

SUPERIOR COURT ACT (SC)

SC S18 SUSPENSION OF DECISION PENDING APPEAL

- (1) Subject to subsections (2) and (3), and unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision which is the subject of an application for leave to appeal or of an appeal, is suspended pending the decision of the application or appeal.
- (2) Subject to subsection (3), unless the court under exceptional circumstances orders otherwise, the operation and execution of a decision that is an interlocutory order not having the effect of a final judgment, which is the subject of an application for leave to appeal or of an appeal, is not suspended pending the decision of the application or appeal.

SC S42 SCOPE AND EXECUTION OF PROCESS

- (1) The process of the Constitutional Court and the Supreme Court of Appeal runs throughout the Republic and their judgements and orders must, subject to the applicable rules of court, be executed in any area in like manner as if they were judgements or orders of the Division or the Magistrates' Court having jurisdiction in such area.
- (2) The civil process of Division runs throughout the Republic and may be served or executed within the jurisdiction of any Division.
- (3) Any warrant or other process for the execution of a judgement given or order issued against any juristic person, partnership or firm may be executed by attachment of the property or assets of such juristic person, partnership or firm.

SC S43 EXECUTION OF PROCESS BY SHERIFF

- (1) The sheriff must, subject to the applicable rules, execute all sentences, judgments, writs, summonses, rules, orders, warrants, commands, and processes of the Superior Court directed to the sheriff and must make return of the manner of execution thereof to the court and to the party at whose instance they were issued.

- (2) The return of the sheriff or a deputy sheriff of what has been done upon any process of a court, shall be prima facie evidence of the matters therein stated.
- (3) The sheriff must receive and cause to be detained all persons arrested by order of the court or committed to his or her custody by any competent authority.
- (4) A refusal by the sheriff or a deputy sheriff to do any act which he or she is by law required to do, is subject to review by the court concerned on application ex parte or on notice as the circumstances may require.

SC S44 ELECTRONIC TRANSMISSION OF SUMMONSES, WRITS AND OTHER PROCESS

- (1) (a) In any civil proceedings, any summons, writ, warrant, rule, order, notice, document or other process of a Superior Court, or any other communication which by any law, rule or agreement of parties is required or directed to be served or executed upon any person, or left at the house or place of abode or business of any person, in order that such person may be affected thereby, maybe transmitted by facsimile, or by means of any other electronic medium, to the person who must serve or execute such process or communication.

(b) The document received or printed as a result of the transmission contemplated in paragraph (a) is of the same force and effect as the original thereof.
- (2) A notice transmitted by facsimile, or any other electronic medium as contemplated in subsection (1) –
 - (a) from any judicial or police officer, registrar, assistant registrar, sheriff, deputy sheriff or clerk of the court; and
 - (b) stating that a warrant or writ has been issued for the arrest or apprehension of any person required to appear in or to answer any civil suit, action or proceeding, is sufficient authority to any officer authorised by law to execute any such warrant or writ for the arrest and detention of such person.

(3) (a) A person arrested as contemplated in subsection (2) may be detained for the shortest period reasonably necessary, but not exceeding 48 hours, in order to bring the person before a judge of a Superior Court.

(b) The judge referred to in paragraph (a) must make an order regarding the attendance by the person in question of any further court proceedings and warn the person that any failure to abide by the order is an offence punishable by a fine or by imprisonment not exceeding one year.

(c) Any person who fails to abide by an order referred to in paragraph (b), is guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding one year.

SC S45 PROPERTY NOT LIABLE TO BE SEIZED IN EXECUTION

The sheriff or a deputy-sheriff may not seize in execution of any process such belongings of the debtor as prescribed, but the Court concerned may in exceptional circumstances and on such conditions as it may determine, in its discretion allow a specific deviation from the prescribed provisions.

SC S46 OFFENCES RELATING TO EXECUTION

Any person who –

(a) obstructs a sheriff or deputy sheriff in the execution of his or her duty;

(b) being aware that goods are under arrest, interdict or attachment by a Superior Court, destroys or disposes of those goods in a manner not authorised by law, or knowingly permits those goods, if in his or her possession or under his or her control, to be destroyed or disposed of in such a manner;

(c) being a judgment debtor and being required by a sheriff or deputy sheriff to point out property to satisfy a warrant issued in execution of judgment against that person—

- (i) falsely declares to the sheriff or deputy sheriff that he or she possesses no property or insufficient property to satisfy the warrant; or
- (ii) although knowing of such property, neglects or refuses to point out that property or to deliver it to the sheriff or deputy sheriff when requested to do so; or

being a judgment debtor, refuses or neglects to comply with any requirement of a sheriff or deputy sheriff in regard to the delivery of documents in his or her possession or under his or her control relating to the title of immovable property under execution, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.

