

492. Before the name of any person shall be used as a relator in any action, he shall sign a written authority to the solicitor for that purpose, and such authority shall be filed in the office of the proper officer.

WRIT OF ARREST.

493. A writ of arrest for the purpose of arresting any defendant about to leave the colony shall be in the form No. in the Schedule hereto, and shall specify the purpose for which the defendant is to give security

494. Such writ shall empower the officer to whom it is directed to arrest the person named therein, and to commit him to such custody as may be by law allowed, until he shall have given to such officer sufficient security for payment of any sum of money, or for the performance of any act, or not to quit the colony without leave of the Court or otherwise, as may by the writ of arrest be required.

495. When a defendant is required to give security for the payment of a sum of money, he may pay such sum of money into the hands of the officer executing the writ of arrest, but may obtain repayment thereof at any time on giving to such officer sufficient security for the payment thereof.

496. The Court or a Judge may, at any time after judgment, order that any sum of money so paid or secured, or any part thereof, be paid over to a successful plaintiff, or that any security given by a defendant under a writ of arrest be put in force by the officer to whom it has been given for the purpose of such order.

497. Any person arrested under a writ of arrest may at any time apply to the Court or a Judge to be discharged from custody, on the ground of having been wrongfully arrested, or of being wrongfully detained in custody, and the Court or Judge on such application may make such order as to the discharge of the defendant or otherwise as may appear just.

PROBATE AND ADMINISTRATION.

498. Every person named in any will as executor who desires to obtain probate thereof shall file in some office of the Court an affidavit in the form No. in the Schedule hereto, made by some person acquainted with the facts therein set forth, and shall also make and file an affidavit in the form No. in the said Schedule. Probate shall thereupon be granted in the form No. in the said Schedule, unless a caveat shall have been previously entered.

499. If none of the executors named in the will shall apply for probate within one calendar month after the death of the testator, and if the residuary legatee, widow, widower, or next of kin of such testator or intestate shall apply for administration within two calendar months from the day of the death of such testator or intestate, and if the party so applying shall file as aforesaid an affidavit in the form No. in the Schedule hereto, and make and file as aforesaid an affidavit in the form No. in the said Schedule, the party so applying shall thereupon be entitled to a grant of letters of administration with the will annexed, in the form No. in the said Schedule, unless a caveat shall have been previously entered.

500. If there be no will, or if there be a will but no executor be named therein, the residuary legatee, widow, widower, or next of kin of such testator or intestate may apply for a grant of letters of administration, and if the party so applying shall file as aforesaid an affidavit in the form No. in the Schedule, and shall make and file as aforesaid an affidavit in the form No. or No. , and also affidavits setting out the facts from which the right to administer arises, the party so applying shall be entitled to letters of administration with the will annexed as in the form No. in the said Schedule, or to letters of administration in the form No. , as the case may require, unless a caveat shall have been previously entered.

501. Any person desiring to oppose a grant of probate of a will, or of letters of administration, may file in any office of the Court a caveat in the form No. in the Schedule hereto. If the caveat is filed by a solicitor, the solicitor shall annex to the caveat his warrant for filing the same.

502. Any person applying for probate or letters of administration shall be entitled to issue a summons calling upon the person on whose behalf a caveat is filed to appear before a Judge of the Court in chambers, and show cause why the application for probate or administration, as the case may be, should not be granted. If the party so summoned shall fail to appear accordingly, the caveat shall be deemed to be abandoned, and the party so applying for probate or administration shall be entitled to the same as if no caveat had been filed.

503. If the person lodging the caveat appear, the Judge may either decide the matter summarily, or may order the person applying for probate or letters of administration to proceed by action, as hereinafter provided.

504. Every person to whom letters of administration shall be granted, except the Public Trustee, shall before obtaining the same give sufficient security, to the satisfaction of the proper officer, for the proper administration of the estate of the deceased.

505. No probate or letters of administration shall be sealed after the expiration of one calendar month from the day on which the application was granted. After such period a fresh application must be made.

506. Every executor or administrator shall, within such respective periods as the Judge on granting probate or administration shall direct, or within such further periods as a Judge on application may direct, file in the office of the Supreme Court an inventory of the estate and effects of the deceased, and also a full and distinct account in writing of his administration of the estate, which shall set forth the dates and particulars of all receipts and disbursements; every inventory and account so filed shall be verified by affidavit. If such account shall not be exhibited at the time fixed, the Judge may fix a further time, at the expiration whereof, if the executor or administrator shall fail to pass his accounts, he shall be chargeable with interest out of his own funds at the rate of 10 per cent. per annum for the balance (if any) remaining in his hands, unless he can show good and sufficient cause to the contrary.

507. An executor, instead of proceeding to obtain probate by order in chambers, may, and, if a grant of probate is opposed, and a Judge orders the right to be tried by action, must, obtain a judgment of the Court for the issue of probate.