JUDICIAL DEPARTMENT, MALAYA

REGISTRAR'S CIRCULAR NO: 1 OF 1965.

Unclaimed Moneys and Property in Civil Proceedings in Subordinate Courts.

The attention of all Subordinate Courts is drawn to Rules 14 and 15 of Order XXXIII of the Subordinate Courts Rules, 1950, which read as follows:

"14.(1) Moneys in Court and uninvested which are unclaimed after ten years, and invested funds in Court which are unclaimed after twenty years, shall, unless the Court has notice of any pending claim thereto by an infant or person of unsound mind, become the property of the Federal Government and shall in the month of January next ensuing be paid into revenue.

(2) If any claim be subsequently made to such money or fund Government may i its discretion pay the amount or value thereof to the claimant.

15.(1) All jewellery, securities and moveable property (other than money and any deeds or documents required for the purpose of a trial or hearing) ordered to be deposited in Court shall be deposited with the Accountant-General or his officer and shall not be delivered out without Order of Court.

(2) Property so deposited and unclaimed after twenty years shall be treated as invested funds under Rule 14 of this Order and may subject thereto be sold by Government."

It will be observed that although Order XXXIII applies only to the States of Penang and Malacca, Rules 14 and 15 also apply to all the other States as well by virtue of Rule 7 of Order XXXIV.

2. As the Subordinate Courts Rules, 1950, are applicable to all proceedings of civil nature, Rules 14 and 15 are also applicable in the case of moneys paid into Court under maintenance orders under the Married Women and Children (Maintenance) Ordinance, 1950, and the Maintenance Order (Facilities for Enforcement) Ordinance, 1949. Maintenance proceedings under these Ordinances are essentially of a civil nature though quasi-criminal in form.

3. Before action can be taken under Rules 14 and 15 to appropriate to the Federal Government the moneys, jewellery, securities and other moveable property mentioned therein, it is desirable that adequate notice be given of intended appropriation by publication in the Government Gazette of one or more of the following forms "A", "B" and "C" as may be necessary. All Subordinate Courts will have to submit their respective lists under forms "A", "B" and "C" in duplicate by the 1st of July in each year for transmission to the Government Printer for publication in the Gazette. The first set of such lists must be submitted (in duplicate) to this Registry by the 1st of July, 1965. At the same time these lists are submitted, copies must be posted on the respective Notice Board of the Court concerned.

FORM 'A'

Sessions / Magistrates' Court at .....

Money in Court unclaimed for ten years [Rule 14(1), Order 33 of the Subordinate Courts Rules, 1950 * and Rule 7, Order 34]

List of unclaimed moneys (other than invested funds) paid into this Court before the 1st day of January, 19...., which have remained unclaimed and which, if not claimed before the 1st day of January, 19...., shall, by reason of having remained unclaimed for ten years, become the property of the Federal Government and be paid to revenue.

9 JUN 1965

Date of Deposit	A/c No.	By Whom Paid into Court	To Whose Credit	Amount Unclaimed $ - cts.

Dated at ....., this ..... day of ....., 19.....

President/Magistrate.

* Delete in the case of Penang and Malacca.

FORM 'B'

Sessions / Magistrates' Court at .....

Invested Funds in Court unclaimed for twenty years [Rule 14(1), Order 33 of the * and Rule 7, Order 34 Subordinate Courts Rules, 1950.

List of Invested Funds paid into this Court before the 1st day of January, 19...., which have remained unclaimed and which, if not claimed before the 1st day of January, 19...., shall by reason of having remained unclaimed for twenty years, become the property of the Federal Government and be paid into revenue.

No. of Case	Date of Deposit	Account No.	Person Entitled to Fund	Amount of Fund $ ¢

Dated at ....., this ..... day of ....., 19 .....

President/Magistrate.

* Delete in the case of Penang and Malacca.

FORM 'C'

Sessions / Magistrates' Court at .....

Property Deposited in Court and Unclaimed for Twenty Years [Rule 15(2), Order 33 of the * and Rule 7, Order 34 Subordinate Courts Rules, 1950.]

The undermentioned property which was deposited in this Court before the 1st day of January, 19...., and has not since been claimed may, if not claimed before the 1st day of January, 19...., be ordered by the Court to be sold and the proceeds of sale thereof paid into the revenue of the Federal Government.

Case	Particulars of Property Deposited	By Whom Deposited

Dated at ....., this ..... day of ....., 19.....

President/Magistrate.

* Delete in the case of Penang and Malacca.

4. Subsequent to the publication of the abovementioned lists, all Subordinate Courts should, in the month of January each year, take prompt action to effect payment into revenue of all such Unclaimed Moneys and Unclaimed Invested Funds as are then due to be paid into revenue under the provisions of the said Rule 14(1).

5. The payment into revenue of the sums surrendered under Forms "A" and "B" will be effected by Journal Voucher on Form Fin. 191 which will be accompanied by detailed statements in one or more of the following forms "D" and "E" as may be necessary.

FORM 'D'

Sessions / Magistrates' Court at .....

List of Moneys in Court unclaimed for ten years as on the 1st day of January, 19...., and credited into Revenue under ⌈ Rule 14(1), Order 33 / * and Rule 7, Order 34 ⌋ of the Subordinate Courts Rules, 1950.

* Delete in the case of Penang and Malacca.

No. of Case	Date of Deposit	A/C No.	By Whom Paid into Court	To Whose Credit	Amount Unclaimed and credited to Revenue. $ ¢

Dated at ....., this ..... day of ....., 19 .....

President/Magistrate.

FORM 'E'

Sessions / Magistrates' Court at .....

Invested Funds in Court unclaimed for twenty years as on the 1st day of January, 19...., and credited to Revenue under ⌈ Rule 14(1), Order 33 / * and Rule 7, Order 34 ⌋ of the Subordinate Courts Rules, 1950.

Date of Deposit	A/C. No.	Person Entitled to Fund	Amount of Fund Unclaimed and credited to Revenue

Dated at ....., this ..... day of ....., 19.....

President/Magistrate.

6. The Journal Voucher should be prepared in seven copies and endorsed as being for distribution to:

(i) The Accountant-General,

(ii) The Auditor-General,

(iii) The Registrar, High Court, Malaya,

(iv) The President, Sessions Court or
The Magistrate, Magistrate's Court
concerned.

The original and five copies of the Journal Voucher shall be sent to this Registry for transmission to the Accountant-General.

7. When the Journal Voucher is ultimately received back by the Court from the Accountant-General it will bear the Accountant-General's Reference number and this number shall be endorsed in the Court's Deposit Account Ledger against the closing entry in every account where the deposit has been appropriated to revenue.

8. Any property to be deposited in the Treasury under Rule 15(1) is to be deposited in a sealed packet or container having at least a double cover. On the inside cover or container there shall be written the number of the case, the date of any relevant Order of Court under which the property is being deposited, and details of the contents of the packet or container. On the outside cover there shall be written only the number of the case and the date of the relevant Order of Court under which the property is being deposited.

9. The Accountant-General or State Treasurer will issue a deposit receipt for moveable property sent to him by the Court for safe custody, and it must be understood that his responsibility is limited to the safe keeping of such packet or container. If it be necessary for the Court to have back such property for any purpose whatsoever, a written request must be made to the officer who has custody of the moveable property to release it. The deposit receipt will have to be produced at the same time as the letter of request before the property will be released. Such deposit receipts should be held by the Court in a specially sealed envelope to be kept in the office safe and to be opened only by the President/Registrar or officer who has been deputised.

10. Under Rule 15(2) moveable property deposited under Rule 15(1) may, if unclaime after twenty years, be sold by Government. In view of the non-mandatory word "may" in Rule 15(2), the Government has a discretion as to effecting the sale of such property falling within this Rule. It is, however, considered appropriate that in practice suc discretion should be exercised by the Court concerned. Therefore, in the month of January each year every Subordinate Court should, of its own motion, take action to have all Court proceedings which involve such property brought up before it and make, where it considers necessary and appropriate, an Order for the sale of the property an the crediting of the proceeds of sale to the revenue item - Miscellaneous and Sundry Sales under Class V - Miscellaneous. In such order the Court may, where necessary and appropriate, include consequential directions as to the reserve price of the property

A Register of all property deposited in the Treasury under Rule 15(1) and sold or Rule 15(2) shall be maintained in the following form:-

Case No.	Date Property Deposited and Treasury Receipt Reference	Particulars of Property Deposited	By Whom Deposited	Date of Order of Court for its sale	Amount of Proceeds of Sale $ - cts.	Receipt No.

12. Once unclaimed moneys and other property are paid into revenue under Rules 14 and 15 any claim subsequently made to such money or fund should be addressed to the Treasury, Malaysia, as all such claims must be subjected to Treasury scrutiny.

(RAJA AZLAN SHAH)
REGISTRAR.

Pejabat Pendaftaran,
Mahkamah Tinggi,
Mahkamah Ke'adilan,
Kuala Lumpur.
3hb. Jun, 1965.
Bil.(67)dlm.RSC.39/54 dan
Bil.(92)dlm.RSC.197/49-Pt.2.

Kepada: Semua Yang di-Pertua, Mahkamah Tengah.
Semua Pengadil Litar, Mahkamah Rendah.

s.k. Akauntan Negara, Kuala Lumpur.
Juru Odit Negara, Kuala Lumpur.
Setia Usaha Perbendaharaan, Kuala Lumpur.
Semua Penolong Kanan Pendaftar, Mahkamah Tinggi.
Semua Penolong Pendaftar, Mahkamah Tinggi.