

**Law no. 40 of 2002 pertaining to Procedure & Civil Enforcement**

**Chapter III  
The Judge Rule & Authority**

Article (7)

The judge shall be appointed as per stated in the Judicial Authority Law.

Article (8)

The judge shall adhere to the effective laws and he/she must apply their provisions.

Article (9)

The judge, in his/her rule, shall be restricted to the decision of his/her appointment, representation or replacement except for what has been excluded by a special text in this law.

Article (10)

The judge may not adjudicate according to his/her knowledge except for what arrives to him/her through his/her judicial council. The judge must adjudicate on that basis.

Article (11)

If the judicial panel is formed of more than one judge, the judges should meet to consider the case and adjudicate on it. If the judges disagree on the judgment, the decision of the majority of judges shall be taken as per stated in this law.

Article (12)

The judge may not open a dispute that was already judged upon by a sentence from a judicial authority or an arbitrator unless the law states otherwise.

Article (13)

The judge may not adjudicate after his rule ends no matter what the reason is except for cases not settled before issuing the decision of his/her transfer, representation or retirement.

Article (14)

The judge is prohibited from being a representative or an arbitrator for a case seen in the same court he works in.

Article (15)

Violating articles (9, 11, 12, and 13) of this Chapter results in cessation of judicial work and all its consequences.

## **Chapter IV**

### **Governing Principles of Adjudication & Litigation**

#### Article (16)

Litigants are equal in practicing the right of litigation and the judge shall be obliged to apply the principle of equality between litigants in this right following Sharia (Islamic Law) and the effective laws.

#### Article (17)

The rights of litigation and defense are protected in the court as per the provisions of the law.

#### Article (18)

The practice of litigation right is based on good will.

#### Article (19)

The judge should maintain the principle of confrontation during litigation and ensure his/her respect by the litigants.

#### Article (20)

The judge should make sure that justice is applied and in order to do that, he/she may monitor the litigants in applying the procedures as per the law.

#### Article (21)

The judge in his/her adjudication is restricted to neutrality.

#### Article (22)

The basis of litigation is to be on two levels (first instance court, appeal court) except for what has been excluded by a text of law.

#### Article (23)

- a. The court sessions are held in public except for what has been excluded by a text of law.
- b. Pleading shall basically be oral, and it may be in writing.

#### Article (24)

The judge may not refrain from judging upon cases he/she was assigned to without legal excuse. Otherwise the judge shall be deemed disobedient to justice. The party concerned may notify the judge via summoner with the knowledge of the head of the appeal court to which he/s he belongs.

#### Article (25)

A foreigner enjoys judicial protection in front of Yemeni courts according to Sharia and law.

## **Chapter VI Domicile & Place of Residence**

### Article (33)

Domicile is the place where a person usually lives and practices his/her normal life, collects his/her money and settles financial dues, and the place where a person practices a trade, craft, profession, or job is his/her domicile to run such businesses.

### Article (34)

A person may have more than one domicile at the same time and he/she may have no domicile too.

### Article (35)

The domicile of an underage and the like shall legally be the domicile of his/her representative, be the representative a guardian or curator, and the domicile of the estates before the distribution shall be the last domicile of the deceased person.

### Article (36)

The residence of companies, societies, and existing institutions or those under liquidation shall be their main administration residence and its branch shall be its residence in matters related to the branch.

### Article (37)

A domicile or a chosen place may be taken to carry out a specific legal action with the agreement of the other party in writing or by the other party announcing it officially. The place chosen shall be considered the residence of all that relates to this action including the agreement implementation procedures unless it was put forward as a condition that the place is excluded for doing certain actions but not others.

### Article (38)

Residence is the place where a person lives in temporarily for a contingent work or special circumstance.

## **Chapter VII Written Summons**

### Article (39)

Every summons for litigants or witnesses should be through the summoner or the person concerned at necessity unless stated otherwise by law.

#### Article (40)

A notification or summons may not take place before six in the morning, after six in the afternoon nor in public holidays except in necessary cases as directed by the head of the court.

#### Article (41)

The document meant for summoning must include the following information:

1. The date of the summons (hour, day, month, and year).
2. The person requesting the summons, his/her title, job, and domicile.
3. The person to summon, his/her title, job, and domicile.
4. The purpose of the summons.
5. The name of the person who received the summons, his/her signature, stamp, thumb print or proven refusal to receive the summons with the reason.
6. The name of the summoner and the signature of the witnesses, if available, on a copy of the summons.

#### Article (42)

The summoner or the person concerned presents the summons to the litigant wherever he/she is. In case it is impossible, the summons then shall be submitted to his/her representative or in his/her domicile. In case of refusal, the summons is presented by the 'elder'\* of the zone or by the police station, if available, and a clarification shall be taken from the elder with witnesses.

#### Article (43)

If law compelled the litigant to select a domicile and he/she did not, or his/her information was incomplete or incorrect, then the summons may be attached to the court's bulletin board with all the papers that were to be sent to his/her selected domicile. If the litigant cancelled his/her original or selected domicile without the other litigant's knowledge, the summons becomes valid and the papers are submitted to the elder of the zone or village if available.

#### Article (44)

Copies of papers shall be submitted to the bodies as follows:

1. To ministers, to heads of bodies or authorities, to governors or their representatives as per their specialty and relation to the papers concerning the state.
2. To the legal representative of the legal person or his/her legally authorized representative.
3. In a company's administration office, to one of the general partners, to chairperson, to the manager or to their legal representative. If the company does not have an administration center, then to the domicile of the above mentioned people or to the company's legal representative.

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\* Elder refers to 'Akil Al Harah' in Arabic. 'Akil Al Harah' is an elder in each zone officially employed and recognized by the government.

4. To the branch or the agent of the foreign company.
5. As for the personnel of security and armed forces, to the authorized head of unit or his representative.
6. As for prisoners, to the prison director.
7. As for sailors or ship workers, to the captain.
8. To the department concerned at the Ministry of Foreign Affairs to convey it through diplomatic ways to the person of known residence abroad if he/she does not have authorized representative to receive a copy of the papers in the Republic of Yemen. The court may use the way it deems suitable.

#### Article (45)

If the person to be notified has left his/her domicile and his/her domicile becomes unknown within or outside Yemen, they must be notified through advertisement in one of the daily official newspapers three consecutive times at the expense of the party requesting the notification.

#### Articles (46)

If notification is made outside the coverage area of the court, the papers are sent to the court in whose area the notification locates.

### **First Section Litigation in a Court of Law**

#### **Chapter I Claim & Acceptance Conditions**

#### Article (70)

A claim shall be the legitimate legal means for every claimant or defendant to be raised to the judge to decide upon according to legitimate and legal rules.

#### Article (71)

To accept a claim, it must be submitted to the court via valid procedures as per the timing stated in the law. If the court finds out faults or invalidity in the procedures, it shall order their completion and correction.

#### Article (72)

The court shall decide not to accept the claim formally if the claimant fails to complete or correct the procedure on the time decided upon by law.

#### Article (73)

A foreigner shall be welcome to litigate in a court of law once all eligibility conditions are available according to the Yemeni law even if he/she is not eligible in their country's law. The court may impose any guarantees it sees to accept requests from the foreigner in the cases the court is convinced that he/she has to make available.

Article (74)

No one should represent a litigant in his/her capacity as a representative in the claims without a power of attorney, guardianship or wardship.

Article (75)

A claim, request or plea shall not be accepted if its owner does not have an existing interest endorsed by law. However, the potential interest is enough if the purpose of the claim is precautionary measure to push back an imminent danger or to document a right whose proof is feared to get lost during dispute.

Article (76)

The court shall reject a claim, request or plea, if it finds out (even by itself) that there is no interest or character in it at any stage of the litigation.

Article (77)

A claim will not be accepted if it has had a verdict before and shall be considered the same previous claim if the parties are the same, the subject matter of the claim (the right demanded) is the same, the litigants are the same, and the reason of raising the claim (which is the legal work on which the same right demanding is based) is the same. A claim shall not be accepted if there is any other prevention stated by effective laws.

**Part Two  
Specialization  
Chapter I  
International Specialization**

Article (78)

Yemeni courts shall be specialized in claims raised against a Yemeni even if he/she does not have a residence or domicile in Yemen except for claims concerning real estate abroad.

Article (79)

Yemeni courts shall be specialized in claims raised against a foreigner who has a residence or domicile in Yemen except for claims concerning real estate abroad.

Article (80)

Yemeni courts shall be specialized in claims raised against a foreigner who does not have a domicile in Yemen in the following cases:

1. If he/she has a selected domicile in Yemen.
2. If the claim is concerning money in Yemen or if it concerns a commitment taken in Yemen or to be compulsorily implemented in Yemen or if it concerns bankruptcy declared in Yemen.
3. If the claim concerns an alimony for a mother or a child if they live in Yemen.

4. If the claim concerns the ancestry of a child or his/her guardianship once the child is living in Yemen.
5. If the claim concerns an issue of personal status\* and the Yemeni law must be applied therein
6. If the claim concerns an inheritance and the distribution of inheritance started in Yemen or the testator is Yemeni and some or all the money of the inheritance is in Yemen.
7. If one of the respondents has a domicile or residence in Yemen.

#### Article (81)

Yemeni courts shall specialize in judging a claim even if the claim is not in its area of coverage as per previous articles if the respondent accepted the court illicitly or explicitly.

#### Article (82)

Yemeni courts shall specialize in judging primary claims and accidental requests if they have relationship with the original claims.

#### Article (83)

Yemeni courts shall specialize in giving order temporary and precautionary measures to be executed in Yemen even if they are not related to the original claim.

#### Article (84)

If a claim is raised at Yemeni courts and the claim is not the specialty of Yemeni courts, Yemeni courts shall decide disengagement from the claim automatically.

### **Chapter IV Specialization according Type pf Claim**

#### Article (87)

The Supreme Court shall specialize in taking an objection for cassation or ratifying judgments coming from appeal courts and courts of first instance in cases decided by law.

#### Article (88)

Appeal courts shall specialize in judging appeal cases raised on judgments issued by courts of first instance.

#### Article (89)

1. Courts of first instance shall specialize in giving initial judgment on all claims raised to it no matter what their value or the type is.
2. Establishing a court of first instance specialized in looking into a special type of claims makes its authority exclusive on that type and so it may not look into other claims unless they are inseparably related an original claim raised in front of this court.

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\* Personal status is a government department responsible for issuance of identification certificates, birth certificates, etc for the citizens.

Article (90)

A court shall automatically judge its non-specialization according to type of claim if it finds out the same according to the provisions of this chapter.

Article (91)

With consideration of what is stated in the Judicial Authority Law, the distribution of specialization of looking into cases between the panels of the court within the same court or between courts of the same level shall not be considered the same specialization type stated in this chapter.

**Chapter IV**  
**Specialization according to Location**

Article (92)

Specialization shall be according to the location of the court and its coverage area for the respondent's domicile or his/her temporary residence unless stated otherwise by law. If there are more than one respondent, the court concerned shall be chosen by the claimant if one of the respondents' domicile locates in its circle and other respondents are summoned to it.

Article (93)

In real estate related disputes, the concerned court shall be the one that all or most of the estate in dispute locates within its circle.

Article (94)

In bankruptcy cases, the concerned court shall be the one that judged it.

Article (95)

In commercial materials, the concerned court shall be the one where the respondent locates, or the court in whose circle the agreement was made or executed fully or partially or the court the agreement states execution in its circle.

Article (96)

In disputes related to supplies, constructions, rentals, work and workers fees, the court specialized shall be the one in whose circle the respondent resides or it shall be the court in which agreement was made or implemented in its circle once the claimant locates there.

Article (97)

In claims related to expenses, the court concerned shall be the one in whose circle the respondent or claimant resides.

Article (98)

In claims of taking temporary measure, specialization shall be for the court in whose circle the respondent resides or the court in whose circle the temporary measure has been taken. Courts shall look into all claims related to building rentals expediently.

Article (99)

The court looking into a claim based on location shall specialize in accidental requests or claims related to it.

Article (100)

If the respondent does not have a domicile or residence in the Republic of Yemen and designation of court was not easy according to the previous articles, specialization shall be given to the court in whose circle the domicile or residence of the claimant locates. If he/she does not have a domicile or residence in the Republic of Yemen, specialization shall be given to the Capital's courts (Sana'a courts).

Article (101)

The two parties may agree in advance on the specialization of a certain court. The two parties may also agree, while looking into their claim, to transfer their case to another court. The former court shall decide the transfer to the latter one with consideration of qualitative specialization of courts. The court, to which the case was transferred, must decide on the claim.

**Part III**  
**Claims & their Processing**

**Chapter I**  
**Bringing to Proceedings**

Article (103)

A claim shall be submitted in writing.

Article (104)

A claim shall be raised through an original document and a number of copies matching the number of respondents. The original claim document should include the following:

1. The name of the claimant, title and domicile
2. The name of respondent, title and domicile. If he/she does not have a known domicile, then his/her last domicile is taken.
3. The date of submitting the claim.
4. The name of the court in which the claim is raised.
5. Stating a chosen residence in the city of the court if he/she does not have one.
6. Brief but complete statement about the subject matter of the claim with all evidence and the demands of the claimant with their types (whether urgent or normal) attached to the statement and all put in a file.
7. The signature of the claimant or his/her attorney with the date of power of attorney and the name of the authority that ratified it. The petition with its related papers shall all be put into a file and submitted to the specialized clerk. If the claim was raised orally,

the clerk should document the provided data as per dictated by the claimant in a petition which shall be put into the claim file and should be signed by the claimant or by his/her attorney. The clerk shall revise the papers to make sure they fulfill the requirements in terms of data and number of papers. The clerk then shall order them chronologically, record them in the court's register, and specify a date for the session as per decided by the head of the court. The clerk shall document the number of the claim and the date of the session on the original claimant's petition as well as on the back of the file. The clerk then shall submit the original petition and its copy to its presenter to notify it by him/herself or through summons servers and keep a copy for him/herself in the file after stamping the papers with the court's stamp. If the claim was not notified to the respondent within 30 days from raising it, it shall be considered as if there was nothing.

#### Article (105)

The session clerk shall prepare a special file to keep the cases of the new session and the postponed ones as per their incoming date or postponement date. The clerk shall give cases sequenced numbers accordingly and on that basis shall prepare the court's agenda of sessions. After the clerk receives the original petition after announcing it to the respondent, he/she shall file it in the special claim file.

#### Article (106)

The respondent must reply, orally or in writing, to the claim after announcing it to him/her. The respondent must submit his/her reply in the specified session. If the reply is made orally, the clerk shall document it in summons signed by the respondent and filed in the claim file.

#### Article (107)

Every clerk receiving documents or papers shall give the necessary receipt and document the submitted papers in the file.

## **Chapter II Attendance, Absence & Appointments**

#### Article (108)

The respondent, his/her attorney or both of them should come to court on the specified date for looking into the claim at eight in the morning. Litigants shall observe calling their names and attend the session once they hear their names.

#### Article (109)

Taking into consideration the appointments mentioned in articles (110, 111) of this law, the attendance time is as follows:

1. At the court of first instance, 10 days that may be reduced to 3 days.
2. At the court of appeal, 15 days that may be reduced to 10 days.
3. At the supreme court, 20 days that may be reduced to 10 days
4. In urgent cases, 24 hours that may be reduced to from one hour to another by an order from the head of the court provided interest is achieved and the litigant is notified.

#### Article (110)

A distance time is added to the time of the appointment as follows:

1. A day for every distance of (25km), and another day for the remaining 15 km or more.
2. 15 days for those who live in the border areas and mountainous areas which do not have access to modern transport means.
3. 60 days for those who live abroad.

#### Article (111)

Official and judicial holidays stop the appointments.

#### Article (112)

If the litigants fail to attend their session on their decided date after calling them and delaying their case to the end of the day, the court shall postpone the case 60 days and this shall be pointed out in the session record book. If the claimant does not attend in the meanwhile, the court shall decide the cancellation of the case and consider it as if it did not exist.

#### Article (113)

If the claimant does not attend but the respondent does attend though without any demands, the provision of the previous article is applied therein. If the claimant raised demands, however, the court shall postpone the case with notifying the litigant of the demands and a date shall be appointed for the session.

#### Article (114)

If the two parties or the claimant fail to attend any of the sessions after provision of any of their evidence, the court shall decide the removal of the claim from the session record book. The case, then, shall be recorded by its number in a special record of the excluded cases until it is moved or the provision of litigation failure stated in this law applies on it.

#### Article (115)

If the claimant wishes to advance his/her case during the postponement period stated in articles (112, 113), he/she shall have to request that in writing from the concerned judge in order for him to tick it ok and decide on the new date with a fine of not more than YR3000 to be credited to the public treasury. The judge may exempt from paying the fees if there is a valid excuse, the same principle applies if the claimant wishes to advance the case during the exclusion period stated in the previous article provided the fine does not exceed YR10000. If the claim has been canceled, however, the claimant shall have to

raise the claim again using the same procedure of the former claim. This shall not prevent compensating the other party if he/she demands so.

#### Article (116)

If the claimant attends but the respondent does not in spite of notifying him/her, the court shall order notifying him/her again. If the respondent still does not attend in the second time without an acceptable reason, the court shall order his summon via judicial police with imposing a suitable fine on him/her. If his/her absence or escape is proven, the court shall assign some one from his/her relatives or brothers in law to the third rank if possible, or else from the layers, or whoever the court sees. The claim then shall be litigated in the presence of the set up person who shall be considered a representative of the respondent. The representative may request the fare decided by the court as per the representative's request. If the respondent attends during litigation, litigation shall take place in his/her presence and he/she has the right of defending and the representative shall be replaced unless requested otherwise by the respondent.

### **Chapter III Representation in Litigation**

#### Article (117)

With consideration to Legal Practice Law and article (125) of this law, a representative of the litigant from layers, spouses, brothers in law to fourth rank is accepted by a legal document ratified by the client in front of the court if he/she is present. This shall be documented in the summons of the session.

#### Article (118)

The attorney domicile shall be considered the one mentioned in official papers necessary to move the claim as per the litigation level the attorney is at. The respondent that does not have a domicile or an attorney in the city of where the court locates shall select a residence for reference.

#### Article (119)

Attorney of litigation entitles the attorney to take all actions and procedures necessary to raise a claim, follow it up, defend it, and take the necessary precautionary measures until the verdict is issued in the litigation level of the attorney. The attorney shall inform the client about the verdict once it is issued without violation of what law necessitates in special representation.

#### Article (120)

A person other than attorney with special authorization may not admit the right claimed by the respondent, give up the right, accept reconciliation or arbitration, accept or direct or refuse an oath, give up the litigation or the verdict or its challenge, give up insurances while keeping the debts, claim forgery, stop the judge from looking into the claim, litigate or refuse the expert or witness, perform the claimed right or offer it to the litigant, accept performance or presentation of the litigant or any other action stated in the law and requires a special presentation.

Article (121)

If attorneys are many, each one may stand alone unless prohibited from so doing by a text in the authorization.

Article (122)

An attorney may substitute another if authorized by the client.

Article (123)

All that the attorney admits in the presence of his client shall be considered as coming from the client unless he/she denies it explicitly during the session. The judge should ask the client about his/her opinion of the attorney's sayings and document that in the session record.

Article (124)

An attorney may withdraw from power of attorney provided he/she notifies his/her client and that may not take place in an improper time. The withdrawal or removal of the attorney shall not stop the flow of procedures of confrontation unless the client announces the authorization of his/her substitute or his/her intention in continuing the proceeding by himself, or by notifying the court about the end of the power of attorney.

Article (125)

A judge, a judge assistant, the general prosecutor or any member of the public prosecution, armed and security forces, any of the court's workers or the Ministry of Justice may not be an attorney for litigants in attending or pleading orally or in writing nor shall he/she give legal opinion at any court unless it is for those of legitimate and legal guardianship or progenitors or descendents and every thing done otherwise shall be null and void apart from punitive questioning.

Article (225)

1. After finishing deliberation and before uttering the judgment, the court must prepare the judgment draft including the grounds of the judgment then the uttered judgment. All joint judges shall sign on the draft; otherwise, the judgment shall be null and void.
2. The judgment draft issued by a panel of many judges must be written by one of them. In all cases, the judgment draft must be filed in the case file, otherwise the violator of this shall be subject to punitive questioning. A copy of the judgment draft shall be kept in a special file of drafts after identifying it with the original with the knowledge of the head of the court.

**Chapter IV**  
**Summary Jurisdiction & (Judicial Jurisdiction)**  
**Section I**  
**Summary Jurisdiction & (Judicial Jurisdiction)**

Article (238)

Summary jurisdiction is a provisional order of temporary or precautionary measure issued in urgent cases whose time is feared to pass by without making a decision.

Article (239)

Urgent adjudication shall be in issues of civil, trade, and personal status.

Article (240)

The following cases are the ones whose time is feared to pass:

1. Request of hearing a witness without prejudice to the claimant right in issuing an order that stops the witness from traveling.
2. Request of possession retrieval.
3. Request of case sustaining.
4. Request or permission of selling damageable.
5. Request of imposing receivership.
6. Request of temporary alimony.
7. Request of preventing physical attack and removal of assault.

Article (241)

An urgent claim is raised via a petition notified to the respondent within 24 hours that may be reduced to 2 hours. The attendance time is 24 hours that may be reduced. The judge shall have to look into the claim, in the court, and in strong necessity, the judge may look into the case outside.

Article (242)

Notifying is done by the summoner to the domicile of the respondent or his/her place of work or to him/her personally in any place found. If the summoner's deception is proven, the court may imprison the summoner a month and may be sentenced to pay damages whatever the damaging party shall be.

Article (243)

A verdict of urgent cases shall be issued from the specialized court or from its representative judges within 24 hours from the date of attending the confrontation with the respondent or his/her attorney. The verdict shall be effective immediately once issued from its draft without following the premises of the compulsory execution. To execute the judgment, the court may stipulate a warranty estimated as per the situation. If the court does not state the warranty in its judgment, the judgment shall be effective without the warranty.

Article (244)

If a verdict in urgent cases is issued from a court of first instance or from the judge concerned, whether the verdict is attached to a case or separate, an appeal to the verdict shall be valid within 8 days from the date of uttering the verdict. The appeal court shall judge the appeal within 8 days at most and the appeal shall not have a stopping effect over the verdict.

Article (245)

A verdict issued in urgent cases shall have a temporary power which shall disappear once the reasons for the urgent verdict come to an end or by a new verdict in a new urgent claim or by the issuance of the verdict for the issue.

**Section II**  
**Orders on Petitions**

Article (246)

Orders on petitions shall be temporary or precautionary orders issued without dispute and in the absence of the one whom the order is against according to the judicial authority of the head of the court or the specialized judge. These orders should not harm the right in question although they may relate to it or to its execution and they include a permission, an authorization, an approval for the same or its execution or regulation.

Article (247)

An order shall be issued in cases stated by law and in any case in which it is proven to the court the necessity of its issuance legitimately and legally as per the request of the interested party.

Article (248)

The request of issuing the order on a petition shall be of two copies and a number of photocopies matching the number of litigants. The request shall include its reasons, incidents, the original or selected residence of the request owner and all the necessary documents.

Article (249)

The head of the court shall issue his order on the original request on the next day of its submission at maximum. No need to mention the reasons on which the request is based unless the request contradicts a previous order. In this case, reasons of issuing the new contradictory order must be mentioned or else the order shall be deemed null.

Article (250)

A copy of the request shall be submitted to the requester the next day from its issuance at maximum.

Article (251)

A person whom the order is issued against or whose request is refused may appeal to the source of the order or the court, dependently or independently of the original claim, through a report mentioning the reasons for the appeal, otherwise, the appeal shall be refused. The order shall be supported, amended or cancelled in his judgment which shall be challengeable via appeal according to established rules. The right of complaint shall be dismissed once a verdict for the original dispute is issued.

Article (252)

An order on a petition shall be rejected if it is not submitted for execution within 20 days from its issuance date except for what has been excluded by a special text. The rejection of an order does not prevent from issuing a new order.

**Book Two**  
**Civil Enforcement**  
**Part I**  
**General Rules of Enforcement**  
**Chapter I**  
**Specialization**

Article (314)

Compulsory Execution:

Is the procedures a court takes to force the debtor or the convict to pay what is included in an executory bond confirming the right of the owner to execute as per Sharia and law.

Article (315)

Enforcement premise is notifying the person(s) meant by the effective bond and assigning them compulsory execution during the time specified by law.

Article (316)

- a. There is a judge for execution within each court of first instance. If there is not, the execution shall be done by the head of the court.
- b. A number of assistants to the execution judge, who are legitimately and legally qualified, shall help the judge and do their work under his authority.

Article (317)

- a. Execution involves court of first instance in whose jurisdiction the residence of the party(s) whom the right is against or their money or some of it on which the execution will be carried out. If the execution is related to an estate, the specialized court shall be the one in whose jurisdiction the court locates. If the party(s) whom the right is against do not have visible properties or specified residence, the specialized court shall be the one that looked into the dispute first.
- b. Garnishing shall be the specialization of the court of first instance in whose jurisdiction the garnished properties locate.
- c. If the executive courts are many, specialization shall be given to the court to which the execution request was submitted first. The designated court shall have to represent other courts in the execution procedures and the orders or decisions it issues for that purpose.

Article (318)

The executive court shall specialize in deciding upon all disputes related to execution no matter how valuable they are and whether they are objective or temporary and whether they were raised by the parties or by others.

Article (319)

The execution assistant under the executive judge shall prepare a special record to record execution requests. A file is required for each request in which the original executive bond and all related documents are kept. All procedures and orders issued by the

executive judge shall be recorded in the file and it should be presented after each procedure to the executive judge and the assistant for their signatures.

#### Article (320)

The executive judge assistants shall undertake execution and they are obliged to implement it based on the orders of the executive judge. If the assistant refrains or falls behind from doing any of the execution procedures, the party concerned may raise a complaint about him/her to the executive judge.

#### Article (321)

The executive judge assistant shall collect the sums paid for debt release as well as the sums collected from the sales of garnisheed properties and deposit them all in the court safe or an acceptable bank as per the order from the executive judge. The assistant shall also secure under seal all the properties and he/she may, when necessary, resort to public authority through the executive judge for help.

#### Article (322)

An executive procedure may not take place before 6 in the morning or after 6 in the evening nor in public holidays except in necessary case and after permission from the executive judge.

#### Article (323)

If execution was delegated to another court through representation, the specialized court should send the following to the designated court:

1. copy of the executive bond with the execution order on it.
2. a statement of the dues for which the execution is needed to take exactly.
3. all data and papers necessary for execution.

#### Article (324)

The representative court to which execution was assigned shall have to send to the specialized court all data regarding what happened in the execution or the circumstances that prevented execution.

#### Article (325)

The representative court shall specialize in deciding upon redemption claims, action in debt or in kind property claims raised from others concerning the property in execution in the court's jurisdiction. It shall also specialize in temporary execution problems related to the case assigned to the court.

## **Chapter II** **Executive Bond & What's Related to it**

#### Article (226)

1. Compulsory execution of a bond may not take place without having an existing right in the bond, specific amount and maturity.

2. Execution may not take place without an executive copy represented in the executive bond and in the order formula unless law states otherwise.

#### Article (327)

The executive formula is as follows:

(By force of Sharia and Law: the judicial authority decides the execution of this bond by force and the public authority should assist in executing even with the use of armed forces once the judge request from armed forces so)

#### Article (328)

Executive bonds are specified as:

1. Verdicts issued by Yemeni courts.
2. Orders of execution and orders on petition issued from the concerned judge according to this law.
3. Executable judgments of arbitrators.
4. Peace agreements ratified by courts.
5. Final decisions by administrative committees which are assigned dispute settlement in the cases stated by law.
6. Deeds of properties and old endowments of estate written by a famous writer.

#### Article (329)

The court which issued the judgment or writ of execution or ratified a peace agreement shall put the executive formula on it sealed by the court's seal as per the request of the concerned party. If the judgment of the arbitrator becomes final, the specialized court shall execute it by putting the executive formula on it as per mentioned previously. The executive copy shall not be submitted to any person other than the concerned party or his/her legal and legitimate representative.

#### Article (330)

Execution notification of the executive bond must reach the convict or the debtor before execution takes place, otherwise, execution shall be deemed null. The notification must include a statement of what is requested from him/her and an order of settlement.

#### Article (331)

Compulsory execution procedures may not be initiated without the passage of one week at least from the date of notification of the executive bond and three days for urgent execution.

#### Article (332)

If the execution bond is lost or its executive copy, the concerned party may ask the court that issued it making another copy if the loss is proven for the court. The court should decide about the request quickly and mark the newly issued one with the statement (no effect of the original lost one if found) marked on it.

Article (333)

If a challenge is judged by cancellation, amendment or revocation of a judgment that has been executed, the court which initiated execution shall return the state of affairs to its previous conditions before execution without the need to a new judgment.

**Chapter III**  
**Urgent Execution**

Article (334)

Urgent execution is: the execution of a judgment or an order with the exception from the general rule which says (an executive bond may not be executed as long as it is challengeable).

Article (335)

The following judgments and orders must be urgently executed once by force of law:

1. Judgments or writ of executions concerning commercial issues provided warranty is given.
2. judgments of alimony, housing of judgment beneficiary, or fostering or feeding cost, submission of the child to his/her mother or guardian or child seeing by either.

Article (336)

The court may order the execution of the judgments of the following issues urgently provided warranty is given.

1. if the convict has admitted commitment to the judgment or part of it.
2. if judgment is issued on the basis of the an official bond that has not been challenged by forgery or customary bond that has no dispute in it.
3. If the judgment is issued concerning a salary, subsistence allowance, wage or compensation.
4. If delaying the judgment may result in serious damage.

Article (337)

An appeal court may judge the stay of urgent execution based on a request from the convict if it is feared to result in serious damage that can not be prevented after executing the verdict. The court must look into the request of stay of execution using urgent judicial procedures and the court, when deciding the stay of execution, may order the submission of a bail or what it deems suitable for ensuring the right of judgment beneficiary or to whose favor the judgment was issued is preserved

Article (338)

If the appeal court judges the stay of execution, it should order the return of the bail if it exists.

Article (339)

The bail forms of urgent execution or stay of execution as follows:

1. Guarantee by a solvent person.

2. Depositing a sum of money or acceptable check to the court's safe or an accredited bank.
3. Depositing what is collected from execution to the court's safe.
4. Submitting the thing ordered for submission in the judgment or order to an honest solvent guard.

Article (340)

Choice notifying of the bail form from the committed person should be in an independent paper to the executive judge. The judge shall inform the concerned parties of the choice within two days from the date of the choice notification.

Article (341)

The concerned party after being notified by the choice of bail form may challenge the solvency of the bailman, the sufficiency of the money deposited, or the honesty of the guard in charge. The judgment of this challenge is unchallengeable.

Article (342)

In applying urgent execution, all preliminary procedures stated in this law must be followed.

**Chapter IV**  
**Execution Parties and the Like**

Article (343)

Execution Parties:

1. Execution beneficiary (the right owner of execution) is the party in whose favor execution is done.
2. Execution bearer (the person bound by the executive bond) is the party against whose favor execution is done.

Article (344)

Who legally, legitimately or by agreement represents the execution beneficiary shall represent him/her for the execution request or for following its procedures according to Sharia and law. If the execution bearer lost his/her capacity, or the capacity of who represents him/her, or he/she or the representative dies, the execution beneficiary may request execution on the inheritors or their legal and legitimate representative. The inheritor or his/her legal and legitimate representatives are not legally obliged except for what got to their hands from the properties of the execution beneficiary. Execution against execution bearer may not take place before the passage of 7 days from the date of execution notification.

Article (345)

Procedures of compulsory execution may be directed to the guaranteeing person in person or in kind and to the third party and to the one who has the money of the execution bearer according to Sharia and law.

Article (346)

Execution against the guaranteeing person may not take place without established guaranty and after demanding the guaranteed person first with the objective conditions established in other laws.

Article (347)

The guaranteeing person must be notified before initiating execution procedures by seven days from the established date of demanding the guaranteed person, and demanding the guaranteed person was useless.

**Chapter V**  
**Subject of Execution**

Article (348)

The subject of execution is what the execution bearer has committed to in the executive bond whether it is a commitment of performance or doing a work or refraining from it.

Article (349)

All property of the debtor, against whom execution is taking place, which can be disposed independently, and his/her financial rights are liable to execution.

Article (350)

Without violating what any other law states, execution or reservation may not take place on the following properties:

1. What the debtor is obliged to his wife and children and all those legitimately under his alimony for three months.
2. The house of the debtor where he lives with his family, which meets the necessary basic purpose of housing as the court sees, unless that house has been put as security for some debt or that debt resulted from the house price.
3. Tools and necessary machinery for the debtor craft or occupation which the court deems necessary for the debtor's living unless execution is for settling the price of those tools or their maintenance expenses.
4. Any fare, salary or wages that was paid in cash or in kind unless it is meant to settle alimony debt. Execution may take place within the limit of quarter of the salary to settle another debt provided alimony debt is settled first.
5. Females of livestock of no more than a cow or ten she sheep or goats and others are measured the like.
6. Endowed or donated properties or those given by will prior to the bond commitment.
7. Fruits or crops before they are rape. They may not be sold before they are rape as per Sharia though they may be reserved.
8. Sums judged by court as a decided expense or for specific purpose.

9. The right of the author on his/her writings and his creative effects before publication and his/her right of republishing, translating or producing them in a new form.
10. Properties owned by the state dedicated for public use.
11. Tools, facilities, machines and accessories of the public facilities whether they are run by the state or assigned to another natural or legal person.
12. Properties of foreign countries and international organizations except for what is subject to the rules of special Yemeni law.

#### Article (351)

The execution bearer in any case in which execution procedures take place before the sales may deposit at the court's safe or any accredited banks a sum of money equivalent to the required. The sum shall be dedicated to debt settlement and then execution is stopped and reservation on the reserved properties is lifted and is placed on the sum deposited.

#### Article (352)

If the value of the money and properties attached does equal the right for which attachment is taking place, the execution bearer may request from the executive judge to exclude attachment on some of the properties through urgent claim in which debtors and reservation owners litigate and the issued judgment is unchallengeable. The distrainers have the priority of settling their dues from the properties reserved before the exclusion of attachment.

### **Part II**

#### **Ways of Execution Procedures**

##### **Chapter I**

#### **General Provisions on Ways of Execution Procedures**

#### Article (353)

Execution takes place based on a petition submitted by the execution requester to the specialized court. The petition shall include the following:

- a. Case number, parties names, type of the executive bond and its date.
- b. Statement whether there has been a payment and its amount or any other settlement and its value.
- c. Satisfactory statement of what execution is meant for.
- d. The name of the person against whom execution is meant.
- e. Statement of the chosen residence of the execution beneficiary within the jurisdiction of the executive court.
- f. Statement of place of execution and its method.

#### Article (354)

Executive copy of the executive bond must be enclosed with the execution request.

Article (355)

After fulfillment of what articles (353, 354) state, the executive judge must order following of execution procedures.

Article (356)

The executive judge must carry out the compulsory execution procedures and initiate it in the suitable way established by this law.

**Chapter II**  
**Means of Direct Execution and its Procedures**  
**First Section**  
**Execution Means**

Article (357)

Compulsion means are specified in direct execution by threatening fine, imprisonment and the use of power.

Article (358)

If the execution bearer did not abide by execution within the time limit specified by this law, the executive judge may issue a decision of a financial fine for the state not less than YR10,000 and not more than YR60,000 and the execution bearer shall be given another period of time not more than three days and the judge may cancel the fine or keep it.

Article (359)

If the execution bearer did not abide by execution within the three days referred to in the previous article, the judge must issue a decision of imprisoning the execution bearer until he/she abides by execution. The judge may use imprisonment means directly without resorting to fining means.

Article (360)

With consideration to the provisions of civil and commercial law, imprisonment shall not be used to force the execution bearer on direct execution except in the following cases:

1. If the execution subject is doing an action by the execution bearer and the action was unfeasible at the expense of the debtor, or the debtor was meant by doing the action.
2. If the execution subject is refraining from an action and the removal of the violating action was unfeasible at the expense of the execution bearer or he/she insisted on so doing.
3. If the execution subject is submitting a certain thing (or its value) and its submission was possible but the execution bearer refuses the submission.
4. If the execution subject is satisfying a debt of the execution bearer and he/she did not have apparent properties that can be reserved and he/she looked able but his/her insolvency or bankruptcy was not established by a judicial judgment.

#### Article (361)

The provisions of the previous articles shall be applied on the special legal personality.

#### Article (362)

When executing, a claim of insolvency or request of bankruptcy judgment shall not be heard from the execution bearer and his/her imprisonment becomes a must unless he/she proves that one of the cases mentioned in article (363) applies to his/her case or it is preponderated for the judge that he/she is insolvent or bankrupt after the judge examination. In this case the judge may listen to the insolvency claim or request of bankruptcy judgment in the presence of litigants according to law.

#### Article (363)

Execution procedures by the means of imprisonment must come to end at any stage it was and the execution bearer is set free by force of law in the following cases:

1. If the execution bearer has executed the executive bond.
2. If the execution bearer used the deposit means with allocation.
3. If the third party executed the executive bond provided the debtor is not the one meant by execution.
4. If the execution beneficiary abandons his/her established right in the executive bond.
5. If a solvent guaranteeing person committed to pay the established right in the executive bond within 8 days.
6. If the execution bearer is proven by a judicial judgment that he/she is insolvent or bankrupt. In this case, he/she is set free until solvency is proven or a period for solvency passes.

#### Article (364)

The execution bearer may not be ordered to imprisonment in the following cases:

1. If he/she is less than 15 years or more than 70 years of age except for Imprisonment for the submission of an underage.
2. The creditor's assets for other than alimony debt.
3. The pregnant until two months after delivery.

#### Article (365)

If the guaranteeing person refuses execution within the period stated in item (5) of article (263) of this chapter, the judge must order his/her imprisonment or execution on his/her properties without the need for a new judgment.

#### Article (366)

The executive judge must use power once using other execution means become unfeasible.

#### Article (367)

Execution by using power may not take place except if it is possible and the necessary or the most necessary means.

Article (368)

The executive judge must estimate the appropriateness of using power if it may raise trouble or disorder in the society and it must be for a reasonable time.

Article (369)

Others must not be exposed to harm or risks due to the use of power unless they have an active hand in hurdling execution.

Article (370)

Properties of the execution bearer must be kept safe when using power except its damage is a necessity for the execution procedures where consequences then are on the execution bearer.

**Second Section  
Direct Execution Procedures**

Article (371)

The execution assistant in case execution involves moveable or real estate shall head to the place where execution takes place in order to give it to the execution requester in the next day following the last day of the given time limit. The assistant shall indicate in the summons the things for submission, the executive bond and the date of notifying the execution bearer.

Article (372)

If the submission is on an occupied property by a third party, the assistant shall inform him/her about the right owner according to the executive bond to evacuate the property within a period decided by the judge. Otherwise, the third party shall be forced to evacuate unless his/her possession of the property is legitimate against the execution beneficiary with a legitimate right. Notifying the execution bearer shall be considered a notification of evacuation. If the object of submission is moveable, the assistant shall receive it and submit it to the execution beneficiary immediately with recording this in the summons.

Article (373)

If movables that must not be submitted were found in the place of submission and the execution bearer did not move them within the time limit the assistant shall inventory these movables and assign their safety to the execution bearer if he/she agrees so. Otherwise the assistant shall move them to another place at the expense of the execution bearer with the necessity of keeping them.

Article (374)

If the subject of execution is destruction or removal, the execution assistant shall move to the place of execution the following day after the limit time finished and shall carry out the destruction or removal at the expense of the execution bearer.

**Chapter III**  
**Indirect Execution & Its Means**  
**Part I**  
**General Provisions of Distress**

Article (375)

Distress is putting property under the authority of law to prevent its owner (distrainee) from doing any physical or legal thing that results in getting the property or its fruits out of the liability of the distraining creditor. Levying a distress upon a property shall result in distraining its fruits. Distraining shall not be stopped except unless this law states otherwise.

Article (378)

Distress shall take place by issuing its summons, notifying the distrainee by its decision, taking the distrainee signature on the summons and considering the distrainee a party to this distraining. Distraining properties must take place on executive day even if some of them fall in weekends, official or judicial holidays.

Article (379)

No one shall benefit from distress except for the one who caused it or interfered in it according to this law.

Article (380)

Distress shall take place only on properties that may be distrained. Distress shall not prevent acts excluded by law.

Article (381)

Distress shall not affect rules of the agreement (bond) according to law provided it is done with the knowledge of the specialized court or executive judge.

Article (382)

Proportionality between the value of the debt and the value of distrained property is not conditional.

Article (383)

If distraining has taken place in the absence of the distrainee, the distrainee must be notified in the distraining summons and the distraining order issued within 5 days from distraining. Otherwise the procedures following distraining shall be null and void.

Article (384)

Distraining shall be stopped by the force of law if the distrainee or others settle all the debt in full or by deposit with allocation.

## **Chapter V Precautionary Means**

### **First: Precautionary Garnishment**

#### Article (385)

Garnishment orders are the specialty of the head of the court of first instance if garnishment is claimed at first instance or the specialty of the specialized judge if the claim was submitted within an original claim seen by the judge. Garnishment shall not take place without the presence of two competent witnesses along with their signature on the garnishment summons. The debtor must be notified by the garnishment order within three days from the date of issuance. Otherwise garnishment is invalid.

#### Article (386)

The judgment creditor, whose judgment is challengeable through appeal or has a performance judgment in hand, may request garnishment on the judgment debtor.

#### Article (387)

Without violation of what any other law states, the creditor of due debts, even if he/she does not have an executive bond, may request garnishment on his/her debtor in the following two cases:

1. if the creditor fears losing what guarantees settling the debt.
2. if the creditor is renting the property to tenant or sub-tenant, he/she may, when confronting the tenant or sub-tenant, request distraining movables, fruits, and crops available in the rented property to guarantee the debt of rent. He/she may also request garnishment on them when transferred within twenty days from transfer date.

#### Article (388)

If the garnishment requester is the owner of the movable or has in kind right or the right of imprisonment, he/she may effect garnishment at the one keeping it even if he/she does not have an executive bond.

#### Article (389)

Whoever has the garnishment request in any case without a judgment or performance order must raise a claim for her/his right and the validity of garnishment litigating the debtor and the third party keeping the property in garnishment if garnishment takes place within 8 days from the date of notifying the debtor with the garnishment. Otherwise garnishment is invalid and considered as if it did not take place. If the garnishment requester has a judgment or an order of performance in hand and garnishment took place accordingly, he/she shall have to raise a claim of validity of garnishment within the aforementioned period. Otherwise, garnishment is invalid.

#### Article (390)

If the initial judgment on which garnishment is based becomes an executive bond or the right and validity of garnishment was judged and the judgment becomes an executive

bond, garnishment shall be executive and sales of property in garnishment is valid to settle the right of the distrainers from the sales price.

Article (391)

If nullification of garnishment is judged cancelled due to lack of its basis or the right of objective claim, garnishment is lifted and the court shall judge a fine on the distrainer not exceeding YR50000 in addition to the damages payable to the distrainee or the keeper of the garnishment as a result of garnishment. If the distrainer challenged the judgment through appeal, he/she may request the cessation of executing the judgment provided a bail is paid as per stated in this law.

**Second: Receivership:**

Article (392)

Receivership is a precautionary measure ordered by the specialized judge in cases stated by this law.

Article (393)

Receivership takes place on the following:

1. Properties in garnishment.
2. Any real estate, movable, right resulting from previous dispute or not established when seeing the case.
3. On the inheritance of the deceased before distribution until the debts are settled from the inheritance.
4. The properties of the debtor who is judged bankrupt or insolvent.

Article (395)

If the judge orders receivership, he shall appoint a judicial guard other than the debtor or the summoner or their relatives and the following rules apply:

1. The guard shall commit to keeping the property, manage it well and return it with its produce if available to the judge.
2. The guard in managing the property may not act without a permission from the specialized judge.
3. The judicial guard may not use the things in garnishment for personal interest or use them or lend them.
4. The judicial guard may not ask for excuse from the task assigned to him/her before 10 days from the sales.
5. The guard shall commit to submit to the judge an account of what he/she received and spent supported by documents.
6. At the end of receivership, the guard shall initiate returning the property to party determined by the judge.
7. The guard may take a wage unless he/she does not have the right to it as per the following detail:
  - a. if the litigants did not agree on specifying the wage of the judicial guard and receivership or the court did not specify it when assigning

the guard, the judge shall estimate the wage on the order. The concerned party may appeal within 10 days from notification day.

- b. The wage of the guard shall be at the expense of the litigants if the property in dispute is shared by them. If not, the guard's wage shall be at the expense of receivership requester.
- c. After passing the period of receivership, the wage of the guard and the expenses of receivership shall be on the party who wins ownership or shall be demanded from the convict as per general rules.

#### Article (396)

The guard must be honest and able to safeguard and manage the receivership. He/she must not be less than 25 years old.

#### Article (397)

The guard shall sign on the receivership summons, give the execution assistant shall a copy of the summons and explain the responsibilities entrusted to him/her. The guard shall warn the execution assistant that any damage, embezzlement or hiding of received properties or refusing to submit them involves result in civil responsibility.

#### Article (398)

The judge may request the provision of guarantee from the guard. The judge may dispose of the guard according to his judgment or to the request of the holder.

#### Article (399)

If no one accepted judicial receivership on properties and rights stated in the article (294), the judge may assign the competent person to take the necessary measures to keep it at the expense of who is obliged legally.

### **Third: Prohibition of Travel**

#### Article (400)

Prohibition of travel order shall be issued by the head of the specialized court or the executive judge as applicable. If the case is seen at the appeal court, the head of the court may issue a prohibition of travel order if there is a need for it.

#### Article (401)

The prohibition of travel order shall be notified to the specialized executive authorities who shall urge its execution.

#### Article (402)

The creditor, if the debt exists and is due or the debtor or his/her work place is the subject of direct execution even before claiming at the court of law, may request the judge to issue the travel prohibition order on a memorandum and estimate the debt temporarily if the debt is not specified in amount.

#### Article (403)

In the provision of the previous article, the creditor must raise a claim within 3 days from the issuance of the travel prohibition order if he/she has not done so.

#### Article (404)

The person to whom a bond liable to compulsory execution has been issued may request from the executive judge to prevent the debtor from traveling until he/she executes as long as the bond is valid as per general rules.

#### Article (405)

The prohibition of travel order shall be effective until obligation of the debtor to the creditor come to an end. However, the order shall be invalid in the following cases:

- a. If the creditor agreed in writing in front of the judge to cancel the order.
- b. If the debtor provides a bank guarantee or a solvent guaranteeing person acceptable by the specialized judge.
- c. If the debtor uses the way of deposit with allocation.
- d. If the creditor did not raise the claim within the three days as stated in article (403) of this law.

### **Section III Garnishment**

#### Article (406)

The creditor of due existing debt may levy a distress upon what the debtor owns with the third party of movables, credits or other rights even if they are postponed or conditioned. Attachment starts precautionary and ends executive. Attachment involves every credit for the garnishee from the third party until the time of admitting the amount of the credit if he/she did not sign a specific debt. The third party is prohibited from paying back to the garnishee and garnishment requester is asked to pay a deposit for the expenses which shall be collected thereafter from the garnishee.

#### Article (407)

The provisions of this section shall apply on stocks, shares and dividends due from the artificial persons as well as on the capital of the capital owner when a debt is due to the stock worker of the capital.

#### Article (408)

If the garnishee is living outside Yemen, he/she must be notified in person or via the means complying to the local legal procedures of the country he/she lives in.

#### Article (409)

After notifying the third party with the attachment order, the garnishee must be notified by the same order within five days from the date of notifying the order to distrainee; otherwise, consecutive actions shall be deemed invalid.

Article (410)

The third party may not request getting him/her out of the claim of precautionary attachment and the judgment of the claim shall not be a pretext against him/her unless it concerns the validity of attachment procedure.

Article (411)

The third party must admit the debt of the distrainee and the rights for attachment within 15 days from the date of notification and that does not release him/her from the obligation to the distrainee. Admission takes place in the executive court and expenses incurred by coming to the court shall be reimbursed from the deposit of the attachment requester through an order from the judge.

Article (412)

If attachment is to be placed on one of the governmental bodies, authorities, general corporations, private banks or banks that the government has shares in its capital and supervises its management, a certificate only is given to the distrainer according to his demand which will stand as admission of the debt.

Article (413)

If the third party lost competence or character or the character of his/her representative or he/she died before admission of the debt, his/her legal representative, whether a guardian, a trustee, a heir, appointed or representative must be notified instead and ordered not to settle the debt of the distrainer and to admit it within 15 days for the date of notification. The attachment requester shall have to submit the garnishment request to the executive court.

Article (414)

The third party may deduct from the garnishment the expenses incurred as endorsed by the executive judge.

Article (415)

If attachment is on movables at the third party, they shall be sold as per the established procedures of garnishment sales without the need to a new attachment.

Article (416)

If garnishment is on one of the government authorities, notification must be directed to the direct head of the authority or his/her deputy. If the garnishment is on a financial institution which has many branches, garnishment has no effect except on the branch decided by the judge in the garnishment order.

Article (417)

The third party disposing of the property in garnishment shall be punished as per stated in the article (424) in this law if the debtor settles the debt of the third party or he/she did not admit the debt on time or cheated in his/her admission.

**Section IV**

## **Executive Attachment**

### **First: General Provisions on Executive Attachment**

#### **Article (418)**

An executive attachment shall not be valid without an executive bond allowing compulsory execution procedures. The bond shall not be executed without preliminary procedures unless law states otherwise.

#### **Article (419)**

Attachment is executed at the expense of the attachment requester if he/she is able provided his/her expenses are reimbursed from the value of the property attached after sales.

#### **Article (420)**

Executive attachment may take place in the absence of the attachment requester if the executive judge sees so, when the garnishee refuses to attend or he/she is not available in the place of execution.

#### **Article (421)**

Executive bond may not take place without two competent witnesses attending the execution. The witnesses must not be in relation or in connection to any party of the execution. The sheik of the tribe, notary public of the village, 'Akle Al Harah'<sup>\*</sup>, sheik of the market or a representative of the commercial chamber as applicable must be summoned. If the attendance of any of those summoned people is impossible or they refused to attend, the two witnesses shall suffice.

#### **Article (422)**

The distrainee may object to the notification and execution within the limit period by summoning the execution requester in front of the executive judge. The executive judge may stop the execution procedures provided there is a guarantee.

#### **Article (423)**

If the debtor or a member of his/her family or servants refuse entering the house, place of work or the warehouse, or if they are called without replying or opening the doors, boxes or locked safes or the like, the execution assistant after the permission of the executive judge may use appropriate force to unlock the doors and break locks. He/she may temporarily seal doors and consider them attached from the date of sealing. A statement of attachment banning touching the seals without the permission of the executive judge should be written on the doors and whoever violates this shall be liable to penalty.

#### **Article (424)**

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<sup>\*</sup> 'Akle Al Harah' refers to a wise man representing a neighborhood and is appointed by the local council (government body).

Without violation of what the Crimes & Penalties Act states, the judge may imprison any of the occupier, garnishee, third party (the person keeping the attachment) or the judicial guard if any of them takes an action that results in hindering execution. Imprisonment shall not exceed 6 months.

#### Article (425)

If the garnishee refuses to submit the property under garnishment takes an action against garnishment or hides the attached property and the value of the attached property does not suffice to settle the debt, the judge may imprison him/her according to this law.

#### Article (426)

The summons of attachment on movable must contain the following information:

- a. Executive bond.
- b. The place of residence of the occupier, his/her work, or having a chosen place of residence within the jurisdiction of the court.
- c. The place of attachment
- d. The works done by the executive assistant, the difficulties that faced him/her and what were done for these difficulties.
- e. Statement of the attached things and property in terms of type, feature, amount, size, weight, and value approximately.
- f. Appointment of judicial guard on the attached property.
- g. Decision of date of sales, time and place.
- h. The signature of the execution assistant on the summons with who is needed from those mentioned in article (421) of this law.

#### Article (427)

The execution assistant shall publicize the executive attachment to movables in the bulletin board of the court and in a daily local and wide-spread newspaper if the judge sees that for two days.

#### Article (428)

If the attachment involves jewelry, gold or silver bars, valuable minerals, jewels or precious stones, they must be weighed and described carefully. They are estimated by two competent experts, transferred in a sealed case and be deposited in the safe of the court or in an acceptable bank.

#### Article (429)

If the attachment is to money in a safe in bank or displayed in a general exhibition, the judge must assign the manager of the bank or the exhibition keeping the money. The execution assistant shall seal the case until he/she becomes able to unlock it, inventory the content and submit it to the guard.

#### Article (430)

A distress may be levied on the harvest of land, trees, or crops aside from real estate after they are rape provided the space of the land, the types of the crops or trees and their number are mentioned in the summons.

Article (431)

Stocks and checks may be attached if they are for their holder and are endorsable but in the possession of the debtor according to the conditions stated for levying distress.

Article (432)

The third party may raise a claim to retrieve the attached property in front of the judge until before the sales. Raising the claim shall not result in suspending the execution unless the executive judge orders so.

Article (433)

In the retrieval claim, the debtor (distrainer) must litigate with the distrainee and the other distrainers involved. The claim should contain a complete statement of the possession evidence which shall be enclosed in all documents, otherwise, the judge shall not accept it.

Third: Executive Attachment on Real Estate

Article (434)

The execution assistant shall move to the place of the real estate to be attached by the execution requester and shall write the execution summons which includes a description of the real estate, location, space, borders, area and any other information that help specify it with an overall description of the way, date and time of selling.

Article (435)

The execution assistant shall notify the land register if available or public notary of the area of the estate through a written signed notice by the judge stating that the estate has been attached. This shall take place on the day of writing the attachment summons or on the following day at maximum.

Article (436)

The execution assistant shall publicize the attachment on the bulletin board of the court or in a daily widespread local newspaper for 4 days if the judge deems so.

Article (437)

The execution assistant during the five days following the writing of the summons shall notify both the debtor and the holder (garnishee) or the buyer or garnishee representative or the in kind guaranteeing person or any other debtor that has in kind right in the estate about the attachment summons with urging the notified to settle the debt from the date of attachment to the date of selling.

Article (438)

The notification referred to in the previous article must contain the following information:

- a. The executive bond.
- b. Notification of the debtor and ordering him/her to pay.
- c. Statement of the property under execution.

Article (439)

The third party may, before the sales of the attached property, raise a replevin to recover the whole or part of the property provided it includes a statement on the evidence of possession supported by documents in confronting the distrainer, distrainee, the holder and in kind guaranteeing person if available. The court shall order the cessation of sales procedures if the claim is accepted with obliging the claimant to pay a bail decided by the executive judge.

Article (440)

If such replevin claim is raised after the sales of the attached property and the property was given to the winner in the auction, the buyer shall return the price he/she paid and he/she may claim damages if any from the distrainers and distrainee together. The terms and conditions may not include exemption from returning the price.

Article (441)

Replevin claim is raised either before the sales of the property or after that, the same applies to returning the paid price to the winner in auction in front of the executive judge. The case then is looked upon as an objective execution dispute. Judging the property to the claimant shall result in the nullification of the procedures taken then.

**Fourth: Interference in Executive Attachment**

Article (442)

Every creditor having an executive bond for compulsory execution may interfere in the executive attachment through a request submitted to the executive judge and enclosed with all supporting documents for interfering. The judge shall accept the interference through a decision.

Article (443)

Interference in attachment shall take place by inventorying the movables or by specifying the property in a summons that contains the necessary information stated in this law, the date of interference, previous distrainers, the date of their distraining and the guard (if available). Interference shall take place by detaining the price by the assistant before distribution via distraining what the debtor has from others and the interferer in this case shall take what is left from the price after distribution.

Article (444)

If other properties, which were not included in the attachment, were found and the interferer requested their attachment, the execution assistant shall write a summons of the property found and the executive judge shall order its attachment and assign its safeguarding to previous guard or to another guard.

Article (445)

The execution assistant shall notify the distrainee, previous distrainers, the holder of the property, the in kind guaranteeing person, any other in kind right holder and the guard of

the attached property about the attachment summons within five days if he/she was not present when writing the interference summons with locating the place of sales, the day and time if changed. Notification shall result in attachment in favor of the interferer and attachment shall remain valid if the previous distrainer's attachment is nullified.

#### Article (446)

If the first distrainer did not follow execution procedures after five days from the date of notifying him/her without a legitimate excuse, the interferer through a decision by the executive judge may replace the first distrainer in following the execution procedures. This replacement shall be notified to the distrainee and the debt shall be distributed between the creditors.

#### Article (447)

If interference concerns an attachment on a property, the execution assistant shall follow the provisions regarding property attachment.

### **Chapter II** **Executing Foreign Executive Bonds**

#### Article (491)

Considering article (494) executing a foreign executive bond may not take place if the bond is considered one of the executive bonds stated in this law.

#### Article (492)

Executing foreign bonds in Yemen shall be subject to the provisions of this law according to a request raised to the court specialized in execution.

#### Article (493)

A foreign executive bond shall be considered effective if it is final.

#### Article (494)

To execute a foreign bond the following conditions must be met:

1. The executive does not violate the provisions of Sharia, public morals and the general rules of disciplines.
2. The Yemeni court are not specialized in the dispute that resulted in this foreign executive bond and the foreign court that issued the bond is specialized according to the international judicial specialization rules stated in its law.
3. Execution with the same conditions decided in that country for executing Yemeni executive bonds based on reciprocity treatment principle.
4. The executive bond must be issued from a specialized court or specialized judicial authority and is effective according to the law of its country.
5. The litigants in the claim that resulted in the bond must have been summoned by the foreign court and attended the trial.
6. The executive bond should not contradict with a previous judgment issued by a Yemeni court.

Article (495)

Official executable bonds issued in a foreign country may be executed with the same conditions decided in the foreign country's law for executing official executable bonds issued in Yemen. Execution shall be requested in a memorandum submitted to the judge of the court of first instance in whose jurisdiction the execution shall take place. Execution the bond may not take place until making sure it meets the officially required conditions according to the law of the foreign country of the bond and making sure it is free of what violates public moral and the rules of general discipline in Yemen.

Article (496)

The court shall decide upon the request of executing the bond quickly.

Article (497)

Applying the previous provisions shall not violate the provisions of concluded treaties between Yemen and other countries in this regard.