance, 9, 11(3)(a) statements of claim, renewal, 13(2) third party notices, filing, 142(4)

SECURITIES

payment into court, administration, 212 stop orders, 473-475

SECURITY

interim recovery of personal property, 439, 440, 443 interpleader, 461(2), 464 preservation of property, orders, 469(b), 471, 472 receivers, 450(1)(b) solicitors, future fees, 655 writs of attachment issuance, conditions, 541(b) livestock and perishables, seizure and sale, 546 property, return, conditions, 545(1)

SECURITY FOR COSTS affidavits, 632(1)

amounts, variation, 638 applications, notice, time, 632 bonds, 636, 640 defendants, defined, 630(1) delay in prosecution, orders, 329(i) demands, residency, 631 notice, compliance, 637 orders contents, 635 grounds, 633 refusal, 634 setting aside, 639 payment out of court, 640 plaintiffs defined, 630(1) other proceedings, deemed plaintiffs, 630(2) stays, 631(2), 635 summary judgments, refusals or partial grants, 179(1)(b)

SERVICE, see also DELIVERY

addresses affidavits, 367(4) defined. 1 failure to give, effect, 20 foreclosure, 580 interpleader, 463(2) payment into court, trusts, 207 personal service, effect, 41 pleadings, 15(d) solicitors, ceasing to act, 699 solicitors, representation, changes, 698(5) statements of claim, 16(1) statements of defence, 19 telecopiers, 40 administration proceedings, judgments or orders, 557 admissions of service, verification, 42 amendments, 136(1)(b) applications ex parte, orders, 398(2) memoranda, 390 special chambers, 387, 391 calls to admit, notices and responses, 294(2) certificates of pending litigation, 477 certificates of readiness, 323 committees, applications to appoint, 566 continuance, orders, 76 contractual stipulations, validity, 36 counterclaims, 94(2), 96

cross-claims, 157(3) days of the week, 28(2) defendants, out of jurisdiction, agents, 35 defendants, several, default proceedings, 168 discontinuance, notice, 309 discovery of documents, statements, 221(6), 228 dispensing with, orders, 38 evidence summaries, 326(2) examination for discovery appointments, notice, 248 interrogatories, 263(1) non-parties, 270(3), (4) examination in aid of execution, appointments, 516 exhibits, return or disposal, 735(4) experts, statements, 279 foreclosure, 46, 574, 577, 578, 580 foreign process, requests, translations, 607, 608 fraudulent conveyances, applications, 521 garnishment, summons, 527 holidays, 712 inquiries, reports, 434(1) interim recovery of personal property, 437(3) interpleader, certificates of taxation, 466(3) irregularities, applications to set aside, 44 judgment creditors, foreclosure, 46 judicial review, originating notices, 597 mail, use, 37 medical examinations, reports, 277(2) minors, 32, 33, 37(2) new judgments, notices of motion, 422 notices of motion, 382(2), 383, 384 offers to settle, 193, 196, 197(4) originating documents deemed service, filing of response, 39 originating notices, 24, 25 personal service, 29 solicitors, undertakings to appear or file, 31 particulars, requests for further, 119 partners, writs of execution, 510(3) payment into court defence of tender, 188(3) plaintiffs, 189(2) personal service addresses, 41 associations, 30(6) certified copies, requests, 30(2) circumstances, 28(1) corporations, 30(3)(a) individuals, 30(1)

municipal corporations, 30(3)(b) originating documents, 29, 39 partnerships, 30(4), (5) solicitors, 43 persons incapable of managing their financial affairs, 34, 37(2) petitions, 8(4) Saturdays, 712 setting aside, applications, 44 Sheriff, appointments for taxation, 725(2) solicitors admission of service, verification, 42 offices, closed, effect, 45 personal service, 43 representation, changes, 698-701 undertakings to file or appear, 31 specific performance, 575 statements of claim, defendants added, 59(1) statements of material facts, requests for further, 119 stop orders, 474 substitutional, orders, 38 summary judgments, applications, 174(2) Sundays, 28(2), 712 taxation, appointments and appeals, 671, 693 taxing officers, powers, 668(1)(d) telecopiers, 40 third party notices, 142(4), 143 time, generally, 712 witnesses, notices to attend, 363-365 writs of attachment, 542

SERVICE OUT OF JURISDICTION

contractual stipulations, restrictions, 36(2) Convention, service pursuant to, 50 generally, with leave, 49 originating documents, with leave, 48 originating documents, without leave Carriage by Air Act, 47(1)(o) contracts. 47(1)(f), (g) estates, administration, 47(1)(d) foreclosure, 47(1)(k) injunctions, 47(1)(i) judgments, 47(1)(m) land, 47(1)(a), (b) matrimonial causes, 47(1)(n) mortgages, 47(1)(k), (l) nuisance. 47(1)(i) persons domiciled or ordinarily resident, 47(1)(c) persons parties to actions in jurisdiction, 47(1)(j)

statements of claim, grounds, 47(2) torts, 47(1)(h) trusts, 47(1)(e) setting aside, applications, 51 third party notices, 146

SET-OFFS

costs, 643(1)(c), 647 costs, taxation, 676(2), 679 counterclaims, use, 95(2) damages, 647 delay in prosecution, 327(6)

SETTLEMENTS

case management conferences, 283(e), 284(1)(a) contingency agreements, 662(2), 663(3) costs, taxation, 651 memoranda, withdrawal after entry, 319(4)(b) offers to settle, *see* OFFERS TO SETTLE persons under disability, 88

SHERIFF, see also COURT: officers fees bills of costs, taxation, 725 inclusion in definition of costs, 641(e) taxation, proof of disbursements, 680(1) foreign process, service, 607 interim recovery of personal property orders, service, 441 other property seized, 436 reports, 442 security, 439, 443 interpleader adverse claims, property held by Sheriff, 463, 464 applications by Sheriff, 461, 462, 465 costs, taxation, 466 payment for services, 467 officer of the Court, 715 prisoners, production for examination, 366 witnesses, apprehension, 365 writs of attachment execution, 540(3) livestock and perishables, 546 property, return, 545 property, seizure, 544 returns, 543 writs of delivery, 505 writs of execution directions, 494

fees and expenses, 500 receipt. endorsement, 499 returns, 501-503 writs of sequestration, 506(2)

SOLE PROPRIETORSHIPS

examination for discovery, 240(2) firm names, capacity to sue and be sued, 91

SOLICITORS

accounts, taking, place, 430(4) actions, commencement, telecopiers, 11 affidavits swearing, 368(3) telecopiers, undertakings, 379 applications attendance, 388, 389 late filing, costs, 395 memoranda, filing, 390 withdrawal, 392 authority demands to declare, 14 proceedings commenced without, stays, 702 case management conferences, duties, 283, 285, 288 certificates of readiness, signatures, 319(2) compensation actions, 667 agreements, scope, 656 ceasing to act, amount due, 663 costs. inclusion in definition, 641(a) entitlement, grounds, 653 representative capacity, entitlement, 664 security, 655 taxation, agreements, 654, 655 contempt authority, demands, 14 notices, discovery or inspection, clients, 233 undertakings, non-performance, 704(e) contingency agreements defined, 657 irregularities, effect, 660 memoranda, contents and filing, 658(2), 659 provisions, validity, 662 review, 661 signatures, 658(1) taxation, effect, 663 costs, liability of solicitors delay in prosecution, 329(h) generally, 644

proceedings commenced without authority, 702(1) repayment of excess, non-compliance, 697(b) costs, solicitor and client, see COSTS; solicitor and client death, 698(4), 701 defined. 1 discovery of documents notice, clients, 233(2) statements, signatures, 221(5) documents delivery to clients, taxation, 691 filing, means, 720 evidence summaries, signatures, 326(5) examination for discovery answers, 258 appointments, 248 exhibits, copies, 256(2) re-examination, 259 transcripts, delivery, 262(3) examination out of court addresses and phone numbers, 359(1)(c) place, considerations, 357(4)(e) undertakings, expenses, 359(2) fiats, issuance, notice, 425 garnishment applications for leave, affidavits, 523(2) notice, payment into court, responses, 537 summons, service, 527(4) guardians ad litem, acting as, costs, 645 judgments and orders consent, 404 drafting, 406 memoranda of satisfaction, signatures, 423(1)(a) reasons, notice, 425 signatures, 413 juries, removal, 342(2) liens applications, 666 delivery of documents, 691 set-offs, effect, 647, 679 minors, disposition of property, affidavits, 563(1) next friends, written authority, 82 payment out of court, 190(2), 211(5) pleadings issuance, restrictions, 17 names, inclusion in, 15(e), 16(1), 19(a) procedure books, entries, 349(a) reciprocal enforcement of judgments, notice, 622, 629 representation

ceasing to act, amount due, 663 ceasing to act, notices, 698(4), 699 corporations, 7(2)directions, applications, 701 notices of changes, service, 698 persons under disability, 7(1), 700 representative parties, 7(1) withdrawal, orders, 700 security for costs, demands, residency, 631 service admission of service, verification, 42 continuance, orders, 76 judgment creditors, foreclosure, 46 offices, closed, effect, 45 personal service, 43 representation, changes, 698-701 telecopiers, 40 third party notices, 143 undertakings to file or appear, 31 solicitor and client costs. see COSTS: solicitor and client special cases, 299(2) special chambers applications adjournment, 393 briefs, 391 notice, 387 taxing officers, powers, 668(1)(e) trials, addresses, 335, 336 undertakings to appear or file, 31 witnesses, parties as, service, 363 writs of execution, addresses, 493

SPECIAL CASES

availability, 297 contents, 299(1) filing, 299(3) hearings, determination, 301 interpleader, orders, 458(1)(c) payment, agreements, 302 questions of law, directions, stays, 298 signatures, 299(2) summaries, delivery, time, 300 written, 299(4)

SPECIFIC PERFORMANCE

agreements of sale certificates of title, filing, 581 generally, see FORECLOSURE orders determining agreements, 589, Form 61 subsequent encumbrancers, 575 contracts, enforcement of judgments, 508

SPOUSES

joinder of action, 54 originating notices, 22(1) service out of jurisdiction, 47(1)(n)

STATEMENTS AS TO DOCUMENTS, see

DISCOVERY OF DOCUMENTS; statements as to documents

STATEMENTS OF CLAIM, see also

ORIGINATING DOCUMENTS, PLEADINGS actions, commencement, 8(1), Form 1 contents, 16(1) currency, 13 defined, 1 foreclosure actions, 573 front pages, 16(3), Form 3 irregularities, effect, 710 joinder of issue, restrictions, 101 place of trial, proposals, 16(2) renewal, 13 representative parties, capacities, inclusion, 63(2) summary judgments, notices of motion, service, 174(2)

STATEMENTS OF DEFENCE, see also

DEFENCES, PLEADINGS admissions, withdrawal, 317 contents, 19 counterclaims, conjoined, 95(4) defined, 1 deliverv defendants added or substituted, 59(2) generally, 93 late filing, 159, 171 filing, effect on defective service, 39 forms, 95(6), Form 8 judgments, consent, filing, effect, 404 notice, non-entitlement, failure to file, 158 orders, consent, filing, effect, 404 solicitors, undertakings to file, 31 striking out offers to settle, non-compliance, 200, 202 summary judgments, non-compliance, 179(2) third parties, 147, 148, 150, 153 withdrawal, 316

STATUTES, see ENACTMENTS

STAY OF PROCEEDINGS

accounts, 428(b) administration proceedings, accounts, 555 applications, questions of fact and law, 304(1)(c) claims, counterclaims, 100 consolidation of proceedings, 318(1)(b) contempt, penalties, 705(1)(d)(ii) counterclaims, 98, 100 discontinuance, costs, subsequent proceedings, 314 inquiries, 428(b) interim recovery of personal property, 444 interpleader, 457 judicial review, 604 offers to settle, 198 orders, time, 129(1)(b) partnerships, names and addresses, disclosure, 89(5) payment into court, 190(2) security for costs, 631(2), 635 solicitors authority, 14(4), 702 outside Yellowknife, filing, 11(3)(b) special cases, 298, 302(2) summary judgments, enforcement, 183 taxation, party and party, 678(2) writs of execution, 485(3)

STOP ORDERS

applications, 473(1) copies, service, 474 notice, 473(2) payment out of court, applications, 475 undertakings, damages, 473(3)

STYLES OF CAUSE

contents, 15(b) continuances, 86 counterclaims, 95(7), 96 documents, court, contents, 732(1)(c) payment into court, notices, 210(1) reciprocal enforcement of judgments, 619, 627 taxation, solicitor and client costs, 683

SUMMARY JUDGMENTS

admissions of fact, evidence, 181 applications for judgment, directions, 182 counterclaims, 183, 184 cross-claims, 183, 184 defendants, applications, 175 enforcement, stays, 183 grants amounts, only genuine issue, 176(3) no genuine issue, 176(2) partial, terms, 179 questions of law, only genuine issue, 176(4) without prejudice, other defendants or claims, 178 originating notices, summary dispositions, 27 plaintiffs, applications, 174 refusals, terms, costs consequences, 179, 180 responses, evidence, requirements, 176(1) rules, special chambers applications, application, 177 special urgency, 174(2) third party proceedings, 183, 184

SUPPORT

originating notices, 22(1) service out of jurisdiction, 47(1)(n)

SUPREME COURT, see COURT

SURETIES

interim recovery of personal property, 439, 443 joinder of actions, 69 witnesses, apprehension, 365 writs of attachment issuance, conditions, 541(b) livestock and perishables, 546

TAXATION OF COSTS, see also COSTS

amounts, calculation, 648, Schedule A appeals certificates, effect, 675(2) costs, 695(2) evidence, 694 notices, filing, service, time, 693 powers of the Court, 695(1) repayment, enforcement, 697 writs of execution, amendments, 696 applications, costs in the cause, 649 appointments

affidavits verifying disbursements, 670(1) bills of costs, contents, 670(2) copies, service, 671 failure to attend, effect, 672 certificates, 675 conduct money, amounts, 652 consent, solicitors, responsible parties, 674(3) costs costs of the taxation. 669 defined, 641 estates, payment by persons interested, 665 foreclosure, orders nisi, 582(b) interpleader, Sheriff, 466 mortgaged property, payment by persons interested in, 665 party and party bills of costs, filing, 676(2) bills of costs, filing, non-compliance, 676(3) deductions, 679 disbursements, proof, 680 proceedings, failure to attend, 677 proceedings, institution, 676(1) set-offs, 679 stays, 678(2) time, 678(1) questions, referral, 673 refusal, grounds, 674 scales, discretion of the Court, 643(1)(b) settlements, effect, 651 Sheriff, bills of costs, 725 solicitor and client agreements, effect, 687 applications, notices of motion, 682(1) applications, styles of cause, 683 appointments, taxing officers, 682(2) bills of costs, contents, 686 bills of costs, filing, 684 bills of costs, signatures, 685 client, defined, 681 clients with independent advice, consent, 688 costs of the taxation, 669 documents, delivery by solicitors, orders, 691 enforcement, 692(2) judgments, 692(1) re-taxation, restrictions, 690 time, 689 solicitors, compensation actions, 667 agreements, 654, 655, 687

ceasing to act, amount due, 663 solicitors, repayment of moneys, 684(3) taxing officer Clerk, acting as, 642 powers, 668(1) time, enlargement, 668(2) trust funds, payment by persons interested, 665

TELECOPIERS

actions, commencement, outside Yellowknife, 11 affidavits, 379 defined, 1 documents, filing, 720(4)-(6) service, 40

TELEPHONES

actions, commencement, outside Yellowknife, 11 applications, 389 case management conferences, 289 examination out of court, numbers, 359(1)(c) special chambers applications, adjournment, 393 trials, witnesses, testimony, 352

TENDER

defence of disclosure, 186 payment into court, 188 foreclosure, sales, 587

THIRD PARTY NOTICES, see also PLEADINGS

filing, 142(3) forms, 142(2), Form 9 joinder of issue, restrictions, 101 scope, 142(1), 145 service, 142(4), 143 service out of jurisdiction, 146 setting aside, applications, 144

THIRD PARTY PROCEEDINGS

admissions, withdrawal, 317 appearances, 147, 148 counterclaims, application, 156 default proceedings defences after noting in default, 150 judgments, defendant in default, 151 judgments, defendant not in default, 152 noting in default, 149, Form 10 delay in prosecution, agreements, notice, 330(2) directions, applications, 153(2)

4

discontinuance, see DISCONTINUANCE documents, production, entitlement, 153(1)(b) examination for discovery, entitlement, 153(1)(b) further parties, third party rules, application, 145 offers to settle, rules, application, 187 payment into court, rules, application, 187 security for costs, deemed plaintiffs, 630(2) service, entitlement, 153(1)(a) statements of defence, 147, 148, 153 unnecessary delay, directions to prevent, 155 TIME see also DATES abatement, actions, 75 abridgment or enlargement, generally, 713 accounts, taking, 420, 427, 430(3) administration proceedings, variation, 557(7) admissions, calls to admit, responses, 294(2) advance payment, disclosure, 217 affidavits, swearing, 368(4), 369 amendments, 713(3) appeals, taxation, 693 appearances, delivery, 93, 159 applications chambers, 386 memoranda, filing, 390 orders, variation, 397 special chambers, 387, 391, 393 withdrawal, 392 certificates of readiness, service, 323 chambers, sittings, 727 committees, accounting, 568 computation, generally, 712 contingency agreements, 659, 661 continuance orders, variation, 76 costs, 643(3) counterclaims discontinuance, 309, 311(1), 312 service, 94(2)Court, sittings, 727 cross-claims discontinuance, deemed dismissal, 311(2), 312 service, 157(3) damages, assessment, continuing causes, 344 defences to counterclaims, delivery, 94(3) delay in prosecution, see DELAY IN PROSECUTION delivery, documents, 713(3) discontinuance, 309, 311, 312(2), 313 discovery of documents notices of non-admission of authenticity, 228(3)

notices to inspect, 225(2) notices to produce, 225(1) production for inspection, 221(2)(c)(i), 225(3) statements, filing, 221(1) statements, service, 221(6) dismissal, 129(1)(b), 327 enlargement or abridgment, generally, 713 estates, notices of judgments or orders, 557(7) evidence summaries, service, 326(2) examination for discovery appointments, 248(2), (3) defendants, 247(2) generally, 235 interrogatories, 263(2) plaintiffs, 247(1) examination for foreign courts and tribunals, 614(2) examination in aid of execution, 512, 514, 516 exhibits, return, 735 experts reports, 278(8) statements, service, 279 filing, documents, 713(3) foreclosure emergency orders, 578(1) sales, 583, 585, 587, 588 subsequent encumbrancers, applications, 574(3) garnishment pre-judgment, 523(1), 533(2) responses, 531 summons, service, 527 holidays, effect, 712, 714 inquiries generally, 427 reports, notice, 434(2) unascertained persons, 420 interim recovery of personal property applications, 437(1) reports, 442(1) interlocutory injunctions, 446 interpleader, 457, 463(4) irregularities, setting aside, 709 joinder, implied, 104 judgments compliance, 410 contents, 407 delay in entry, 417 delay in signature, 413 generally, 129(1)(b) irregularities, correction, 426

Index

new judgments, 422 judicial review, originating notices, filing, 596 juries decisions, holidays, validity, 714 sittings, adjournment, failure of proof, 343 mandatory orders, 446 medical examinations, 273, 276(1) misjoinder, applications to rectify, 58(7) notices of motion, service, 383, 384 offers to settle acceptance, 197(1), (2) costs, effect, 195, 196(3) costs, pre-judgment interest, effect, 205 making, 194(1) withdrawal, 196 orders compliance, 410 contents, 407 delay in entry, 417 delay in signature, 413 formal, taking effect, 400(2) irregularities, correction, 426 taking effect, 407(3) time, generally, 712, 713 originating documents, outside Yellowknife, 11(1)(c) originating notices, service, 24 particulars, requests for further, 119 payment into court costs, effect, 192 costs, pre-judgment interest, effect, 205 credit. entitlement, 210(3) defendants, payment, 189(1) plaintiffs, acceptance, 190 plaintiffs, service, 189(2) repayment, 191 trust accounts, closing, 213 petitions discontinuance, 309, 312, 313 service, 8(4) pleadings, amendment consent. 132, 713(3) defects or errors, 134 delivery, 138 disallowances, 131 expiration, 135 generally, 129(1) real questions, 133 without leave, 130

pleadings, delivery, 94, 713(3) procedure books, entries, 349(a) reciprocal enforcement, setting aside, 622(b), 629(b) replies, amendments, 130(3)(b) Saturdays, 712 security for costs, applications, 632(1), 634 service, documents, 41(2), 712(b) service out of jurisdiction, applications, 49(2) Sheriff, bills of costs, delivery, 725(1) solicitors, representation, changes, 698-700 special cases, 299(3), 300 specific performance, subsequent encumbrancers, 575(3) statements of claim, currency and renewal, 13 statements of defence delivery, 59(2), 93, 130(2)(b), 159 third parties, delivery, 147(1), (2), 148 withdrawal, 316 statements of material facts, 119 stays, 129(1)(b) summary judgments, applications, 174, 181 Sundays, 28(2), 712 taxation appeals, 693 appointments, service, 671 enlargement or abridgement, 668 party and party, 678(1) solicitor and client, 689 third party notices filing, 142(3) service, 142(4), 143 setting aside, applications, 144 third party proceedings default judgments, 151(1), 152(1) discontinuance, 311(2), 312, 313 trials adjournment, 324(2) briefs, 325 evidence, other proceedings, 354(b) lists, publication, 324(1) trusts, notices of judgments or orders, 557(7) witnesses, notices to attend, 363, 364 writs of attachment livestock and perishables, 546 service, 542(1) writs of execution issuance, 152(2), 485, 489 receipt, Sheriff, 499

renewal, 498 returns, 502, 503 writs of possession, issuance, 504(2)

TORTS

service out of jurisdiction, 47(1)(h)

TRANSCRIPTS

affidavits, cross-examination, 381(4) court reporters, duties, 721(d) evidence, admissibility, 724 examination for discovery copies, 262(3) evidence, admissibility, 262(2) exhibits, attachment, 256(2) filing, 262(4) form, 262(1) non-parties, 270(3) videotapes, attachment, 269 examination for foreign courts and tribunals, 612, 613 examination out of court, 357(1), 361(3) judges, drafts, correction, 723

TRANSLATION examination out of court, 359(1)(d) foreign process, letters of request, 608

TRIALS

addresses judges, onus of proof, 336 juries, 335 adjournment after publication of date, 324 appeals, applications, 341 evidence summaries, non-compliance, 326(6) terms, 340 affidavits, use, 351 appearances, parties, 332, 333 consolidation, 318(1) cross-claims, determination, 157(5) cross-examination, questions, disallowance, 339 dates, publication, 324 discovery of documents documents not disclosed, 230 entry for trial, 320 notices of non-admission, 228(3) production, documents disclosed, 229 dismissal, case not made out, 346 documents, failure to prove, 343

entry for trial briefs, 325 certificates of readiness, filing, 319, Form 18 certificates of readiness. service, 323 evidence summaries, 326 further proceedings, 320 records, filing, service, 322, 323 withdrawal, 319(4) examination for discovery answers, failure to correct, 260(3) entry for trial, 320 experts, undertakings not to call, 252(2) interrogatories, filing, 264 non-parties, 270(5) reading in, procedure, 266 subsequent actions, 268 transcripts, 262 witnesses, unavailability, 267 examination out of court, 357(1), 361 exhibits filing, 734 marked on examination for discovery. 256(1 return, 735 experts, reports, 278(6) facts, failure to prove, 343 interruptions, 341 joinder of actions, see JOINDER OF ACTIONS judgments, see JUDGMENTS jury trials, see JURIES mini-trials, procedure, 292 mistrials, declarations, 342(2) mode, judge or jury, 331 new judgments, 422(7) offers to settle, disclosure, 186 originating notices, summary disposition, 27 payment into court. disclosure, 186 place, statements of claim, proposals, 16(2), 321 pleadings, amendment, 139 postponement, applications, 405 procedure books. entries, 349 property, inspection, 337, 338 questions of fact and law definition of the facts, 305 different questions, different modes, 307 discovery or inspection, delay, 306 orders, 304 points of law, disposition, 303 retrials, juries, 342, 347, 348 summary judgments, terms, 179(1)(f)

telephones or audio-visuals, testimony, 352 third party proceedings, 152, 153 witnesses, *see* WITNESSES

TRUST ACCOUNTS

costs, payment by persons interested, 665(2) payment into court administration, 211(1) closing, 213 opening, 210(2) records, 211(2)

TRUSTEE ACT

originating notices, 22(g) payment into court under, procedure, 207

TRUSTEES

accounts, orders to furnish, 551(a), 555 administration proceedings, parties, 552(1) bankruptcy examination for discovery, 243 joinder of actions, 53 directions, to act or abstain, 551(c) ioinder of actions, 63-65 offers to settle, terms, 197(4), (5) originating notices accounts, 551(a) appointment, 22(b) compensation, 22(h) directions, 551(c) judges, opinions, advice or directions, 22(g) payment into court, 551(b) sales, purchases and compromises, approval, 551(d) vesting and consequential orders, 22(b) payment into court, 207, 551(b) pleadings, denials, 127 sales approval, 551(d) payment, 560(a) powers, 556 solicitors acting as, compensation, 664

TRUSTS

accounts, 555 administration proceedings, defined, 549 costs, payment by persons interested, 665 joinder of actions, compromises, effect, 73 judgments and orders, 64, 65, 554 misconduct, orders, scope, 553 notices of judgments or orders, 557, Form 49 originating notices execution, questions, 550(a), (c) judges, opinions, advice or directions. 22(g) orders, 551 property, claims, 550(b) service out of jurisdiction, 47(1)(e) variations, 22(i) payment into court, procedure, 207 representation orders, 71

UNBORN PERSONS

representation orders, 71

UNDERTAKINGS

affidavits, telecopiers, 379(1) contempt, non-compliance, 704(d), (e) examination for discovery, information, 261 examination out of court, expenses, 359(2) experts, not to be called at trial, 252(2) garnishment, applications for leave, 523 interlocutory injunctions, damages, 447 mandatory orders, damages, 447 statements of defence and appearances, filing, 31 stop orders, damages, 473(3) trials, setting down, completion of discovery, 320

UNDUE INFLUENCE pleadings, 117

VIDEOTAPES discovery of documents, inclusion in definition, 218(1) evidence, witnesses, admissibility, 352 examination for discovery, 269 examination out of court, 357(4)(f), 361(3)

WAGES, see FEES, GARNISHMENT

WARRANTS OF COMMITTAL contempt, enforcement, 707

WASTE actions to prevent, 61

WILLS

accounts, 555 construction of, service out of jurisdiction, 47(1)(b) questions, entitlement, originating notices, 550(c)

Index

WITNESSES

compelling attendance apprehension and detention, 365 notices, 364, Form 23 opposite parties, 363 prisoners, 366, Form 24 conduct money costs, in addition to conduct money, 652 costs, inclusion in definition, 641(f) defined 1 examination for discovery, 248 trials, 363-365 contempt non-attendance, 704(b) oaths, refusal, 704(c) cross-examination. see CROSS-EXAMINATION delay in prosecution, prejudice, 328(b) evidence summaries, 326 examination for discovery, use at trial impeaching statements, 266(2) non-parties, 270(5) witnesses, unavailability, 267 examination out of court. see EXAMINATION OUT OF COURT experts court experts, 278 reports, compliance with Evidence Act, 280 statements, 279 undertakings not to call, 252(2) fees inclusion in definition of costs, 641(f) taxation, proof of disbursements, 680(2) minors, applications for disposition of property, 564 procedure books, entries, 349(a) trials affidavits and examiners, 351 directions not to communicate, 334(b) exclusion from the courtroom, 334(a) exclusion of testimony, 334(c) oral examination, open court, 350 telephones or audio-visuals, 352 WRITS OF ATTACHMENT, see ABSCONDING

WRITS OF DELIVERY

DEBTORS

forms. 505(2). Form 44 issuance, scope, 505(1) non-compliance, effect, 505(3)

WRITS OF EXECUTION

amendments, costs reduced on appeal, 696 conditional judgments, leave, 486 costs and interest, 500, 725 counterclaims, leave, 172, 173 endorsement, 493 examination in aid. see EXAMINATION IN AID OF EXECUTION fees and expenses, 500, 725 garnishment, summons, list of executions, 525(1) goods, land and money, 487, 488 issuance dates, 492 parties, change in, 490 parties, original, 489 third parties, 152(2) time, 485, 489 life of writs, 497 money, recovery directions, interest, 494 endorsement, 495 forms, 496, Form 42 land and money, 488 new judgments, 422(6) partnerships, 509-511 preparation, 491 receipt, Sheriff, endorsement, 499 reciprocal enforcement of judgments, 624 renewal, 498 returns, 501-503 special cases, 302(2) stays, 485(3)

WRITS OF POSSESSION

forms, 504(4), Form 43 issuance, scope, 504

WRITS OF SEQUESTRATION, see also CONTEMPT corporations, 507 forms, 506(2), Form 45 scope, 506(1)