

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

Chapter IV
Governing Principles of Adjudication & Litigation

Article (16)

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)

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)

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:

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

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)

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

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.

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

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

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

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

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)

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)

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.

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

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)

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

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

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)

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)

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

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.

the attached property about the attachment summons within five days if he/she was not present when writing the interference summons

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.