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SHARIA COURT OF APPEAL LAW

A Law to establish a Sharia Court for the hearing of appeals from area courts in cases governed by Islamic personal law, and for matters ancillary thereto.

[NN 1963, Cap. 122, NN 17 of 1965, NN 1 of 1967, KWS 2 of 1968, KWS 3 of 1970, KWS 6 of 1976, KWS 10 of 1991, KWS LN 1 of 1982, No. 4 of 2006.]

[Date of commencement: 30th September,

1960]

Preliminary

1. Short title

This Law may be cited as the Sharia Court of Appeal Law.

[KWS LN 1 of 1982.]

2. Interpretation

‘In this Law—

"area court" means a court established or deemed to have been established under any Area Courts Law;

[Cap. A9.]

"cause" includes any action, suit or other original proceeding between a plaintiff and a defendant;

"Chief Registrar" means the Chief Registrar of the Court;

"the Court" means the Sharia Court of Appeal;

"decision" includes judgment, decree and order;

"Deputy Chief Registrar" means a Deputy Chief Registrar of the Court;

"inspector" means an inspector of area courts appointed under any Area Courts Law;

[Cap. A9.]

"Islamic personal Law" means Islamic law of the Maliki school governing the matters set out in paragraphs (a), (b), (c) and (d) of section 11;

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

"Kadi" includes the Grand Khadi and any Khadi of the Court;

[KWS LN 1 of 1982.]

"matter" includes any proceeding of a court not in a cause;

"State" means the Kwara State of Nigeria;

[No. 4 of 2006.]

"upper area court" means an upper area court established or deemed to have been established under any Area Courts Law.

[Cap. A9.]

Constitution of the Sharia Court of Appeal

3. Establishment of Sharia Court of Appeal

(1) There shall be a court for the hearing of appeals from area courts in respect of cases involving questions regarding Islamic personal law.

(2) The name of such court shall be the Sharia Court of Appeal which shall be a superior court of record.

(3) The Court shall have jurisdiction to punish a person summarily for the offence commonly known as contempt of court; but a person cannot be so punished and also punished under the provisions of the Penal Code Law for the same act or omission.

[Cap. P4.]

4. Constitution of the Court

(1) The Court shall consist of a Grand Khadi, and not less than three other Khadis learned in Islamic law.

[No. 4 of 2006.]

(2)

[No. 4 of 2006.]

(3) The Court shall be duly constituted for the hearing of appeals under this Law if it consists of at least three Khadis of the Court.

[KWS LN 1 of 1982, No. 4 of 2006.]

5. Qualifications of Kadis

The qualifications for appointment to the office of Khadi of the Sharia Court of Appeal shall be those prescribed by the Constitution.

[KWS LN 1 of 1982.]

6. Tenure of office of Kadi

(1) A Khadi may retire when he attains the age of sixty years and he shall cease to hold office when he attains the age of sixty-five years.

[KWSLN 1 of 1982, No. 4 of 2006.]

(2) A Khadi may at any time resign his office by notice in writing addressed to the Governor.

7. Precedence of Kadis

(1) The Grand Khadi shall preside at the sittings of the Court and in his absence the most senior Khadi present shall preside.

(2) The Khadis shall take precedence after the Grand Khadi in order according to

the date of their respective appointments and, in the case of two or more appointments having been made on the same day, in such order as the Grand Khadi may by notice in the Gazette direct.

[KWS 3 of 1970, No. 4 of 2006.]

8. Protection of Kadis

No Khadi shall be liable to be sued in any court for any act done or ordered by him in the exercise of the jurisdiction conferred by this Law, whether or not within the limits of his jurisdiction, provided that he, at the time of such act or order, in good faith believed himself to have jurisdiction to do or to order to be done the act in question.

9. Seal of the Court

(1) The Court shall have and use, as occasion may require, a seal bearing the inscription in the English, Hausa, Yoruba or Arabic languages: "The Sharia Court of Appeal".

[No. 4 of 2006.]

(2) The seal of the Court shall be kept by the Chief Registrar and a duplicate thereof shall be kept by the Deputy Chief Registrar.

[No. 4 of 2006.]

Jurisdiction and Law

10. Jurisdiction of the Court

(1) Subject as otherwise provided in this Law the Court shall have jurisdiction to hear and determine appeals in respect of matters in cases of Islamic personal law from any decision of any Area Court.

[KWS LN 1 of 1982, No. 4 of 2006.]

(2) For all the purposes of and incidental to the hearing and determination of any appeal, and the amendment, execution and enforcement of any appeal, and the amendment, execution and enforcement of any judgment, order or decision made therein, the Court shall have all the powers, authority and jurisdiction of every area court of which the judgment, order or decision is the subject of an appeal to the Court, and, without prejudice to the generality of the foregoing, shall have all the powers conferred upon area courts exercising appellate jurisdiction under any Area Courts Law.

[NN 1 of 1967.]

(3) Except as provided in subsection (2), the Court shall have no original jurisdiction in any cause or matter.

(4) The Court shall have jurisdiction to review cases reported to it in accordance with Area Courts Law.

[Cap. A9.] [No. 4 of 2006.]

11. Subjects of jurisdiction

The Court shall be competent to decide—

- (a) any question of Islamic law regarding a marriage concluded in accordance with that law, including a question relating to the dissolution of such a marriage or a question that depends on such a marriage relating to family relationship or the guardianship of an infant;
- (b) where all the parties to the proceedings are Muslims, any question of Islamic law regarding a marriage, including the dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;
- (c) any question of Islamic law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a Muslim;
- (d) any question of Islamic law regarding an infant, prodigal or person of unsound mind who is a Muslim or the maintenance or guardianship of a Muslim who is physically or mentally infirm; or
- (e) where all the parties to the proceedings (whether or not they are Muslims) have by writing under their hand requested the court that hears the case in the first instance to determine that case in accordance with Islamic law, any other question.

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[No. 4 of 2006.]

13. **Law, practice and procedure to be applied**

The Court, in the exercise of the jurisdiction vested in it by this Law as regards both substantive law and practice and procedure, shall administer, observe and enforce the observance of, the principles and provisions of—

[NN 1 of 1967.]

- (a) Islamic law of the Maliki school;
- (b) this Law;
- (c) the Area Courts Law and any other law affecting area courts in so far as it appertains to a cause or matter within section 11 of this Law; and

[Cap. A9.]

- (d) natural justice, equity and good conscience according to Islamic law.

[No. 4 of 2006.]

Transfer to and from High Court

14. **Transfer to High Court**

(1) On or at any time before the hearing of any appeal from any area court the Court, if it is of opinion that the appeal should properly have been brought before the High Court, may, at any time or at any stage of the proceedings before final judgment, and either with or without application from any of the parties thereto, and with the consent in writing of the Chief Judge, transfer such appeal to the High Court.

[Cap. H2.]

(2) The power of transfer under this section shall be exercised by means of an order under the hand of the Grand Khadi and the seal of the Court.

[No. 4 of 2006.]

15. Transfer from High Court

Notwithstanding anything contained in any rules made under section 24 to the contrary, no appeal transferred to the Court by the High Court in accordance with section 78 of the High Court Law shall be questioned on the ground that it has not been entered within the time prescribed for entering appeals to the Court.

[Cap. H2.]

Sessions of the Court

16. Section of the Court

The Court shall hold Sessions from time to time and at such places as provided by order made under section 18.

17. Regulation of Sessions by direction

The Grand Khadi may by directions provide, in such manner and subject to such conditions as he may think fit, for all or any of the following matters—

[KWS 2 of 1968.]

- (a) the appointment of times and places at which sessions of the Court are to be held and the alterations of such time and places in such manner in any direction made under this section; and
- (b) any matters which appear necessary to the Grand Khadi for carrying into effect any direction made under this section.

18. Power to dispense with holding sessions

If at any time it appears to the Grand Khadi that there is no business or no substantial business to be transacted at a session then about to be held at any place, he may, notwithstanding directions made under section 17, direct that the sessions shall not on that particular occasion be held at that place, and thereupon such sessions shall not be held.

[KWS 2 of 1968.]

Representation of Parties

19. Appearance and representation of parties

(1) In any proceedings before it the Court may permit the appearance on behalf of any party to such proceedings of—

- (a) the husband, wife, guardian, servant, master or any inmate of the household of any party, who shall give satisfactory proof that he or she has authority in

that behalf; or

- (b) a relative of any person who is interested in the administration of the estate of a person who was subject to the jurisdiction of an Area Court.

(2) Subject to the provisions of subsection (1) in any suit pending before the Court a local government may be represented at any stage of the proceedings by any officer of the local government who shall satisfy the Court that he is duly authorised in that behalf.

- (3) An inspector shall have the right to be heard in the Court.

[NN 17 of 1965, No. 4 of 2006.]

Officers of the Court

20. Registrar and other officers of the Court

There shall be a Chief Registrar, Deputy Chief Registrar and such other officers as may be deemed necessary who shall perform such duties in execution of the powers and authorities of the Court as may from time to time be assigned by rules of court or, subject thereto, by any special order of the Grand Khadi.

[NN 1 of 1967.]

21. Negligence or misconduct of officers

If any officer of the Court, employed to execute an order, wilfully or by neglect or omission loses the opportunity of executing it, then on complaint of the person aggrieved, and proof of the fact alleged, the Court may, if it thinks fit, order the officer to pay the damages sustained by the person complaining, or part thereof, and the order shall be enforced as an order directing payment of money.

22. Protection of persons executing warrants, etc.

No officer of the Court or other person bound to execute any warrant or order issued by the Court shall be liable in any action for damages in respect of the execution of such warrant or order unless it be proved that he executed the same in an unlawful manner.

23. Restriction on officers of Court buying property sold in execution

(1) No officer of the Court shall or may directly or indirectly or by the intervention of an agent or otherwise purchase any property sold in execution, and in the event of any such person purchasing or being interested in the purchase of any property sold in execution such purchase shall be entirely void.

(2) Notwithstanding the provisions of subsection (1), nothing herein contained shall prevent any such person from purchasing by leave of the court any property sold in execution which it may be necessary for him to purchase in order to protect the interests of himself, his wife or child.

Rules of Court

24. Power to make rules of court

The Grand Khadi with the approval of the Governor may make rules of court providing for any or all of the following matters—

- (a) prescribing and providing for—
 - (i) the fees which may be charged in the Court;
 - (ii) the reduction of such fees in any particular case or class of cases and the manner in which and the persons by whom such reduction may be made;
 - (iii) the remission in whole or in part of any fee or reduced fee and the manner in which and the persons by whom such reduction may be made.
- (b) subject to the provisions of section 13, the practice and procedure of the Court;
- (c) the carrying into execution of the decrees or orders of the Court;
- (d) the execution of the warrants and the service of the process of the Court;
- (e) regulating the payment of allowances and travelling expenses of witnesses;
- (f) regulating any matters relating to the costs of proceedings in the Court;
- (g) defining, so far as conveniently may be defined by general rules, the duties of the several officers of the Court;
- (h) securing the due administration of estates;
- (i) requiring and regulating the tiling of accounts of the administration of estates;
- (j) ascertaining the values of estates;
- (k) regulating and prescribing the procedure on appeals from any Area Court to the Court;
- (l) regulating the sittings of the Court subject to the provisions of sections 16, 17 and 18;
- (m) prescribing what part of the business which may be transacted and of the jurisdiction which may be exercised by Khadis of the Court may be transacted or exercised by the Chief Registrar or other officers of the Court, and providing that any interlocutory application to be made in connection with or for the purpose of any appeal or proposed appeal to be heard by the Court;
- (n) prescribing forms to be used for the process and procedure of the Court; and
- (o) generally for carrying into effect the provisions of this Law.

[No. 4 of 2006.]

CHAPTER S4

SHARIA COURT OF APPEAL SUBSIDIARY LEGISLATION

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THE SHARIA COURT OF APPEAL RULES

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THE SHARIA COURT OF APPEAL RULES

[Section 25.]

[NR LN 136 of 1960.]

[Date of commencement: 10th November;

1960]

ORDER I

Title and Interpretation

1. Short title

These rules may be cited as the Sharia Court of Appeal Rules.

2. Interpretation

In these rules—

"the Court" means the Sharia Court of Appeal;

"the court below" means the court from which the appeal is brought and where the appeal is from a native court of Grade B, C or D also includes the Provincial Court to which appeal lies from such grades of court.

ORDER II

Sessions

1. Publication of notice of session and cause list in Kwara State Gazette

(1) Notice of the date, time and place of the commencement of a session of the Court together with a cause list of the cases to be heard at such session shall be published by the Registrar of the Court in the Kwara State Gazette not less than three weeks before the date appointed for the session.

[Form 2.)

(2) In case of urgency where the giving of three weeks' notice is not practicable the Registrar with the approval of the Grand Kadi may publish a notice and cause list in the Kwara State Gazette not less than one week before the date appointed for the session.

(3) The Court may, with the consent of both parties signified in writing, hear all appeal and deal with any other matter whether or not the same has been included in any published cause list.

ORDER III

Procedure on Appeals

1. Entry of appeal

(1) When an appeal is brought against an order or decision of the court below such appeal shall be entered in the registry of the Court nearest to the court below.

(2) When an appeal is entered in accordance with paragraph (1) the Registrar of the Court shall send notice of the appeal to the court below forthwith.

(3) Within one month of the date of receiving the notice of appeal referred to in paragraph (2) the court below shall forward to the Court a certified copy of the record of the case.

2. Time for entering appeal

An appeal shall be entered within thirty days from the date of the order or decision appealed against.

3. Mode of appeal

Every appeal shall be entered either—

- (a) in the form of a petition in writing presented by the appellant or some person duly authorised to do so on his behalf; or
- (b) with the permission of the court, by the appellant dictating his prayer to the Registrar or other officer of the Court; or
- (c) by the appellant stating orally his prayer to the Court,

and the appellant shall, unless the Court otherwise directs, attach to the petition or produce to the Registrar or the Court, as the case may be, a copy of the order or decision appealed against.

4. Address for notice

Every appellant shall when entering his petition give to the Registrar a postal address to which notices may be sent to him, or if unable to do so, he shall from time to time call at, or send his agent to, the Court to collect any notices awaiting him, and any notice or other communication addressed accordingly or left at the Court, as the case may be, shall be presumed to have reached the appellant unless the contrary be shown.

5. Security for costs, etc.

The Court or a single judge thereof may order the appellant to find within one month security for any costs which may be given against him and for the making of copies of the petition and record of the case for the respondents, or for any of such purposes.

[Form 3.]

6. Notice of appeal and hearing, etc.

When an appeal has been duly entered and, where an order has been made under rule 5, on compliance by the appellant with such order, the Registrar shall—

- (a) cause the necessary copies of the record of the case from the court below to be made;
- (b) cause notice of the appeal and of the time and date fixed for the hearing thereof to be given to the appellant and to the respondent, and to all other persons, if any, who may be entitled to appear and oppose the appeal;
- (c) transmit a copy of the record to all parties who shall apply for one;
- (d) cause the appeal to be set down for hearing; and
- (e) if the appellant is in custody require the officer in charge of the prison in which the appellant is in custody to produce him before the Court on the day fixed for the hearing.

[Form 5.]

7. Hearing of appeal

(1) At the hearing of the appeal the Court shall peruse the record of the case made in the court below.

(2) The Court shall not normally re-hear or re-try the case but if it shall be necessary for the purpose of elucidating or amplifying the record of the court below and arriving at the true facts of the case the Court may re-hear or re-try the case in whole or in part and may—

- (a) allow, or require, witnesses to be called, whether or not they gave evidence before the court below;
- (b) order any reference to be made;
- (c) call for any document or other exhibit;
- (d) inspect any object or place;
- (e) call for and examine all original records of the court below;
- (f) adjourn the hearing from time to time and place to place;
- (g) do or order to be done anything which the court below has power to do or order; and
- (h) generally exercise any of the powers conferred upon it by section 10 of the

Law.

(3) The parties or their representatives may address the Court in support of their respective cases and in the course of any such address may read the whole or any part of

the record of the court below and may comment thereon.

(4) The party who begins shall have a right to reply to the speech of the party or parties opposing him.

(5) Subject to the provisions of this Order the procedure at the hearing shall be conducted in accordance with Moslem Law.

8. Stay of execution

At any time after an appeal has been entered until the determination thereof by the Court, the Court—

- (a) may, on the application of the appellant or of its own motion, order that the execution of the order or decision appealed from be suspended either with or without security for the eventual performance thereof should the appeal fail; and

[Form 6.]

- (b) shall send notice of all such orders to the court below or to the person or authority empowered to put into execution that court's order or decision.

[Form 7.]

9. Payment of fees condition precedent to entry of appeal and step in appeal

(1) No appeal shall be entered except upon payment of the prescribed fee, and after such payment no step shall be taken in an appeal until the fee, if any, prescribed for such step has been paid by the appellant.

(2) If any fee remains unpaid for thirty days after it becomes due, the appeal shall lapse, unless the Court shall see fit to extend the time on sufficient cause being shown.

(3) An application for such an extension of time may be made either before or after the appeal has lapsed.

10. Form of notice, etc.

Any notice, order or communication which a court is required or empowered by these rules to give to any other court or person, shall be in the appropriate forms set out in the First Schedule to these Rules.

[First Schedule.]

ORDER IV

Appeals out of Time

1. No appeal out of time without enlargement by Court

No appeal shall be brought after the expiration of the time limited therefor unless the Court shall enlarge the time.

2. Date from which period reckoned

(1) The prescribed period for appeal shall be calculated from the date of the decision appealed against.

(2) Where it is sought to bring an appeal from a Provincial Court the decision of that court shall be the decision appealed against within the meaning of this rule.

3. Method of application for enlargement

(1) Every application for enlargement of time shall be supported by—

- (a) an affidavit or affirmation or declaration having in law the effect of an oath setting forth good and substantial reasons for the application; and
- (b) grounds of appeal which prima facie shall give cause for leave to be granted.

(2) Any application for enlargement of time may be made to the Court and, when time is enlarged, a copy of the order granting such enlargement shall be annexed to the notice of appeal.

4. Power of Court to proceed at once to hearing of appeal

Immediately after the hearing of a successful application for leave to appeal out of time the Court may, if it shall think fit and if the parties are ready, proceed at once to the hearing of the appeal.

ORDER V

Execution and Enforcement of Judgments

1. Enforcement of judgment by Court and by court below

The Court may direct that any judgment or order given by it shall be enforced by the Court, but shall normally direct that any judgment or order of the Court shall be enforced by the court below.

2. Procedure on enforcement by court below

When the Court directs any judgment to be enforced by the court below a certificate under the seal of the Court setting forth the judgment shall be sent by the Registrar to the court below and the latter shall enforce such judgment in terms of the certificate.

[Form 8.]

ORDER VI

Power of the Court to Exclude Members of the Public

1. Exclusion of public from Court where administration of justice otherwise impracticable

At the hearing of any appeal the Court may, where it appears that the administration of justice would be rendered impracticable by the presence of the public at any stage of the proceedings, order that no member of the public shall have access to or be or remain in the Court without the express permission of the Court.

2. Power of arrest and ejection

Where an order has been made in accordance with rule 1 the Court may order any person failing to comply with such order to be arrested and ejected from the Court.

ORDER VII

Effect of Non-Appearence of Parties

1. **Effect of non-appearance of parties**

(1) If the appellant or his representative does not appear on the day fixed for the hearing the appeal shall be struck out on the application of the respondent.

(2) If both parties or their representatives fail to appear on the day fixed for the hearing the Court may, of its own motion, strike out the case.

(3) If the respondent or his representative applies for an adjournment or does not apply for the appeal to be struck out the Court may grant an adjournment and if it does so shall give notice to the appellant of the date fixed for the resumption of hearing.

(4) If the appellant or his representative fails to appear for the second time, and it is proved to the Court that the summons was duly served in time, the Court shall strike out the case.

(5) If the appeal be struck out—

(a) upon the application of the respondent or his representative; or

(b) for the non-appearance of both parties or their representatives,

and if within a period not exceeding fifteen days from the date of the striking out of the appeal the appellant or his representative shows reasonable grounds for his non-appearance, the Court may summon the respondent and proceed to hear the appeal.

2. **Hearing of appeal in absence of respondent**

(1) If the respondent or his representative fails to appear on the day fixed for the hearing of the appeal and does not show reasonable grounds for his failure to appear and does not show reasonable grounds for his failure to appear the Court may, after satisfying itself that the summons has been duly served on him, hear the appeal and give judgment in his absence.

(2) If the Court is not satisfied that the summons has been duly served on the respondent or if the respondent or his representative satisfies the Court that there were reasonable grounds for his failure to appear, the Court shall fix another day and shall issue a fresh summons.

3. **Absence of respondent in maintenance and divorce cases**

If the respondent and his representative in a question of maintenance or divorce is absent and their whereabouts are unknown or they are in a place where a summons cannot be served on either of them the Court, after satisfying itself as to the above facts, shall hear the suit and give judgment accordingly.

ORDER VIII

Witnesses

1. **Parties must supply names of witnesses**

(1) Before any witnesses are summoned, the parties must inform the Court of the names of the witnesses whom they intend to call and the President of the Court shall enter the same in the record.

(2) No witness other than those whose names have been supplied in accordance with paragraph (1) shall be heard, unless the party gives a satisfactory reason for having omitted to name such witness in the first instance.

(3) Persons required to attend or be examined as witnesses may, where the Court so orders, be allowed expenses and compensation for loss of time at the appropriate rates set out in Part I of the Second Schedule.

[Second Schedule, Part I.]

2. Court to question witnesses

(1) When the witnesses appear before the Court the Court shall question each one as to his name, profession or occupation and residence and as to his connection with the parties, if any by relationship, by employment or otherwise.

(2) After a witness has given his evidence, the Court shall question him particularly as to the time, place and manner of his acquiring the knowledge given in his evidence, and may put such officer questions to him as shall test the truth of his evidence and determine how far it may be relied on.

3. Questions to witness by party

The party against whom any evidence is given may, through the Court, put any question to the witness which he deems necessary but if the Court considers any of the questions irrelevant it shall refuse to put such question, and the question and the Court's refusal shall be entered in the record.

4. Recording of questions

The Court shall record all questions put to a witness either by the Court or by the party against whom the witness was called and the answers of the witness.

ORDER IX

Orders

1. Order in discretion of Court

The Court may in its discretion make any order within its powers and jurisdiction which it considers necessary for doing justice whether such order has been asked for by any party or not.

2. Delivery of order

The order of the Court shall be delivered in open court.

3. Compliance with order and payment by instalments

The Court when making an order may fix a time for compliance therewith and in particular may direct that any sum of money ordered to be paid may be paid by instalments.

4. Notice of order

(1) When a party affected by an order of the Court has appeared in the proceedings either personally or by his representative, it shall not be necessary to bring the terms of the order to his notice before proceeding to execution.

(2) When a party affected by an order of the Court has not appeared either personally or by his representative in the proceedings, the terms of such order shall be brought to his notice by the service upon him of a formal written order.

ORDER X

Costs

1. Fixing of costs by Court

Where the costs of an appeal are allowed to any party they shall be fixed by the Court at the time when judgment is given or at such other time as the Court shall direct.

ORDER XI

Messengers and Interpreters

1. Messenger's uniform and insignia

(1) Each messenger of the Court shall be provided with an appropriate uniform which shall include an appropriate insignia or badge.

(2) The wearing of such uniform and insignia or badge shall be sufficient indication to all persons that such person is a messenger of the Court.

2. Appointment of interpreter

The Court may from time to time appoint as an interpreter to the Court any person who has satisfied the Court that he is competent to carry out the duties of an interpreter under these rules.

ORDER XII

Forms

1. Forms to be as in First Schedule or to like effect

(1) Forms for use in the Court shall be those set out in the First Schedule.

(2) Forms to the like effect may be used in all proceedings to which they are applicable with such variations as circumstances may require and as may be permitted by the Grand Kadi.

2. Record of process

(1) A record of all process issued shall be kept by the Registrar.

(2) Such record shall include a duplicate of each document issued as process and such duplicate shall accurately record all the details inserted in the form used for such document before issue of the same.

ORDER XIII

Fees

1. Scale of fees

Fees shall be charged according to the scale set out in Part II of the Second Schedule.

[Second Schedule, Part II.]

2. List of fees to be exhibited

A list of the authorised fees shall be conspicuously exhibited in the most public and accessible part of every place in which the Court shall sit and also in the offices of the Court.

3. Payment of fees

(1) Fees may be paid either—

- (a) to the officer of the Court appointed to receive them; or
- (b) to a sub-treasury or local treasury.

(2) In case of payment under subparagraph (b) of paragraph (1) the treasury receipt given to the payer shall be transmitted to the Court and retained by it.

4. Reduction and remission of fees

(1) The Court or a single judge thereof may order that fees shall be reduced or wholly or in part remitted when owing to the poverty of a party or any other reasonable cause it appears desirable that such reduction or remission should be made.

(2) Any person who seeks a reduction or remission of fees shall address an application for reduction or remission to the Registrar who shall place it before the Court or a single judge thereof who may call upon the applicant to give, and to produce witnesses to give evidence on oath in support of his application and any such proceedings and the decision of the Court or the single judge thereof shall be written in the records of the Court.

(3) Notwithstanding the provisions of paragraph (2), the Court may of its own motion give directions in any class of cases as to the reduction of fees and the remission in whole or in part of any fee or reduced fee.

5. No fees payable by native authorities

Whenever the party by whom fees would be payable under this order is a native authority or an officer or servant of a native authority acting in his official capacity, fees shall not be charged, but in an appeal fees which would be payable but for this rule may be included in any costs allowed to such native authority or officer or servant and shall, in such event, be paid to the Court by the party ordered to pay such fees.

6. Time of payment of fees

The fees chargeable upon the issue of any process or order or upon the doing of any payment shall be paid into the Court funds before the process or order is issued and before the act is done, except in so far as the Court may, either generally or in any particular cause or matter, otherwise direct.

ORDER XIV

Records

1. Records of proceedings

(1) All proceedings of the Court shall be recorded in books to be kept for that purpose.

(2) The Registrar shall be responsible for carrying out the provisions of paragraph (1) and shall authenticate all records by signing the same.

2. Copies of records

(1) A copy of any appeal proceeding shall upon application and payment of the prescribed fee be supplied by the Court—

(a) to any party to the appeal; and

(b) with the consent of the Court, to any other person.

(2) Any copy supplied shall be certified as being a true copy by the signature of the Registrar or an officer of the Court duly appointed by him for this purpose.

3. Preservation of records

The records of the Court shall be preserved by the Registrar.

4. Inspection of records

A person who is not a party to an appeal before the Court shall have no right to inspect the records relating to such appeal but such person may apply to the Registrar for permission to inspect a particular document or documents in any proceedings or to obtain a copy of any such document and shall at the same time state his reasons for his application. The Registrar may refuse his application or may grant it subject or not to the payment of the prescribed fee.

5. Fees for inspection

The fees to be paid in respect of inspections and of copies of the records of proceedings shall not exceed the prescribed fees.

6. Supervision

All inspections, whether by a party to proceedings or not, must be made under the personal supervision of the Registrar or an officer of the Court duly appointed by him for the purpose who shall ensure that no mark, erasure or alteration is made on the records.

FIRST SCHEDULE

[Order XII.]

FORM 1

Fom na 1

GENERAL TITLE

Kan Magana (A)

In the Sharia Court of Appeal

A Kotun Daukaka Kara ta Shari 'a

Appeal No.

.....
Lamba Apil

.....
Appellant

Maidaukaka

Kara

and

da

.....
Respondent

Abokin

Shari'a

In the matter of an appeal from the order or decision of the Native Court

A kan maganar daukaka kara kan hukuman da Kotun Kasa

Of /the Provincial Court of

*

/Kotun Lardi ta yi

By

Appellant

Ya yi, maidaukaka

kara

* Delete whichever is not necessary.

A soke wanda ba 'a bukata.

FORM 2

Fom na 2
[Order II, Rule 1.]
Kwara State Notice No.
NOTICE OF SESSIONS
Sanarwar Zaman Kolu
THE SHARIA COURT OF APPEAL LAW
[Cap. S4.]
Dokar Kotun Daukaka Kara ta Shari'a

FORM 2—*continued*
The Sharia Court of Appeal Rules
Ka 'idodin Kotun Daukaka Kara

It is hereby notified that a Session of the Sharia Court of Appeal will be held at

.....

Ana sanarwar cewar Kotun Daukaka Kara ta Shari'a zata zauna a

..... on the day of

.....

ran

ga

watan

20, at o'clock in thisnoon, to hear
the

da karfe

da safe/yamma, don

taji

following appeals—

wadannan daukaka kararraki

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

FORM 3
Fom na 3
[Order III, Rule 5.]
Order for Security of Costs
Odar ba da jingina don biyan Kurdin da aka kashe
(General Title as in Form 1)
Kan Magana (A) Kamar yadda ya ke a Fom na I

IT IS ORDERED that the Appellant do within one month of the date hereof furnish security
in the *An bada Odar cewa Maidaukaka karan nan, daga nan zuwa wata daya daga wannan*

rana ta you, sum of

.....for any

ya ba da jingina ta kudi

don kowane

costs which may be given against him [for the making of copies of the petition and record

for the *kudin da za 'a kashe game da shari'a da za 'adora masa (don yin kofen karar da yin kofen Shari'ar*respondent]*

Kotun da ya daukaka kara daga gareshi don abokin Shari'a).

* Delete where necessary.

A soke inda aka ga ya wajaba.

.....

President.

Shugaba.

FORM 4

Fom na 4

[Order III, Rule 6.]

Notice of Appeal and Hearing

Sanarwar daukaka kara dafara Shari'a

(General Title as in Form 1)

(Kan Magana Kamar cikin Fom na I)

TAKE NOTICE that this appeal has been duly entered and will be heard by the Court at

.....

Lura fa an shidida wannan daukaka kara, za 'a ko fara jinta a kotun a

..... on the day of

.....

ran

watan

20, at o'clock in the
noon.

da karfe

na safe/na

yamma.

Dated atthis day of,20

.....

An yi

wannan ran ga watan

.....

Registrar
Mai Rajista

FORM 5

Fom na 5

[Order III, Rule 6.]

Order to Produce Appellant

Odar kawo mai dukaka kara

(General Title as in Form 1)

(Kan magana kamar cikin Fom na 1)

To the keeper of the Prison at

.....
Zuwa ga mai tsaron kurkuku a

WHEREAS a prisoner in
custody is

Tunda *fursunan da ke kurkuku*
ana

required to be produced before the Court—

so a kawo shi a Kotu

You are hereby required to produce the said prisoner before the Court at

.....

Ana bukatar ka kawo da aka fadi gaban Kotu a

..... on the day of, 20

.....,

ran

ga watan

FORM 5—*continued*

Ato'clock in the

noon.

da karfe na safe/na yamma

ISSUED at on the day of20

An ba da Oda a ran ga watan.

.....

Registrar.

Mai Rajista.

FORM 6

Fom na 6

[Order III Rule 8.]

Order for Stay of Execution

Odar dakatadda gudanadda hukunci

(General Title as in Form 1)

(Kan magana Kamar cikin Fom na I)

IT IS ORDERED that execution of the order/decision* of the
(Native Court of against the Appellant
(Kotun kasa ta

Provincial Court of * *game da mai daukaka kara*
(Kotun Lardi ta

be and is hereby suspended until the determination of this appeal.
an dakatadda shi sai an ga yadda daukaka karan ta kare.

AND THAT the appellant do furnish security in the sum of

.....

Kuma cewa mai daukaka kara ya ba da jinginar kudi

for the performance, should the appeal fail, of the said order/decision.*
sabo da aikatadda odan nan.

.....

President

Shugaba

* Delete whichever is not necessary

A soke wanda ba'a bukale

FORM 7

Fom na 7

[Order III, Rule 8.]

Notice of Stay of Execution

Sanarwar dakatadda gudanadda hukunci

(General Title as in Form 1)

(Kan magana kamar yadda ya ke a Fom na 1)

To [The Court below or person or authority empowered to effect stay J.

Zuwa ga (Kotun farko ko mutuminko Hukumar da aka ba ikon dakatar da gudanarwar nan). TAKE NOTICE that the execution of the order/decision of the

A lura cewa gudanar da odan nan/hukuncin nan na

(Native Court of

(Kotun kasa na

has , by an Order

(Provincial Court of*

a bisa Order Kotun

(Kotun Lardi na

of the Sharia Court of Appeal made on the day of

.....

Daukaka karata sharia da aka yi a ran

ga watan an dakat ada

20....., been suspended until the determination of this appeal, and that the Appellant has been

shi sai an ga yadda daukaka karan mm ta kare, sa 'an nan kutna mai daukaka karan an umurce shi ordered to furnish security in the sum of

.....

ya ba Jinginar Kudi

sabo da

for the performance, should his appeal fail, of the order/decision* thus suspended.

Aikatadda Odan nan/hukuncin nan in daukaka karan sa ba ta ci nasara ba.

Dated at..... thisday of, 20

.....

An yi wan an a

ran

ga watan

BY ORDER

Bisa Oda

* Delete whichever is not necessary.

A soke wanda ba 'a bukata.

.....

Registrar.

Mai Rajista.

FORM 8

Fom na 8

[Order V, Rule 2.]

Certificate of Judgement to be Enforced by Court Below

Satifiket ta zartadda hukumcin da karaman Kotu za ta yi

(General Title as in Form 1)

(Kan Magana kamar yadda ya ke a Fom na 1)

I, HEREBY CERTIFY
that

Ni, *na shaidar a nan cewa*
this appeal was heard before the Sharia Court of Appeal sitting at

.....
an ji daukaka karan nan a gaban Kotun Daukaka Kara ta Shari's da ta
on the day of20

.....
zauna a ran *ga watan*

AND THAT the Court ordered as follows—

Kuma Cewa Kotu ta ba da wannan Oda—

.....
AND THAT the Court directed that the Native Court of

Kuma cewa Kotu ta Umurta cewa Kotun Kasa ta

/the Provincial Court of* should enforce the
judgment

/Kotun Lardi ta *ta zartad da hukumcin*
nan

or order as above set out.

ko odan nan da aka jera a nan bisa.

GIVEN atunder the Seal of the Court this

.....
An bayar a *a bisa Hatimin Kotu da sa hannun wannan rana*
ta

day of20

a watan

* Delete whichever is not necessary.

A soke wanda ba 'a bukata.

.....

Registrar

Mai Rajista

SECOND SCHEDULE

PART I

[Order VIII, Rule 1.]

Allowances to Witnesses

per

N k

Professional, mercantile agents, bank managers, chiefs, surveyors, and any officers of the public service whose salary is not less than N10,000 a year. 10 0

Merchants, mercantile assistants and officers in the public service whose salary is N5000 or more but less than N10,000—

From 10 0

To 10 0

Auctioneers, master tradesmen, pilots, clerks and the like—

From 10 0

To 10 0

Officers or employees in the public service whose salary is less than N5000—

From 10 0

To 10 0

Artisans, journeymen, and the like 10 0

Servants, labourers, canoemen and the like 10 0

Women according to station—

From 10 0

To 10 0

PART II

[Order XIII, Rule 1.]

Fees

- | | | | |
|----|--------------------------|----|---|
| 1. | Entry of appeal— | N | k |
| | (a) if within time | 10 | 0 |

	(b) if out of time	10	0
2.	Giving notice to respondent (plus service and mileage fees)	10	0
3.	Fees for making up the record of appeal—		
	For every 100 words or part thereof	10	0
4.	Fees for every copy of proceedings—		
	For every 100 words or part thereof	10	0
5.	Fees for inspection of court records	10	0