

A BILL TO AMEND THE SHERIFF AND CIVIL PROCESS ACT CAP S6 LAWS OF FEDERATION OF NIGERIA 2004, TO MAKE PROVISION FOR APPOINTMENT AND DUTIES OF SHERIFFS, ENFORCEMENT OF JUDGMENTS, ELECTRONIC SERVICE OF PROCESS AND EXECUTION OF CIVIL PROCESS OF COURTS IN NIGERIA AND FOR RELATED MATTERS, 2024 (SB. 432).

Sponsored by Senator Idiat Oluranti Adebule Ph.D.

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ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

Amendment of the Sherrif and Civil Process Act Cap S6 LFN 2004

Part 1

Short Title

1. This Act may be cited as the Sheriffs and Civil Process (Amendment) Act 2024.

Part II

2. Section 2 of the Principal Act should be deleted, and the provisions merged with section 95 which is the interpretation section for clarity.
3. **Amendment of Section 6 of the Principal Act.**

Section 6 of the Principal Act is amended by inserting ‘Court processes’ and also gender neutral.

Every bailiff and every other person who has authority to intermeddle with the execution of writs or court processes issued by any court of record, shall before **doing so** make a declaration, which shall be exempted from stamp duty, in the form in the first schedule of this Act, or to the like effect, before any judge or magistrate for the division or district in which exercises such authority.

4. **Amendment of Section 7 of the Principal Act**

Section 7 of the principal Act is amended by increasing the fine from Two hundred Naira to Two Hundred Thousand Naira or Imprisonment for one year or both such fine and imprisonment.

The sheriff may command any person to arrest any person who has committed or is suspected of having committed a felony, and any person failing to obey such command shall on conviction be liable to a fine of two hundred thousand (N200,000) naira or imprisonment for one year or to both such fine and such imprisonment.

5. Amendment of Section 10 of the Principal Act.

Section 10 of the Principal Act is amended by inserting court processes, and a new subsection for electronic execution.

- 1) The sheriff at the request of a person delivering a writ or a court process to him or her for execution shall give a receipt for that writ stating the hour and the day of its delivery.
- 2) Writs and court processes can be executed electronically. Where the writ or court order is delivered electronically, the date and time of delivery will suffice and serve as a receipt.

6. Amendment of Section 13

Section 13 should be merged with section 4 which is on appointment of a Deputy Sheriff.

7. Amendment of Section 14

Section 14 of the Principal Act is amended by inserting ‘her’ in the case of female Sheriffs.

A person unlawfully imprisoned by the sheriff, deputy sheriff or any bailiff appointed by the sheriff, 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 or her** without warrant

Protection of Sheriffs

Part III

Interpretation

8. Amendment of Section 19 of the Principal Act.

Section 19 of the Principal Act is amended by merging the section with section of the Act.

“Court” in section 19 should read as follows:

‘Court’ includes the Federal High Court, National Industrial Court, High Court, a magistrate's court, Customary Court, and Sharia Court.

9. Amendment of Section 20(3) of the Principal Act.

Section 20(3) of the Principal Act is amended by inserting ‘or computer.’

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

Seizure of Goods and Securities and Custody Thereof.

10. Amendment of Section 25

Goods which may be seized

Section 25(a) of the Principal Act is amended by increasing the Value of trade implements from N10.00 (Ten Naira) to N1,000,000 (One Million Naira)

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 or chattels of that person, except the wearing apparel and bedding of that person or his or his family and the tools and implements of his trade, to the value of N1,000,000 (One Million Naira) which shall to that extent be protected from seizure;

11. Amendment of Section 28 of the Principal Act

Section 28 of the Principal Act is amended by increasing the fine from One Hundred Naira to One Million Naira.

Any person who rescues or attempts to rescue any goods seized in execution under process of court or in any other way resists or obstructs the execution of any process for the enforcement of a judgment of a court shall be liable, either on an order made in that behalf by the court from which the writ of execution or other process issues, or on summary conviction, to a fine not exceeding One million Naira, and any bailiff of the Court may take into custody with or without warrant, and bring the person before the court.

Sales of Goods Seized

12. Amendment of Section 29 of the Principal Act

Section 29 of the Principal Act is amended to read as follows:

29 (1) No goods seized in execution under process of a court shall be sold for the purpose of satisfying the writ of execution unless the said goods have been valued by a certified valuer and member of the Nigerian Institute of Estate Surveyor and Valuer.

(2) 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 so 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 unable** for 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:

(3) In every case where the property attached is apparently over One Million Naira in value, it shall be set up for sale by the Sheriff in the **court** and judicial division or district in which the attachment is made, and if the place where the attachment is made is not within eight

kilometres of the court from which the writ of execution was issued, the judge or magistrate shall give such directions as he thinks fit:

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

(4) 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.

(5) Notice of the day and hour of sale of any movable property, apparently over Four Million 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 courthouse 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 social media handles and newspaper published in Nigeria.

15. Amendment of Section 30 of the Principal Act

Section 30 (1) of the Principal Act is amended to read as follows:

30 (1) Where any goods are to be sold under execution for a sum exceeding **Four Million 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 in two national dailies and online platforms three days preceding the day of sale.

Lien

17. Amendment of Section 36 of the Principal Act

Section 36 of the Principal Act is amended to read as follows:

Where the property sold consists 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 **the person** from delivering possession of the property to any person except the purchaser thereof.

Committals

18. Amendment of Section 3 (1) of the Principal Act

Section 38 (1) of the Principal Act is amended by changing Prison to Correctional centre

(1) Whenever any order or warrant for the committal of any person to the correctional centre is made or issued by a court, whether in pursuance of this or any other Act or Law or of Rules of Court made under this Act, the order or warrant shall be directed to the sheriff, who 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 correctional center mentioned in the order or warrant.

19. Amendment of Section 41 (b) of the Principal Act

Section 41(b) of the Principal Act is amended to read as follows:

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-

(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 One Hundred and Fifty Thousand Naira only.

20. Amendment of Section 45 of the Principal Act

Section 45 of the Principal Act is amended by removing Citizen of Nigeria and it will read as follows:

Where the judgment debtor has interest or right 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.

21. Section 46 of the Principal Act should be deleted.

22. Amendment of Section 53 of the Principal Act

The title of Section 53 of the Principal Act is amended to read as follows:

When certificate will be withheld on the right of occupancy.

Part IV

23. Amendment of Section 58 of the Principal Act

Section 58 of the Principal Act is amended by changing Prison to correctional center.

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 and if he is in custody, the court may issue an order to the officer in charge of the correctional center in which he is detained to bring him before the court.

24. Amendment of Section 61 of the Principal Act

Section 61 of the Principal Act is amended by inserting ‘ a period not exceeding 90 days’

The court may, if it thinks fit, adjourn the examination to a period not exceeding 90 days. , 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.

Committal to Correctional Centers

25. Amendment of section 65 (1) of the Principal Act.

Section 65(1) of the principal Act is amended by changing prison to correctional center.

Subject to the provisions hereinafter contained, the court at the conclusion of such investigation as aforesaid, but not otherwise, may commit to **correctional service until the judgment sum is liquidated or when the Judgment debtor makes first instalment**, 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 proved, 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.

26. Amendment of Section 69 of the Principal Act

Section 69 of the Principal Act is amended by replacing prison with correctional center and increasing N200 to N2, 000, 000 and Thirty Naira to Five Hundred Naira only.

A person committed on account of any misconduct enumerated in section 66 of this Act may not be committed to a **correctional centre** 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 Million Naira** or for a longer period than three months if the judgment be for payment of money not exceeding **Five Hundred thousand Naira**.

27. Amendment of Section 71 of the Principal Act.

Section 71 of the Principal Act is amended by replacing the Prisons Act with the Correctional Service Act.

The work shall be of such nature as may be specified by regulations made under the Prisons Act amended to The work shall be of such nature as may be specified by regulations made under the **Correctional Services Act** .

28 Amendment of Section 74 of the Principal Act

Section 74 of the Principal Act is amended by increasing N10 to N1, 000, 000

Any person imprisoned under the provisions of section 65 or 66 of this Act 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, **except** the necessary wearing apparel of himself and his family, and the necessary implements of his trade, if any, to the value of **One Million Naira** and of the places respectively where such property is to be found. The application shall be verified by oath or affidavit.

29. Amendment of Section 78 of the Principal Act S

Section 78 of the Principal Act is amended to increase the monthly allowance (formerly forty five kobo) for the subsistence of judgment debtor committed to a correctional center. The section will now read as follows:

Where the judgment debtor is committed to correctional center under this Act, the court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding one thousand per day, which shall, subject to the provisions of section 81 of this Act, be paid by the judgement 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.

30. Amendment of Section 79(2) of the Principal Act

Section 79 (2) of the Principal Act is amended to remove government from the obligation of paying for the treatment of judgment debtor who is sick while in prison. The sub-section will now read as follows:

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

31. Amendment of section 81 of the Principal Act

Section 81 of the Principal Act is amended to exonerate government from spending public resources on the judgement debtor. The section is amended as follows.

81. (1) In every case where a person is committed to a correctional center on account of any misconduct enumerated in section 66 of this Act 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 a correctional center and of his maintenance during his imprisonment shall be defrayed in the first instance by the family of the judgement debtor 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 family of the judgment debtor 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 family of the debtor, 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.

Part V

Attachment of debts by garnishee order

32. Section 84 of the Principal Act is expunged.

33. Amendment of Section 85 of the Principal Act.

Section 85 is amended to make the court specific, the word court is ambiguous, the section will now read as follows:

Service of an order that a debt due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee, in such manner as the trial court may direct, shall bind such debt in his hands.

34. Amendment of Section 86 of the Principal Act.

Section 86 of the Principal Act is amended to ensure there is security for the judgment debt and to provide a new subsection, the section will read as follows:

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:

(1) 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.

(2) The court shall cause the judgement debtor to provide his statement of account from his financial institutions, covering seven day prior judgement, and seven days after such order of execution to garnishee.

(3) The court shall trace, place a lien, and garnishee all accounts where funds are transferred to, from the judgement debtor's account, within the time frame in subsection 2 of this section.

35. Amendment of Section 88 of the Principal Act

Section 88 is amended by adding 'the court if satisfied' and now reads as follows:

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 if satisfied with such claim, may order such third person to appear and state the nature and particulars of his claim upon such debt.

Part VI

Forms and rules

36. Amendment of section 95 of the Principal Act.

Sections 2 and 19 should be merged with Section 95, define court of superior records and should be the interpretation section of the Act.

37. Amendment of Section 96(1) of the Principal Act

Section 96 (1) is amended by including electronic service.

(1) A writ of summons issued out of or requiring the defendant to appear at any court of a State or the Capital Territory may be served on the defendant in any other State or the Capital Territory or through electronic service.

38. Amendment of Section 38 of the Principal Act

Section 97 should include other court of superior record and is amended to read as follows:

Every writ of summons for service under this Part out of the State, the Capital Territory, or other court of superior record in which it was issued shall, in addition to any other endorsement or notice required by the law of such State or the Capital Territory, have endorsed thereon a notice to the following effect (that is to say)-

Enforcement of Judgments

39. Amendment of Section 101 of the Principal Act

Section 101 should have electronic service and is amended to read as follows:

When no appearance is made by a defendant to a writ of summons served on him personally or through electronic means under this Part, if it is made to appear to the court from which the writ was issued-

40. Amendment of Section 103(4) of the Principal Act

Section 103 (4) is amended by substituting Criminal Procedure Act with Administration of Criminal Justice Act 2015 to read as follows:

(4) A warrant of arrest or commitment issued by a court of a State or the Capital Territory in the exercise of its civil jurisdiction may be executed in another State or the Capital Territory in the manner provided in Administration of Criminal Justice Act 2015 in the case of warrants for the apprehension of persons charged with an offence.

41. Amendment of Section 105(1) of the Principal Act

Section 105 (1) is amended to provide for an electronic register of Judgment. The section will now read as follows:

Upon production of such certificate to the registrar or other proper officer of any court of like jurisdiction in any other State or the Capital Territory such officer shall forthwith register the same by entering the particulars thereof in a Personal Computer (PC) designated for such Judgement, kept by such officer and to be called "The Nigerian Electronic Register of Judgment".

SCHEDULES

The following amendments were made to forms 1 to 69.

FORMS 1-23

Form 1- correct the word action.

Form 2- correct the word Principe

Form 4- change from 10 Naira to N1, 000, 000

Form 5- change from 10 Naira to N1, 000, 000

Form 9- correct the word file

Form 10- correct the word file

Form 11 & 12- change of foreign courts, to court outside jurisdiction

Form 12- correct the word out.

Form 14- correct the word court

Form 15- change 'your' to you

Form 18- change stale to state; change 'inserl' to insert; change 'courl' to court, and 10 to 'to'

Forms 13, 15, 17, 18, 21, 22, 23- change from prison to Nigerian Correctional service

FORMS 24-45

Form 24- Correct prison to Correctional Center

Form 25- Change N400 to N400, 000

Form 26- Change Colltinue to Continue

Form 35-Change Generalform to General Form

FORMS 46-69

Form 47- correct the word specified

Forms 48, 49, 50, 51, 52, 53, 54, 55, 58, 59, 61, 62, 64 - change from prison to Correctional service

Form 52 - Change the word 'he' to the defendant

Form 54- Correct the spelling of the word 'officer'

Form 56- Change 'his' to Plaintiff's residence

Form 67 - Change from 10 Naira to N1, 000, 000 naira to reflect the change we made on work implement.

Form 68- Correct the spelling of Auctioning.