

CHAPTER S5 - SHERIFFS AND CIVIL PROCESS LAW

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SHERIFFS AND CIVIL PROCESS LAW

A Law to make provision for the appointment and duties of Sheriffs, the enforcement of

Judgments and Orders and the service and execution of the civil process of the Courts of Kwara State.

[NN 1963, Cap. 123. KWS 8 of 1969, KWS 4 of 1986, KWS 9 of 1986, KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 1st June, 1945]

PART I

Preliminary

1. **Short title**

This Law may be cited as the Sheriffs and Civil Process Law.

PART II

Officers

2. **Interpretation**

In this Part—

"Court" includes the High Court, a District Court and a Magistrate's Court;

"process" has the meaning assigned to it in section 19.

Sheriff and Deputy Sheriffs

3. **Appointment of sheriff**

The Chief Registrar of the High Court shall be the Sheriff for Kwara State of Nigeria.

[KWS 8 of 1969.]

4. **Appointment of Deputy Sheriffs**

(1) The Registrar of the High Court and the Registrar of a Magistrate's Court shall each be a Deputy Sheriff in the State.

[KWS 8 of 1969.]

(2) For the purposes of subsection (1) **"the Registrar of the High Court"** or **"the registrar of a magistrate's court"** means the officer appointed to perform the duties of registrar in charge of a registry of such court.

(3) When no deputy sheriff is present at the place where a court is sitting the court may detail any officer of the court to be a deputy sheriff for the purpose of executing any process of such court.

Bailiffs

5. **Appointment of bailiffs**

The sheriff may appoint such number of persons as bailiffs as may be necessary.

[KWS 8 of 1969.]

6. Declaration by bailiffs

Every bailiff and every other person who has authority to intermeddle with the execution of writs issued by any court of record, shall before he does so make a declaration, which shall be exempt from stamp duty, in the form in the Schedule to this Law, or to the like effect, before any judge or magistrate for the district in which he exercises such authority.

Powers, Duties and Liabilities of Sheriff, Deputy Sheriffs, Bailiffs and Police Officers

7.

[KWS LN 8 of 1969.]

8. Duties at sessions

The sheriff shall make such arrangements as shall ensure that at sessions a sufficient number of police constables are employed to keep order in and within the precincts of the court of assizes.

[KWS LN 1 of 1982.]

9. Duties as to execution of writs

The sheriff at the request of a person delivering a writ to him for execution shall give a receipt for that writ stating the hour and day of its delivery.

10. Other duties of sheriff

The sheriff shall perform any other duty or duties as may be imposed upon him by any written law.

11. Duties as to execution of sentence of death

Where sentence of death has been pronounced upon any person and the Governor has ordered that the sentence shall be carried into execution, the same shall be carried into execution by the sheriff or a deputy sheriff or by some person appointed by the sheriff or deputy sheriff.

12. Duties of deputy sheriffs

Every deputy sheriff shall be charged generally with the performance of the duties of the sheriff and shall be subject to the same liabilities and protection as the sheriff.

13. Liability for wrongful imprisonment

A person unlawfully imprisoned by the sheriff, deputy sheriff or any bailiff shall have an action against such sheriff, deputy sheriff or bailiff, as the case may be, in like manner as against any other person that should imprison him without warrant.

[KWS LN 1 of 1982.]

14. Duty of police officers

It shall be the duty of every police officer to assist in the execution of the process of the court.

Protection of Sheriffs

15. Protection of sheriff selling goods under execution without notice of claim by third party

Where any goods in the possession of a judgment debtor at the time of seizure by a sheriff, or deputy sheriff, or other officer charged with the enforcement of a writ, warrant, or other process of execution, are sold by such sheriff, deputy sheriff or other officer, without any claim having been made to the same—

- (a) the purchaser of the goods so sold shall acquire a good title to those goods; and
- (b) no person shall be entitled to recover against the sheriff, deputy sheriff or other officer or anyone lawfully acting under the authority of either of them, for any sale of such goods, or for paying over the proceeds thereof prior to the receipt of a claim to the said goods, unless it is proved that the person from whom recovery is sought had notice or might by making reasonable inquiry have ascertained that the goods were not the property of the judgment debtor.

Provided that nothing in this section contained shall affect the right of a claimant who may prove that at the time of sale he had a title to any goods so seized and sold to any remedy to which he may be entitled against any person other than such sheriff, deputy sheriff, or other officer or person as aforesaid.

[KWS LN 1 of 1982.]

16. Protection of sheriffs

Neither the sheriff nor any deputy sheriff shall be liable to be sued for any act or omission of any police officer or other person in the execution of any process, which shall have been done or may have occurred either through disobedience or neglect of the orders or instructions given by the sheriff or a deputy sheriff.

Fees

17. Fees to form part of general revenue

All fees received by the sheriff, deputy sheriff or bailiff in respect of any duty performed by him in the discharge of his official duties shall be paid into and form part of the general revenue.

PART III

Enforcement of Judgments and Orders

18. Interpretation

- (1) In this Part and in Parts IV, V and VI—
"attached" includes distrained upon and seized;

"attachment" includes distress and seizure;

"court" includes the High Court and a Magistrate's Court;

"the High Court" means the High Court of Kwara State;

"judge" means a judge of the High Court;

"judgment" includes **"order"**;

"judgment creditor" means any person for the time being entitled to enforce a judgment;

"judgment debtor" means a person liable under a judgment;

"order" includes an injunction, an order for the payment of costs by any party, and an order for the payment of a counterclaim by a plaintiff;

"process" means a formal written authority addressed to the sheriff for the enforcement of a judgment in manner provided by this Law or prescribed, and includes "writ of execution" and warrant and order of arrest, commitment or imprisonment;

"sheriff" includes deputy sheriff;

"writ of execution" includes writ of attachment and sale, writ of delivery, writ of possession, and writ of sequestration.

(2) Nothing in this Part or in Parts IV, V or VI shall be construed to authorise the service or execution outside Kwara State of the process of a court.

Executions and Committals

19. Execution of judgments or orders for sum of money

(1) Any sum of money payable under a judgment of a court may be recovered, in case of default or failure of payment thereof forthwith or at the time or times and in the manner thereby directed, by execution against the goods and chattels and the immovable property of the judgment debtor in accordance with the provisions of this Law.

[Form 3.]

(2) The registrar on the application of the judgment creditor shall cause to be issued a writ of attachment and sale whereby the sheriff shall be empowered to levy or cause to be levied by distress and sale of goods and chattels, wherever they may be found within the division or district of the court, the money payable under the judgment and the costs of the execution.

[Forms 4, 5 and 6.]

(3) The precise time of the making of an application to the registrar for the issue of a writ shall be entered by him in the book prescribed for the purpose and on the writ, and where more than one such writ is issued they shall be executed in the order of the times so entered.

20. Execution of orders for payment by instalments

(1) Where a court has made an order for payment of any sum of money by

instalments, no writ of execution for the enforcement of the judgment shall be issued until after the default in payment of some instalment according to the order.

(2) On any such default, execution or successive executions may issue for the whole of the said sum of money and costs then remaining unpaid, or for such part thereof as the court may order, either at the time of making the original order or at any subsequent time.

21. Execution to superseded on payment

(1) In or upon every writ of execution against the property of any person, the registrar shall cause to be inserted or endorsed the sum of money and costs adjudged, and the fees for the execution of the writ.

(2) If the judgment debtor, before the actual sale of the property, pays or causes to be paid or tendered to the registrar of the court from which the writ issued, or to the bailiff holding the writ, the sum of money and costs inserted or endorsed as aforesaid, or such part thereof as the judgment creditor agrees to accept in full satisfaction, together with the fees inserted or endorsed as aforesaid, the execution shall be superseded, and the property of the judgement debtor shall be discharged and set at liberty.

22. Power to suspend execution

If at any time upon an inquiry made on the application of the judgment debtor, wherein the onus of proof shall be upon him, it appears to the satisfaction of the court that the judgment debtor has made a full surrender and disclosure of his property in the prescribed manner, and that he is unable because of unavoidable misfortune to satisfy the judgment, and that he has not been guilty of any misconduct under section 65, and that his property ought to be released from attachment, the court may, in its discretion, stay any writ of execution issued in the proceedings for such time and upon such terms as the court thinks fit, and so from time to time until it appears that the cause of inability has ceased.

23. Execution of warrants of possession

For the purpose of executing a writ to give possession of any premises, it shall not be necessary to remove any goods or chattels from those premises.

Seizure of Goods and Securities and Custody thereof

24. Goods which may be seized

Every sheriff or officer executing any writ of execution issued from a court against the goods or chattels of any person may by virtue thereof seize—

- (a) any of the goods and chattels of that person, except the wearing apparel and bedding of that person or his family and the tools and implements of his trade; and
- (b) any money, bank notes, bills of exchange, promissory notes, bonds,

specialities or securities for money belonging to that person.

[No. 4 of 2006.]

25. Custody of goods seized

Goods seized in execution under process of a court shall until the sale thereof—

- (a) be deposited by the bailiff in some fit place; or
- (b) remain in the custody of a fit person approved by the sheriff to be put in possession by the bailiff; or
- (c) be safeguarded in such other manner as the sheriff directs.

26. Disposal of bills of exchange, etc., seized

The sheriff shall hold any bills of exchange, promissory notes, bonds, specialities or other securities for money seized in execution under process of a court as security for the amount directed to be levied by the execution, or for so much thereof as has not been otherwise levied or raised, for the benefit of the judgment creditor, and the judgment creditor may sue in the name of the judgment debtor, or in the name of any person in whose name the judgment debtor might have sued, for the recovery of the sum secured or made payable thereby, when the time of payment thereof arrives.

27. Penalty for obstructing execution

If any person rescues or attempts to rescue any goods seized in execution under process of a court or in any other way resists or obstructs the execution of any process for the enforcement of a judgment of a court, he shall be liable, either on an order made in that behalf by the court from which the writ of execution or other process issued, or on summary conviction, to a fine not exceeding five thousand naira or imprisonment for a term not exceeding six months or to both such fine and imprisonment, and any bailiff of the court may take him into custody with or without warrant, and bring him before the court.

[No. 4 of 2006.]

Sale of Goods Seized

28. Period to elapse before sale

(1) No goods seized in execution under process of a court shall be sold for the purpose of satisfying the writ of execution until the expiration of a period of at least five days next following the day on which the goods have been sold or seized unless—

- (a) the goods are of a perishable nature; or
- (b) the person whose goods have been seized so requests in writing;

Provided that the sheriff may, if he is unable from want of time to complete the sale, adjourn the same for a period of not more than three days, and so on as often as may be necessary;

Provided further that the court may, if it thinks fit, direct that the sale shall be

postponed for any time not exceeding twenty-one days after the attachment.

(2) In every case where the property attached is apparently over fifty naira in value, it shall be set up for sale by the sheriff in principal High Court or magistrate's court of the division or district in which the attachment is made, and if the place where the attachment is made is not within five miles of the court from which the writ of execution issued the judge or District Judge shall give such directions as he thinks fit.

Provided that the judge or District Judge may, if he thinks fit, in any particular case direct the sale to be held at any other place in the district.

(3) Every sale shall take place between the hours of seven o'clock in the morning and eight o'clock in the evening, and everything set up for sale shall be knocked down to the highest bidder for ready money.

(4) Notice of the day and hour of sale of any movable property, apparently over forty naira in value, attached, shall be published four days at least before the day of such sale, by being posted upon the door of the court house of the division or district in which the attachment is made and where the sale is to take place at some other place, then at that other place also, and if the court so directs in a newspaper published in Nigeria.

29. Sales under execution to be published unless otherwise ordered

(1) Where any goods are to be sold under an execution for a sum exceeding forty naira, including legal incidental expenses, the sale shall, unless the court from which the writ of execution issued otherwise orders, be made by public auction and not by bill of sale or private contract, and shall be publicly advertised by the sheriff on, and during three days next preceding, the day of sale.

(2) Where any goods are seized in execution and the registrar has notice of another execution or other executions, the court shall not consider an application for leave to sell privately until the prescribed notice has been given to the other execution creditor or creditors, who may appear before the court and be heard on the application.

30. Delivery of movable property in possession of judgment debtor

Where the property sold shall consist of goods, chattels, or other movable property in the possession of the judgment debtor, or to the immediate possession of which the judgment debtor is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Claims in Respect of Property Seized

31. Priority of writs

When writs against the property of any person have been issued from more than one court, the right to the property attached shall be determined according to the order of priority of the respective times of application to the registries for the issue of the writs.

32. Sale of property where claim made thereto

(1) Where a claim is made to or in respect of any property attached in execution under process of a court, the claimant may—

(a) deposit with the sheriff either—

(i) the amount of the value of the property claimed; or

(ii) the sum, if any, which the sheriff is allowed to charge as costs for keeping possession of the property until the decision of the court can be obtained on the claim; or

(b) give to the sheriff in the prescribed manner security for the value of the property claimed.

(369) For the purpose of this section the amount of the value of the property claimed shall in case of dispute be fixed by appraisement and where that amount is deposited as aforesaid it shall be paid by the sheriff into court to abide the decision of the court upon the claim.

(369) In default of the claimant complying with the foregoing provisions of this section, the sheriff shall sell the property as if no such claim had been made, and shall pay into court the proceeds of the sale to abide the decision of the court.

Interpleader

33. Interpleader by sheriff

(1) If a claim is made to or in respect of any property attached in execution under process of a court, or in respect of the proceeds or value thereof, the registrar may, upon the application of the sheriff, as well before as after any action brought against him, issue a summons calling before the court the party at whose instance the process issued and the party making the claim.

[Forms 7 to 10.)

(2) Upon the issue of the summons, any action brought in any court in respect of the claim or of any damage arising out of the execution of the writ shall be stayed.

(3) On the hearing of the summons, the court shall adjudicate upon the claim, and shall also adjudicate between the parties or either of them and the sheriff upon any claim to damages arising or capable of arising out of the execution of the writ by the sheriff, and shall make such order in respect of any such claim and the costs of the proceedings as it thinks fit.

Landlord's claim for rent

34. Claims for rent where goods seized in execution

(1) The landlord of every premises in which any goods are seized may claim the rent of the premises in arrear at the date of the seizure, at any time, within five days next following that date, or before the removal of the goods, by delivering to the bailiff or officer making the levy a claim in writing, signed by himself or his agent, stating—

- (a) the amount of the rent claimed to be in arrear; and
- (b) the period in respect of which the rent is due.
- (2) Where such a claim is made, the bailiff or officer making the levy shall in addition thereto distrain for the rent so claimed and the cost of the distress, and shall not within five days next after the distress, sell any part of the goods seized, unless—
 - (a) the goods are of a perishable nature; or
 - (b) the person whose goods have been seized so requests in writing.
- (3) The bailiff shall afterwards sell under the execution and distress such of the goods as will satisfy—
 - (a) first, the costs of and incidental to the sale;
 - (b) next, the claim of the landlord not exceeding—
 - (i) in a case where the tenement is let by the week, four weeks' rent;
 - (ii) in a case where the tenement is let for any other term less than a year, the rent of two terms of payment;
 - (iii) in any other case, one year's rent; and
 - (c) lastly, the amount for which the writ of execution issued.
- (4) If any replevin is made for goods seized the bailiff shall nevertheless sell such portion thereof as will satisfy the costs of and incidental to the sale under the execution and the amount for which the writ of execution issued.
- (5) In any event the surplus of the sale, if any, and the residue of the goods shall be returned to the judgment debtor.
- (6) The fees of the court and bailiff for keeping possession and sale under any such distress shall be the same as would have been payable if the distress had been an execution of the court, and no other fees shall be demanded or taken in respect thereof.

Lien

35. Property subject to lien

Where the property sold shall consist of movable property to which the judgment debtor is entitled, subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall, as far as practicable, be made by the sheriff giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Transfer of Proceedings for Execution

36. Execution out of jurisdiction of court

(1) Where a writ of execution has been issued from a court, hereafter in this section referred to as a "home court", against the property of any person and the property or any of it is out of the local division or district of that court, the registrar of that court may

send the writ of execution to the registrar of any other court within the jurisdiction of which the property is or is believed to be, with a warrant thereon endorsed or thereto annexed requiring execution of the original writ.

[Form 11.]

(2) On the receipt of the warrant, the registrar of the other court shall act in all respects as if the original writ of execution had been issued by the court of which he is registrar and shall within the prescribed time—

(a) report to the registrar of the home court what he has done in the execution of the writ; and

[Form 12.]

(b) pay over all monies received in pursuance of the writ.

(3) Where a writ of execution is sent by the registrar of a home court to the registrar of another court for execution under the provisions of this section, the judge or magistrate of that court, as the case may be, shall have the same power as the judge or magistrate of the home court of staying the execution under section 22 as respects any property within the jurisdiction of that other court.

Committals

37. Issue and execution of orders of committal

(1) Whenever any order or warrant for the committal of any person to prison is made or issued by a court, whether in pursuance of this or any other Law or Act or of rules of court under this Law, it shall be sufficient if the order or warrant is directed to any police officer, and any police officer shall thereby be empowered to take the body of the person against whom the order is made or warrant issued, and deliver him to the officer in charge of the prison mentioned in the order or warrant.

[KWS LN 1 of 1982.]

(2) The officer in charge of the prison mentioned in any such order or warrant shall be bound to receive and keep the person therein mentioned until he is lawfully discharged.

38. Execution of committal orders out of jurisdiction of court

(1) Where any order or warrant for the committal of any person to prison has been made or issued, whether in pursuance of this or any other Law or Act or of rules of court made under this Law by a court, hereafter in this section referred to as a "home court", and that person is out of the division or district of that court, the registrar may send the order or warrant to the registrar of any other court within the division or district of which that person is or is believed to be, with a warrant thereon endorsed or thereto annexed requiring execution of the original order or warrant.

[Form 11.]

(2) On receipt of the warrant, the registrar of the other court shall act in all

respects as if the original order or warrant has been issued by the court of which he is registrar and shall within the prescribed time—

- (a) report to the registrar of the home court what he has done in the execution of the order or warrant; and

[Form 12.]

- (b) pay over all monies received in pursuance of the order or warrant.

(3) Where a person is apprehended under the order or warrant he shall be forthwith conveyed to a prison or other safe place of custody and kept therein—

(a) in a case where he is apprehended under a warrant of committal issued under section 71, until further order of the home court; and

(b) in a case where he is apprehended under any other order or warrant, until the expiration of the period mentioned in the order or warrant, unless sooner discharged by law.

(4) Where an order or warrant of commitment is sent by the registrar of a home court to the registrar of another court for execution under the provisions of this section, the judge or magistrate of that other court shall have the same power as the judge or magistrate of the home court of ordering the discharge of the debtor under section 74.

39. Liability of bailiff for neglect to levy an execution

(1) Where a bailiff, being employed to execute any process against the property or person of a judgment debtor, loses the opportunity of executing the process by reason of neglect, connivance or omission, any party aggrieved thereby may complain to the court issuing the process.

(2) On any such complaint the court, if the neglect, connivance or omission is proved to its satisfaction, shall order the bailiff to pay such damages as it appears that the complainant has sustained by reason thereof, not exceeding in any case the sum for which the execution issued.

40. Irregularity in executing warrants

No sheriff or other officer in executing any process of a court, and no person at whose instance any such process is executed, shall be deemed a trespasser by reason of any irregularity or informality—

- (a) in any proceedings on the validity of which the process depends; or
- (b) in the form of the process or in the mode of executing it,

but any person aggrieved may bring an action for any special damage sustained by him by reason of the irregularity or informality against the person guilty thereof.

Provided that no costs shall be recovered in such an action unless the damages awarded exceed four naira.

41. Actions against bailiffs acting under warrants

- (1) No action shall be commenced against any bailiff for anything done in

obedience to any process issued by a court unless—

(a) a demand for inspection of the process and for a copy thereof is made or left at the office of the bailiff by the party intending to bring the action or his solicitor or agent, in writing signed by the person making the demand; and

(b) the bailiff refuses or neglects to comply with the demand within six days after it is made.

(2) If an action is commenced against a bailiff in a case where such demand has been made and not complied with, judgment shall be given for the bailiff if the process is produced or proved at the trial, notwithstanding any defect of jurisdiction or other irregularity in the process but the judge or magistrate who issued the process may be joined as a defendant in the action, and if the judge or magistrate is so joined and judgment is given against him, the costs to be recovered by the plaintiff against the judge or magistrate shall include such costs as the plaintiff is liable to pay to the bailiff.

(3) In this section, except in paragraph (a) of subsection (1) thereof, the expression "**bailiff**" includes any person acting by the order and in aid of a bailiff.

42. Process evidence of authority

In any action commenced against a person for anything done in pursuance of this Law the production of the process of the court shall be deemed sufficient proof of the authority of the court previous to the issue of the process.

Execution against Immovable Property

43. Levy of execution upon immovable property

If sufficient movable property of the judgment debtor can be found in Kwara State to satisfy the judgment and costs and the costs of execution, execution shall not issue against his immovable property, but if no movable property of the judgment debtor can with reasonable diligence be found in Kwara State, or if such property is insufficient to satisfy judgment and costs and the costs of execution, and the judgment debtor is the owner of any immovable property, the judgment creditor may apply to the court for a writ of execution against the immovable property of the judgment debtor, and execution may issue from the court against the immovable property of the judgment debtor in accordance with the provisions of this Law, and any rules made thereunder:

Provided that where the judgment has been obtained in a Magistrate Court execution shall not issue out of the Magistrate Court against the immovable property but shall issue out of the High Court upon the conditions and in the manner prescribed.

44. Levy of execution upon materials used in construction of a building

Where a judgment debtor is an indigene, and the property attached is the right, title or interest of the judgment debtor in a building owned or occupied by the judgment debtor

which building or the right to occupy the building the judgment debtor is not entitled under customary law to alienate but the materials or some of the materials used in construction thereof the judgment debtor is entitled to remove, the right, title or interest of the judgment debtor in such building shall not be sold without the leave of the court first obtained, which leave may, at the discretion of the court, be refused or granted with or without conditions attached.

45. Mode of levying execution against buildings

(1) Every house or other building belonging to the owner of the land on which it stands shall be dealt with as immovable property and may be taken in execution accordingly, and where any house or other building is on land which is not the property of the owner of the house or other building, or on land held under the provisions of the Land Use Act, 1978, all the right, title and interest of the owner of the house or other building in the land on which the house or other building, is erected may be sold, together with the house or other building, and the same shall be dealt with as immovable property, subject to the provisions of the said Act.

[No. 6 of 1978.]

(2) In any such case as last aforesaid any rent reserved by such lease, certificate of occupancy or instrument, and remaining unpaid shall be recoverable as in section 34.

46. Setting aside sale for irregularity

At any time within twenty-one days from the date of the sale of any immovable property, application may be made to the court to set aside the sale on the ground of any material irregularity in the conduct of the sale, but no sale shall be set aside on the ground of such irregularity unless the applicant shall prove to the satisfaction of the court that he has sustained substantial injury by reason of such irregularity.

47. When sale becomes absolute

If no such application as is mentioned in section 46 be made, the sale shall be deemed absolute. If such application be made and the objection be disallowed the court shall make an order confirming the sale; and in like manner, if the objection be allowed, the court shall make an order setting aside the sale for irregularity.

48. Return of deposit or purchase money

Wherever a sale of immovable property is set aside the purchaser shall be entitled to receive back any money deposited or paid by him on account of such sale, with or without interest, to be paid by such parties and in such manner as it may appear proper to the court to direct in each instance.

49. Certificate of title

After a sale of immovable property shall have become absolute in manner aforesaid, the court shall grant a certificate to the person who may have been declared the purchaser

at such sale, to the effect that he has purchased the right, title and interest of the judgment debtor in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title and interest.

50. Immovable property in possession of judgment debtor

If the property sold shall consist of a house, land or other immovable property in possession of a judgment debtor or some person on his behalf or of some person claiming under a title created by the judgment debtor subsequently to the attachment of such property, the court shall, on the application of the purchaser, order delivery thereof to be made by putting the party to whom the house, land or other immovable property may have been sold or any person whom he may appoint to receive delivery on his behalf, in possession thereof and, if need be, by removing any person who may refuse to vacate the same.

51. Obstructing purchaser in obtaining possession

If the purchaser of any immovable property sold in execution shall notwithstanding the order of the court, be resisted or obstructed in obtaining possession of the property, the provisions contained in section 27 relating to resistance or obstruction to the execution of process shall be applicable in the case of such resistance or obstruction.

52. Certificate of title to be withheld on sale of a right of occupancy

Where the property sold in execution is a right of occupancy under the Land Use Act, 1978, a certificate of title shall not issue unless and until such consent or approval to the alienation of the right as is required by that Act shall have been had and obtained.

[1978 No. 6, KWS LN 1 of 1982.]

53. Application of Islamic Law where parties are Moslems

(1) In the application of sections 43 to 52 the following provisions shall apply—

[KWS LN 1 of 1982.]

- (a) where all the parties to a suit are Moslems; or
- (b) where in any other suit the person applying for a writ of execution and the person against whose property the writ is to be directed are Moslems,

the court to which application is made shall be guided by the principles of Islamic Law relating to the levying of execution of immovable property and any writ issued against immovable property shall in such a case as aforesaid be issued subject to Islamic Law and the person applying for such writ shall prove the Islamic Law on the point whether or not such Islamic Law is to his benefit.

(2) For the purpose of this section any firm, body of persons or company, other than a company limited by shares, the members of which are all Moslems, shall be deemed to be a Moslem as if such firm, body of persons or company were an individual person.

PART IV

Judgment Summons

54. Application for judgment summons for examination of judgment debtor

(1) Where a judgment debtor makes default in payment of any sum recovered against him or any instalment thereof under a judgment, the judgment creditor may apply to any

court for the issue of a summons, hereinafter called a judgment summons, requiring the judgment debtor to appear and be examined on oath as to his means, and the court shall, unless it sees good reason to the contrary, issue such a summons.

(2) The application may be made—

(a) where the judgment or order is against one person only, or where the application is for the issue of a judgment summons against only one of two or more persons jointly liable under the judgment or order, in the court for the division or district in which the debtor resides or carries on business; or

(b) where the application is for the issue of a judgment summons against two or more persons jointly liable under the judgment or order, in the court for the division or district in which any one of the joint debtors resides or carries on business.

(3) *Praeipie for judgment summons*

The judgment creditor shall file a praecipe in the appropriate form containing the particulars required by that form, and there upon a judgment summons shall be issued in such a form as is applicable to the case.

[Forms 13 to 15.]

55. Different names

Where the name or address of any person as given in the praecipe differs from the name or address in the judgment or order both names and addresses shall be inserted in the judgment summons as follows—

CD. of (name and address as given in the praecipe) sued or suing as

A.B. of (name and address in the judgment or order).

56. Judgment against firm

(1) Where a person entitled to enforce a judgment or order against a firm desires to issue a judgment summons against any person whom he alleges to be liable under the judgment or order he shall file a praecipe and affidavit in the required forms together with a copy of the affidavit which shall be served with the judgment summons.

[Form 16.]

(2) If the person alleged to be liable does not appear on the day fixed for the hearing he shall be deemed to admit his liability to pay the amount due but if he appears and denies the liability the court may determine the question of liability on the evidence then before it or may order the issue of liability to be tried in such manner as it thinks fit.

57. Order to bring judgment debtor before court

Where it appears to the court that there is probable cause to believe the judgment debtor, for the purpose of avoiding examination, is about to leave the division or district in which he normally resides or carries on business, or where he does not appear in obedience to such summons, the court may in its discretion order that the judgment debtor be brought before the court and may issue a warrant for his arrest and for his custody in the debtors' prison until the day appointed for such examination when he shall be brought before the court under the said warrant unless sooner discharged by order of the court. In case he is in custody the court may issue an order to the officer in charge of the prison in which he is detained to bring him before the court.

58. Enlargement of time and conditional order

The court may enlarge the time for return to the order and may direct that the warrant shall only issue after a certain time and in the event of the continued refusal or neglect of the judgment debtor at that time to comply with the judgment summons.

59. Discovery of property

(1) On the appearance of the judgment debtor before the court on the summons or warrant, he may be examined on oath, by or on behalf of the judgment creditor and by the court—

(a) *Ability to pay, production of books and documents.*—respecting his ability to pay the money directed to be paid and for the discovery of property applicable to such payment, and as to what debts are owing to him, and as to the disposal which he may have made of any property; and he shall be bound to produce on oath or otherwise, all books, papers and documents in his possession or power relating to property applicable to such payment; and

(b) *Mode in which liability incurred.*—respecting the circumstances in which he contracted or incurred the debt or liability in respect of which the judgment was given and respecting the means or expectation he then had of paying or discharging the debt or liability.

(2) Whether the judgment debtor appears or not the judgment creditor and all other witnesses whom the court thinks requisite may be examined on oath or otherwise respecting the matters aforesaid.

60. Adjournment of examination

The court may, if it thinks fit, adjourn the examination from time to time, and require from the judgment debtor such security for his appearance at the adjourned hearing as seems fit, and in default of his finding security may commit him to prison, there to remain until the adjourned hearing, or may discharge him from custody.

61. Interim order for protection of property

The court may, upon such investigation as aforesaid, make an interim order for the protection of any property applicable or available in discharge of the judgment debt, as it shall think expedient.

62. Orders on close of investigation

At the conclusion of the investigation the court may make such one or more of the orders following as the case may require—

[Forms 17 and 18.]

- (a) an order for the commitment of the judgment debtor to prison in accordance with the provisions of section 64;
- (b) an order for the attachment and sale of the judgment debtor's property;
- (c) an order for the payment of money by instalments or otherwise by the judgment debtor; and
- (d) an order for the discharge of the judgment debtor from prison.

[Forms 19 and 20.]

63. Power of court during hearing of a cause

A court at the hearing of a cause, or at any adjournment thereof, shall have the same power of examining the parties and other persons touching the several things mentioned in section 59, and of making an order for the protection of property, as if the defendant had appeared in answer to a judgment summons.

Committal to Prison

64. Power to commit debtor to prison in certain cases

(1) Subject to the provisions hereinafter contained, the court at the conclusion of such investigation as aforesaid, but not otherwise, may commit to prison, for any term not exceeding six weeks, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any judgment or order of any court for the payment of any sum.

Provided that such jurisdiction shall only be exercised where it is provided, to the satisfaction of the court, that the person making default either has, or has had since the date of the judgment or order, the means to pay the sum in respect of which he has made default.

(2) Proof of the means of the person making default may be given in such manner as the court thinks just; and, for the purposes of such proof, the debtor and any witnesses may be summoned and examined upon oath.

(3) For the purposes of this section, the court may direct any debt due from any person in pursuance of any order or judgment of that or any other competent court to be paid by instalments, and may from time to time rescind or vary such order.

(4) Any person imprisoned under this section shall be discharged out of custody

upon a certificate signed by the creditor at whose instance the debtor was imprisoned, or by any officer of the court, to the effect that such person has satisfied the debt or instalment of a debt in respect of which he was imprisoned, together with the prescribed costs, if any, or upon default by the judgment creditor in payment of the allowance, if any, for the subsistence of the judgment debtor.

[Form 21, Form 22.]

Misconduct of Judgment Debtor

65. Non-attendance of judgment debtor

If a party summoned as a judgment debtor shall not attend as required by the summons and shall not excuse his non-attendance to the satisfaction of the court or shall refuse to be sworn or to disclose the matters on which he shall be examined, or shall not answer to the satisfaction of the court, or if it appears to the court by an examination of a judgment debtor or other evidence—

- (a) *Refusal to satisfy judgment.*—that the judgment debtor has then or has had since the judgment sufficient means to pay the money directed to be paid by him, or part thereof, and has made default in payment, and that such default is due to his refusal or wilful neglect to pay on demand;
- (b) *Fraudulent disposition.*—that with intent to defraud or delay his creditors or any of them he has made or suffered any gift, delivery or transfer of any property, or removed property from the jurisdiction of the court; or
- (c) *Debt contracted by fraud.*—that the debt or liability in respect of which the judgment has been given, has been contracted or incurred by him by fraud or false pretence or breach of trust committed by him, or by reason of any damages which he has been adjudged to pay on account of any assault or slander committed by him; or
- (d) *Forbearance obtained by fraud.*—that forbearance of the debt was obtained by him by fraud or false pretence; or
- (e) *Debt recklessly contracted.*—that the debt or liability was wilfully contracted or incurred by him without his having at the same time a reasonable expectation of being able to pay or discharge it; or
- (f) *Disobedience to judgment other than for money.*—that the judgment debtor under a judgment other than for the payment of money has then or has since the judgment the power of complying with the judgment and has refused or neglected to do so,

then and in any such case the court may, without prejudice to any of its powers in relation to judgment summonses hereinbefore conferred, issue a warrant for the arrest of such

judgment debtor and his detention in custody, or for his detention if already in custody, until further order, or if it thinks fit may make an order calling upon such judgment debtor to show cause why he should not be punished for his misconduct.

66. Party in default to be brought before the court

If such judgment debtor is arrested or in custody he shall be brought before the court on the first convenient opportunity, and shall then, or if an order to show cause as aforesaid has been made, he shall on appearing on the return-day of the order, have opportunity of showing cause why he should not be punished.

67. Commitment of party in default

If such judgment debtor does not show cause to the satisfaction of the court why he should not be punished, or if being ordered to show cause as aforesaid he does not attend the court and does not establish sufficient reason for not attending, the court may remand the judgment debtor to prison if he has been already arrested, or issue a warrant for his arrest and commitment as for a contempt of court.

68. Penalty on misconduct of judgment debtor

A person committed on account of any misconduct enumerated in section 65 may not be committed to prison for a longer period than one year in any event, or for a longer period than six months if the judgment be for payment of money not exceeding two thousand naira, or for a longer period than three months if the judgment be for payment of money not exceeding five hundred naira.

[No. 4 of 2006.]

69. Labour may be ordered in certain cases

The court may in its discretion direct that any judgment debtor ordered to be imprisoned on account of any misconduct as aforesaid shall be employed in work within the prison during any period of such imprisonment.

70. Labour to be specified by regulations

The work shall be of such nature as may be specified by regulations made under the Prisons Act.

[Cap. 159(1958).]

71. Committal for refusal to comply with order

If any person refuses or neglects to comply with an order made against him, other than for payment of money, the court, instead of dealing with him as a judgment debtor guilty of the misconduct defined in paragraph (/) of section 65, may order that he be committed to prison and detained in custody until he has obeyed the order in all things that are to be immediately performed and given such security as the court thinks fit to obey the other parts of the order if any, at the future times thereby appointed, or in case of his no longer having the power to obey the order then until he has been imprisoned for such time

or until he has paid such fine as the court directs.

72. Release of judgment debtor upon satisfaction

Where a judgment debtor has been imprisoned on account of any misconduct enumerated in section 65, then upon payment of the judgment debt, together with the prescribed costs, if any, or upon the request of the judgment creditor, or upon default by the judgment creditor in payment of the allowance, if any, for the subsistence of the judgment debtor, the court may make an order for his discharge, to take effect either immediately or after he has been imprisoned for such portion of the term of imprisonment ordered as the court in its discretion may think fit to appoint, and the court may also make any order respecting the expenses of his imprisonment that may be necessary and just.

73. Application for discharge

Any person imprisoned under the provision of section 64 or section 65 may apply to the court for his discharge. The application shall be accompanied by a full statement and account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him, excepting the necessary wearing apparel of himself and his family, and the necessary implements of his trade, if any, to the value of ten naira, and of the places respectively where such property is to be found. The application shall be verified by oath or affidavit.

[Form 23.]

74. Procedure on application for discharge

(1) On such application being made the court shall cause the judgment creditor to be furnished with a copy of the statement and account of the judgment debtor's property and shall fix a reasonable time within which the judgment creditor may cause the whole or any part of such property to be attached and sold and thereafter shall fix a time for examining and hearing the parties.

(2) If the court shall be satisfied upon such inquiry, wherein the onus of proof shall be upon the party applying for discharge, that the judgment debtor has made a full surrender and disclosure of his property, and that he is unable because of unavoidable misfortune to satisfy the judgment, and, where he has been imprisoned under section 64, that he has not been guilty of any misconduct enumerated in section 65, and that he ought to be discharged, the court may make an order for the liberation of the judgment debtor:

[Form 24.]

Provided that if it shall subsequently be shown to the satisfaction of the court that the debtor has not made a full disclosure the debtor shall upon the order of the court be recommitted to prison—

- (a) where he has previously been imprisoned under section 64, for such time not exceeding six weeks as may be specified by the court; and
- (b) where he has previously been committed on account of any misconduct enumerated in section 65, for such time as may be specified by the court not exceeding the maximum period for which he might have been committed in the first instance.

75. Imprisonment does not extinguish debt

No imprisonment under this Law shall operate as a satisfaction or extinguishment of any debt, demand or cause of action, or deprive any person of any right to take out execution against the movable or immovable property of the person imprisoned in the same manner as if such imprisonment had not taken place.

76. Subsequent imprisonment for misconduct

No imprisonment under this Law shall prevent a judgment debtor from being again imprisoned for any act of wilful disobedience or other default or misconduct rendering him liable to be imprisoned, occurring or continuing after his imprisonment or release; but except in such cases, a party who has once been released from imprisonment shall not be imprisoned again upon the same judgment.

Subsistence of Debtor Prisoners

77. Subsistence allowance to debtor prisoners

Where the judgment debtor is committed to prison under this Law, the court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding one hundred and fifty naira per day, which shall, subject to the provisions of section 80, be paid by the judgment creditor by equal monthly instalments in advance before the first day of each month to the registrar, the first payment to be made before the order or warrant of commitment is issued, for such portion of the current month as may remain unexpired. Provided that if it shall be proved that any judgment debtor has sufficient means for maintaining himself, it shall be competent for the court, after hearing such judgment debtor, to order that no subsistence money be allowed.

[No. 4 of 2006.]

78. Removal of prisoner in case of illness

(1) In case of the serious illness of any person imprisoned under this Law the court may, on the certificate of a medical officer, make an order for the removal of such person to a Government hospital, and for his treatment there under custody. The period of such person's stay in hospital shall be counted as part of his term of imprisonment and his subsistence allowance shall be paid unless the court shall see fit in either case to order otherwise.

(2) The court may order that any hospital charges in excess of the subsistence allowance ordered to be paid shall be borne by the Government or the judgment creditor.

79. Subsistence money added to judgment

Sums disbursed by an execution creditor for the subsistence of a judgment debtor in prison or hospital shall be added to the costs of the suit and shall be recoverable by the attachment and sale of the property of the judgment debtor but he shall not be detained in custody or arrested on account of any sums so disbursed.

80. Expenses of imprisonment

(1) In every case where a person is committed to prison on account of any misconduct enumerated in section 65 as well as in every case of a person committed for contempt of court, the court may direct that the expenses of the conveyance of such person to prison and of his maintenance during his imprisonment shall be defrayed in the first instance by the principal officer of the Treasury of the State and if the court considers that it is expedient in the interests of justice that the expenses shall be so defrayed, the court shall so direct.

(2) The principal officer of the Treasury of the State shall in all such cases be entitled to recover the sums so disbursed by him by attachment and sale of the property of the person imprisoned or he may, if the court so directs, recover such sums from the judgment creditor.

(3) In case the court shall not direct the said expenses to be defrayed by the principal officer of the Treasury of the State the same shall be defrayed by the judgment creditor.

(4) The judgment creditor may in all cases recover all sums disbursed by him for expenses as aforesaid from the judgment debtor by attachment and sale of the property of the judgment debtor.

Sequestration

81. Sequestration

In case the person against whom an order or warrant of arrest, commitment, or imprisonment issues is not and cannot be found, or is taken and detained in custody without obeying the judgment, the court may make an order that a writ of sequestration do issue against his property, and such writ shall be issued and executed in the prescribed manner.

PART V

Attachment of Debts by Garnishee Order

82. Debts may be garnisheed

(1) The court may, upon the ex parte application of any person who is entitled to the benefit of a judgment for the recovery or payment of money, either before or after any oral examination of the debtor liable under such judgment and upon affidavit by the applicant or his legal practitioner that judgment has been recovered and that it is still unsatisfied and to what amount and that any other person is indebted to such debtor and is within Kwara State, order that debts owing from such third person, hereinafter called the garnishee, to such debtor shall be attached to satisfy the judgment or order, together with the costs of the garnishee proceedings and by the same or any subsequent order it may be ordered that the garnishee shall appear before the court to show cause why he should not pay to the person who has obtained such judgment or order the debt due from him to such debtor or so much thereof as may be sufficient to satisfy the judgment or order together with costs aforesaid.

[Form 25, Form 26.]

(2) At least fourteen days before the day of hearing a copy of the order nisi shall be served upon the garnishee and on the judgment debtor.

83. When consent of court is necessary

(1) Where money liable to be attached by garnishee proceedings is in custodia legis,

the order nisi shall not be made under the provisions of section 82 unless consent of the court is first obtained.

(2) In such cases the order of notice must be served on the registrar of the court.

[No. 4 of 2006.]

84. Consent of court

Where money liable to be attached by garnishee proceedings is in custodia legis an order nisi or an order absolute shall not be made under the provisions of section 83 unless consent to such attachment is first obtained from the court.

[No. 4 of 2006.]

85. Execution against garnishee

If the garnishee does not within the prescribed time pay into court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, together with the costs of the garnishee proceedings, and does not dispute the debt due or claimed to be due from him to such debtor, or if he does not appear upon summons, the court upon proof of service may order execution to issue, and it may issue accordingly without any previous writ or process, to levy the amount due from such garnishee, or so much thereof as may be sufficient to satisfy the judgment or order, together with the costs of the garnishee proceedings.

[Form 27.]

86. Trial of liability of garnishee

If the garnishee appears and disputes his liability the court, instead of making an order that execution shall issue, may order that any issue or question necessary for determining his liability be tried or determined in any manner in which any issue or question in any proceedings may be tried or determined, or may refer the matter to a referee.

87. Lien or claim of third person on debt

Whenever in any proceedings to obtain an attachment of a debt it is suggested by the garnishee that the debt sought to be attached belongs to some third person or that any third person has a lien or charge upon it, the court may order such third person to appear and state the nature and particulars of his claim upon such debt.

88. Order may be made if third person does not appear

If the third person as described in section 87 does not appear, the court on proof of service of a copy of the order may proceed to make an order as if such person had appeared.

89. Procedure upon appearance of claimants

Upon the appearance of such third person, after hearing his allegations and those of any other person whom the court may order to appear, the court may order execution to issue to levy the amount due from the garnishee, or any issue or question to be tried and determined, and may bar the claim of such third person, or may make such other order, upon such terms with respect to any lien or charge or otherwise, as the court shall think just.

90. Garnishee discharged

Payment made by or execution levied upon a garnishee under any such proceedings shall be a valid discharge to him against the debt liable under a judgment or order, to the amount paid or levied, even though such proceeding may be set aside or the judgment or order reversed.

91. Private alienation after attachment void

After an attachment shall have been made by actual seizure or by written order as aforesaid and in case of attachment by written order, after it shall have been duly intimated and made known in manner aforesaid, any alienation without leave of the court of the property attached, whether by sale, gift or otherwise and any payment of any debt or debts or dividends or shares to the judgment debtor during the continuance of the attachment shall be null and void.

PART VI

Forms and Rules

Forms

92. Use of forms in Schedule

(1) Subject to the express provisions, if any, of the rules, the forms contained in the Schedule may, in accordance with any instructions contained in the said forms and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply and, when so used, shall be good and sufficient in law.

(2) The forms in the Schedule may be added to, repealed, replaced or varied by rules of court in all respects as if they had originally been so made.

92A

[No. 4 of 2006.]

Rules

93. Rules of court

The Chief Judge with the approval of the Governor may make rules of court in respect of any or all of the following matters—

- (a) the duties of bailiffs;
- (b) the procedure to be adopted by bailiffs and others on the receipt of money paid or received at a sale on execution or otherwise in respect of process of execution and the accounting therefore;
- (c) the fees and allowances, if any, to be paid to, or for the use of the services of bailiffs and other officers of the court;
- (d) the fees to be paid in respect of any application or the filing of any document or in respect of anything done or furnished under this evidence;
- (e) the conditions precedent to the issue of any process;
- (f) the issue of process to or against any person or class of persons;
- (g) anything to be done by any person in respect of the issue or execution of process;
- (h) the method of attaching any property;
- (i) the enforcement of judgments not for the payment of money;
- (j) the procedure in execution against immovable property;
- (k) the entertainment and adjudication of claims to property attached or sold in execution;
- (l) the custody or disposal of property attached;
- (m) the apportionment of managers or receivers over attached or sequestered property;
- (n) the procedure on sale in execution of writs and the persons by whom such sales may be conducted;
- (o) the method of transfer of property, movable or immovable, shares, securities and other chattels on sales in execution of writs;
- (p) the circumstances in which proceedings in process may be transferred from

- one court in a division or district to another court in the same division or district or to a court in another division or district;
- (q) the procedure to be followed in the High Court upon an application of a judgment creditor in a District Court for a writ of execution in respect of immovable property;
 - (r) prescribing anything or any person required by Parts III, IV, V and VI of this Law to be prescribed; and
 - (s) generally for giving effect to the provisions and intentions of Parts III, IV, V and VI of this Law, and the prescribing and regulating procedure thereunder*.

SCHEDULE

Forms

FORM 1

General Form of Tide of Proceedings (For use in the High Court)

[Action]

In the High Court of Kwara State

In the High Court of the Judicial Division.

Suit No.

Between Plaintiff

and

..... Defendant.

[Matters]

In the High Court of Kwara State

In the High Court of the Judicial Division.

No.

.....

In the Matter of *[here state the title of any Law other than the High Court Law by which the Court is given power to entertain the proceedings]*.

And in the Matter of *[here refer to the particular matter in respect of which the proceedings are brought]*.

Federal provisions have been omitted.

Between.....

Applicant

[or Petitioner or
Appellant]

and

.....
Respondent.

[Or as the case may be.]

(For use in Magistrates' Courts)

[Action]

In the Magistrate's Court of the
District

No. of Plaintiff

Between
Plaintiff

and

.....
Defendant.

[Matters]

In the Magistrate's Court of the
District.

No.

.....
In the Matter of [here state the title of any Law other than the District Courts Law by which
the Court is given power to entertain the proceedings].

And in the Matter of [here refer to the matter in respect of which the proceedings are
brought].

Between.....
Appellant

[or
Petitioner]

and

.....
Respondent.

[Or as the case may be.]

[Section 6.]

Declaration by Bailiff

I, A. B., do hereby solemnly and sincerely declare that I will not use or exercise the office of bailiff corruptly during the time that I shall remain therein, neither shall I accept, receive, or take by any colour, means or device whatsoever or consent to the taking of any manner of fee or reward of any person or persons or betwixt party and party above such fees as are allowed for the same by law, but will according to my power truly perform my duty during the time that I shall remain in the said office.

.....

Bailiff.

Taken before me this day of....., 20

.....

Judge [or Magistrate]

FORM 3

[Section 19.]

Praecipe for Writ of Execution

Plaintiffs names in full.

Plaintiffs residence and occupation.

Full names and addresses for other sufficient identification] of all defendants, with their occupations, if known.

I apply for the issue of a writ of execution against the above-named [*if there are more defendants than one and plaintiff desires to proceed against some or one only, name them or him*] in respect of a judgment [or an order] of this Court.

.....

*Judgment Creditor or Solicitor to
Creditor.*

Solicitor's address.

[*To be filled up by registrar where payment into Court has been ordered.*]

(*Strike out what is not applicable.*)

Folio in ledger

Date of judgment [*or order*]

.....

Order

.....

...

Date and time of application for writ. The day of 20

.....,

ath m.

N k

Sum in payment of which defendant has made default

Amount for which writ to issue by leave of the Court

Fees on issue of writ

FORM 4

[Section 19.]

Writ of Attachment and Sale against Goods of Defendant

[*General Title—Form 1*]

Whereas on the day of20, the plaintiff obtained judgment [or an order] in this Court against the defendant [*if there are more defendants than one,*

name those against whom the judgment was obtained] for the sum of N..... for debt

[or

damages]and costs and it was ordered that the defendant should pay the same [to the registrar]

forthwith [or on the day of, 20]

[or by instalments offor every]:

And Whereas default has been made in payment according to the said judgment [or order]:

These are therefore to require and order you forthwith to make and levy the amount due to the plaintiff under the said judgment [or order] together with the costs of this writ and the costs of executing the same, by distress and sale of the goods and chattels of the defendant [*if there are more defendants than one, name the defendant against whose goods execution is issued*] wheresoever they may be found within theJudicial Division/District (except the wearing

FORM 4—continued

apparel and bedding of him or his family and the tools and implements of his trade, to the

value of ten naira) and also by seizing and taking any money, bank notes, cheques, bills of exchange, promissory notes, bonds or securities for money belonging to the defendant which may there be found or such part or so much thereof as may be sufficient to satisfy this execution and to bring what you shall have so levied into Court, and to make return of what you have done under this writ immediately upon the execution thereof.

Dated this day of, 20
.....

.....

.....

Judge [*or Magistrate*]

To the Sheriff and Bailiffs of the Court.

N k

Amount remaining due

Fees on issue of this writ

Total amount to be levied exclusive of further costs, if any, of execution N

Application was made to the Registrar for this writ at minutes past the hour of

.....in the noon of the day last mentioned above.

Notice—

The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized unless they are of a perishable nature or at the request of the defendant.

.....

Registrar

FORM 5

[Section 19.]

Writ of Attachment and Sale against Goods of Defendant for Part of Amount Due
[General Title—Form 1]

Whereas on the day of, 20....., the plaintiff obtained
a judgment [or an order] in this Court against the defendant [*if there are more defendants*

than

one, name those against whom the judgment was obtained] for the sum of N for debt

[or damages]and costs and it was ordered that the defendant should pay the same to the registrar by instalments of for every

And whereas default has been made in payment according to the said judgment [or order] and upon the application of the plaintiff it was on theday of..... 20....., ordered that execution should issue for the sum of Nbeing part of the sum of N remaining unpaid:

These are therefore to require and order you forthwith to make and levy the sum for which the Court has given leave to issue this writ together with the costs of this writ and the costs of executing the same, by distress and sale of the goods and chattels of the defendant [if there are more defendants than one, name the defendant against whose goods execution is issued]/wheresoever they may be found within the Judicial Division/District (except the

FORM 5—continued

wearing apparel and bedding of him and his family and the tools and implements of his trade, to the value of ten naira), and also by seizing and taking any money, bank notes, cheques, bills of exchange, promissory notes, bonds or securities for money belonging to the defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution, and to bring what you shall have so levied into Court, and to make return of what you have done under this writ immediately upon the execution thereof.

Dated this day of, 20

.....

.....

Judge [or Magistrate]

To the Sheriffs and Bailiffs of the Court.

N k

Amount remaining due

Amount for which this writ is issued by leave of the Court

Fees on issue of this writ |.....

Total amount to be levied exclusive of further costs, if any, of execution..... N

Application was made to the registrar for this writ atminutes past the hour of

.....

in the noon of the day of last above-mentioned.

Notice—

The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they are of a perishable nature or at the request of the defendant.

.....

Registrar

FORM 6

[Section 19.]

Writ of Attachment and Sale against the Goods of Plaintiff

[*General Title—form 1*]

Whereas on theday of....., 20 judgment was

entered for the defendant [or a non-suit was entered] and it was ordered that the plaintiff should pay [to the registrar] on or before theday of....., 20.....,

the sum of Nfor the defendant's costs.

And whereas default has been made in payment according to the said order. These are therefore to require and order you forthwith to make and levy the amount due to the defendant under the said order, together with the costs of this writ and the costs of executing the same, by distress and sale of the goods and chattels of the plaintiff, wheresoever they may be found within theJudicial Division/District (except the wearing apparel and bedding of him or his family and the tools and implements of his trade, to the value of ten naira), and also by seizing and taking any money, bank notes, cheques, bills of exchange, promissory notes, bonds or securities for money belonging to the plaintiff which may there be found or such part or so much thereof as may be sufficient to satisfy this execution and to bring what you shall have so levied into Court and to make return of what you have done under this writ immediately upon the execution thereof.

FORM 6—continued

Dated theday of, 20.....

.....

Judge [or District Judge]

To the Sheriffs and Bailiffs of the Court.

N k

Cost remaining due

Fees on issue of this writ _____

Total amount to be levied exclusive of further cost, if any, of execution..... N _____

Application was made to the registrar for this writ at minutes past the

hour of in thenoon of the day last above-mentioned.

Notice—

The goods and chattels are not to be sold until after the end of five days next following the day on which they were seized, unless they are of a perishable nature or at the request of the plaintiff.

.....

Registrar

FORM 7

[Section 33.]

Interpleader Summons to Judgment Creditor

In the High/Magistrate Court of theJudicial
Division/District
of Kwara State

No. of Complaint

.....

Suit No.

.....

No. of interpleader

Execution

.....

Between [*name, address and occupation*] Judgment Creditor

and

[*name, address and occupation*] Judgment Debtor

and

[*name, address and occupation*] Claimant.

Whereas the claimant has made a claim to [certain goods (or the proceeds of sale [or value] of certain goods) taken in execution and under process issuing out of this Court at your instance] [or certain rent alleged to be due to him in respect of and issuing out of the premises upon which certain goods were taken in execution under process issuing out of this Court at your instance].

You are hereby summoned to appear at a court to be held aton
the.....

day of20, at the hour
of.....

in the noon when the said claim will be adjudicated upon and such order
made
thereon as the Court thinks fit.

FORM 7—continued

Dated thisday of20
.....

.....

Judge [or District Judge]

To the Execution Creditor

Note—

The claimant is called upon to file two copies of the particulars of his claim and if the
particulars are so filed a copy will be sent to you.

.....

Judge [or District Judge]

FORM 8

[Section 33.]

Interpleader Summons to Claimant Claiming Goods or Rent under an Execution

[*Title as in Form 7*]

You are hereby summoned to appear at a Court to be held aton the

day of, 20, at the hour of
in thenoon, to support a claim made by you to [certain goods (or to the
proceeds
of sale [or value] of certain goods)] [or to certain rent alleged by you to be due to you
issuing out of premises upon which certain goods were] taken in execution under process
issuing out of this Court at the instance of the judgment creditor and in default of your then
establishing such claim the said goods will then be sold and the proceeds thereof paid over
[or the said proceeds of sale (or value) be paid over] according to the exigency of the said
process:

And take notice that you are hereby required within eight days after the service of this
summons on you, inclusive of the day of service, or if the summons has been served less
than fourteen clear days before the return day, then within such reasonable time before the
return day as the time of service permits, to file in the Court registry two copies of the
particulars of [the goods which (or the proceeds [or value] whereof) are claimed by you] [or
the amount of the rent claimed by you and of the period for which and the premises out of
which you claim that such rent issues], and of the grounds of your claim, and in such
particulars you must state fully your name, address, and occupation.

And take notice, that in the event of your not giving such particulars as aforesaid, your
claim may not be heard by the Court.

Dated thisday of....., 20.....

To the Claimant

.....

Judge [or Magistrate]

FORM 9

[Section 33.1

*Interpleader Summons to Execution Creditor and Sheriff where
Claimant Claims Goods and Damages*

In the High/Magistrate Court of the Judicial Division/District of Kwara
State.

No. of Complaint

.....

Suit No

.....

No. of Interpleader

.....

No. of Execution

.....

Between Judgment Creditor,

and

..... Judgment Debtor,

and between

..... Claimant,

and

..... (the Judgment
Creditor)

and

the Sheriff..... Respondents.

Whereas [*insert name, address and occupation of claimant*] has made a claim to certain goods

[or to the proceeds of sale (or value) of certain goods] taken in execution under process issuing out of this Court at your instance, and has also claimed from you [and from the Sheriff] the sum of N for damages arising out of the said execution.

You are therefore hereby summoned to appear at a Court, to be held at

.....

on the day of....., 20, at the hour of

..... in thenoon, when the said claim both as to the said goods [or the proceeds of sale (or value) of the said goods] and as to the said damages, will be adjudicated upon and such order made as the Court thinks fit.

Dated theday of, 20.....

.....

Judge [or Magistrate]

To the Execution Creditor [and the Sheriff]

Note.—The claimant is called upon to file two copies of the particulars of his claim and if the particulars are so filed a copy will be sent to you.

[Section 33.]

Interpleader Summons to Claimant Claiming Goods and Damages under an Execution

[Title as in Form 9]

You are hereby summoned to appear at a Court to be held aton
the
.....day of....., 20, at the hour
of

FORM 10—continued

.....in the noon, to support a claim made by
you

to certain goods [or to the proceeds of sale (or value) of certain goods] taken in execution
under process issuing out of this Court at the instance of the judgment creditor and also for
damages arising out of such execution. And in default of your then establishing such claim,
the said goods will be sold and the proceeds thereof paid over [or the said proceeds of sale
(or value) will be paid over] according to the exigency of the said process.

And take notice, that you are hereby required within eight days after the service of this
summons on you, inclusive of the day of service, or if the summons has been served less
than fourteen clear days before the return day, then within such reasonable time before the
return day as the time of service permits, to file in the Court registry two copies of the
particulars of the goods which [or the proceeds (or value) whereof] are claimed by you, and
of the grounds of your claim, and you must also state in such particulars the amount of the
damages you claim, and the party from whom you claim the same, and the grounds of your
claim; and in such particulars you must state fully your name, address and occupation:

And take notice, that in the event of your not giving such particulars as aforesaid,
your claim may not be heard by the Court.

To the Claimant

.....

.....

Judge [or Magistrate]

FORM 11

[Section 36 and 38.]

Warrant with Writ of Execution or Order of Commitment to Registrar of Foreign

Court

[General Title—Form 1]

Whereas this writ of execution has been issued out of this Court against the goods and chattels of the defendant.

[If the writ is issued against one only of several defendants, name him.]

And whereas the goods and chattels of the said defendant are out of the jurisdiction of this Court and are believed to be within the jurisdiction of the High/District Court of which you are the registrar.

[Or whereas this order of commitment has been made against the defendant.

[If the order is issued against one only of several defendants, name him.]

And whereas the said defendant is out of the jurisdiction of this Court and is believed to be within the jurisdiction of the Court of which you are the registrar.]

These are therefore to require you to cause the said writ [or order of commitment] to be executed within the jurisdiction of the last-mentioned court.

Dated this day of....., 20

.....

Registrar

To the Registrar of the last-mentioned Court.

FORM 12

[Sections 36 and 38.]

Return and Remittance from Foreign Court

[General Title—Form 1]

Take notice that the sum N has been recovered under the above writ of execution [or order of commitment] and Treasury deposit receipt No.

.....

Of, 20....., for this amount is enclosed herewith.

[Here set out any further or other return where the full amount has not been recovered]

Dated thisday of20

.....

Registrar

To the Registrar of the (Home) Court.

FORM 13

[Section 54.]

Praecipe for Judgment Summons

No. of Plaintiff

.....

No. of Suit

.....

No. of Judgment

Summons.....

Plaintiffs names in full

.....

Plaintiffs residence and occupation

.....

Full names and addresses [*or other sufficient identification*] of all defendants, with their occupations if known [*add, if any defendant is a female. The judgment (or order) is enforceable against the defendant* personally and not only against her property].

Date of judgment [or order] theday of,20
.....

[Order.]

I apply for the issue of a judgment summons against the above-named defendant [*name the defendant, or if there are more defendants than one, and plaintiff desires to proceed against some or one only, name them or him*], in respect of a judgment [or an order] of this Court [or as the case may be].

I am aware that, if I do not prove to the satisfaction of the Court at the hearing that the defendant has, or has had since the date of the judgment [or order], the means to pay the sum in respect of which he has made default I may have to pay the cost of this summons.

.....

Plaintiff or his Solicitor

Solicitor's Address

[To be filled up by Registrar where payment into Court has been ordered.]

(Strike out what is not applicable.)

FORM 13—continued

Folio.....

Ledger

N k

Sum in payment of which defendant has made default

Fees on issue of this summons

Travelling expenses to be paid or tendered to defendant _____

Total amount for which summons to be issued N _____:

Unsatisfied costs of execution not included above and not payable out of monies paid into Court, except under an execution against the goods of the defendant H :

FORM 14

[Section 54.]

Judgment Summons on a Judgment

In the High Court of Kwara State

.....

No. Plaintiff No.

.....

Suit No.

.....

No. of Judgment

Summons.....

Between

.....

..... Plaintiff

and

.....

.....

..... Defendant.

Whereas the plaintiff obtained a judgment [or order] against the above-named defendant in this Court [*or as the case may be*] on the day of

.....

20, for the payment of N : for the debt [or damages] and costs, forthwith [or on the day of20] [or by instalments of N : for every] and subsequent costs having been incurred and

followed by the Court, amounting to N :

And whereas default has been made in payment of the sum of N : payable in pursuance of the said judgment [or order] and the plaintiff has required this judgment summons to be issued against you the defendant [*If the summons is issued against some or only one of several defendants, name them or him*].

You are therefore hereby summoned to appear personally in this Court, at

.....

Onthe day of

.....

20, at the hour ofin thenoon, to be examined

on oath touching the means you have or have had since the date of the said judgment [or order] to satisfy the sum payable in pursuance of the said judgment [or order]; and also to show cause why you should not be committed to prison for such default.

FORM 14—continued

Dated thisday of20

.....

.....

Judge [or Magistrate]

To the defendant [*if the summons is issued against some or one only of several defendants, name them or him*].

N k

Sum in payment of which defendant has made default

Fees on issue of this summons

Travelling expenses to be paid or tendered to defendants.....

Sum on payment of which this summons will be satisfied

N

Unsatisfied costs of execution not included above and not payable out of money paid into Court, except under an execution against the goods of the defendant N :

.....

Registrar

[Section 54.]

Judgment Summons on Judgment or Order against a Firm, or a Person Carrying on Business

in a Name other than his own

[Title as in Form 14]

To [state the name, address and occupation of a person alleged to be a partner in, or the person alleged to be carrying on business in the name of the firm against whom the judgment (or order) was obtained].

Whereas the plaintiff obtained judgment [or an order] against the defendant by and in the firm name of [state the name, address, and description, as in the original summons, with any amendment made by the court] in this court [or as the case may be] on theday of20, for the sum of **N** :
for debt [or damages] and costs forthwith [or on theday of 20, [or by instalments offor every]
and there is now due and payable under the said judgment [or order] the sum of **N** :

And whereas the plaintiff has filed an affidavit in this Court, a copy whereof is hereunto an-

nexed, wherein it is alleged that you the above namedare liable
[as a

partner in the said firm] [or as the person carrying on business in the said firm name] to pay the sum payable under the said judgment [or order].

You are therefore hereby summoned to appear personally in this Court at

.....the
.....day of....., 20, at the hour of
..... in thenoon, to be examined on oath touching the means

you have or have had since the date of the said judgment [or order] to pay the sum of **H** now due and payable under the said judgment [or order] and also to show cause why you should not be committed to prison for default in payment of the said sum.

FORM 15—continued

And take notice that if you deny that you are liable [as a partner in the said firm] [or as the person carrying on business in the said firm name] to pay the sum payable under the said judgment [or order] you must appear at this Court on the day and at the hour above-mentioned, and that in default of your so appearing you will be deemed to admit your liability to pay the amount due and payable under the said judgment [or order].

Dated thisday of....., 20.....

.....
Judge [or Magistrate]
N
k

Amount in arrear under judgment [or order]
Fee on issue of this summons
Travelling expenses to be paid or tendered

Sum on payment of which this summons will be satisfied N

_____:

N.B.—This summons is available against one person only.

.....
Registrar

FORM 16

[Section 57.]

*Affidavit for Leave to Issue Judgment Summons on Judgment or Order against a Firm, or a
Person Carrying on Business in a Name other than his own*

[General Title—Form 1]

Iofthe above-named
plaintiff

[*or*] make oath and say as follows—

1. On theday of, 20, I [or
the
plaintiff] obtained judgment [or an order] in this action in this Court [*or as the case may be*]
against the defendants [state firm name in which defendants were sued] for the sum of N :
for debt [or damages] and costs and there is now due and payable under the said judgment
[or order] the sum of N : .

2. I allege that [*state name, residence and occupation*] is liable as a partner in the said firm
[or as the person carrying on business in the said firm name] to pay the sum payable under
the said judgment [or order], and I make this allegation on the following grounds—

- (a) That the said has admitted before the Court in the proceedings in which the said judgment [or order] was obtained that he was a partner in the said firm [or the person carrying on business in the said firm name] at the time when the cause of action arose [or has been adjudged in the proceedings in which the said judgment [or order] was obtained] to be liable as a partner in the said firm [or as the person carrying on business in the said firm name]; or

FORM 16—continued

- (b) That the saidwas individually served as a partner in the said firm [or as the person carrying on business in the said firm name] with the summons in the action in which the said judgment [or order] was obtained and failed to appear at the trial; or
- (c) [*State any other grounds on which the person named is alleged to be liable, with the deponent's sources of information and grounds of belief*]

3. [*Add where the plaintiff does not make the affidavit. That I am duly authorised by the plaintiff to make this affidavit on his behalf.*]

FORM 17

[Section 62.]

Order of Commitment on a Judgment or Order

[*General Title—Form 1*]

To the Sheriff and Bailiffs of the Court and to the Officer in Charge of the prison at
.....

Whereas the plaintiff obtained a judgment [or an order] against the defendant [*where judgment has been given against more than one defendant, adapt accordingly*] in this Court [*as the case may be*] on theday of, 20....., for the payment

of N : for debt [or damages] and costs on theday of, 20, [or by instalments offor every], and

subsequent costs have been incurred in pursuance hereof amounting to N :

And whereas the defendant [*If there are more defendants than one, name the defendant against whom this order was made*] has made default in payment of N : payable in pursuance of the said judgment [or order].

And whereas on the hearing this day of a judgment summons issued against the said defendant it has been proved to the satisfaction of the Court that the said defendant has [or has had since the date of the judgment [or order] the means to pay the said sum and has shown no cause why he should not be committed to prison.

It is ordered that for such as aforesaid the said defendant shall be committed to prison for

.....days, unless he shall sooner pay the sum stated below as that upon payment of which he is to be discharged.

These are therefore to require you the said sheriff and bailiffs, to take the said defendant and to deliver him to the officer in charge of the prison at, and you the said officer to receive the said defendant, and safely to keep him in the said prison for.....

..days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Dated this [*insert date upon which order was made in Court*].....day of
....., 20

.....
Judge [or Magistrate]
[Order issued theday of
.....,20.....]

FORM 17—continued

	N	k
Sum in payment of which defendant has made default at the time of the issue of judgment summons		
Fees and costs on issue and hearing of judgment summons		_____
Deduct amount paid since issue of judgment summons	N	____;_____
Fees for issue of this order		_____
Sum on payment of which the debtor is to be discharged	N	____;_____
[For use when part payment made after issue of order]		
Deduct amount paid since issue of order		

Balance on payment of which the debtor is to be discharged	N	____;_____

.....

Registrar

[Note.—*A separate order must be issued against every defendant required to be arrested.*]

FORM 18

[Section 62.]

Order of Commitment on a Judgment Summons on a Judgment or Order against a Firm or
a

Person Carrying on Business in a Name other than his own

No. of Plaint

.....

No. of Judgment Summons

.....

In the High Court of Kwara State

Between Plaintiff
and

*[state name, address, and occupation, as in the original summons, with any amendment
made by the Court.]*

.....

Defendant.

To the Sheriff and Bailiffs of the Court and to the Officer in Charge of the prison at
.....

.....

Whereas the plaintiff obtained a judgment [or an order] against the defendants by and in
the

firm name ofin this Court [*or as the case may be*] on the
.....

day of, 20, for the sum of N : for debt [or damages] and
costs and there is now due and payable under the said judgment [or order] from the
defendants to the plaintiff the sum of N :

And whereas the plaintiff was alleged in an affidavit filed in this Court, that [*state the name,
address, and occupation of a person alleged to be a partner in the said firm, or the person
alleged to be carrying on business in the said firm name*], (hereinafter called the defendant)
was liable as a partner in the said firm [or as the person carrying on business in the said

firm name] to pay the sum payable under the said judgment [or order].

FORM 18—continued

And whereas on the hearing this day of a judgment summons issued out of this Court against the defendant he did not appear [or he appeared but it was proved that he was liable to pay the said sum], and it was proved to the satisfaction of the Court that the defendant has [or has had since the date of the said judgment (or order)] the means to pay the sum due and payable under the said judgment [or order], and has shown no cause why he should not be committed to prison.

It is Ordered that for such default as aforesaid the defendant shall be committed to prison for...

.....days, unless he shall sooner pay the sum stated below as that upon payment

of which he is to be discharged.

These are therefore to require you the said sheriff and bailiffs, to take the defendant and to deliver him to the officer in charge of the prison atand you the said officer receive the defendant and safely keep him in the said prison for

.....days from the arrest under this order, or until he shall be sooner discharged by due course of law.

Dated this [*insert date on which the order was made in Court*]day of.....,

.....,20.....

.....

Judge [or Magistrate]

[Order issued on theday of
20.....

N k

Amount remaining due under judgment [or order] at time of issue of judgment
summons

Fees and costs on issue and hearing of judgment summons

_____ Deduct amount paid since issue of judgment summons N ____:_____

Fees for issue of this order

_____ Sum on payment of which the debtor is to be discharged N ____:_____

[*For use when part payment made after issue of order*]

Deduct amount paid since issue of order

Balance on payment of which the debtor is to be discharged N

_____:

.....

Registrar

FORM 19

[Section 62.]

New Order on Judgment Summons

[General Title—Form 1]

Whereas the defendant [*where judgment has been given against more than one defendant adapt accordingly*] has made default in payment of N : payable in pursuance of the judgment [or order] in this action given [or made] in this Court [or as the case may be] on the.....

FORM 19—continued

..... day of....., 20.....

It is ordered upon the hearing this day of a judgment summons issued against the said defendant that the said defendant do pay the amount remaining due under the said judgment [or order] [add, if so ordered and the fees and costs of the issue and hearing of the said judgment summons] as stated at the foot of this order, to the registrar of this Court, by instalments of N : for every.....the first payment to be made onday of20

Dated theday of....., 20.....

.....

Judge [or Magistrate]

N k

Amount remaining due under judgment [or order]

Fees and costs of judgment summons and hearing

_____TotalN _____:

Unsatisfied costs of execution not included above and not payable out of monies paid into Court except under an execution against the goods of the defendant **N** :

Note.—In case default be made in payment of any instalment according to this order, execution or successive executions may issue for the whole of the said sum and costs then remaining unpaid, or for such portion thereof as the Court shall order.

.....

Registrar

FORM 20

[Section 62.]

*New Order on Judgment Summons on a Judgment or Order against a Firm, or a Person
carrying on Business in a Name other than His own*

No. of Plaint

.....

Suit No.

.....

No. of Judgment Summons

.....

In the High/District Court of the
Judicial

Division/District of Kwaro State.

Between..... Plaintiff,

and

.....

Defendants.

[*State name, address and occupation, as in the original summons, with any amendment
made by the Court.*]

Whereas the plaintiff obtained a judgment [or an order] against the defendants by and in
the first name of, above-described, in this Court [*or
as the*

case may be] on theday

of.....,20.....,

for the payment of N : and costs, and there is now due and payable under the said judgment [or order] from the defendants to the plaintiff the sum of N :

And whereas the plaintiff has alleged in an affidavit filed in this Court that [*state the name, address and occupation of a person alleged to be a partner in the said firm name*] (hereinafter called the defendant) was liable as a partner in the said firm [or as the person carrying on business in the said firm name] to pay the sum payable under the said judgment [or order].

And whereas on the hearing this day of a judgment summons issued out of this Court the defendant did not appear [or, he appeared but it was proved that he was unable to pay the said sum].

It is ordered that the defendant do pay the amount remaining due on the said judgment [or order] [*add if so ordered*, and the fees and costs of the issue and hearing of the said judgment summons], as stated at the foot of this order, to the registrar of this Court, by instalments of

N : for every , the first payment to be made on the day of 20.....

.....

Judge [or Magistrate]

N k

Amount remaining due under judgment [or order]

Fees and costs of judgment summons and hearing

TotalN

____:_____

Unsatisfied costs of execution not included above and not payable out of monies paid into Court except under an execution against the goods of the defendant N :

Note.—In case default be made in payment of any instalment according to this order, execution or successive executions may issue for the whole of the said sum and costs then remaining unpaid, or for such portion thereof as the Court shall order.

.....

Registrar

FORM 21

[Section 64.]

*Certificate by Officer of Court or by Creditor for Discharge of
Judgment Debtor on Payment of Debt
[General Title—Form 1]*

I hereby certify that the defendant, who was committed to your custody by virtue of an order of commitment made by the High/Magistrate Court of the
Judicial

Division/District, bearing date the day of.....,
20.....,

has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof; and that the defendant may in respect of such order, be forthwith discharged out of your custody.

Dated thisday of
.....,20.....

FORM 21—continued

To the Officer in charge of the
prison
at

.....

Creditor or Officer of the Court

FORM 22

[Section 64.]

*Certificate by Officer of Court for Discharge of Judgment Debtor
upon failure of Creditor to pay Subsistence Allowance
[General Title—Form 1]*

I hereby certify that the creditor has failed to pay the allowance for the subsistence of the defendant, who was committed to your custody by virtue of an order of commitment made by this Court bearing date the day of20
.....,

and that the defendant may in respect of such order, be forthwith discharged out of your custody.

Dated thisday of, 20

.....

To the Officer in charge of the
prison
at

.....

Officer of the Court

FORM 23

[Section 73.]

Application for Discharge by Judgment Debtor under Section 74

[General Title—Form 1]

I, having been committed to prison at by virtue of an order/a
warrant of commitment made by the Court bearing date the day of
.....

.....,20, hereby apply for my discharge from the said prison.

I annex hereto a full statement of all property belonging to me and of the places respectively
where such property is to be found.

..... *Judgment Debtor*

To the Judge/Magistrate of theJudicial
Division/District,
Kwara State.

FORM 24

[Section 74.]

Order for Liberation of Judgment Debtor under Section 75

[General Title—Form 1]

Whereas on theday of,20,
the plaintiff obtained a judgment [or an order] in this Court against the defendant for the

sum of

N : for debt [or damages] and costs, and it was ordered that the defendant should pay the same [to the registrar] forthwith [or on theday of, 20

[or by instalments offor every.....].

And whereas the defendant made default in payment of N : payable in pursuance of the said judgment [or order] and was committed to your custody by virtue of an order of commitment by this Court, bearing date theday

of.....,

20

And whereas the defendant has made application for his discharge and has satisfied the Court that he has made a full surrender and disclosure of his property and cannot satisfy the judgment.

It is ordered that the defendant be forthwith discharged out of your custody in respect of such order of commitment.

Dated thisday of,

20.....

To the Officer in charge of the

.....prison

at

.....

Judge [or Magistrate]

FORM 25

[Section 82.]

Affidavit in Support of Garnishee Order

In the High/Magistrate Court of theJudicial

Division/District

of Kwara State.

No.

No. of Plaintiff

Suit No.

Between [*name, address and occupation*] Judgment Creditor

and

[*name, address and occupation*] Judgment Debtor

and

[*name, address and occupation*] Garnishee.

I, of[or

I,.....

ofSolicitor for] the above-named judgment creditor make oath and say—

1. That I [or] on the.....day of

.....,

20....., recovered judgment [or obtained an order] in the High/Magistrate Court of the

.....Judicial Division/District in this action against the above-named judgment debtor for payment of the sum of N : for debt [or damages] and costs.

FORM 25—continued

2. That the said judgment [or order] is still wholly unsatisfied [or is still unsatisfied as to the amount of N :].

3. That the garnishee,ofis indebted

to the judgment debtor in the sum of N : [*add if so* for payment of which sum the judgment debtor recovered judgment [or obtained an order] in the Court against the said garnishee on the day....., 20....., and by the said judgment

[or order] it was ordered that the said garnishee should pay the said sum N : to the registrar of the said Court on the day of20.....

[or by instalments of for every] and the

sum of N : remains due and unpaid under the said judgment [or order].

[*Add, if the garnishee does not reside within the Division/District of the Court.*

4. That proceedings could be brought by the judgment debtor against the garnishee in this Court for the recovery of the said debt (*or, if the Court is a Magistrate Court, and the amount of the debt exceeds the magistrate's jurisdiction, for the recovery of N400 [or as the case may be] part of the said debt*) (*add, if the debt is not yet payable, if the debt were immediately payable*) on the ground that the cause of action arose wholly on in part (*or, the subject-matter of such proceedings is*) within the Division/District of this Court because (*state the facts relied on as giving the Court jurisdiction to entertain the proceedings*).]

FORM 26

[Section 82.]

Garnishee Order

[Title as in Form 25]

Whereas the judgment creditor on theday of,
20.....,

recovered judgment [or obtained an order] in the High/Magistrate Court of the
.....

Judicial Division/District against the judgment debtor for payment of the sum of **N** : for debt
[or damages] and **N** : for costs which judgment [or order] remains unsatisfied as to the sum
of

N : .

And Whereas the judgment creditor has filed an affidavit stating that you are indebted to
the said judgment debtor in the sum of **N** :

You are hereby ordered to appear at a Court to be held at on the
.....

day of....., 20....., at the hour ofin
the.....

..... noon, to show cause why an order should not be made upon you for the payment
to

the judgment creditor of the amount of the debts due and owing or accruing from you to
the said judgment debtor or so much thereof as will satisfy the debt due under the said
judgment [or order] and the costs entered on this summons.

And take notice, that from and after the service of this summons upon you so much of the
debts owing or accruing from you to the judgment debtor as will satisfy the debt due under
the said judgment [or order] and the costs entered on this summons are attached to answer
the said judgment [or order].

And further take notice, that if you pay to the registrar of this Court the amount of such
debts, or so much thereof as will satisfy the debt due under the said judgment [or order] and
the costs entered on this summons within eight days of the service of this summons on you,
inclusive of the day of service, you will incur no further costs.

FORM 26—continued

Dated thisday of

.....,20.....

.....

Judge [or Magistrate]

N k

Amount remaining due under judgment [or order]

Fees on issue of this summons

.....

.....

Total amount for which summons issued N

_____:_____

This summons is issued at the instance of the
judgment

creditor [or Solicitor for the judgment creditor whose address for service is
.....].

.....

Registrar

FORM 27

[Section 85.]

Execution Against Garnishee

[Title as in Form 25]

Whereas on theday of20, the
judgment creditor obtained a judgment in this Court against the garnishee whereby it was
adjudged that the judgment creditor should recover against the garnishee the sum of N :
being the amount of the debts found due from the garnishee to the judgment debtor and it
was ordered that the garnishee should pay the said sum of N : [or the said sums of
N : and N : amounting together to the sum of N :], to the registrar on the
..... day of, 20, [or by instalments
of
.....for every]:

And whereas default has been made in payment according to the said order:
These are therefore [*proceed as in Form 4*].

.....

Judge [or Magistrate]

CHAPTER S5
SHERIFFS AND CIVIL PROCESS LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation

CHAPTER S6
SLEEPING SICKNESS LAW
ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.

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3. Compulsory examination of persons infected or suspected to be infected with sleeping sickness.

Compulsory Medical Treatment
4. Compulsory treatment of persons infected with sleeping sickness.

Sleeping Sickness Areas
5. Declaration of sleeping sickness areas.
6. Right of entry and inspection.
7. Employers to grant facilities for inspection and treatment of their employees.
8. Title holders or occupiers of land required to take measures to prevent outbreak or spread of sleeping sickness.
9. Orders issued by local governments for the suppression or prevention of the spread of sleeping sickness.

Restricted Areas
10. Declaration of restricted areas.
11. Persons not to enter restricted areas without permission.
12. Medical examination prior to entry into restricted area.
13. Applicant must furnish such information regarding the reason of his entry as may be required.
14. Issue of permits may be subject to conditions.

15. Permits to be retained.
16. Improper dealings with documents.
17. Documents to be produced on demand.
18. General penalty.
19. Exemption of Government and local government officials on duty.
20. Power to make regulations.

SLEEPING SICKNESS LAW

A Law to make provision for preventing the spread of sleeping sickness and for the compulsory treatment of those persons infected with sleeping sickness.

[NN 1963, Cap. 126. KWS 10 of 1991, KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 21 *st* January, 1937]

1. Short title

This Law may be cited as the Sleeping Sickness Law.

2. Interpretation

Definitions—

"**cattle**" includes sheep and goats and the young of any sheep and goats;

"**Commissioner**" means the State Commissioner for the time being responsible for sleeping sickness control;

"**employee**" includes tributors working on any area the subject of a mining title;

"**examining officer**" means any medical officer appointed to carry out the duties imposed by this Law upon an examining officer and includes any person whom such medical officer authorises to carry out any such duties;

"**Glossina**" means any species of tsetse fly;

"**holder of a mining right**" includes any representative of the holder in charge of the property;

"**holder of a right of occupancy**" includes any person in occupation of the property;

"**invalid document**" is a document which under this Law or any regulation hereunder is cancelled, or which is no longer required to be retained or which is not genuine;

"**lessee of a mining lease**" includes any representative of the lessee in charge of the property;

"**local government**" means the local government council having jurisdiction in the area concerned;

[KWS 10 of 1991.]

"**road**" includes any path or track;

"sleeping sickness" means any form of human trypanosomiasis.

Compulsory Medical Examination

3. Compulsory examination of persons infected or suspected to be infected with sleeping sickness

Any examining officer may require any person whom he knows or suspects to be infected with sleeping sickness to submit himself for medical examination at such place and time as the examining officer may prescribe and any person who neglects or refuses to present himself shall be guilty of an offence.

Compulsory Medical Treatment

4. Compulsory treatment of persons infected with sleeping sickness

Any examining officer who finds any person to be infected with sleeping sickness may require such person to submit himself for treatment at such time and place as the examining officer may prescribe and any person who on being so required refuses or neglects to submit himself or to continue so to submit himself shall be guilty of an offence.

Sleeping Sickness Areas

5. Declaration of sleeping sickness areas

When sleeping sickness is found or is likely to break out in any part of the State the Governor may by order define such part and declare it to be a sleeping sickness area.

6. Right of entry and inspection

In any part of a sleeping sickness area an examining officer may enter upon and inspect such part irrespective of the fact that the land may be the subject of a right of occupancy, mining lease or mining right.

7. Employers to grant facilities for inspection and treatment of their employees

In any sleeping sickness area an examining officer may require any employer to grant reasonable facilities for the examination and treatment of his employees and any employer who refuses or fails to grant such facilities shall be guilty of an offence.

8. Title holders or occupiers of land required to take measures to prevent outbreak or spread of sleeping sickness

(1) When any local government is informed in writing by the Permanent Secretary or any medical officer authorised in that behalf by the Permanent Secretary that conditions conducive to an outbreak of or the spread of sleeping sickness exist on any land in its area situated within a sleeping sickness area he may serve or cause to be served on the holder of a right of occupancy or the occupier or the lessee of a mining lease or the holder of a mining right a notice requiring him to remedy such conditions or to take such action as may be prescribed to remedy them.

[KWS 10 of 1991.]

(2) If the holder of the right of occupancy or the occupier or the mining lessee or the holder of a mining right upon whom any notice authorised by subsection (1) has been served refuses or fails without reasonable excuse to carry out any of the measures therein prescribed he shall be guilty of an offence and the local government may enter or authorise any person to enter upon the land there to carry out the prescribed measures and the expenses incurred shall be recoverable from the person upon whom the notice was served.

Provided that a mining lessee or holder of a mining right shall not be required to remedy any conditions other than those produced in the course of mining operations on the area subject to his title.

9. Orders issued by local governments for the suppression or prevention of the spread of sleeping sickness

(1) Subject to the provisions of any law for the time being in force, any local government within the area of its jurisdiction may for the purpose of arresting or preventing the outbreak or spread of sleeping sickness in any sleeping sickness area issue orders—

- (a) directing the making and maintenance of protective clearings;
- (b) prohibiting persons from residing in, assembling at, resorting to or frequenting particular places;

[KWS 10 of 1991.]

- (c) prohibiting persons from journeying along any specified road or along any other than a specified road;
- (d) directing persons resident within or visiting the area to move either temporarily or permanently outside the area or from any one place to any other place within the area.

Provided that in the case of a local authority issuing any such order the provisions thereof shall apply only to persons subject to the jurisdiction of the said local authority.

(2) Any person who in disregard of any order issued under this section and applicable to himself does any act which he is prohibited from doing or omits to do any act he is required to do thereunder shall be guilty of an offence.

Restricted Areas

10. Declaration of restricted areas

(1) When the Governor is satisfied that permanent residence in or frequent resort to any sleeping sickness area or any part thereof is undesirable on account of the difficulty of protecting persons therein from contact with Glossina he may by Order declare such sleeping sickness area or any part thereof defined in such Order to be a restricted area.

(2) Any such Order may be declared to apply to persons engaged in any occupation specified in the order, or to any class or classes of persons so specified, and in such case the provisions of sections 11 to 15 herein shall apply to such persons or class or classes of persons only.

11. Persons not to enter restricted areas without permission

Any person who enters or resides in a restricted area without a permit issued to him by a local government or by an examining officer authorising such entry or residence shall be guilty of an offence.

[KWS 10 of 1991.]

12. Medical examination prior to entry into restricted area

(1) If any person desires to enter a restricted area he shall, not more than one month before the date of his intended entry, present himself for examination to an examining officer.

[KWS 10 of 1991.]

(2) If the examining officer is of opinion that the condition of the person examined justifies the issue of a permit the local government or the examining officer may, subject to the provisions of section 13, issue the permit, but if the examining officer is of the contrary opinion, no permit shall be issued.

13. Applicant must furnish such information regarding the reason of his entry as may be required

(1) Any person applying for a permit to enter a restricted area shall furnish such information as to the purpose of his entry into the restricted area as the local government or examining officer to whom he makes his application may require.

[KWS 10 of 1991.]

(2) If any person on being required as aforesaid to furnish information states what he knows to be false or does not believe to be true the local government or examining officer may refuse to issue the permit or if such permit has already been issued the Commissioner may cancel the same and it shall be deemed not to have been issued. Any person aggrieved by a refusal on the part of a local government or examining officer may appeal to the Commissioner.

14. Issue of permits may be subject to conditions

The issue of a permit may be made subject to such conditions as the local government thinks fit for the purpose of preventing the spread of sleeping sickness and, in particular, may include a direction that the holder shall present himself to an examining officer for examination within seven days of leaving the restricted area.

[KWS 10 of 1991.]

15. Permits to be retained

Every permit to enter a restricted area shall be retained by the person to whom it has been issued until that person leaves the area or obtains a fresh permit.

16. Improper dealings with documents

Any person who—

- (a) without authority alters or causes to be altered any document with intent that it should appear to have been issued under this Law or any regulations made hereunder in that altered form or uses a document so altered with that intent; or
- (b) knowingly uses an invalid document for any purpose for which a document is required under this Law or any regulations made hereunder; or
- (c) transfers any document to any person to whom such document has not been issued with intent that the transferee should use it for any purpose for which a document is required under this Law or any regulations made hereunder; or
- (d) uses any document so transferred with that intent,

shall be liable in respect of each offence to a fine of two thousand naira or to imprisonment for twelve months or to both.

[No. 4 of 2006.]

17. Documents to be produced on demand

Any person who on the demand of a local government authority, or any person authorised in that behalf by a local government, or a medical officer or police officer refuses or fails without reasonable excuse to produce any document of which he is required to be in possession by this Law or any regulations made hereunder shall be guilty of an offence.

[KWS 10 of 1991.]

18. General penalty

Any person committing a breach of any of the provisions of this Law shall, where no special penalty is provided, be liable in respect of each offence to a fine of one thousand naira or to imprisonment for six months or to both.

[No. 4 of 2006.]

19. Exemption of Government and local government officials on duty

Nothing in this Law shall preclude or restrict any person in the service of the Government, or any local government, and his personal servants from entering any restricted area when engaged in the performance of his official duty or similarly preclude or restrict the personal servants of such person when in attendance on their employer.

20. Power to make regulations

The Governor may make regulations—

- (a) restricting the entry of cattle into, or movements of cattle within, a sleeping sickness area;
- (b) prescribing the form of any notice or permit required by this Law or the regulations made hereunder; and
- (c) generally for carrying into effect the purposes and provisions of this Law.

CHAPTER S6

SLEEPING SICKNESS LAW SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. The Sleeping Sickness (Restricted Areas) Regulations.

THE SLEEPING SICKNESS (RESTRICTED AREAS) REGULATIONS

[Section 20.]

[Regs. 15 of 1938, 29 of 1941, Order 47 of 1951.]

[Date of commencement: 31st March, 1938]

1. These Regulations may be cited as the Sleeping Sickness (Restricted Areas) Regulations.
2. Definition—
"employer of labour" includes an agent, manager or factor.
3. Every permit issued under section 14 of the Law shall be in the form in the Schedule hereto, or to a like effect, and the conditions, if any, prescribed by the district officer or native authority shall be endorsed thereon.
[Schedule.]
4. The holder of a permit shall comply with every condition endorsed thereon.
5. (1) Any permit may at any time be cancelled by the district officer or the native authority if the holder of the permit commits any breach of the provisions of the Law or of these regulations or of the conditions endorsed on the permit.
(2) A lessee of a mining lease or the holder of a mining right or exclusive prospecting licence or right of occupancy may appeal to the Governor against the cancellation of a permit issued to himself within fourteen days of such cancellation.

[29 of 1941, 19 of 1951.]

6. Every permit shall be surrendered to the district officer or to the native authority when the holder of the permit ceases working within the restricted area.
7. Every employer of labour within a restricted area—
- (a) shall conform to all lawful directions given by the district officer or examining officer;
 - (b) shall employ a registered medical practitioner or make such other arrangements with a registered medical practitioner for the examination and medical treatment of his employees as the district officer shall prescribe;
 - (c) shall take all reasonable steps to ensure that his employees are medically treated and examined as required by the district officer or an examining officer;
 - (d) shall not employ within the restricted area any employee who does not hold a permit issued under section 14 of the Law;
 - (e) shall not discharge or transfer any employee from the restricted area without the permission of the district officer unless such employee has been within the said area for a period of not less than six weeks;
 - (f) shall keep a register in which he shall record the names of each of his employees and the dates of his engagement and discharge, and such other records as may be required by the district officer or the examining officer; and
 - (g) shall report in writing to the district officer any employee who commits a breach of the provisions of the Law or of these regulations or of the conditions of his permit.
8. Any person who commits a breach of any of the provisions of these regulations shall be guilty of an offence and shall be liable in respect of each offence to a fine of one thousand naira or to imprisonment for six months or to both.

SCHEDULE

THE SLEEPING SICKNESS LAW

Permit to Enter a Restricted Area

..... is hereby authorised under section 14 of the Sleeping Sickness Law to enter and work in the area declared to be a restricted area by the Sleeping Sickness (Declaration of Restricted Areas) Order in Council on the following conditions—

.....
.....
.....

.....

District Officer/Native Authority

Date