

THE LAWS OF
EASTERN NIGERIA

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THE LAWS OF EASTERN NIGERIA

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CONTENTS

Chapters in Volume VII

CHAPTER		PAGE
118.	Sheriffs and Civil Process	2883
119.	Shipping and Navigation (Regional Inland Waters)	3025
120.	Stamp Duties	3045
121.	Stamp Duties (Evidence)	3103
122.	State Lands	3105
123.	Supreme Court (Miscellaneous Provisions) ..	3133
124.	Survey	3135
125.	Torts	3167
126.	Town and Country Planning	3171
127.	University of Nigeria	3223
128.	Unlicensed Guides (Prohibition)	3241
129.	Vaccination	3255
130.	Vegetable Oil Refining (Licensing and Control) ..	3265
131.	Waterworks	3277
132.	Widows' and Orphans' Pensions (Eastern Nigeria)	3311
133.	Wild Animals Preservation	3313
134.	Yellow Fever and Infectious Diseases (Immuniza- tion)	3341

THE LAWS OF
EASTERN NIGERIA

VOLUME VII

CHAPTER 118

SHERIFFS AND CIVIL PROCESS LAW

Arrangement of Sections

PART I.—SHORT TITLE AND INTERPRETATION

Section

1. Short title.
2. Interpretation.

PART II.—SHERIFF

3. Appointment of Sheriff.

DEPUTY SHERIFFS

4. Appointment of deputy sheriffs.

BAILIFFS

5. Appointment of bailiffs.
6. Declaration by bailiffs.

POWERS, DUTIES AND LIABILITIES OF SHERIFF, DEPUTY SHERIFFS,
BAILIFFS AND POLICE OFFICERS

7. Sheriff may command person to arrest felon.
8. Sheriff to make return of writs.
9. Duties at assizes.
10. Duties as to execution of writs.
11. Other duties of sheriff.
12. Duties as to execution of sentence of death.
13. Duties of deputy sheriffs.
14. Liability for wrongful imprisonment.
15. Duty of police officers.

PROTECTION OF SHERIFFS

16. Protection of sheriff selling goods under execution without notice of claim by third party.
17. Protection of sheriffs.

*For the convenience of all whose work requires them to be familiar with the many sections of this Law and its many Forms and the rules made under it, no alteration has been made in this revision of their serial numbering. Sections, Forms and rules all have the same serial numbers, as hitherto.

FEES

Section

18. Fees to form part of general revenue.

PART III.—ENFORCEMENT OF JUDGMENTS AND ORDERS

Execution and Committals

19. Execution of judgments or orders for sum of money.
20. Execution of orders for payment by instalments.
21. Execution to be superseded on payment.
22. Power to suspend execution.
23. Execution of warrants of possession.

SEIZURE OF GOODS AND SECURITIES AND CUSTODY THEREOF

24. Goods which may be seized.
25. Custody of goods seized.
26. Disposal of bills of exchange, etc., seized.
27. Penalty for obstructing execution.

Sale of Goods Seized

28. Period to elapse before sale.
29. Sales under execution to be published unless otherwise ordered.
30. Delivery of movable property in possession of judgment debtor.

CLAIMS IN RESPECT OF PROPERTY SEIZED

31. Priority of writs.
32. Sale of property where claim made thereto.

Interpleader

33. Interpleader by sheriff.

Landlord's claim for Rents

34. Claims for rent where goods seized in execution.

Lien

35. Property subject to lien.

TRANSFER OF PROCEEDINGS FOR EXECUTION

36. Execution out of jurisdiction of court.

COMMITTALS

37. Issue and execution of orders of committal.
38. Execution of committal orders out of jurisdiction of court.

*Sheriffs and Civil Process**Section*

39. Liability of bailiff for neglect to levy an execution.
40. Irregularity in executing warrants.
41. Actions against bailiffs acting under warrants.
42. Process evidence of authority.

EXECUTION AGAINST IMMOVABLE PROPERTY

43. Levy of execution upon immovable property.
44. Levy of execution upon materials used in construction of a building.
45. Mode of levying execution against buildings.
46. Setting aside sale for irregularity.
47. When sale becomes absolute.
48. Return of deposit or purchase money.
49. Certificate of title.
50. Immovable property in possession of judgment debtor.
51. Obstructing purchaser in obtaining possession.
52. Certificate of title to be withheld on sale to an alien or of a right of occupancy.
- (53. *Had no effect within what is now Eastern Nigeria*).

PART IV.—JUDGMENT SUMMONS

54. Application for judgment summons for examination of judgment debtor.
55. Different names.
56. Judgment against firm.
57. Order to bring judgment debtor before court.
58. Enlargement of time and conditional order.
59. Discovery of property.
60. Adjourment of examination.
61. Interim order for protection of property.
62. Orders on close of investigation.
63. Power of court during hearing of a cause.

Committal to Prison

64. Power to commit debtor to prison in certain cases.

Misconduct of Judgment Debtor

65. Non-attendance of judgment debtor.
66. Party in default to be brought before the court.
67. Commitment of party in default.
68. Penalty on misconduct of judgment debtor.
69. Labour may be ordered in certain cases.

Section

- 70. Labour to be specified by regulations.
- 71. Committal for refusal to comply with order.
- 72. Release of judgment debtor upon satisfaction.
- 73. Application for discharge.
- 74. Procedure on application for discharge.
- 75. Imprisonment does not extinguish debt.
- 76. Subsequent imprisonment for misconduct.

Subsistence of Debtor Prisoners

- 77. Subsistence allowance to debtor prisoners.
- 78. Removal of prisoner in case of illness.
- 79. Subsistence money added to judgment.
- 80. Expenses of imprisonment.

SEQUESTRATION

- 81. Sequestration.

PART V.—ATTACHMENT OF DEBTS BY GARNISHEE ORDER

- 82. Debts may be garnisheed.
- 83. Consent of Attorney-General of Federation or of the Region or court necessary if money is held by public officer or the court.
- 84. Order for attachment to bind debt.
- 85. Execution against garnishee.
- 86. Trial of liability of garnishee.
- 87. Lien or claim of third person on debt.
- 88. Order may be made if third person does not appear.
- 89. Procedure upon appearance of claimants.
- 90. Garnishee discharged.
- 91. Private alienation after attachment void.

PART VI.—FORMS, RULES AND REPEAL

Forms

- 92. Use of forms in Schedule.

Rules

- 93. Rules of court.

SCHEDULE

FORMS

Sheriffs and Civil Process

CHAPTER 118

A Law to make Provision for the Enforcement of Judgments and Orders and the Service and Execution of Civil Process of the Courts of Eastern Nigeria.

L. of N. 1948
Cap. 205.
N.L.N.
1 of 1955,
47 of 1955,
107 of 1955.
E. N. 16 of
1962.

[Sections 3, 4 and 12—1st June, 1961]

[Remainder—1st June, 1945]

PART I.—SHORT TITLE AND
INTERPRETATION

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

2. (1) In this Law— Interpreta-
tion.

“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 Eastern Nigeria;

“judge” means the Chief Justice or 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;

“magistrate’s court” means a magistrate’s court established under any Law of the Region;

“order” includes an injunction, an order for the payment of costs by any party, and an order for the payment of a counter-claim by a plaintiff;

*The Law, as the long title indicates provides for the enforcement in Eastern Nigeria of judgments and orders, and the service and execution of civil process, of the High Court and Magistrates’ Courts of Eastern Nigeria.

The effect of the provisions of Part VII of the Sheriffs and Civil Process Act (Fed. Cap. 189) is that service of process and enforcement of judgments of the High Court and Magistrates’ Courts of the Federal Territory or of any other Region shall after the requirements of Part VII of the Act have been met (e.g. endorsement of writ for service outside the Territory or Region, or registration here of their judgments and so on q.v. in the Act), be served and enforced in accordance with the provisions of this Law.

“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 also a writ of execution and warrant and order of arrest, commitment or imprisonment;

“sheriff” includes the Sheriff for Eastern Nigeria and 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 Law shall be construed to authorize the service or execution outside the Region of the process of a court.

PART II.—SHERIFF

Appointment
of Sheriff.
*

3. (1) There shall from time to time be appointed by the Public Service Commission a fit person to be Sheriff.

(2) The person who, on the first day of June, 1961, held office as Chief Registrar of the High Court of Eastern Nigeria, shall be deemed to have been appointed as Sheriff.

Appointment
of Deputy
Sheriff.

4. (1) There may from time to time be appointed by the Public Service Commission, one or more fit persons to be Deputy Sheriffs who shall be subject to the general control of the Sheriff; and the fact that a Deputy Sheriff exercises a power shall be sufficient evidence of his authority so to do, and no person shall be concerned to enquire whether the occasion has arisen requiring or authorizing him so to do.

(2) The persons who, on the 1st day of June, 1961, held the office of Magistrate's Court Registrar shall be deemed to have been appointed as Deputy Sheriffs.

BAILIFFS

Appointment
of bailiffs.

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

*Sections 3 and 4 are sections 2 and 3, respectively, of the Sheriffs and Civil Process Law, 1962 (E.N. 16 of 1962). The Law was enacted in August, 1962, but “shall be deemed to have come into operation on the first day of June, 1961”. See its section 1. The law, as to who was the Sheriff in Eastern Nigeria and who were the Deputy Sheriffs until then, must be deemed to have been repealed by implication.

Sheriffs and Civil Process

6. 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.

Declaration
by bailiffs.

Form 2.

POWERS, DUTIES AND LIABILITIES OF
SHERIFF, DEPUTY SHERIFFS, BAILIFFS
AND POLICE OFFICERS

7. 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 one hundred pounds or to imprisonment for one year or to both such fine and such imprisonment.

Sheriff may
command
person to
arrest felon.

8. The sheriff shall receive writs and process of a court issued in accordance with this Law and shall be charged with making returns thereto.

Sheriff to
make return
of writs.

9. At the sessions the sheriff shall direct a sufficient number of police constables to be employed to keep order in and within the precincts of the court during its session.

Duties at
assizes.

10. 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 the day of its delivery.

Duties as to
execution
of writs.

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

Other duties
of sheriff.

12. Where sentence of death has been pronounced upon a person, the sheriff shall as ordered, and unless the sentence is commuted or a respite is granted, cause the sentence to be carried into execution by some person appointed in writing by the sheriff.

Execution of
sentences
of death.
*

13. 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.

Duties of
deputy
sheriffs.

*This section was inserted by section 4 of the Sheriffs and Civil Process Law, 1962 (E.N. 16 of 1962) with effect from the 1st June, 1961. See its sections 1 and 4.

Liability for wrongful imprisonment.

14. 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 without warrant.

Duty of police officers.

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

PROTECTION OF SHERIFFS

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

16. 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 goods were not the property of the judgment debtor:

Provided that nothing in this section contained shall affect the right of any 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 as aforesaid.

Protection of sheriffs.

17. 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.

FEEES

18. 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 of the Region or part of the Federation in respect of which the fee is prescribed.

Fees to form part of general revenue.

PART III.—ENFORCEMENT OF JUDGMENTS AND ORDERS

Executions and Committals

19. (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.

Execution of judgments or orders for sum of money. 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 when more than one such writ is issued they shall be executed in the order of the times so entered.

20. (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.

Execution of orders for payment by instalments.

(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.

Execution
to be
superseded
on payment.

21. (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 judgment debtor shall be discharged and set at liberty.

Power to
suspend
execution.

22. 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 cognizable 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.

Execution of
warrants of
possession.

23. 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

Goods
which may
be seized.

24. 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, to the value of five pounds, which shall to that extent be protected from seizure; and

Sheriffs and Civil Process

- (b) any money, bank notes, bills of exchange, promissory notes, bonds, specialities or securities for money belonging to that person.

25. Goods seized in execution under process of a court shall until the sale thereof— Custody of goods seized.

- (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. 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. Disposal of bills of exchange, etc., seized.

27. 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 fifty pounds, and any bailiff of the court may take him into custody with or without warrant, and bring him before the court. Penalty for obstructing execution. (Sec. 124 extended)

Sale of Goods Seized

28. (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 so seized unless— Period to elapse before sale.

- (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-eight days after the attachment.

(2) In every case where the property attached is apparently over twenty pounds in value, it shall be set up for sale by the sheriff in the principal High Court or magistrate's court house 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 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 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 twenty pounds in value, attached, least before the day of such sale, shall be given on the door of the court house of the division or district in which the attachment is made and where the sale is to be held, or at any other place, then at that other place, and also by notices inserted in a newspaper published

Goods which may be seized.

period to elapse before sale.

days

seven so

far.

the va

protecte.

to be sold under an execution of the writ, including legal incidental orders, be made by public sale, and shall be during three days

(2) Where an...
register be...
the court shall...
privately and in...
other circumstances...
the court shall...
30. Where...
of other...
debtor or...
debtor a...
the property...
CLAIM...
31. Where...
been and...
property...
of part of...
represent...
32. Where...
part of...
debtor...
33. Where...
part of...
debtor...
34. Where...
part of...
debtor...
35. Where...
part of...
debtor...

(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. 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.

Delivery of movable property in possession of judgment debtor.

CLAIMS IN RESPECT OF PROPERTY SEIZED

31. 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 registrars for the issue of the writs.

Priority of writs.

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

Sale of property where claim made thereto.

(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 the sheriff in the prescribed manner security for the value of the property claimed.

(2) For the purpose of this section the amount of the value of the property claimed shall in case of dispute be fixed by appraisal 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.

(3) 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*Interpleader
by sheriff.Forms
7 to 10.

33. (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.

(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 Rents*Claims for
rent where
goods seized
in execution.

34. (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 of the 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. 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.

Property
subject to
lien.

TRANSFER OF PROCEEDINGS FOR EXECUTION

36. (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.

Execution
out of
jurisdiction
of court.

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—

Form 12.

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

(b) pay over all moneys 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

Issue and execution of orders of committal.

37. (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 made under this Law, 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 prison mentioned in the order or warrant.

(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.

Execution of committal orders out of jurisdiction of court.

38. (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

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 order or warrant; and
 - (b) pay over all moneys 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 place of safe 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.

Form 12.

39. (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.

Liability of bailiff for neglect to levy an execution.

(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. 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—

Irregularity in executing warrants.

- (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 forty shillings.

Actions
against
bailiffs
acting under
warrants.

41. (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.

Process
evidence of
authority.

42. 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

Levy of
execution
upon
immovable
property.

43. If sufficient movable property of the judgment debtor can be found in the Region 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

Sheriffs and Civil Process

judgment debtor can with reasonable diligence be found in the Region or if such property is insufficient to satisfy the 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's court execution shall not issue out of the magistrate's court against the immovable property but shall issue out of the High Court upon the conditions and in the manner prescribed.

44. Where the judgment debtor is a citizen of Nigeria, 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 local customary 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.

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

45. (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 Native Lands Acquisition Ordinance, or of the Acquisition of Land by Aliens Law, all the right title and interest of the owner of the house or other building in the land on which the house or 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 Ordinance or Law.

Mode of levying execution against buildings.

L. of N. 1948
Cap. 144.
Cap. 2.

*The Native Lands Acquisition Ordinance applied to the Eastern Region until the 15th May, 1958, when it was replaced by the Acquisition of Land by Aliens Law.

(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.

Setting aside
sale for
irregularity.

46. 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.

When sale
becomes
absolute.

47. If no such application as is mentioned in the last preceding rule 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.

Return of
deposit or
purchase
money.

48. 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.

Certificate
of title.

49. 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.

Immovable
property in
possession
of judgment
debtor.

50. 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. 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.

Obstructing purchaser in obtaining possession.

52. (1) Where the highest bidder at a sale is an alien for the purposes of the Acquisition of Land by Aliens Law who, were it not for the provisions of that Law, would be held to be the purchaser, a certificate of title under section 49 shall not issue unless and until the approval of the Minister is signified in accordance with the terms of that Law.

Certificate to title to be withheld on sale to an alien or of a right of occupancy. Cap. 2.

(2) In this section "Minister" has the same meaning as it has in the Acquisition of Land by Aliens Law.

(53. *Had no effect within what is now Eastern Nigeria*).

PART IV.—JUDGMENT SUMMONS

54. (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.

Application for judgment summons for examination of judgment debtor.

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

Praecipe for judgment summons. Forms 13 to 15.

Different
names.

55. 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—

C.D. of (*name and address as given in the praecipe*) sued or suing as A.B. of (*name and address in the judgment or order*).

Judgment
against firm.

56. (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 him or may order the issue of liability to be tried in such manner as it thinks fit.

Order
to bring
judgment
debtor before
court.

57. 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.

Enlargement
of time and
conditional
order.

58. 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.

Discovery of
property.

59. (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) 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) 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.

Ability to pay.

Production of books and documents.

Mode in which liability incurred.

(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. 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.

Adjournment of examination.

61. 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.

Interim order for protection of property.

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

Orders on close of investigation. 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.

Power of court during hearing of a cause.

63. 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

Power to commit debtor to prison in certain cases.

64. (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 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.

(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.

Form 21.

(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 22.

Misconduct of Judgment Debtor

Non-attendance of judgment debtor.

65. 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

Sheriffs and Civil Process

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) 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; Refusal to satisfy judgment.
- (b) 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 Fraudulent disposition.
- (c) 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 Debt contracted by fraud.
- (d) that forbearance of the debt was obtained by him by fraud or false pretence; or Forbearance obtained by fraud.
- (e) 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 Debt recklessly contracted.
- (f) that the judgment debtor under a judgment other than for the payment of money has then or has had since the judgment the power of complying with the judgment and has refused or neglected to do so, Disobedience of judgment other than for money.

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. 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 Party in default to be brought before the court.

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.

Commitment
of party in
default.

67. 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.

Penalty on
misconduct
of judgment
debtor.

68. 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 one hundred pounds, or for a longer period than three months if the judgment be for payment of money not exceeding fifteen pounds.

Labour may
be ordered in
certain cases.

69. 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.

Labour to be
specified by
regulations.
(Fed. Cap.
159)

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

Committal
for refusal
to comply
with order.

71. 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 (f) 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.

Release of
judgment
debtor upon
satisfaction.

72. 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 this 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 an order respecting the expenses of his imprisonment that may be necessary and just.

73. Any person imprisoned under the provisions 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 this trade, if any, to the value of five pounds, and of the places respectively where such property is to be found. The application shall be verified by oath or affidavit.

Application
for discharge.
Form 23.

74. (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.

Procedure on
application
for
discharge.
Form 24.

(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:

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.

Imprisonment does not extinguish debt.

75. 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.

Subsequent imprisonment for misconduct.

76. 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

Subsistence allowance to debtor prisoners.

77. 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 two shillings and sixpence 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.

Removal of prisoner in case of illness.

78. (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 general 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

Sheriffs and Civil Process

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. 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.

Subsistence
money added
to judgment.

80. (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 Accountant-General 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.

Expenses of
imprison-
ment.

(2) The Accountant-General 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 Accountant-General 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. 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.

Sequestra-
tion.

PART V.—ATTACHMENT OF DEBTS BY
GARNISHEE ORDER

Debts
may be
garnisheed.
Form 25.

Form 26.

Consent of
appropriate
officer or
court
necessary if
money is held
by public
officer or
the court.

82. (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 a formal 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 the Region 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.

(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. (1) Where money liable to be attached by garnishee proceedings is in the custody or under the control of a public officer in his official capacity or *in custodia legis*, the order *nisi* shall not be made under the provisions of the last preceding section unless consent to such attachment is first obtained from the appropriate officer in the case of money in the custody or control of a public officer or of the court in the case of money *in custodia legis*, as the case may be.

(2) In such cases the order of notice must be served on such public officer or on the registrar of the court, as the case may be.

(3) In this section "appropriate officer" means—

- (a) in relation to money which is in the custody of a public officer who holds a public office in the public service of the Federation, the Attorney-General of the Federation;
- (b) in relation to money which is in the custody of a public officer who holds a public office in the public service of the Region, the Attorney-General of the Region.

Sheriffs and Civil Process

84. 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 court may direct, shall bind such debt in his hands.

Order for attachment to bind debt.

85. 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.

Execution against garnishee.

Form 27.

86. 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.

Trial of liability of garnishee.

87. 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.

Lien or claim of third person on debt.

88. If the third person as described in the last preceding section 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.

Order may be made if third person does not appear.

89. 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.

Procedure upon appearance of claimants.

Garnishee
discharged.

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

Private
alienation
after attach-
ment void.

91. 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

Use of forms
in Schedule.

92. (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.

Rules

Rules of
court.

93. The Chief Justice 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 therefor;
- (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 appointment of managers or receivers over attached or sequestrated 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 magistrate's court for a writ of execution in respect of immovable property;
- (r) prescribing anything or any person required by this Law to be prescribed, and
- (s) generally for giving effect to the provisions and intentions of this Law, and prescribing and regulating procedure thereunder.

FIRST SCHEDULE

FORMS

GENERAL FORM OF TITLE OF PROCEEDINGS

FORM 1

(For use in the High Court)

[Action]

In the High Court of Eastern Nigeria

In the High Court of the.....Judicial Division.

Suit No.....

Between.....Plaintiff

and

.....Defendant.

[Matters]

In the High Court of Eastern Nigeria

In the High Court of the.....Judicial Division.

No.....

In the Matter of [*here state the title of any Law or Act 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*].

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.....Magisterial District.

No. of Plaint.....

Between.....Plaintiff

and

.....Defendant.

[Matters]

In the Magistrate's Court of the.....Magisterial District.

No.....

In the Matter of [*here state the title of any Law or Act other than the Magistrates' 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.]

FIRST SCHEDULE — *continued*

FORM 2

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 nor will 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....., 19.....

.....
Judge [or Magistrate]

FORM 3

Section 19.

PRAECIPE FOR WRIT OF EXECUTION

Plaintiff's names in full.

Plaintiff's residence and occupation.

Full names and addresses [*or 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.....,
 19....., at.....h.....m.

Sum in payment of which defendant has made default...	...	£	s	d
Amount for which writ to issue by leave of the Court	...			
Fees on issue of writ	...			

.....

FIRST SCHEDULE—*continued*

Section 19.

FORM 4

WRIT OF ATTACHMENT AND SALE AGAINST GOODS OF DEFENDANT

[*General Title—Form 1*]

WHEREAS on the.....day of....., 19....., 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 £..... 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....., 19.....*] [*or by instalments of.....for 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 the.....Judicial Division/Magisterial District (except the wearing apparel and bedding of him or his family and the tools and implements of his trade, to the value of five pounds) 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....., 19.....

.....
Judge [or Magistrate]

To the Sheriff and Bailiffs of the Court.

		<i>£</i>	<i>s</i>	<i>d</i>
Amount remaining due			
Fees on issue of this writ			
Total amount to be levied exclusive of further costs, if any, of execution				
	<i>£</i>		

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

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

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....., 19....., 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 £.....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 the.....day of....., 19....., ordered that execution should issue for the sum of £.....being part of the sum of £.....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/Magisterial District (except the wearing apparel and bedding of him and his family and the tools and implements of his trade, to the value of five pounds), 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....., 19.....

.....
Judge [or Magistrate]

To the Sheriff and Bailiffs of the Court:

	£	s	d
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	£		

Application was made to the registrar for this writ at.....minutes past the hour of.....in the.....noon 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 defendant.

.....
Registrar

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

FORM 7

Section 33.

INTERPLEADER SUMMONS TO JUDGMENT CREDITOR

In the High/Magistrate's Court of the.....Judicial
Division/Magisterial District of Eastern Nigeria.

No. of Plaintiff.....

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 holden at.....
on the.....day of....., 19....., 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.

DATED this.....day of....., 19.....

.....
Judge [or Magistrate]

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 Magistrate]

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 holden at.....
on the.....day of....., 19....., at the hour of.....
in the.....noon, to support a claim made by you to [certain goods

FIRST SCHEDULE—*continued*

FORM 8 — *continued*

(*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) 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] [*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 this.....day of....., 19.....
To the Claimant.....

.....
Judge [or Magistrate]

Section 33.

FORM 9

INTERPLEADER SUMMONS TO EXECUTION CREDITOR AND SHERIFF
WHERE CLAIMANT CLAIMS GOODS AND DAMAGES

In the High/Magistrate's Court of the.....Judicial
Division/Magisterial District of Eastern Nigeria.

No. of Plaintiff.....
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.

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

FORM 9 — *continued*

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 £..... for damages arising out of the said execution:

You are therefore hereby summoned to appear at a Court, to be holden at.....on the.....day of....., 19....., at the hour of.....in the.....noon, 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 this.....day of....., 19.....

.....
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.

FORM 10

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 holden at..... on the.....day of....., 19....., at the hour of.....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]

FIRST SCHEDULE — *continued*

Sections
36 and 38.

FORM 11

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 Court/Magistrate's 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....., 19.....

.....
Registrar

To the Registrar of the last-mentioned Court.

Sections
36 and 38.

FORM 12

RETURN AND REMITTANCE FROM FOREIGN COURT

[*General Title—Form 1*]

Take notice that the sum of £.....has been recovered under the above writ of execution [*or* order of commitment] and Treasury deposit receipt No.....of....., 19....., for this amount is enclosed herewith.

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

DATED this.....day of....., 19.....

.....
Registrar

To the Registrar of the (Home) Court.

Sheriffs and Civil Process

FIRST SCHEDULE—*continued*

FORM 13

Section 54.

PRAECIPE FOR JUDGMENT SUMMONS

No. of Plaint.....

No. of Suit.....

No. of Judgment Summons.....

Plaintiff's names in full.....

Plaintiff's 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*] the.....day of....., 19.....
[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.*)

Folio..... Ledger.....

	£	s	d
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	£		

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

FIRST SCHEDULE—*continued*

Section 54.

FORM 14

JUDGMENT SUMMONS ON A JUDGMENT

In the High/Magistrate's Court of the.....Judicial
Division/Magisterial District of Eastern Nigeria.

No.....

Plaint 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....., 19....., for the payment of £ : : for debt [*or damages*] and costs, forthwith [*or on the*.....day of....., 19.....] [*or by instalments of £ : : for every*.....] and subsequent costs have been incurred and allowed by the Court, amounting to £ : : .

And whereas default has been made in payment of the sum of £ : : 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.....on....., the.....day of....., 19....., at the hour of.....in the.....noon, 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.

DATED this.....day of....., 19.....

.....
Judge [or Magistrate]

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

FORM 14 — *continued*

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

		£	s	d
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 £ _____

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 £ : : .

.....
Registrar

FORM 15

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 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 the.....day of....., 19....., for the sum of £ : : for debt [*or damages*] and costs forthwith [*or on the.....day of....., 19....., [or by instalments of.....for every.....]*] and there is now due and payable under the said judgment [*or order*] the sum of £ : : .

AND WHEREAS the plaintiff has filed an affidavit in this Court, a copy whereof is hereunto annexed, wherein it is alleged that you the above-named.....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 are therefore hereby summoned to appear personally in this Court at.....on.....the.....day of....., 19....., at the hour of.....in the.....noon, 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 said sum of £ : : 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.

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

FIRST SCHEDULE — *continued*FORM 15 — *continued*

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 this.....day of....., 19.....

.....
Judge [or Magistrate]

£ s d

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

.....
Registrar

Section 56.

FORM 16

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]

I,.....of.....the above-named plaintiff [or.....]
make oath and say as follows—

1. On the.....day of....., 19....., 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 £ : : for debt [or damages] and costs and there
is now due and payable under the said judgment [or order] the sum of
£ : : .

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
- (b) That the said.....was individually served as a

*Sheriffs and Civil Process*FIRST SCHEDULE.— *continued*FORM 16 — *continued*

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 authorized 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 the.....day of....., 19....., for the payment of £ : : for debt [or damages] and costs on the.....day of....., 19....., [or by instalments of.....for every.....] and subsequent costs have been incurred in pursuance hereof amounting to £ : : .

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 £ : : 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 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 default 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 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....., 19.....

.....
Judge [or Magistrate]

FIRST SCHEDULE — *continued*FORM 17 — *continued*

[Order issued the.....day of....., 19.....]

£ s d

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 ... £

Fees for issue of this order

Sum on payment of which the debtor is to be discharged £

[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 £

.....
Registrar

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

Section 62.

FORM 18

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/Magistrate's Court of the.....Judicial
Division/Magisterial District of Eastern Nigeria.

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 of.....in
this Court [or as the case may be] on the.....day of.....19.....,
for the sum of £ : : for debt [or damages] and costs and there
is now due and payable under the said judgment [or order] from the defend-
ants to the plaintiff the sum of £ : :

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

FORM 18 — *continued*

AND WHEREAS the plaintiff has alleged in 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 of 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].

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 to 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....., 19.....

.....
Judge [or Magistrate]

[ORDER issued on the.....day of....., 19.....]

£ s d

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 £

Fees on issue of this order

Sum on payment of which the debtor is to be discharged £

[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 £

.....
Registrar

FIRST SCHEDULE— *continued*

Section 62.

FORM 19

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 £ : : 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 day of....., 19.....

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 £ : : for every....., the first payment to be made on the..... day of....., 19.....

Dated the..... day of....., 19.....

.....
Judge [or Magistrate]

		£	s	d
Amount remaining due under judgment [<i>or order</i>]	...	...
Fees and costs of judgment summons and hearing	...	...
Total	...	£		

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

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

Section 62.

FORM 20

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 Plaintiff.....
Suit No.....
No. of Judgment Summons.....

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

FORM 20 — *continued*

In the High/Magistrate's Court of the.....Judicial Division/
Magisterial District of Eastern Nigeria.

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 firm name of....., above-described, in this Court [or as the case may be] on the.....day of....., 19....., for the sum of £ : : and costs, and there is now due and payable under the said judgment [or order] from the defendants to the plaintiff the sum of £ : : .

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 against the defendant he did not appear [or, he appeared but it was proved that he was liable 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 £ : : for every....., the first payment to be made on the.....day of....., 19.....

.....
Judge [or Magistrate]

			£	s	d
Amount remaining due under judgment [or order]	...	...	
Fees and costs of judgment summons and hearing	...	...	
Total	...	...	£

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

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

FIRST SCHEDULE — *continued*

Section 64.

FORM 21

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's Court of the.....Judicial Division/Magisterial District, bearing date the.....day of....., 19....., 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 this.....day of....., 19.....

To the officer in charge of the.....prison at.....

.....
Creditor or Officer of the Court

Section 64.

FORM 22

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 of....., 19....., and that the defendant may in respect of such order, be forthwith discharged out of your custody.

DATED this.....day of....., 19.....

To the officer in charge of the.....prison at.....

.....
Officer of the Court

Section 73.

FORM 23

APPLICATION FOR DISCHARGE BY JUDGMENT DEBTOR UNDER SECTION 73

[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....., 19....., hereby apply for my discharge from the said prison.

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

FORM 23 — *continued*

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 the.....Judicial Division/Magisterial District.

FORM 24

Section 74.

ORDER FOR LIBERATION OF JUDGMENT DEBTOR UNDER SECTION 74

[General Title—Form 1]

WHEREAS on the.....day of....., 19....., the plaintiff obtained a judgment [or an order] in this Court against the defendant for the sum of £ : : 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....., 19.....] [or by instalments offor every.....].

AND WHEREAS the defendant made default in payment of £ : : payable in pursuance of the said judgment [or order] and was committed to your custody by virtue of an order of commitment made by this Court, bearing date the.....day of....., 19.....

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 this.....day of....., 19.....
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's Court of the.....Judicial/Magisterial Division/District of Nigeria.

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.

FIRST SCHEDULE — *continued*FORM 25 — *continued*

I, of [or I,
of Solicitor for] the above-named judgment creditor make
oath and say—

1. That I [or] on the day of, 19.....
recovered judgment [or obtained an order] in the High/Magistrate's
Court of the Judicial Division/Magisterial District in this action
against the above-named judgment debtor for payment of the sum of
£ : : for debt [or damages] and costs.

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

3. That the garnishee, of is indebted to
the judgment debtor in the sum of £ : : [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 19....., and by the said judgment or order it was ordered
that the said garnishee should pay the said sum of £ : :
to the registrar of the said Court on the day of
19..... [or by instalments of for every], and
the sum of £ : : 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's Court, and the amount of the debt exceeds the Magistrate's
jurisdiction, for the recovery of £200 [or as the case may be] part of the said
debt) (add, if the debt is not yet payable, if the debt were immediately pay-
able) on the ground that the cause of action arose wholly or 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).

Section 82.

FORM 26

GARNISHEE ORDER

[Title as in Form 25]

WHEREAS the judgment creditor on the day of, 19.....
recovered judgment [or obtained an order] in the High/Magistrate's
Court of the Judicial Division/Magisterial District against the
judgment debtor for payment of the sum of £ : : for
debt [or damages] and £ : : for costs which judgment [or order]
remains unsatisfied as to the sum of £ : :

AND WHEREAS the judgment creditor has filed an affidavit stating that
you are indebted to the said judgment debtor in the sum of £ : :

Sheriffs and Civil Process

FIRST SCHEDULE — *continued*

FORM 26 — *continued*

You are hereby ordered to appear at a Court to be holden at..... on the..... day of....., 19....., at the hour of..... in thenoon, 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.

DATED this..... day of....., 19.....

.....
Judge [or Magistrate]

£ s d

Amount remaining due under judgment [<i>or order</i>]	...	...	.....
Fees on issue of this summons	...	...	.....
Total amount for which summons issued	...	...	£ .....

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 the..... day of....., 19....., 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 £ : : 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 £ : : [*or the said sums of £ : : and £ : :* amounting together to the sum of £ : :], to the registrar

FIRST SCHEDULE — *continued*

FORM 27 — *continued*

on the.....day of....., 19....., [or by instal-
ments 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]

Judgments (Enforcement) Rules

CHAPTER 118
SHERIFFS AND CIVIL PROCESS LAW
SUBSIDIARY LEGISLATION

Judgments (Enforcement) Rules*made under section 93**Arrangement of Orders*

Rules of
Court
4 of 1945,
3 of 1948.

PART I.—PRELIMINARY

PART II.—RULES

<i>Order</i>		<i>Page</i>
I	Duties of the Sheriff and Bailiffs	2940
II	General	2944
III	Stay of Judgments and Process	2953
IV	Issue of Process	2953
V	Attachment	2957
VI	Interpleader Summons	2960
VII	Sale	2963
VIII	Garnishee Proceedings	2967
IX	Judgment Summons	2969
X	Arrest and Imprisonment	2974
XI	Other Process	2985
XII	Forms and Fees	2987

PART I.—PRELIMINARY

1. These rules may be cited as the Judgments (Enforcement) Rules. Citation.

2. Definitions—

“bailiff”, except in relation to salary and other emoluments, includes police officer acting under section 15 of the Law;

“execute”, “executed”, “execution”, respectively include “serve”, “served”, “service”;

“foreign court” means court to which process has been sent from another court for execution;

“form” means a form in the Schedule to the Law or added thereto by these rules;

*Where these rules refer to a Form numbered 27, or below 27, the Form is to be seen in the Schedule to the Law. Where they refer to a Form numbered 28, or above 28, the Form is to be seen in the First Schedule to these rules.

- “home court” means court from which process has been sent to another court for execution;
- “immovable property” includes any right, title, or interest in immovable property;
- “judgment” includes order on a judgment summons;
- “land” includes buildings;
- “officer” includes “registrar” and sheriff, but does not include “bailiff”;
- “Law” means the Sheriffs and Civil Process Law;
- “proceeding” includes civil proceeding, and criminal proceeding in which a judgment has been given for the payment of a sum of money recoverable by distress;
- “process” includes writ of interim attachment, warrant to arrest an absconding defendant, warrant to arrest a ship, and judgment summons;
- “registrar” includes registrar of the High Court and registrar of a magistrate’s court;
- “High Court” includes court of a judicial division of the High Court.

PART II.—RULES

ORDER I.—DUTIES OF THE SHERIFF AND BAILIFFS

Appraisers
and appraise-
ment.

1. (1) The sheriff may from time to time as he thinks fit appoint such number of persons for keeping possession, and such number of sworn appraisers for the purpose of valuing any property attached under process of a court, as appears to him to be necessary.

(2) The sheriff may direct security to be taken from any appraiser or other person so appointed for such sum and in such manner as he thinks fit for the faithful performance of his duties without injury or oppression.

(3) The sheriff may dismiss any appraiser or other person so appointed.

Sales.

2. Unless application is made to the court for the services of a licensed auctioneer, sales of property by auction shall be conducted by a bailiff under the supervision of a deputy sheriff.

3. In the exercise of his powers under section 5 of the Law, the sheriff may appoint any person to be a paid bailiff or an unpaid bailiff.

Appointment of bailiff.

4. (1) A paid bailiff shall receive such salary as may be approved by Government.

Emoluments of bailiffs.

(2) For the service of any document, for personal arrest, for the execution of a writ against property, and for the man in possession an unpaid bailiff shall be entitled to be paid the fees prescribed for such services and also any fee paid for milage in respect of the service rendered by him.

(3) The fees payable to a bailiff as certified by a registrar on Form 28 shall be paid to the bailiff on a voucher classified against the appropriate expenditure item and not otherwise.

Form 28.

(4) Save as aforesaid a bailiff shall not receive or demand any fee, reward, milage money, subsistence or other allowance for any service rendered by him as a bailiff.

(5) Where any service mentioned in paragraph (2) of this rule is rendered by a paid bailiff, the fee in respect of such service shall be paid into the general revenue.

5. Every bailiff shall be furnished with two receipt books, one to be used in each alternate month. Every such receipt book shall be in Form 29 or to the like effect and shall be furnished with counterfoils with consecutive numbers printed thereon, and whenever any bailiff shall receive any money by virtue of his office, he shall give to the person paying the same a receipt on one of the printed forms contained in such book, and shall note on the corresponding counterfoil of such book the name and date of the process, the title of the proceeding in which it was issued and the amount for which the receipt is given.

Receipts to be given by bailiff. Form 29.

6. Every bailiff shall pay to the deputy sheriff as soon as possible and not less frequently than twice in each week and on the last working day of each calendar month all moneys for the time being remaining in his hands:

Payment of money received to sheriff.

Provided that whenever the amount in hand in respect of such moneys shall exceed the sum of twenty-five pounds, such amount shall be paid to the deputy sheriff at the close of the day.

Monthly
return of
writs and
money.
Form 30.

7. At the close of every month each bailiff shall make—
- (a) a full return to the deputy sheriff in Form 30 of all writs, orders, and warrants which remained in his hands not fully executed at the end of the preceding month, and of all such writs, orders, and warrants as have been entrusted to him for execution during the past month, and shall set against each such process a statement of what has been done thereunder, and
 - (b) a return in Form 31 of all moneys received by him during the past month.

Form 31.

8. (1) The deputy sheriff shall thereupon examine the said returns and see that the return (Form 30) includes all process as aforesaid, and that all sums of money appearing in the return (Form 31) have been duly paid to him.

(2) He shall also examine the counterfoils of the receipt book used by the bailiff during the past month and see that there is an entry on a counterfoil to denote that a receipt from the said book has been given for each sum acknowledged to have been received and that all sums for which receipts appear from the counterfoils to have been given have been duly entered and accounted for in the second return as aforesaid.

(3) At the end of the examination of each return the deputy sheriff shall certify that he has examined such return in accordance with the law, and shall forward it to the sheriff.

To whom
process is to
be sent for
execution.

9. All writs, orders, and warrants are to be delivered or sent by the proper officer of court to a deputy sheriff, and not to a bailiff in the first instance:

Provided that writs of execution issued at the instance of the Commissioner of Income Tax may be delivered or sent to the Commissioner of Income Tax, and that writs of execution issued at the instance of the Controller of Works Services may be delivered or sent to the Controller of Works Services.

Sheriff's
receipt for
writ.
Form 32.

10. The receipt to be given by the sheriff under section 10 of the Law shall be in Form 32.

Sheriff's
register and
cash book.
Form 33.

11. Every deputy sheriff shall keep a sheriff's register of process in Form 33 and also a cash book in which he shall record all receipts and payments of moneys in connexion with the execution of process.

12. If any process sent to the sheriff for execution or service has not been executed or served, as the case may be, within one month from the date of receipt, the sheriff shall at the end of the first and every subsequent month during which the process remains unexecuted notify the judgment creditor and the registrar of the court from which the process was received, and also, if the process was issued from another court, the registrar of that court.

Unexecuted process.

13. The deputy sheriff shall, as soon as possible, return the process with an account showing the amount realized, the amount due for sheriff's, bailiff's and appraiser's fees and expenses, and the balance; and shall pay the balance into court. In case of a sale of property he shall also deliver a duly certified sale account.

Return of process.

14. The balance shall be payable to the judgment creditor or other person entitled thereto, who shall give a receipt therefor.

Payment.

15. No money realized by any process is ever to be paid by the sheriff or a bailiff to the judgment creditor or to his lawyer or agent:

Prohibition of payment to judgment creditor.

Provided that any person authorized by the sheriff to execute any process which may be issued from time to time at the instance of the Controller of Works Services, and in which the Controller of Works Services appears as plaintiff, may pay over the money realized by such process to the Controller of Works Services:

And provided further that any person authorized by the sheriff to execute any process which may be issued from time to time at the instance of the Commissioner of Income Tax, and in which the Commissioner of Income Tax appears as plaintiff, may pay over the money realized by such process to the Commissioner of Income Tax.

16. Any bailiff who fails to comply with any of the provisions of these regulations shall be guilty of an offence and liable to a fine of fifty pounds or to imprisonment for three months or to both such fine and imprisonment.

Offences by bailiffs.

17. Where a complaint is made against a bailiff under section 39 of the Law the registrar shall issue a summons in Form 34 which shall be served on the bailiff in accordance with the rules for service of ordinary summonses not less than ten clear days before the return day.

Neglect to levy execution. Form 34.

ORDER II.—GENERAL

Court and
chamber
practice.

1. Subject to any provision to the contrary, where anything is required by these rules to be done before or by a court, the same shall be done before a judge or magistrate as the case may require sitting as a court; and where anything is required to be done before or by a judge or magistrate, the same may be done before or by a judge or magistrate, as the case may require, either sitting as a court or in chambers.

Provisions
as to time.
(Cap. 61)
(Cap. 82)

2. Subject to the provisions of the High Court Law, or the Magistrates' Courts Law as the case may be, fixing the times and places for sittings of the court, and to the provisions of any Act or Law fixing the time for doing any act, a judge or magistrate, in his discretion—

- (a) where the time for doing any act is prescribed by these rules or fixed by any judgment, may, as often as he thinks fit, and either before or after the expiration of that time, enlarge or abridge that time; and
- (b) where the time for doing any act is not prescribed by these rules, may fix that time, and the time so fixed shall be deemed to be the time prescribed by these rules, and may be enlarged or abridged accordingly.

Parties may
not alter
times.

3. The parties may not by consent enlarge or abridge any of the times prescribed by these rules for doing any act.

No execution
on public
holiday.

4. Execution shall not be effected on a Sunday or public holiday, nor before 6 a.m. nor after 6 p.m., unless the judge or magistrate directs otherwise by order endorsed on the process to be executed.

Money in
court to be
paid out
when due.

5. Where any money paid into a court under any Act or Law or rule is or becomes payable to any party, officer, person, the registrar shall inform such party, officer or person and pay the money out of court to him, subject to the approval of the judge or magistrate:

Provided that money payable to a party or to any person not in an official capacity shall not be paid out before demand made by such party or person.

Unexpended
fees and
expenses.

6. Where—

- (a) a judgment creditor pays any sum of money for the subsistence of a judgment debtor or for the expenses of

his conveyance to prison, and the judgment debtor is liberated after having been imprisoned for a shorter period than that in respect of which the subsistence money was paid, or before being imprisoned, or the order or warrant is superseded or stayed before imprisonment; or

- (b) a judgment creditor pays any sum of money in respect of fees for keeping possession of attached property, and the execution is superseded or finally stayed, or the property is sold, before such sum, or some part of it, has become due and payable to the sheriff;

then such sum or the balance thereof shall be payable to the judgment creditor by or through the court into which the sum was first paid by him.

7. (1) An officer or bailiff who is required by the Law or these rules to pay money to any person shall either—

Method of making payments by officer or bailiff:

- (a) hand, or cause to be handed, to the person to whom the money is required to be paid, or to his agent, the amount of the money in cash; or
 (b) pay the money into the Treasury and send the Treasury deposit receipt to the person to whom the money is to be paid.

(2) A person other than an officer or bailiff who is required by the Law or these rules to pay money to any officer or bailiff may pay the money into the Treasury and send the Treasury deposit receipt to the officer or bailiff to whom the money is to be paid.

by private individual.

8. Subject to any provision to the contrary—

Notices, etc., how given.

- (a) where any certificate or notice is required to be given, sent, or delivered under the Law or these rules, it shall be in writing and subject to paragraph (e) of this rule, in the prescribed form, if any;
 (b) where any notification is required under these rules it shall be in writing;
 (c) where any information is required to be given under these rules, it may be given in writing or by word of mouth;
 (d) where any written information or other document is required to be given, sent, or delivered, it may, subject to paragraph (e) of this rule, be sent by hand or by post,

whichever is the more expeditious; and if posted by an officer it shall be registered;

- (e) where circumstances so require, a brief note of the issue or dispatch, and the contents and effect of any certificate, notice, notification, or written information may be sent by telegram, and such telegram, and the dispatch thereof, shall, until receipt of such certificate, notice, notification, or written information, have the same validity and effect as the original certificate, notice, notification, or written information and the posting thereof;
- (f) any such telegram sent by an officer shall be franked by him, but the judge or magistrate may, if he sees fit, direct the expenses of sending it to be paid to the court by any party, and any expenses so paid or ordered to be paid shall be costs in the proceedings.

Filing.

9. (1) The original or a true copy of every process and every other document shall be filed in the appropriate suit file.

(2) No document shall be filed unless it has entered or endorsed on it the name and number of the proceeding, the date of filing, and whether filed by the judgment creditor or the judgment debtor, or as the case may be; and on being filed such entry or endorsement shall be initialled by the registrar.

Applications and motions.

10. Subject to any provision to the contrary, any application by a party for an order or direction of a court in relation to any judgment, execution, or process shall be made in the same manner as an application for an interlocutory order in that court.

Security.

11. Where by or under the Law or these rules any person is required or authorized to give security, the security shall be given in the same manner and subject to the same conditions as security in relation to other proceedings in the court before which the security is taken.

Method of enforcing interlocutory orders.

12. Without prejudice to any other means of enforcement authorized by the Law or these rules, an interlocutory order may be enforced according to the following provisions—

- (a) if a plaintiff in a suit makes default or fails in fulfilling any interlocutory order, the court may, if it thinks fit stay further proceedings in the suit until the order is

fulfilled, or may give a judgment or nonsuit against such plaintiff, with or without liberty of bringing any other suit on the same grounds of action, or may make such other order on such terms as to the court shall seem just;

- (b) if a defendant in any suit makes such default or failure the court may give judgment by default against such defendant, or make such other order as to the court may seem just. But any such judgment by default may be set aside by the court upon such terms as to costs or otherwise as the court may think fit.

13. If there be cross judgments between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the judgment for the larger sum as well as satisfaction on the judgment for the smaller sum, and if both sums shall be equal satisfaction shall be entered upon both judgments.

Cross judgments.

14. Whenever any proceeding shall be pending in the court against the holder of a previous judgment of the court by the persons against whom the judgment was given, the court may, if it appear just and reasonable to do so, stay execution of the judgment either absolutely or on such terms as it may think just until a judgment shall be given in the pending proceeding.

Court may stay execution in certain cases of previous judgment.

15. Where the judgment is to the effect that any party is entitled to any relief, subject to or upon the fulfilment of any, condition or contingency, the party so entitled may, upon the fulfilment of the condition or contingency, and demand made upon the party against whom he is entitled to relief, apply to the court for leave to issue execution. And the court may, if satisfied that the right to relief has arisen according to the terms of the judgment, order that execution issue accordingly, or may direct that any issue or question necessary for the determination of the rights of the parties be tried as in a suit.

Where judgment conditional.

16. Where a person not being a party in a proceeding obtains an order or has an order made in his favour, he shall be entitled to enforce obedience to such order by the same process as if he were a party in the proceeding; and any

Orders in favour of or against persons not parties.

person not being a party in a proceeding against him, obedience to any judgment may be enforced, shall be the same process for enforcing obedience to such judgment as if he were a party to the proceeding.

Death of judgment debtor before execution.

17. If any person against whom a judgment has been rendered shall die before execution has been fully had thereon, execution therefor may be made against the representative or the estate of the person so dying; and if the court shall think proper to grant such execution the judgment may be executed accordingly.

Mode of execution under preceding rule.

18. If the judgment be ordered to be executed against the legal representative, it shall be executed in the manner provided by the next succeeding rule of this Order. In the execution of a judgment for money to be paid out of the property of a deceased person.

Judgment against representatives and estate of deceased person.

19. If the judgment be against a party as the representative of a deceased person, and such judgment be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found, and the debtor fail to satisfy the court that he has duly applied for the property of the deceased as shall be proved to be in his possession, the judgment may be executed against the judgment debtor to the extent of the property applied by him, in the same manner as if the judgment had been against the judgment debtor personally.

Against sureties.

20. Whenever a person has become liable as a surety for the performance of a judgment or of any part thereof, such judgment may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a judgment may be enforced against a judgment debtor.

Execution against a firm.

21. (1) Where a judgment is against a firm, execution shall be issued as follows—

- (a) against any property of the partnership;
- (b) against any person who has admitted in the

- (c) against any person who was individually served with the summons as a partner or a person sought to be made liable—
- (i) if there was a trial and the person so served failed to appear at the trial; or
 - (ii) if the proceeding was an action on the undefended list in the High Court or a default action in a magistrate's court, and judgment was entered in default of defence.
- (2) If the judgment creditor claims to be entitled to issue execution against any other person as a partner, he may apply to the court on notice to the alleged partner for leave so to do and the following provisions shall apply—
- (a) the notice shall be served on the alleged partner personally;
 - (b) on the hearing of the application the court may, if liability is not disputed, give leave to issue execution and, if liability is disputed, may order the issue of liability to be tried in such manner as the court thinks fit and may give all necessary directions for that purpose.
- (3) Except as against property of the partnership, a judgment against the firm shall not render liable, release, or otherwise affect any partner who was out of Nigeria when the summons was issued, unless he has been individually served with the summons.

22. Every process may lawfully be carried into effect in any place within Eastern Nigeria where the defendant or judgment debtor or his movable or immovable property may be found or met with:

Execution: claim by person not a party in regard to property attached.

Provided that should any person not a party to the proceeding claim an interest in any attached property, real or personal, the sale thereof shall not proceed until the claim has been decided by a court being in the area where such property is situated and having jurisdiction to adjudicate upon such claim.

23. A court may, if it appears likely that process cannot be carried into effect without causing political or other trouble, address the same to the Provincial Secretary, or divisional officer of the division, where it is to be executed with a request that it shall be carried into effect, and such Provincial

Where political or other trouble likely to result from execution of writ.

as an application by a party to a cause or matter for a transfer thereof before judgment.

(3) Upon such application, all or any of the proceedings subsequent to judgment may be transferred to the court to which transfer is requested, in the manner, and upon the same conditions upon which, and with the same effect with which, the cause or matter in which the judgment was given might have been transferred to that court before judgment.

(4) When the proceedings have been transferred to the other court, payments under the judgment shall be made into that court, and, subject to section 43 and section 54 of the Law, any judgment summons or other process for enforcing the judgment shall be issued by that court.

(5) If the judgment creditor subsequently desires to issue a judgment summons, or any process affecting the immovable property of the judgment debtor, in another court, he may make an application to the court to which the proceedings have been transferred and the provisions of paragraphs (1) to (5) of this rule shall apply with the necessary modifications.

(6) Process and documents in transferred proceedings shall be commenced according to Form 35.

Form 35.

28. (1) Every process sent to a foreign court for execution shall be accompanied by a warrant in Form 11 in accordance with section 36 or section 38 of the Law.

Process sent
to a foreign
court.

Form 11.

(2) The registrar of the home court shall pay to the registrar of the foreign court any subsistence money paid in respect of a warrant or order of commitment or warrant of arrest and detention sent to a foreign court, and subsequent payments of subsistence money shall be paid by the judgment creditor to the registrar of the foreign court.

(3) Where, under any process sent to a foreign court, money is received by the registrar of that court, he shall, unless interpleader proceedings are pending, pay the money to the home court accompanied by a return in Form 12.

Form 12.

(4) Where interpleader proceedings are pending, the registrar shall postpone making the return under paragraph (3) of this rule until the interpleader proceedings are determined, and shall then make the return showing how the money is to be disposed of and pay to the home court money (if any) payable to the judgment creditor.

(5) All applications in relation to the process or execution shall be made to and adjudicated upon by the foreign court.

Duties and liabilities of party prosecuting decree by execution.

29. (1) In every case of execution all steps therein shall be taken on the demand of the party prosecuting the judgment who shall be required to provide means of identification of the party against whom process is issued. The party prosecuting the judgment is responsible for providing all service, execution, and milage fees which may be due and execution shall not be proceeded with until such fees are made available.

(2) The party prosecuting the judgment shall be liable for any damage arising from any illegal or irregular proceeding taken at his instance, but this provision shall not exempt any officer or bailiff from any liability to which he would otherwise be liable.

Payment of fees where execution withdrawn.

(3) In every case where an execution is withdrawn, satisfied, or stopped, any fee that may have been properly incurred by an officer or bailiff during execution shall be paid by the person at whose instance the process was issued or the execution is withdrawn, satisfied, or stopped, as the case may be.

Disposal of satisfied process.

30. When any process other than an order or warrant for imprisonment which has been delivered to the officer in charge of a prison has been executed, satisfied, superseded, withdrawn, recalled, stayed, or suspended, the registrar shall file and retain it.

Costs of process.

31. Except as otherwise prescribed by the Law or these rules, the costs, fees and expenses of and incidental to the issue and the execution, if any, of process, whether executed or unexecuted or unproductive, shall be allowed against the judgment debtor, unless the judge or magistrate otherwise directs.

Costs of execution and interest.

32. The judgment creditor may levy the costs of execution over and above the sum in the judgment unless the court shall otherwise order in cases where costs shall have been needlessly incurred, and may also levy any interest on the judgment which the court may have ordered.

Appraisal; by whom made.

33. Where no sworn appraiser is available, any appraisal may be made by some person nominated in that behalf by the judge or magistrate, and if such person is a public officer, the appraisal fee shall be paid into the general revenue.

ORDER III.—STAY OF JUDGMENTS AND PROCESS

1. An application under section 22 of the Law, if not made at the trial, shall be made by motion on notice to the judgment creditor.

Application for stay of judgment.

2. (1) An order to suspend or stay any judgment or process, or an order for the discharge or liberation of a debtor, shall be in Form 36.

Stay of judgment or process.
Form 36.

(2) Where an order suspending or staying a judgment or any process has been made and process has issued, the process shall be recalled, but the court or magistrate may order the debtor to pay the costs of the process and any fees or expenses incurred before the recall of the process, and may authorize the sheriff to sell a portion of the property attached (if any) sufficient to realize such costs, fees, and expenses and the expenses of the sale, and any such process may be reissued by leave of the court or magistrate.

3. Where any execution is superseded under section 21 of the Law, or stayed under section 22 of the Law or otherwise, then, if the judgment creditor shall desire it, and shall deposit in court a sum sufficient to cover the expense, notice of supersession or stay shall be given in the same manner as in Order V prescribed respecting the notice of attachment and the delivery of office copies of the order of attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Notice of stay may be given at expense of judgment debtor.

ORDER IV.—ISSUE OF PROCESS

1. (1) No writ of possession shall be issued until after the expiration of the day on which the defendant is ordered to give possession of the land, or, if no day has been fixed by the court for giving possession, until after the expiration of fourteen days from the day on which judgment is given.

Period to elapse after judgment.

(2) No other process shall, except by express leave of the court, be issued until after the expiration of three days from the day on which judgment is given.

2. Execution may issue on behalf of any person not a party to the suit, by leave of the court, upon proof of his title to the benefit of the judgment, and upon substitution of the name of the new judgment creditor, together with a statement of his derivative title, for that of the former judgment creditor.

Execution on behalf of persons not parties to the suit.

Application for process; to whom made.

3. An application for the issue of any process which may issue without application to the court or a judge or magistrate shall be made to the registrar in the first instance, and an application for the issue of any other process shall be made to the registrar after the order for its issue shall have been obtained.

Manner of application to registrar for issue of process.

4. An application to the registrar for the issue of any process in respect of which no praecipe is required or prescribed shall be made by filing a written request for the issue of the process specifying the number and title of the suit, the date of the judgment, the nature of the process, and the name of the party against whom, and the amount, if any, for which it is to be executed.

Registrar to issue proper writ of execution.

5. Upon the application of the judgment creditor, the registrar shall, subject to the provisions of these rules, issue the proper process for the execution of the judgment.

Registrar may apply to court for direction.

6. The registrar may, at any time, take the direction of the court as to any application for the issue of process and in the meanwhile refuse to issue the process.

Registrar to record time of application. Form 37.

7. The precise time of the making of an application to the registrar for the issue of any writ of execution shall be entered by him in a book in Form 37 and on the writ, and when more than one writ is issued they shall be executed in the order of the times so entered.

Execution after two and six years.

8. (1) As between the original parties, process, otherwise than against the person, may issue at any time within six years, and against the person at any time within two years, from the date of the judgment which is immediately sought to be enforced.

(2) After such periods respectively process shall not issue without leave of the court, but no notice to the judgment debtor before applying for such leave shall be necessary.

(3) Where leave is given, a note thereof shall be made on the process.

Execution by leave in special cases.

9. (1) In the following cases, namely—

(a) where any change has taken place by death or otherwise in the parties entitled or liable to execution;

(b) where a husband is entitled or liable to execution upon a judgment for or against his wife;

- (c) where a party is entitled to execution upon a judgment of assets *in futuro*;
- (d) where a party is entitled to execution against any of the shareholders of a joint stock company upon a judgment recorded against such company or against a public officer or person representing such company,

the party alleging himself to be entitled to execution may apply to the court for leave to issue process accordingly. The court may, if satisfied that the party so applying is entitled to execution, make an order to that effect, or may order that any issue or question necessary to determine the rights of the parties shall be tried in any of the ways in which any question in any action may be tried. And in either case the court may impose such terms as to costs and otherwise as shall be just.

(2) Where leave is given, a note thereof shall be made on the process.

10. Any process, if unexecuted, shall remain in force for one year only from its issue.

Process in force for one year.

11. Process may be issued concurrently for execution in one or more divisions or districts, but the costs of more than one process and execution shall not be allowed against the judgment debtor except by order of the court.

Concurrent executions.

12. Where a judgment summons is pending or an order or warrant of commitment is outstanding in respect of money payable under a judgment, no writ of execution shall issue in respect of the money so payable except by leave of the court.

Pending judgment summons.

13. A writ of sequestration, and a writ of interim attachment directed against any immovable property of a defendant or judgment debtor, shall not issue out of a magistrate's court, but such writs may issue out of the High Court upon the transfer thereto of the proceedings.

Magistrate not to issue sequestration or interim attachment of immovables.

14. No praecipe shall be required upon the issue of a writ of interim attachment.

Interim attachment.

15. When a judgment creditor desires a writ of attachment and sale against the movable property of the judgment debtor to be issued, he shall file a praecipe in Form 3.

Application for execution against movable property. Form 3.

Application
for execution
against
immovable
property.

16. (1) When a judgment creditor desires a writ of attachment and sale to be issued against the immovable property of the judgment debtor he shall apply to the High Court.

(2) The application shall be supported by evidence showing—

(a) what steps, if any, have already been taken to enforce the judgment, and with what effect; and

(b) what sum now remains due under the judgment; and

(c) that no movable property of the judgment debtor, or none sufficient to satisfy the judgment debt, can with reasonable diligence be found.

Order for
execution
to issue.

(3) If upon the hearing of the application it appears to the court that a writ of attachment and sale may lawfully issue against the immovable property, the court shall make an order accordingly.

(4) A writ of attachment and sale against immovable property shall be in Form 38.

Form 38.

Change of
name or
address.

17. When the name or address of any person, as given in any praecipe or other application for the issue of any process, differs from the name or address in the plaint note, summons or judgment, and the applicant satisfies the registrar or the court or the judge or magistrate, according as the application is made to the registrar or the court or the judge or magistrate, that the amended name or address is applicable to the person against whom the judgment was obtained, both names and addresses shall be inserted on the process as follows—

C.D. of.....(*name and address as given in the praecipe or application*).....sued
(or suing) as A.D. of.....(*name and address in the plaint note, summons or judgment*).....

Money paid
after issue
of writ.

18. (1) After the issue of a writ of execution but before sale thereunder the judgment debtor, or anyone on his behalf, may pay to the bailiff holding the writ, or to the court which issued the writ, or to the foreign court, if any, the amount to be levied under the writ and the costs, if any, subsequent to the issue of the writ, or part of such amount and costs.

(2) Where any such payment or part payment is made, the following provisions shall apply—

(a) Where the money is paid to the court of the division or district in which the writ is to be executed, the registrar shall notify the bailiff holding the writ of the payment.

- (b) Where the money is paid to the home court after the writ has been sent to a foreign court, the registrar of the home court shall send a notice of the payment in Form 39 to the registrar of the foreign court, who shall notify the bailiff holding the writ of the payment.
- (c) Where the money is paid or paid over to the foreign court, the registrar of that court shall follow the procedure prescribed in paragraphs (3) and (4) of rule 28 of Order II.
- (d) Where payment is made or notified to the bailiff holding the writ, he shall deduct the amount of the payment from the total amount to be levied, and execute the writ for the balance only, if any.

ORDER V.—ATTACHMENT

1. The sheriff or any bailiff executing any writ for the attachment and sale of any property of a judgment debtor—
- (a) where the writ is for the distress or attachment and sale of goods, may by virtue thereof attach and sell—
- (i) any movable property to which the judgment debtor is entitled, but which is not in his possession or is subject to a lien or right of some other person to the immediate possession thereof, and
- (ii) any shares in any public company or corporation to which the judgment debtor is entitled; and
- (b) where the writ is for the attachment and sale of immovable property may by virtue thereof attach and sell any of the immovable property of the judgment debtor.
2. The attachment of any movable property mentioned in paragraph (a) of the preceding rule shall be effected under an order of court prohibiting—
- (a) the person in possession of, or entitled to a lien or right of immediate possession over, the property from giving over the property to the judgment debtor, or
- (b) the person in whose name the shares may be standing from making any transfer, or receiving payment of any dividends thereof, and the manager, secretary, or other proper officer of the corporation from permitting any such payment, until further order of the court, by delivering an office copy of the order to any person bound by it.

Form 39.

Sheriff's authority to attach and sell goods under lien, shares, and land.

Attachment of goods subject to lien, and shares.

Attachment
of land.
Form 41.

Form 40.

Notice of
attachment.

Form 41.

Property in
the custody
of a public
officer or
*in custodia
legis*.

Inventory
and notice
of sale.

Attachment
binds the
property
attached.

3. The attachment of immovable property shall be effected by the delivery of the notice of attachment in Form 41 mentioned in the next succeeding rule, and, unless the court shall otherwise order, by posting in a conspicuous place on the land a notice in Form 40 prohibiting all persons from receiving the same by purchase, gift, or otherwise; and the sheriff may also take and retain actual possession of the land, by putting into possession thereof some fit person approved by the sheriff.

4. The person proceeding to attach any property shall deliver to the judgment debtor or leave at the place where the attachment is effected a notice of attachment in Form 41.

5. Property in the custody or under the control of any public officer in his official capacity shall be liable to attachment in execution of a judgment with the consent of the Attorney-General, and property *in custodia legis* shall be liable also to attachment by leave of the court. In such cases the order or notice of attachment must be delivered to such public officer, or to the registrar, as the case may be.

6. (1) When property is attached the sheriff shall notify the judgment debtor of the time when and the place where the property will be sold, at least twenty-four hours before the time of the sale.

(2) When movable property attached is removed, the sheriff shall give to the judgment debtor a sufficient inventory thereof, immediately after the removal.

(3) The notification and inventory shall be given to the judgment debtor personally, or sent to him by post to his place of residence, or if his place of residence is not known may be left at or sent by post addressed to him at the place where the property was attached.

7. After an attachment shall have been made by actual seizure, or by order or notice as aforesaid, and, in case of an attachment by order or notice, 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 the dividends or shares to the judgment debtor during the continuance of the attachment, shall be null and void, and the person making such alienation or payment shall be deemed to have committed a contempt of court.

8. (1) Where upon the attachment of any property under a writ of execution the judgment debtor disputes the amount alleged to be remaining due under the judgment, he may, without prejudice to any other remedy he may have, apply to the court for a stay of execution and an inquiry as to what amount, if any, remains due under the judgment.

Where judgment debtor disputes amount to be levied.

(2) The court upon such application may make an order for staying the execution upon such terms, including terms as to security to be given by the judgment debtor, as it thinks fit; and may order an inquiry, on notice to the judgment creditor as to what amount, if any, remains due under the judgment, and shall conduct the inquiry in like manner and with the same powers as if it were an inquiry under rule 10 of Order IX upon the hearing of a judgment summons.

9. When the property attached shall consist of immovable property, it shall be competent to the court to appoint a manager or managers of the said property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits or receipts towards the payment of the amount to be levied and subsequent costs; or, when the property attached shall consist of land, if the judgment debtor can satisfy the court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of his interest therein, or by letting on lease, or by disposing by private sale of a portion of such interest, or of any other property belonging to the judgment debtor, it shall be competent to the court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper, to enable the judgment debtor to raise the amount. In any case in which a manager shall be appointed under this order, such manager shall be bound to render due and proper accounts of his receipts and disbursements, from time to time, as the court may direct.

Appointment of manager.

Mortgage in lieu of sale on application of judgment debtor.

10. (1) If the judgment debtor shall be absent from the jurisdiction, and it shall appear to the satisfaction of the court that the public sale of any of his immovable property which has been attached is objectionable, and that satisfaction of the judgment may be made within a reasonable period by a temporary alienation of such property, the court may of its own motion, instead of proceeding to a public sale of such

In absence of judgment debtor court may order mortgage in lieu of sale.

property, order that provision be made for the same by the judgment by mortgage thereof, and may at the registrar, if necessary, to execute the mortgage of the judgment debtor or any other necessary may make such orders in relation to such mortgage requisite to carry out this provision; and the execution of a mortgage deed by the registrar in the form prescribed by rule 13 of Order VII shall have the same effect as if executed by the judgment debtor or other parties.

(2) That the court may be able to act under the provisions of this section, the sheriff shall forthwith on the attachment of any property of a judgment debtor absent from the court, give notice of the same to the court.

ORDER VI.—INTERPLEADER SUMMONS

Notice
of claim.

1. Any claim to or in respect of attached property made to the bailiff holding the writ or to the sheriff.

Notice to
creditor and
claimant.

2. (1) The sheriff shall give information of the claim to the registrar of the court for the division or district in which the property is situate.

Forms 42
and 43.
Admission
of claim.

(2) On receipt of the information the registrar shall give notice of the claim to the judgment creditor in Form 42 and a notice to the claimant in Form 43.

3. If the judgment creditor or plaintiff admits the claim, the sheriff shall withdraw from possession and the judgment creditor or plaintiff shall withdraw from possession.

Commence-
ment of
proceedings.

4. (1) If the judgment creditor or plaintiff does not admit the claim, the sheriff shall, unless the claimant applies to the court, apply for the issue of a summons in accordance with the provisions of section 33 of the Law.

(2) Upon such application, the registrar shall enter the interpleader proceedings in the books of the court, attend the hearing and prepare and issue interpleader summons to the judgment creditor or plaintiff and the claimant.

5. (1) The summonses shall be served in accordance with the rules for service of an ordinary summons issued from the court from which the summonses are issued. Service.

(2) The interval between service and the hearing shall be such number of clear days not less than fourteen as the registrar may direct, having regard to the distance from the court of the place where any person to be served resides.

(3) Where the summons is sent for service to a foreign court, the registrar of the foreign court shall, according as the summons is or is not served, send the copy of the summons, or a notification that it has not been served, to the registrar of the home court so that it is received not less than two clear days before the return day.

6. (1) The claimant shall, within such reasonable time before the return day as the time of service permits, file in the court registry three copies of the particulars of the property he claims and the grounds of his claim, or, in the case of a claim for rent, particulars stating the amount thereof, and the period and the premises in respect of which the rent is claimed to be due. Claimant
to file
particulars.

(2) The claimant shall include in his particulars a statement of his full name, address, and occupation.

(3) The registrar shall send copies of the particulars to the sheriff and the judgment creditor:

Provided that the court may, if it thinks fit, hear the proceedings although particulars have not been filed.

7. Where before the return day—

(a) the claimant informs the registrar that he withdraws his claim; or

(b) the judgment creditor or plaintiff informs the registrar that he admits the claimant's title,

the registrar shall notify the judgment creditor or plaintiff of the withdrawal, or the claimant of the admission, as the case may be, and the property attached or the proceeds of sale or the money paid into court shall be dealt with as if the claim had not been made or as if the attachment had been withdrawn, and the judge or magistrate may make such order as to costs as may be just.

8. The judge or magistrate may require the claimant to give security for costs as if such claimant were the plaintiff to a suit. Security
for costs.

If claimant
does not give
security or
deposit.

Procedure where matter subject to jurisdiction of customary court.

9. Where the summons relates to any immovable property and the parties thereto other than the sheriff are all parties ordinarily subject to the jurisdiction of a customary court the court shall on the return day of the summons adjourn the hearing and stay execution for one month to enable the claimant to institute proceedings in the competent customary court to establish as against the judgment creditor or plaintiff and judgment debtor or defendant the right title or interest on which his claim to have the property released from attachment is based.

Failure of claimant to institute proceedings.

10. If the claimant fails to institute the required proceedings in the competent customary court within the said period of one month the court may forthwith dismiss the claim or may on special cause shown extend the period within which the claimant may institute the said proceedings and grant a further adjournment and stay of execution. If within the said period of one month or within any extension thereof which may have been allowed the claimant has instituted the required proceedings the court shall adjourn the hearing of the summons until such time as final judgment is given in the customary court or in any appeal which may be actually pending in regard to the proceedings instituted by the claimant in the competent customary court. At such adjourned hearing the court shall give judgment on the summons in accordance with such final judgment.

Claim for damages by claimant.

11. Where in the interpleader proceedings the claimant claims damages from the judgment creditor or plaintiff or from the sheriff in respect of the attachment, he shall, in the particulars of his claim to the property, state the amount he claims for damages, and the grounds on which he claims damages.

Claim for damages by execution creditor.

12. Where in the interpleader proceedings the judgment creditor or plaintiff claims damages from the sheriff arising out of the attachment, he shall, within such reasonable time before the return day as the time for service permits, file particulars of his claim, stating the grounds and amount thereof, and give a copy of the particulars to the registrar who shall deliver it to the sheriff.

Payment into court where damages claimed.

13. Where in the interpleader proceedings a claim for damages is made, the person from whom damages are claimed may pay money into the court in satisfaction of that

claim, and the payment shall be made in the same manner and have the same effect as if the proceedings were an action in that court and the person claiming damages were plaintiff and the person from whom damages are claimed were defendant.

14. Where property has been attached and any claimant alleges that he is entitled to it under a mortgage or bill of sale or otherwise by way of security for a debt, the court may order the property or any part thereof to be sold, and may direct the proceeds of sale to be applied in such manner as may be just.

Sale of property claimed as security for debt.

15. (1) The order made upon the hearing of interpleader proceedings shall contain directions by whom any court fees shall be paid and how any money in court shall be applied.

Order.

(2) The court may, notwithstanding any appraisalment, assess the value of the property for the purpose of any calculation of court fees or costs which depends on such value.

ORDER VII.—SALE

1. Where the judgment debtor shall have been arrested and is detained in custody, no sale of any portion of his property attached in execution shall be made until one month shall have elapsed after his being so arrested, and at least fifteen days' notice shall have been given to the judgment debtor, specifying the property so taken and intended to be sold:

Where judgment debtor is in custody.

Provided that the sale may take place at any time in the case of perishable articles or where the judgment debtor has given his consent thereto in writing.

2. Subject to the provisions of any Act, Law or rule, the sale of any property under a writ of execution shall be conducted according to such orders as the court may make on the application of any person concerned.

General powers of court over sales.

3. (1) Before filing any application for leave to effect the sale under a writ of execution of any property otherwise than by public auction, the registrar shall deliver to the applicant on demand a list containing the name and address of every person at whose instance any writ of execution against the debtor has been issued, of which the registrar has notice.

Application for private sale.

Form 44.

(2) Notice of the application in Form 44 shall be served on every person named on the list and on the sheriff.

(3) On the hearing of the application the applicant shall produce the list to the court.

(4) A copy of any order made on the application shall be sent to the sheriff.

Advertisement of sale.

4. Where any advertisement of the sale of any property is required to be made, it may, subject to the directions, if any, of the court, be made in a newspaper circulating in Eastern Nigeria, or by means of posters or placards, or otherwise as the sheriff shall think fit having regard to the value of the property and the other circumstances of the case.

Disposal of proceeds of sale.

5. Where property is sold under a writ of execution the proceeds shall be disposed of as follows—

- (a) where the property is sold by the sheriff, he shall follow the procedure prescribed in rule 13 of Order I;
- (b) where the property is sold by an auctioneer, he shall pay the gross proceeds into court;
- (c) the money so paid into court shall be payable as follows—

(i) any amount then due and unpaid for sheriff's, bailiff's, and appraiser's fees and expenses: to the sheriff; and next

(ii) the prescribed fees and expenses of sale: to the auctioneer, if any; and next

(iii) the amount to be levied, together with costs paid by the judgment creditor subsequent to the issue of the writ, if any: to the judgment creditor, directly or through the registrar of the home court, if any; and next

(iv) the balance: to the judgment debtor.

Immovable property: day of sale.

6. (1) No immovable property attached shall be sold for the purpose of satisfying the writ of execution until the expiration of at least fifteen days next following the day on which the property has been attached unless the person whose property has been attached 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:

And provided further that the court may, if it thinks fit, direct that the sale shall be postponed for any time not exceeding twenty-eight days after the attachment.

(2) The sale shall be made in the principal court house of the division in which the property is situated, or on the land attached, or at such other place as may be appointed by the sheriff or, in case of dispute, by the judge on the application of any person concerned. Place of sale.

(3) Notice of the day and hour of sale of any immovable property attached shall be published fourteen days at least before the day of such sale by being posted— Notice of sale.

(a) upon the door of the principal court house of the division in which the property is situated; and also

(b) in a conspicuous place upon the land attached; and

(c) if the sale is to take place elsewhere than at such court house or on the land attached, then at such other place also; and

(d) if the court so directs, in a newspaper published in Nigeria.

(4) Where any immovable property is to be sold under a writ of execution for a sum exceeding twenty pounds, including legal incidental expenses, the sale shall be publicly advertised by the sheriff on, and during three days next preceding, the day of sale. Advertisement of sale.

(5) Every sale shall take place between the hours of seven o'clock in the morning and eight o'clock in the evening. Time of sale.

7. (1) The sale under a writ of execution of any immovable property shall be made by public auction, at which the property shall be knocked down to the highest bidder for ready money, and not by private contract, unless the court otherwise orders. By public auction or private contract.

(2) Where any immovable property is attached and the registrar has notice of another attachment or other attachments, the court shall not consider an application for leave to sell privately until notice in Form 44 has been given to the other judgment creditor or creditors, who may appear before the court and be heard on the application. Form 44.

Notice under
section 35.
Form 45.

8. The notice required to be given under section 35 of the Law shall be in Form 45.

Certificate
of title.
Form 46.

9. The certificate under section 49 of the Law shall be in Form 46.

Immovable
property
in lawful
occupancy
of third
parties.

10. Where the property sold shall consist of immovable property in the occupancy of persons entitled to occupy the same, the court shall, on the application of the purchaser, make an order for the delivery thereof to be made by affixing a copy of a certificate of title in some conspicuous place on the land in the principal court building of the division.

Debts and
shares in
public
companies.

11. Where the property sold shall consist of shares in a public company or corporation, the court shall, on the application of the purchaser, make an order prohibiting any person in whose name the shares may be standing from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the manager, secretary, or other proper officer of the company or corporation from permitting any such transfer, or making any such payment to any person except the purchaser.

Negotiable
securities.

12. Where the property sold shall consist of negotiable securities, of which actual seizure has been made, the court shall deliver the same to the purchaser thereof.

Transfer of
securities
and shares.

13. If the endorsement, transfer, or conveyance of a negotiable security, or any share in a public company or corporation, is standing, or in the case of any mortgage or equity of redemption shall be vested in the court, and the registrar may be required to transfer the same, the registrar may execute the security or the certificate of the share, or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form, or to the like effect: "A.B. by C.D., registrar of the High/Magistrate's Court of the..... Judicial Division/Magisterial District; in a suit brought by A.B. versus A.B." Until the transfer of such security or share, the court may, by order, appoint some person to receive the interest or dividend due thereon, and to sign receipts therefor; and any endorsement made, or document executed or receipt signed as aforesaid, shall be as valid and effective for all purposes as if the same had been made or executed by the registrar.

ORDER VIII.—GARNISHEE PROCEEDINGS

1. Subject to the next succeeding rule garnishee proceedings may be taken in a magistrate's court notwithstanding that the debt owing or accruing from the judgment debtor is for an amount exceeding the jurisdiction of that court. Amount of debt.
2. Garnishee proceedings may be taken— Venue.
- (a) in any court in which the judgment debtor could, under Order VII of the High Court Rules, or the Magistrates' Courts Law, as the case may be, sue the garnishee in respect of the debt; or (Cap. 82)
- (b) where the debt is not yet payable, or is for an amount exceeding the jurisdiction of such court, in any court in which the judgment debtor could have sued the garnishee as aforesaid if the debt had been immediately payable or had not exceeded the jurisdiction.
3. (1) A judgment creditor who desires to take garnishee proceedings— Commencement.
- (a) shall file in the court registry—
- (i) an affidavit in Form 25; and Form 25.
- (ii) if the garnishee proceedings are taken in a court other than the court in which the judgment was given or made, a certified copy of the judgment.
- (2) The registrar shall thereupon enter the proceedings in the books of the court and fix a day for the hearing and issue an order *nisi* in Form 26 and make all necessary copies thereof. Form 26.
4. (1) The order *nisi* shall be served in accordance with the rules for service of an ordinary summons issued from the court from which the order is issued. Service.
- (2) Subject to subsection (2) of section 82 of the Law, the interval between service and the hearing shall be fixed by the registrar having regard to the distance from the court of the place where any person to be served resides.
- (3) Where an order *nisi* is sent for service to a foreign court, the registrar of the foreign court shall, according as the order is or is not served, send the copy of the order *nisi*, or a notification that it has not been served, to the registrar of the home court so that it is received not less than two clear days before the return day.

Payment into
court by
garnishee.

5. (1) The garnishee may within eight days of the service of the summons on him inclusive of the day of service, pay into court—

- (a) the amount alleged to be due from him to the judgment debtor; or
- (b) if that amount is more than sufficient to satisfy the amount due under the judgment and the costs entered on the garnishee order, a sum sufficient to satisfy the last mentioned amount and costs.

(2) Upon payment into court as aforesaid, the proceedings against the garnishee shall be stayed.

Payment out
of money
paid in by
garnishee.

6. Where money is paid into court by the garnishee the registrar may by consent of the judgment debtor order the money to be paid out before the return day, or in the absence of the consent of the judgment debtor the court may on the return day after hearing the judgment creditor and the judgment debtor, if he appears, make such order in the proceedings (including an order as to costs) as may be just.

Writ of
execution.
Form 27.

7. (1) Execution against the garnishee under section 85 of the Law shall be by a writ of execution in Form 27.

(2) Application for the issue of the writ shall be made by filing a praecipe in Form 3.

Form 3.

Where
garnishee
disputes
liability.

8. (1) If no amount is paid into court, the court, instead of making an order that execution shall issue, may, after hearing the judgment creditor, the garnishee, and the judgment debtor or such of them as appear, determine the question of the liability of the garnishee, and may make such order as to the payment to the judgment creditor of any sum found to be due from the garnishee to the judgment debtor and as to costs as may be just, or may make an order under section 86 of the Law.

(2) If an order is made under section 86 of the Law for the trial or determination of any issue or question it shall direct which of the persons interested, including such third person as is referred to in section 87 of the Law, shall be plaintiff and which shall be defendant.

Proceedings
in another
court.

9. Where garnishee proceedings are taken in a court other than the court in which the judgment was given, the registrar of the first-mentioned court shall send to the registrar of the

last-mentioned court a copy of the judgment given in the garnishee proceedings and also from time to time notice of any amount levied or paid into court in the proceedings.

10. Any costs allowed to the judgment creditor, which are not ordered to be paid by the garnishee personally, shall, unless it is otherwise ordered, be retained by the judgment creditor out of the money recovered by him in the garnishee proceedings, in priority to the amount due under the judgment. Costs.

11. A judge or magistrate may, in his discretion, refuse to make or issue a garnishee order, where from the smallness of the amount to be recovered, or of the debt sought to be attached, or otherwise, the remedy sought would be worthless or vexatious. Court may refuse order.

12. Part IV of the Law and this Order shall apply to debts owing or accruing from a firm carrying on business within Nigeria, although one or more members of the firm may be resident abroad. Debts of a firm.

ORDER IX.—JUDGMENT SUMMONS

1. (1) Where a court has made an order for payment of any sum of money by instalments, a judgment summons may be issued as well before as after default in payment of any instalment according to the order. Judgment summons may issue where no default in instalments.

(2) Where an order is made in the judgment summons proceedings before default in payment of any instalment, other than an order for the attachment and sale of the judgment debtor's property or a new order for the payment of money more beneficial to the judgment creditor than the order for payment by instalments, no costs shall be allowed to the judgment creditor, and the court may order him to pay any costs reasonably incurred by the judgment debtor, unless the judgment debtor is proved to have been guilty of any misconduct enumerated in paragraphs (a) to (e) of section 65 of the Law. But judgment creditor may be liable for costs.

2. (1) Where a judgment creditor who has issued a writ of attachment and sale against a judgment debtor applies for the Stay of execution.

issue of a judgment summons against him, proceedings on writ shall be stayed and the stay shall not be removed except by leave of the court.

(2) The judgment summons shall not be issued until judgment creditor has paid any fees or expenses incurred in the execution of the writ.

Travelling expenses of debtor not in district.

3. (1) The registrar may refuse to issue a judgment summons against a judgment debtor who does not reside or carry on business within the division or district of the court to which the application for the summons is made unless at the time of filing the praecipe the judgment creditor deposits in court registry a sum reasonably sufficient to cover the expenses of the judgment debtor in travelling to and from court, the amount to be fixed by the registrar.

(2) The registrar shall pay the money so deposited to the registrar of the court of the division or district where the judgment debtor resides.

(3) The last mentioned registrar may either—

(a) encash the Treasury deposit receipt, and shall then cause the money to be—

(i) paid or tendered to the judgment debtor, or

(ii) expended in the purchase of a transport warrant or travel ticket for the judgment debtor or otherwise applied directly to the payment of the travelling expenses; or

(b) pay the money to the sheriff, who shall deal with it in any of the ways in which the registrar himself might have dealt with it.

(4) If the money or any part of it remains unexpended, it shall be repayable to the judgment creditor by or through the court from which the summons was issued.

Travelling expenses to be costs.

4. The judgment debtor's travelling expenses, whether paid in the first instance by the judgment creditor or not, shall be costs in the proceedings on the judgment summons and shall be payable and recoverable accordingly:

Set off

Provided that such travelling expenses and any of

the loss of his time, if allowed to the judgment debtor, may be set off against the judgment debt.

5. (1) A judgment summons shall be served personally in accordance with the rules for personal service of an ordinary summons issued from the court from which the judgment summons is issued. Service.

(2) The interval between service and the hearing shall be such number of clear days not less than five as the registrar may direct, having regard to the distance from the court of the place where the judgment debtor resides.

(3) Where a judgment summons is sent for service to a foreign court, the registrar of the foreign court shall, according as the summons is or is not served, send the copy of the summons, or a notification that it has not been served, to the registrar of the home court so that it is received not less than two clear days before the return day.

6. An order under section 61 of the Law for the interim protection of property shall be enforceable by a writ of interim attachment in Form 47. Interim attachment.
Form 47.

7. (1) In or upon every writ of interim attachment against the property of a judgment debtor, the registrar shall cause to be inserted or endorsed the sum of money upon payment of which the judgment summons will be satisfied. Attachment under judgment summons to be superseded on payment.

(2) If the judgment debtor, before the actual sale of the property under any writ of attachment and sale, pays or causes to be paid or tendered to the bailiff holding the writ or to the court which issued the writ, or to the foreign court, if any, the sum of money inserted or endorsed as aforesaid, or such part thereof as the judgment creditor agrees to accept in full satisfaction, the interim attachment shall be superseded and the property of the judgment debtor shall be discharged and set at liberty.

(3) The provisions of sub-paragraphs (a) to (c) of paragraph (2) of rule 18 of Order IV shall apply where payment is made under this rule.

(4) The court at the hearing of the judgment summons may in its discretion make an order suspending an interim attachment.

Judgment summons may be superseded on payment.

8. (1) In or upon every judgment summons the registrar shall cause to be inserted or endorsed the sum of money on payment of which the judgment summons will be satisfied.

(2) If the judgment debtor at any time before the making of a final order upon the judgment summons pays or causes to be paid or tendered to the registrar of the court from which the judgment summons issued, or to the bailiff holding the judgment summons, the sum of money inserted or endorsed as aforesaid, or such part thereof as the judgment creditor agrees to accept in full satisfaction, the judgment summons may, if the judge or magistrate thinks fit, be struck out.

No committal where payment impossible.

9. (1) Upon the issue of a judgment summons, and at any time thereafter before an order or warrant of committal (except a warrant of committal under section 60 of the Law) has been issued, the judgment debtor may file in duplicate a full statement and account of all property of whatever nature belonging to him, whether in expectancy or possession, and whether held exclusively by him 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 five pounds, and of the places respectively where such property is to be found.

(2) The registrar shall give or send the duplicate statement to the judgment creditor.

(3) If at the hearing of the judgment summons the judgment debtor, upon whom the onus of proof in this regard shall lie, shall satisfy the court that he has made a full surrender and discharge of his property, and that he is unable because of unavoidable misfortune to satisfy the judgment, and that he has not been guilty of any misconduct mentioned in section 65 of the Law, and that he ought not to be imprisoned, the court shall make no order for the commitment of the judgment debtor under section 62 (a) of the Law and shall, if the judgment debtor is in prison, make an order for his discharge under section 62 (d) of the Law:

Provided that, if it shall subsequently be shown to the satisfaction of the court that the judgment debtor has not made a full disclosure, the preceding provisions of this rule shall no longer be applicable.

10. Where, upon the hearing of a judgment summons, the judgment debtor disputes the amount in payment of which he is alleged to have made default, he may give evidence, and the judgment creditor and all other witnesses whom the court thinks requisite may be examined by or on behalf of the judgment debtor and by the court as to what amount, if any, remains due under the judgment and as to any money or other valuable consideration which may have been paid or given to the judgment creditor by or on behalf of the judgment debtor in respect of the judgment debt or of any release, compromise, or accord and satisfaction of the judgment debt, or under any process for the enforcement of the judgment.

Where judgment debtor disputes amount in default.

11. (1) Where a new order for payment of a judgment debt is made there shall be included in the amount payable under that order for the purpose of any proceedings, otherwise than by judgment summons, any amount in respect of which an order of commitment under section 62 or section 67 of the Law has been made and the debtor imprisoned, but so that the debtor shall not be liable to be imprisoned a second time for non-payment of either last-mentioned amount.

New order after imprisonment.

(2) No judgment summons under the new order shall include any amount in respect of which the debtor was imprisoned before the new order was made, and any amount paid subsequently to the new order shall be appropriated in the first instance to the amount due under the new order.

(3) Detention under section 57 or section 65, or committal under section 60, of the Law, shall not be deemed to be imprisonment for the purposes of this rule.

12. (1) On the hearing of a judgment summons no costs shall be allowed to the judgment creditor unless the court is satisfied that the judgment debtor has had, since the date of the original judgment or order, the means to pay the sum in payment of which he has made default, and a note thereof is entered in the minutes of the proceedings.

When costs not allowed to judgment creditor.

(2) When on the hearing of a judgment summons the court makes a new order for payment of the amount remaining unpaid, the order shall be in Form 19 or Form 20, whichever is applicable.

Form 19.
Form 20.

Application
for
committal
warrant
under
section 71.

13. (1) When an order enforceable by committal under section 71 of the Law has been made the registrar shall issue the order if the order was made in the absence of the judgment debtor; is for the delivery of goods without the option of paying the value or is in the nature of an injunction, at the time when the order is drawn up, and in any other case, on the application of the judgment creditor, issue a copy of the order endorsed with a notice in Form 48, and the copy so endorsed shall be served on the judgment debtor in like manner as a judgment summons.

Form 48.

Form 49.

(2) If the judgment debtor fails to obey the order made by the registrar on the application of the judgment creditor the registrar shall issue a notice in Form 49 not less than two clear days before the service of the endorsed copy of the order, and the notice shall be served on the judgment debtor in like manner as a judgment summons.

(3) On the day named in the notice the court, on being satisfied that the judgment debtor has failed to obey the order, and, if the judgment debtor does not appear—

(a) that the notice has been served on him, and

(b) if the order was made in his absence, that the endorsed copy thereof has also been served on him,

the court may order that he be committed to prison and that a writ of commitment may issue.

ORDER X.—ARREST AND IMPRISONMENT

Conditional
order.

1. Where any order for the enforcement of a judgment made whereunder process affecting the person of a judgment debtor may be or is to be issued or reissued the judgment debtor may by the same or a subsequent order direct that the process 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.

Renewal of
conditional
order.

2. Where an order has been made under the preceding section and the judgment debtor subsequently desires to apply for a further extension of time to comply with the order, he shall apply to the registrar, stating the reasons for his inability to comply with the order, and the registrar shall fix a date for the judgment debtor to appear before the court and to show cause why he should not be committed to prison.

3. Where an order of commitment or of arrest and detention is made, the judge or magistrate shall record, as part of the minutes of the proceedings or the note of his determination of the proceedings, a note showing under what section of the Law it is made. Recording of order of commitment.

4. Where the court gives a direction under section 69 of the Law for the employment of a judgment debtor during imprisonment, the registrar shall enter or endorse on the warrant a certificate in Form 50. Where labour ordered.
Form 50.

5. The appropriate process for the enforcement of an order— Process.

(a) of commitment made under section 62 of the Law, shall be entitled an order of commitment, and shall be in Form 17 or Form 18; Forms 17 and 18.

(b) of commitment made under section 60 or section 67 or section 71 of the Law, shall be entitled a warrant of commitment, and shall be in Form 51 or Form 52 or Form 53, as the case may be; Forms 51, 52 and 53.

(c) of arrest and detention under section 57 or section 65 of the Law, shall be entitled a warrant of arrest and detention, and shall be in Form 54; Form 54.

(d) to bring before the court a judgment debtor in custody, shall be entitled a production warrant, and shall be in Form 55. Form 55.

6. Where two or more judgment debtors are ordered to be committed or detained in respect of the same judgment a separate order or warrant shall be issued in respect of each debtor. Committal of two or more debtors.

7. (1) Where an order is made for the issue of a warrant to arrest an absconding defendant, the warrant shall issue forthwith and no praecipe shall be required. Issue of order or warrant of commitment, etc.; subsistence money.

(2) At the time of making any order of commitment or recommitment or of arrest and detention the court may order that the order or warrant be issued or reissued forthwith, and shall thereupon give all necessary directions respecting subsistence money, and in such case no praecipe shall be required.

(3) The costs of an application for an order under the proviso to section 77 of the Law that no subsistence money be allowed in respect of a commitment shall be paid by the

judgment creditor unless the application is made at the hearing of the judgment summons or of any application under rule 13 of Order IX or for the discharge of the judgment debtor, as the case may be, and if such order is made the order or warrant shall be issued or reissued without payment of subsistence money.

(4) Where an order for a warrant to arrest an absconding defendant or an order of arrest and detention is made, the judge or magistrate—

(a) if the warrant is to issue forthwith, shall at the same time; and

(b) in any other case, may at any time, either of his own motion or on the application of the judgment debtor, direct either that no subsistence money be allowed or that subsistence money be allowed at such rate not exceeding two shillings and sixpence per day as he thinks sufficient; and in the latter case shall fix such amount thereof as he thinks as the amount to be paid by the judgment creditor before issue of the warrant; and if the judge or magistrate directs that no subsistence money be allowed, or gives no direction the warrant shall be issued without payment of subsistence money.

(5) Where a judgment creditor desires an order or warrant for the commitment of a judgment debtor to be issued, reissued or a warrant for the arrest and detention of a judgment debtor to be issued, he shall, unless an order for issue or reissue of the order or warrant forthwith has been made, file a praecipe in Form 56.

Form 56.

(6) The registrar shall enter on the praecipe particulars of any order or direction of the court respecting subsistence money, and if any such order or direction is lacking, first submit the praecipe to the judge or magistrate for the purpose of obtaining the same.

(7) Upon payment of the expenses of conveying a judgment debtor to prison, if required, and the amount of subsistence money; if any, due to the end of the current month, or due to the end of the term of imprisonment, the warrant shall be issued or directed to be paid before

(8) The registrar shall enter or endorse on the order or warrant a note in Form 57.

Form 57.

8. Subject to the provisions of section 80 of the Law, the court in its discretion may order that any expenses of conveying a judgment debtor or absconding defendant in custody to prison or to court shall be defrayed by any party, and may make the payment of such expenses a condition precedent to any relief dependent on such conveyance; and such expenses, if paid by a judgment creditor, shall, unless the court orders them to be borne by the judgment creditor, be recoverable by the judgment creditor in like manner as subsistence money under section 79 of the Law.

Expenses of moving judgment debtor in custody.

9. The registrar shall retain each amount received by him in respect of subsistence allowance until the expiry of the relevant period of the term of imprisonment, or the liberation of the judgment debtor, whichever shall be the sooner, and shall upon such expiry or liberation pay to the officer in charge of the prison all subsistence money then accrued due and payable to him.

Disposal of subsistence money.

10. A warrant for the arrest and detention of a judgment debtor may be sent for execution to a foreign court in accordance with the provisions of section 38 of the Law and these rules as if it were an order or warrant for the committal of a judgment debtor to prison.

Warrant of arrest may be sent to foreign court.

11. Where an order or warrant of commitment, other than a warrant of commitment under section 60 of the Law, is sent to a foreign court under the provisions of the Law, the registrar of the foreign court shall endorse on it a notice in Form 58 addressed to the officer in charge of the nearest prison.

Order of commitment sent to foreign court.

Form 58.

12. (1) Where a judgment debtor is arrested under an order or warrant of commitment, other than a warrant of commitment under section 60 of the Law, he shall be imprisoned in the prison mentioned in the order or warrant, or, if the warrant is executed in the division or district of a foreign court, in the prison mentioned in the notice in Form 58 endorsed on the warrant.

Place of imprisonment.

Form 58.

(2) Where a judgment debtor is arrested under a warrant of commitment under section 60 of the Law, or a warrant of arrest and detention, he will be forthwith conveyed to the prison mentioned in the warrant and there imprisoned or detained.

Unconditional discharge upon payment of debtor imprisoned under section 65 or section 67.

13. (1) When issuing a warrant of arrest and detention under section 65 of the Law, or a warrant of commitment under section 67 of the Law, or making an order for the issue of any such warrant, the judge or magistrate, in his discretion, may direct that the order or warrant be superseded and the judgment debtor discharged upon payment of the amount in default at the time of issue of the warrant together with the fees for issue of the warrant.

(2) Such direction shall be expressed in the order or warrant by entering therein the total of the said amount and fees as the sum on payment of which the judgment debtor is to be discharged, and on payment of such sum he shall be discharged.

(3) If no such direction is given, the aforesaid total sum shall be entered on the order or warrant as the sum on payment of which the judgment debtor may be discharged by order of the court, and on payment thereof he shall be detained in custody to await the order of the court.

Payment and part payment before imprisonment: unconditional discharge.

14. (1) Upon the issue or reissue of—

(a) a warrant of arrest and detention under section 57 of the Law, or a warrant of commitment under section 60 of the Law, or an order of commitment under section 62 of the Law, or

(b) any warrant mentioned in paragraph (1) of rule 13 of this order whereon is expressed such direction as is mentioned in that rule for the discharge of the judgment debtor upon payment,

then before the judgment debtor is imprisoned thereunder he, or anyone on his behalf, may pay to the judgment creditor, or to the bailiff holding the order or warrant, or to the court which made the order, or to the foreign court, if any, the amount entered on the order as that on payment of which the judgment debtor is to be discharged, or part of such amount.

(2) Where any such payment or part payment is made, the following provisions shall apply—

(a) where the money is paid to the judgment creditor, he shall inform the registrar of the court which made the order of commitment or arrest and detention;

(b) where the money is paid, or the judgment creditor's information is given, to the court of the division or

district in which the order or warrant is to be executed, the registrar shall notify the bailiff holding the order or warrant of the payment;

(c) where the money is paid, or the judgment creditor's information is given, to the home court after the order or any order or warrant issued thereunder has been sent to a foreign court for execution, the registrar of the home court shall send notice of the payment in Form 39 to the registrar of the foreign court, who shall notify the bailiff holding the order or warrant of the payment;

Form 39.

(d) where the money is paid or paid over to the foreign court, the registrar of that court shall follow the procedure prescribed in paragraphs (3) and (4) of rule 28 of Order II;

(e) where payment or part payment is made or notified to the bailiff holding the order or warrant, then—

(i) if the payment is of the whole amount, he will liberate the judgment debtor; and

(ii) if the payment is of part of the amount he shall deduct the same paid from the amount entered on the order or warrant as that on payment of which the debtor is to be discharged, and the order of commitment or arrest and detention and the order or warrant issued thereunder shall thenceforth operate for non-payment of the balance only; and if the part payment was made on the judgment debtor's behalf, he shall inform the judgment debtor thereof;

(iii) if he himself receives the payment or part payment, he shall notify the registrar of the court from which the order or warrant was last sent to him.

15. (1) Upon the issue or reissue of any warrant mentioned in paragraph (1) of rule 13 of this Order containing no direction such as is mentioned in that rule for the discharge of the judgment debtor upon payment, then before the judgment debtor is imprisoned thereunder he, or any one on his behalf, may make payment or part payment of the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court, to any of the persons mentioned in paragraph (1) of rule 14 of this Order.

Payment and part-payment before imprisonment: conditional discharge.

(2) Where any such payment or part payment is made or notified, or information thereof is given, other than to the bailiff holding the warrant, the provisions of sub-paragraphs (a) to (d) of paragraph (2) of rule 14 of this Order shall apply; and where payment or part payment is made or notified to the bailiff holding the warrant—

- (a) he shall deduct the sum paid from the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court; and the order for commitment or detention, and the warrant issued thereunder, shall thenceforth operate only for non-payment of the balance, if any, and for the misconduct; and
- (b) he shall inform the judgment debtor of any payment made on the judgment debtor's behalf;
- (c) he shall deliver the judgment debtor to the officer in charge of the prison mentioned in the warrant; and
- (d) if he himself receives the payment or part payment, he shall notify the registrar of the court from which the warrant was last sent to him.

After imprisonment:
unconditional
discharge.

16. (1) Where a judgment debtor is imprisoned under any order or warrant mentioned in paragraph (1) of rule 14 of this Order, he or anyone on his behalf, may pay to the judgment creditor, or to the officer in charge of the prison, or to the court which made the order, or to the foreign court, if any, the amount entered on the order as that on payment of which the judgment creditor is to be discharged, or part of the amount.

Full payment or
default in
subsistence
allowance.

Form 21.

Form 21.
Form 22.

(2) Where payment is made of the whole amount, or the judgment creditor makes default in payment of subsistence allowance, the following provisions shall apply—

- (a) where the money is paid to the judgment creditor, he shall sign a certificate of payment in Form 21 and send it to the officer in charge of the prison;
- (b) where the money is paid to, or default is made in payment of subsistence allowance payable to, the registrar of the court of the division or district in which the order or warrant was executed, the registrar shall sign a certificate of payment in Form 21 or default in Form 22, as the case may be, and send it to the officer in charge of the prison;

(c) where the money is paid to the registrar of the home court after the order or any order or warrant issued thereunder has been sent to a foreign court for execution, the registrar of the home court shall notify the payment to the registrar of the foreign court, who shall sign the appropriate certificate and send it to the officer in charge of the prison;

Form 21.
Form 22.

(d) where the money is paid or paid over to the foreign court, the registrar of that court shall follow the procedure prescribed in paragraphs (3) and (4) of rule 28 of Order II;

(e) where the money is paid to the officer in charge of the prison, or he receives either of the certificates mentioned above, he shall liberate the judgment debtor, unless he is also imprisoned in respect of another order; and such officer shall also, if he himself receives the payment, pay the money over to the registrar of the court from which the order or warrant was last sent to him and send with it a certificate in Form 59.

Form 59.

(3) Where payment is made of part of the amount, the provisions of sub-paragraphs (a) to (d) of the preceding paragraph of this rule shall apply except in so far as they relate to default in payment of subsistence allowance, and except that no certificate shall be required but in lieu thereof a notice of the part-payment in Form 60 shall be sent to the officer in charge of the prison; and where the money is paid to the officer in charge of the prison, or he receives such notice, he shall deduct the sum paid from the amount entered on the order or warrant as that on payment of which the debtor is to be discharged, and the order of commitment or arrest and detention, and the order or warrant issued thereunder shall thenceforth operate for non-payment of the balance only, and if the part-payment was made on the judgment debtor's behalf such officer shall inform the judgment debtor thereof; and such officer shall also, if he himself receives the part-payment, pay the money over to the registrar of the court from which the order or warrant was last sent to him, and send with it a notice of part-payment in Form 60.

Part
payment

Form 60.

Form 60.

17. (1) Where a judgment debtor is imprisoned under any warrant mentioned in paragraph (1) of rule 15 of this Order, he, or anyone on his behalf, may make payment or part-payment

After im-
prisonment:
conditional
discharge.

of the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court, to any of the persons mentioned in paragraph (1) of rule 16 of this Order.

Full or part-payment, or default in subsistence allowance.

(2) Where any such payment or part-payment is made, or the judgment creditor makes default in payment of subsistence allowance, the provisions contained in sub-paragraphs (a) to (d) of paragraph (2), and in paragraph (3), of rule 16 of this Order shall apply, save that where payment or part-payment is made or certified to the officer in charge of the prison, or he receives a certificate in Form 21 or Form 22—

(a) he shall deduct the sum paid from the amount entered on the warrant as that on payment of which the judgment debtor may be discharged by order of the court; and the order for commitment or detention, and the warrant issued thereunder, shall thenceforth operate only for non-payment of the balance, if any, and for the misconduct; and

(b) he shall inform the judgment debtor of any payment made on the judgment debtor's behalf; and

(c) he shall retain the judgment debtor in custody until the further order of the court; and

(d) if he himself receives the payment or part-payment, he shall pay the money over to the registrar of the court from which the warrant was last sent to him, and send with it a certificate in Form 59 or a notice in Form 60, as the case may require.

Form 59.
Form 60.

Default in payment of subsistence allowance for prisoner under section 71.

(3) The provisions of this rule relating to default in payment of subsistence allowance shall apply in the case of a judgment debtor imprisoned under section 71 of the Law.

Discharge of debtor prisoner by court under section 72.

18. (1) Where a judgment debtor is imprisoned under any warrant mentioned in paragraph (1) of rule 15 of this Order or under section 71 of the Law and the registrar of the court from which the warrant was issued receives payment or information or notification or a certificate of payment of the sum on payment of which the judgment debtor may be discharged by order of the court, or where default is made in payment of subsistence allowance, or where the judgment

creditor makes a request for the discharge of the judgment debtor, the registrar shall inform the judge or magistrate, who may thereupon, if he thinks fit, make an order for the discharge of the judgment debtor forthwith.

(2) If the judge or magistrate does not make an order for the discharge of the judgment debtor forthwith, the registrar shall issue a production warrant in Form 55 for bringing the judgment debtor before the court at the time stated therein, which shall be the earliest convenient time.

(3) Upon hearing the judgment debtor, the court may make an order in accordance with the provisions of section 72 of the Law.

19. Where a judgment debtor prisoner makes an application for his discharge under section 73 of the Law, the court shall order the judgment debtor to be brought before it at the time fixed for the examination under section 74 (1) of the Law, and shall notify the judgment creditor of that time.

Production of debtor prisoner applying for discharge under section 73.

20. (1) A judgment debtor imprisoned under the provisions of section 71 or section 65 (f) of the Law may apply to the court for his discharge or liberation. The application shall be accompanied by a statement of the grounds upon which it is made, and shall be verified by oath or affidavit.

Discharge of debtor imprisoned under section 71 or section 65 (f).

(2) On such application being made the registrar shall cause the judgment creditor to be furnished with a copy of the statement and shall fix a time for examining and hearing the parties, and shall notify the judgment creditor of that time.

(3) The court shall order the judgment debtor to be brought before it at the time appointed for the examination.

(4) If the court is satisfied upon such inquiry, wherein the onus of proof shall be upon the judgment debtor—

(a) that the judgment debtor has obeyed the order for non-compliance with which he was committed, or is not and will never be able to obey it, the court shall make an order for the discharge of the judgment debtor, to take effect either forthwith, or at the expiry of such term of imprisonment not exceeding one year as the court thinks fit, or upon payment, in lieu of such imprisonment, of a fine not exceeding the civil jurisdiction in damages of the court;

- (b) that the judgment debtor is desirous of obeying the order, and is or will be able to obey it, and is willing and able to give security to obey it, the court shall make an order for the liberation of the judgment debtor, to take effect either forthwith and unconditionally, or forthwith and upon such terms, including liability to recommitment if the terms are not complied with, as the court thinks fit, or at the expiry of the period of imprisonment, or upon payment of the fine, mentioned in the last preceding sub-paragraph of this rule.

Procedure
on order for
discharge.

21. Where an order for this discharge or liberation of a judgment debtor has been made or refused, the following provisions shall apply—

- (a) The registrar shall send to the officer in charge of the prison—

(i) where the judgment debtor has been brought to court, the original order or warrant of commitment, accompanied by or endorsed with an order in Form 36 or endorsed in Form 61;

(ii) where the judgment debtor has remained in prison, an order in Form 36 or a notice in Form 61; and the original order or warrant of commitment shall operate subject to and in accordance with such order, endorsement, or notice.

- (b) If the judgment debtor is present when the order is made or refused, then—

(i) if an order is made for his discharge or liberation forthwith, or upon terms which he then obeys or has not disobeyed, he shall be liberated forthwith;

(ii) if an order is made for his discharge or liberation at a future date, or upon terms with which he refuses to comply, or if no order is made, he shall be sent back to the prison.

Where the judgment debtor has remained in or is sent back to the prison, the officer in charge of the prison, on receipt of the order or endorsement in Form 36 or endorsement or notice in Form 61, shall liberate the judgment debtor, or detain him and subsequently liberate him, in accordance with the original order or

Form 36.
Form 61.

warrant of commitment and the first-mentioned order, endorsement, or notice.

- (d) Where after the failure of the judgment creditor to pay subsistence money an order for the discharge of the judgment debtor is refused, or is made to take effect at a future date, the court may make an order in accordance with the provisions of section 80 of the Law.

22. (1) Where a judgment creditor desires to obtain an order for the recommitment of a judgment debtor—

Recommitment.

- (a) liberated under rule 20 of this Order on terms which include liability to recommitment if the terms are not complied with, or

- (b) liberated under section 74 of the Law, then in either such case the judgment creditor may apply to the court on notice to the judgment debtor.

(2) If the court is satisfied upon the hearing of the application—

- (a) that the judgment debtor liberated under rule 20 of this Order has failed to comply with a term non-compliance with which renders him liable to recommitment, the court may order him to be recommitted;

- (b) that the judgment debtor liberated under section 74 of the Law has not made a full disclosure of his property, the court shall make an order in accordance which the proviso to subsection (2) of that section.

(3) Where an order for the recommitment of the judgment debtor is made, the original order or warrant of commitment shall be recalled and endorsed in Form 62, and may then be reissued at the instance of the judgment creditor, and shall operate in accordance with the endorsement.

Form 62.

ORDER XI.—OTHER PROCESS

1. An order to stop the clearance of, or for the arrest and detention of, any ship, shall be enforceable by a warrant in Form 63.

Arrest of ship.
Form 63.

2. An order of interim attachment in an action shall be enforceable by a writ of interim attachment in Form 64.

Interim attachment.
Form 64.

Absconding
defendant.
Form 65.
Form 66.

3. An order to arrest an absconding defendant shall be enforceable by a warrant in Form 65 or Form 66 according as the order is made in the High Court or a magistrate's court.

Delivery
of goods.
Form 67.
Form 68.

4. (1) A judgment for the delivery of goods shall be enforceable by writ of delivery in Form 67 or Form 68.

(2) Where a writ of delivery is issued, the plaintiff shall either by the same or a separate writ of execution be entitled to execution against the judgment debtor's property for any sum of money and costs awarded.

(3) Nothing in this rule shall prejudice the power of the court to enforce the judgment by commitment.

Writ of
possession.
(Cap. 113)

5. A judgment or order for the recovery of land, or for the delivery of possession of land, in an action other than an action between landlord and tenant under the Recovery of Premises Law, shall be enforceable by a writ of possession, which shall be in like form as a warrant of possession in Form N of the Schedule to the Recovery of Premises Law with such variations as the circumstances of the particular case may require, and shall be addressed to the sheriff.

Process for
rent, mesne
profits, etc.

6. Where, in an action for recovery of land, judgment is given for the recovery thereof (with or without rent or mesne profits) and costs, there may be either one writ or warrant or separate writs or warrants for possession of the land and for rent and mesne profits and for costs, and after the execution of the writ the sheriff shall file a certificate in Form O of the Schedule to the Recovery of Premises Law.

(Cap. 113)

Application
for delivery
or
possession.
Form 3.

7. An application for a writ of delivery or a writ or warrant of possession shall be made by filing a praecipe in Form 3, save where by the same writ or warrant execution is to be levied upon immovable property, when the application shall be made under rule 16 of Order IV.

Application
for seques-
tration.
Form 69.

8. An application for a writ of sequestration shall be made to a judge. The writ shall be in Form 69.

Powers of
commis-
sioners.

9. A writ of sequestration shall be directed to two or more commissioners to be appointed by the court for the purpose, who shall be commanded and empowered to enter upon all the immovable property of the person against whom the writ shall issue, and to collect, take and get into their hands, not

only the rents and profits of his immovable property, but also all his goods and movable property, and detain and keep the same under sequestration in their hands, until he shall clear his contempt or the court shall make other order to the contrary, and the court may order the payment out of the proceeds of such sequestration of all charges attending the execution thereof, including such reasonable remuneration to the commissioners as the court shall think fit to allow, and all the provisions of the rules respecting attachment of property under a decree for money shall, so far as applicable, apply in the case of a writ of sequestration.

10. Where a judgment directs any deed to be prepared or executed, it shall state by which party the deed shall be prepared, and to whom it shall be submitted for approval, and, if the parties cannot agree upon the form of the deed, the court may, upon the application of any party on notice, settle the deed itself, or name a legal practitioner by whom it shall be settled, subject to the final approval of the court.

Where judgment directs a deed to be prepared.

11. Where a judgment directs any deed to be executed or any negotiable instrument to be endorsed, and the party ordered to execute or endorse such deed or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed, may prepare a deed or endorsement of the instrument in accordance with the terms of the judgment and tender the same to the court for execution, upon the proper stamp (if any is required by law), and the execution thereof by the registrar in the form prescribed by rule 13 of Order VII shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Where party refused to execute deed.

ORDER XII.—FORMS AND FEES

1. The forms in the First Schedule hereto shall be added to the forms in the Schedule to the Law.

Forms.
First
Schedule.

2. (1) The Chief Registrar may from time to time cause to be printed with such variations in format, and distributed to the several registrars of the High Court and the magistrates' courts in such numbers, as he shall think fit, any of the forms contained in the Schedule to the Law, and wherever any

Manner of
preparing
forms.

forms so printed are available they shall be used to the exclusion of forms prepared in any other way.

(2) Where any form required to be used in a particular case is not available printed as aforesaid, the registrar shall cause the form to be drawn up in the court registry, or may, where the form is not a form of process, accept the form after it has been drawn up by or on behalf of the party at whose instance it is to be used, and any form which the registrar draws up or accepts, may, if it is the same in all necessary respects as the appropriate form contained in the Schedule to the Law, be used as if it were printed as aforesaid.

(Cap 66)

(3) Where any form is drawn up in the registry of a magistrate's court as prescribed in the last preceding paragraph, it may, by and under the direction of the magistrate, and subject to section 41 of the Interpretation Law, be abbreviated by the omission of any recital or part of any recital, and in such case all consequential variations shall be made in the remainder of the form; and a form so abbreviated may be used as if it were a form printed as aforesaid, and shall be good and sufficient in law.

Particular
in forms.

3. Where any form is used, it shall contain the particulars required by it.

Fees.
Second
Schedule.

4. (1) The fees specified in the Second Schedule hereto shall be paid, received, recovered, receipted, accounted for, and disposed of—

(Cap. 82)

(a) in the High Court, in accordance with the rules and regulations relating to fees contained in the High Court Rules, as if the fees specified in the Second Schedule hereto were fees specified in the Second Schedule to the High Court Rules; and

(b) in a magistrate's court, in accordance with sections 74, 75 and 76 of the Magistrates' Courts Law, and any rules of court relating to fees for the time being made or applying under that Law, as if the fees specified in the Second Schedule hereto were fees set forth or specified in, or payable under, such rules of court.

(2) Where, in any court, in relation to any proceeding under the Law or these rules, anything is required to be done in respect of which no fee is specified in the Second Schedule hereto, but in respect of which a fee would be payable if the

thing were required to be done in relation to other proceedings in that court, then the fee so payable shall be paid, received, recovered, receipted, accounted for, and disposed of as if the thing were required to be done in relation to such other proceedings.

5. No fee shall be payable in respect of the filing of a praecipe or other application made to the registrar for the issue of process, or in respect of the drawing up or issue of an order for the discharge or liberation of a judgment debtor prisoner.

No fees on praecipe.

FIRST SCHEDULE

FORMS*

FORM 28

Order I
 rule 4.

In the High/Magistrate's Court of the.....
 Judicial Division/Magisterial District.

REGISTRAR'S RETURN OF FEES PAYABLE TO BAILIFFS

FOR THE MONTH OF....., 19.....

<i>Nature of Duty</i>	<i>Number</i>	<i>Date</i>	<i>Total</i>

.....
Registrar

*Forms 1 to 27 are to be seen in the Schedule to the Law.

FIRST SCHEDULE—*continued*

Order I,
rule 5.

2990

CAP. 118]

Sheriffs and Civil Process

FORM 29

Receipt to be given by Bailiff.

No.

....., 19.....

No. of suit or plaint.....

Date of writ [*or order*] [*or warrant*].....

..... Plaintiff

..... Defendant.

Amount received from..... £.....

Bailiff

FORM 29

IN THE HIGH/MAGISTRATE'S COURT OF THE
JUDICIAL DIVISION/MAGISTERIAL DISTRICT/

No.

....., 19.....

Received from..... under writ

[*or order*] [*or warrant*] dated.....

in suit [*or plaint*] No.....

between..... Plaintiff

and..... Defendant,

the sum of..... pounds..... shillings and

..... pence.

Bailiff

FIRST SCHEDULE — *continued*

FORM 30

Order I,
 rule 7.

RETURN OF PROCESS IN POSSESSION OF BAILIFF

Return of all Writs, Orders and Warrants in possession of Bailiff.....
 during the month ending....., 19.....

No. of Suit or Plaint	Name of Plaintiff	Name of Defendant	When Process received	Nature of Process	From what Court received	Amount of Process	Statement as to what has been done under process

Bailiff

I HEREBY CERTIFY that I have examined this return in accordance with the Law.

Date..... *(Sheriff or Deputy Sheriff)*

FORM 31

Order I,
 rule 7.

RETURN OF CASH RECEIVED BY BAILIFF

DURING THE MONTH OF....., 19.....

No. of Suit or Plaint	Plaintiff	Defendant	Date when Process received	Amount received	When amount received	When paid to Sheriff	Remarks

Signature of Bailiff

I HEREBY CERTIFY that I have examined this return in accordance with the Law.

Date..... *Sheriff or Deputy Sheriff*

FORM 32

Order I,
 rule 10.

SHERIFF'S RECEIPT FOR WRIT

Received from....., on the..... day of.....
 19....., at..... o'clock in the..... noon, a writ..... bearing
 date the..... day of....., 19....., issued in the High/
 Magistrate's Court of the..... Judicial Division/Magisterial
 Area in suit [or plaint] No.....
 by..... against.....

Sheriff

FIRST SCHEDULE—continued

FORM 33

SHERIFF'S REGISTER OF PROCESS

Order I,
rule 11.

No.	Suit	Plaintiff	Defendant	Court issuing	Nature of writ	Date sent to Bailiff	Date returned by Bailiff	Gross amount realized			Amount of expenses			Balance paid into Court			Date paid into Court	No. of Court Receipt	Remarks
								£	s	d	£	s	d	£	s	d			

2992

CAP. 118]

Sheriffs and Civil Process

FIRST SCHEDULE — continued

FORM 34

Order I,
rule 17.

SUMMONS FOR NEGLECT TO LEVY EXECUTION

In the High/Magistrate's Court of the.....
Judicial Division/Magisterial District of Eastern Nigeria.
To.....of.....bailiff.

You are hereby summoned to appear at a court to be held at.....
on the.....day of....., 19....., at the
hour of.....in the.....noon, to answer a complaint made
against you by.....of.....that you,
being employed to execute a writ of.....
against the (*specify the property*).....
of....., did, by neglect or connivance or omission
lose the opportunity of executing such writ, and to show cause why an (Cap. 118)
order should not be made against you under section 39 of the Sheriffs and
Civil Process Law, for payment of such damages as it shall appear that the
said.....has sustained by your neglect
or connivance or omission.

Dated this.....day of....., 19.....

.....
Judge [or Magistrate]

FORM 35

Order II,
rule 27.

GENERAL FORM OF COMMENCEMENT OF PROCESS IN
TRANSFERRED PROCEEDINGS

[General Title—Form 1]

Upon transfer from the High/ No of suit [or plaint]
Magistrate's Court of the..... [No. of judgment
Judicial Division/Magisterial District summons.....]
[add for each previous transfer. And upon
transfer, etc., as above].

[Continue in the appropriate form, commencing with the first recital, in
which the court where the judgment was given should be named.]

FORM 36

Order III,
rule 2.

ORDER SUSPENDING OR STAYING JUDGMENT OR PROCESS
OR FOR DISCHARGE OF DEBTOR

[General Title—Form 1]

On the application of.....and the court being
satisfied that the defendant.....is unable to pay and
discharge the sum recovered against him in this [or the instalments due

FIRST SCHEDULE — *continued*FORM 36 — *continued*

under the judgment (*or order*) in this] action [*or the defendant*.....
 having furnished security (*or shown cause why he should not furnish*
 security)] [*or the plaintiff having been non-suited*] [*or the above action*
 having been struck out] [*or the court being satisfied that the interim attach-*
 ment herein should be lifted] [*or the defendant*.....having
 satisfied the sum upon payment of which he may be discharged by order of
 the court (*or having obeyed* [*or being unable to obey*] [*or being desirous*
 of obeying and having given security to obey] the order in this action)]:

It is ordered that the judgment [*or order*] in this action be suspended
 against the said defendant [*or that the (interim) execution issued in this*
 action (*or on the judgment summons in this action*) be suspended] [*or that*
 the order (and warrant) of commitment made (and issued) in this action
 be suspended] for [*state time*] upon the terms following, namely:— [*state*
terms].....[*or that the defendant be discharged (or liberated)*
 from custody under the order (*or warrant*) of commitment issued in this
 action (after he has been imprisoned thereunder for.....from
 the date of this order unless he shall sooner pay a fine of £ : :)]
 (upon the terms following, namely:—*state terms, including, if so ordered,*
liability to re-arrest if the terms are not complied with)]

Dated this.....day of....., 19.....

.....
Judge [or Magistrate]

FIRST SCHEDULE—*continued*Order IV,
rule 16.

FORM 38

WRIT OF ATTACHMENT AND SALE AGAINST IMMOVABLE PROPERTY

[*General Title—Form 1*][*Recitals—Form 4, 5, 6*]

AND WHEREAS no movable property of the defendant (*or* plaintiff) can with reasonable diligence be found sufficient to satisfy the said judgment [*or* order]:

AND WHEREAS upon the application of the plaintiff [*or* defendant] it was on the.....day of....., 19....., ordered that a writ of attachment and sale should issue against the immovable property of the defendant [*or* plaintiff] for the sum of £ : : [being part of the sum of £ : : (*judgment debt, or part thereof ordered to be levied, or plaintiff's costs, or as the case may be*) remaining unpaid]:

These are therefore to require and order you forthwith to make and levy the said sum of £ : : together with the costs of this writ and the costs of executing the same, by entering upon and attaching the immovable property of the defendant [*or* plaintiff] wheresoever it may be found within the.....Judicial Division and by selling the same, 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:

[*Continue as Form 4, 5, or 6 to the words "the day last mentioned above".*]

Notice.—The immovable property is not to be sold until after the end of fourteen days next following the day on which the attachment shall have been made.

If the defendant [*or* plaintiff] is a native, and the property attached is his right title or interest in a building owned or occupied by him, and he is not entitled under native law or custom to alienate the building or his right of occupation therein but is entitled to remove the materials used in construction thereof or some of them, then his right title or interest in such building shall not be sold without the leave of the court.

.....
Registrar

Order IV,
rule 18.

FORM 39

NOTICE TO REGISTRAR OF FOREIGN COURT OF PAYMENT UNDER
WARRANT OR ORDER OF COMMITMENT SENT TO HIM[*General Title—Form 1*]

Take notice that the defendant has this day paid to the plaintiff [*or* into court] £ : : for which sum credit should be given on the warrant [*or* order] of commitment [*or* of arrest and detention] which has been sent to you for execution.

FORM 40

Order V,
rule 3.

PUBLIC NOTICE OF ATTACHMENT OF LAND

[*General Title—Form 1*]

Notice.—This land [*or this house, or as the case may be*] is hereby attached to secure the enforcement against the defendant.....of the judgment of the court in the above action, and all persons are from the date hereof prohibited from receiving the land [*or house*] by purchase, gift, or otherwise.

Dated this.....day of....., 19.....

.....
Sheriff

FORM 41

Order V,
rule 4.

NOTICE OF ATTACHMENT

[*General Title—Form 1*]

To the Defendant.

Take notice that a writ has been issued for the attachment and sale of your goods [*or land, or house, or as the case may be*] in execution of the judgment [*or order*] obtained against you in this action [*or matter*] and the amount for which it has been issued is stated below.

And take notice that your land [*or house, or as the case may be*] is hereby attached and you are prohibited from selling the same or any right, title, or interest therein.

If you pay to the Bailiff the total amount to be levied, as stated below, within an hour after the service of this notice, you will incur no further fees or expenses.

Thereafter, you may be liable to pay the Sheriff a fee of two shillings daily for keeping possession of the property, and also the reasonable expenses, if any, of feeding animals, until the amount to be levied, together with the amount of such fees and expenses, is paid, or the property is sold.

If at any time before the sale of the property you pay to the Registrar or Bailiff (*a*) the amount to be levied, and (*b*) the fees and expenses, if any, incurred after attachment, this execution will be superseded and your property will be released.

If you do not pay the amount to be levied and any fees and expenses subsequently incurred, the property will be sold and any amount that remains unpaid, together with costs of sale, will be deducted from the proceeds, and the balance, if any, will be paid to you.

Your goods [*or land, or house, or as the case may be*] will not be sold until after the end of five [*or fourteen*] days next following the day on which they were [*or it was*] attached unless [*they are of a perishable nature, or*] you request it.

FIRST SCHEDULE—*continued*

FORM 41 — *continued*

	£	s	d
Amount for which the writ has been issued			
Fees on issue of the writ			
Total amount to be levied, exclusive of fees and expenses incurred after attachment			

Dated this.....day of....., 19.....

.....
Registrar

Order VI,
rule 2.

FORM 42

NOTICE OF CLAIM TO ATTACHED PROPERTY

[*General Title—Form 1*]

Take notice that.....of.....has claimed the goods [*or house*] [*or land*] [*or certain goods (or land) (specify the same)*] [*or, rent distrainable upon the goods*] attached by the Sheriff under the writ of execution issued in this action. If within.....days after receiving this notice you give notice to me that you admit the title of the said.....to the said goods [*or house*] [*or land*], or request the Sheriff to remove the attachment, you will not be liable for any costs incurred after the receipt by me or the Sheriff of your notice.

Dated this.....day of....., 19.....

.....
Registrar

To the Plaintiff.....

Take notice that I admit the title of.....to the goods attached by the Sheriff [*or I request you to remove the attachment*] under the execution issued in this action.

Dated this.....day of....., 19.....

.....
Judgment Creditor

To the Registrar
[*or to the Sheriff*]

FIRST SCHEDULE — *continued*

FORM 43

Order VI,
rule 2.

NOTICE TO CLAIMANT TO ATTACHED PROPERTY TO MAKE DEPOSIT
OR GIVE SECURITY

[*General Title — Form 1*]

Whereas you have claimed the goods [*or house*] [*or land*] [*or certain goods (or land) (specify the same)*] attached in execution by the Sheriff under the writ of execution issued in this action.

Take notice that you are hereby required, in accordance with section 32 of the Sheriffs and Civil Process Law, either—

(Cap. 118)

- (i) to deposit with the Sheriff the amount of the value of the goods [*or house*] [*or land*] so claimed by you, such value to be fixed by appraisalment in case of dispute, to be paid into court to abide the decision of the court upon your claim; or
- (ii) to deposit with the Sheriff the costs of keeping possession of such goods [*or house*] [*or land*] until such decision can be obtained; or
- (iii) to give to the Sheriff security by bond for the value of the goods [*or house*] [*or land*] so claimed by you.

And further take notice that in default of your making deposit or giving security the goods [*or house*] [*or land*] will be sold as if no such claim had been made by you, and the proceeds paid into court to abide the decision of the court.

Dated this.....day of....., 19.....

.....
Registrar

To the Claimant.....

FORM 44

Order VII
rule 3.

NOTICE OF APPLICATION FOR PRIVATE SALE

[*General Title—Form 1*]

Take notice that this honourable court will be moved on the..... day of....., 19....., at.....o'clock in the forenoon, or so soon thereafter as [*counsel for*] the above-named plaintiff can be heard, for an order for [*leave to effect*] the sale by private contract of the movable [*or immovable*] property of the defendant attached under a writ issued in this action [*or matter*] on the.....day of....., 19....., at.....o'clock in the.....noon whereunder the total amount to be levied is £ : :

Dated this.....day of....., 19.....

.....
Plaintiff [or Solicitor]

To.....

FIRST SCHEDULE—*continued*Order VII,
rule 8.

FORM 45

NOTICE TO PERSON IN POSSESSION OF SALE OF
ATTACHED PROPERTY[*General Title—Form 1*]

Take notice that the goods [*or as the case may be*] specified on the back hereof, lately the property of the above-named..... and now in your possession, have been sold under a writ of execution in the above action to....., and you are hereby prohibited from delivering possession of the said goods [*or as the case may be*] to any person except the said..... the purchaser.

Dated this..... day of....., 19.....

.....
Sheriff

Order VII,
rule 9.

FORM 46

CERTIFICATE OF PURCHASE OF LAND

[*General Title—Form 1*]

I hereby certify that..... of..... has been declared the purchaser of the right, title, and interest of the above-named..... in the land, messuages, and tenements hereinafter mentioned; that is to say—

All that [*here describe the land, etc.*]..... which said land, messuages, and tenements were sold in execution of a judgment [*or order*] in the above action by order of this court dated the..... day of....., 19.....

Dated the..... day of....., 19.....

.....
Registrar

Order IX,
rule 6.

FORM 47

WRIT OF INTERIM ATTACHMENT IN JUDGMENT DEBTOR
PROCEEDINGS[*General Title—Form 1*]

WHEREAS upon the adjournment to the..... day of....., 19....., of the hearing of a judgment summons issued in the above action against the defendant..... an order was made for the interim protection of the property hereinafter specified, and that the said property should be attached forthwith.

Judgments (Enforcement) Rules—Forms

FIRST SCHEDULE — *continued*

FORM 47 — *continued*

These are therefore to require and order you forthwith to seize, take into your hands, enter upon, and attach the defendant's property specified on the back of this writ wheresoever it may be found.

[*Continue to the end of Form 64 and add*]

£ s d

Sum (including the above fees) on payment of which the judgment summons will be satisfied and this writ superseded ...

.....
Registrar

FORM 48

Order IX,
rule 13.

NOTICE OF CONSEQUENCES OF DISOBEDIENCE TO
ORDER OF COURT

To.....of.....

Take notice that unless you obey the directions contained in this order you will be guilty of contempt of court and will be liable to be committed to prison.

Dated this.....day of....., 19.....

.....
Registrar

FORM 49

Order IX,
rule 13.

NOTICE TO SHOW CAUSE WHY ORDER OF ATTACHMENT
SHOULD NOT BE MADE

[*General Title—Form 1*]

Take notice that the plaintiff [*or defendant*] will on.....
the.....day of....., 19....., at the hour of.....
in the.....noon, apply to this court for an order for your committal
to prison [for having disobeyed the order of this court made on the.....
day of....., 19....., enjoining and restraining you from
(*here set out the terms of injunction*)] [*or for having neglected to obey the
order made on the.....day of....., 19....., requiring
you to (here set out the mandatory part of the order)*].

And further take notice that you are hereby required to attend the court on the first-mentioned day to show cause why an order for your committal should not be made.

FIRST SCHEDULE — *continued*Order X,
rule 4.

FORM 50

CERTIFICATE THAT LABOUR HAS BEEN ORDERED FOR
DEBTOR PRISONER

I hereby certify that the court has directed that the herein-named
.....be employed in work within the prison during [*state
period*] of the term of his imprisonment.

Dated this.....day of....., 19.....

.....
Registrar

Order X,
rule 5.

FORM 51

WARRANT OF COMMITTAL OF JUDGMENT DEBTOR IN
DEFAULT OF SECURITY

[*General Title—Form 1*]

To the Sheriff, and to the Officer in charge of.....Prison.

WHEREAS upon the adjournment to the.....day of....., 19....., of the hearing of a judgment summons issued in the above action against the defendant.....it is today ordered that the said defendant should give security for his appearance on that day, himself in £ : : and.....suret in £ : : [each] and in default of finding such security should be committed to prison until that day, unless he should sooner give such security, or pay the sum stated below as that on payment whereof he is to be discharged.

These are therefore to require you the said Sheriff to take the said defendant and deliver him to the Officer in charge of the prison at..... and you the said Officer to receive the said defendant and keep him safely in the said prison until the day above-mentioned, when you shall bring him [or deliver him to the Sheriff to be brought] before this court at the hour of.....in the.....noon, unless he shall be sooner discharged by due course of law.

[*Conclude as in Form 54*]

*Judgments (Enforcement) Rules—Forms*FIRST SCHEDULE — *continued*

FORM 52

Order X,
rule 5.WARRANT OF COMMITMENT OR REMAND OF JUDGMENT DEBTOR
FOR MISCONDUCT[*General Title—Form 1*]

To the Sheriff, and to the Officer in charge of.....Prison.

[*First Recital—Form 17*]

AND WHEREAS on the.....day of....., 19....., at the hearing of [*or being the return day of*] a judgment summons issued in this action against the said defendant [*and duly served upon him*] the said defendant refused to be sworn [*or to disclose the matters on which he was examined*] [*or did not answer to the satisfaction of the court*] [*or it appeared to the court that the said defendant refused or wilfully neglected to pay on demand the sum of £ : : payable in pursuance of the said judgment (or order) and had (or had had since the date of the judgment or order) sufficient means to pay the said sum*] [*or that the said defendant, etc., reciting any other misconduct of the kind enumerated in section 65 of the Law*] [*or the said defendant did not attend and did not excuse his non-attendance to the satisfaction of the court*]:

AND WHEREAS on the said hearing [*or return*] day the court made an order calling upon the said defendant to show cause why he should not be punished for such misconduct [*or non-attendance*] [*or issued a warrant for the arrest of the said defendant*]:

AND WHEREAS on the.....day of....., 19....., [*the return day of the said order to show cause*] the said defendant was brought before the court in custody [*or attended*] as directed by the said warrant [*or order*] and did not show cause why he should not be punished [*or the said defendant failed to attend as directed by the said order, and has not established sufficient reason for not attending*], and it was ordered that a warrant should issue for the remand [*or arrest and commitment*] of the said defendant as for a contempt of court for..... [*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 forthwith to [*arrest the said defendant and*] safely convey and deliver him [*or the said defendant*] to the Officer in charge of the Prison at....., and you the said Officer to receive the said defendant and keep him safely in the said Prison for.....from the arrest under [*or date of*] this warrant, or until he shall be sooner discharged by due course of law.

Dated this [*insert date of issue of warrant*] day of....., 19.....,.....
Judge [or Magistrate]

FIRST SCHEDULE — *continued*

FORM 52 — *continued*

	£	s	d
Sum in payment of which defendant has made default at the time of the issue of the judgment summons			
Fees and costs on issue of the judgment summons			
Deduct amount paid since issue of judgment summons			
Fees for issue of this warrant			
Sum on payment of which the debtor may [<i>or is to</i>] be discharged by order of the court			
<i>[For use when part payment made after issue of warrant]</i>			
Deduct amount paid since issue of warrant			
Balance (if any) on payment of which the debtor may be [<i>or is to</i>] be discharged by order of the court			

.....
Registrar

[Note.—A separate warrant must be issued in respect of every defendant required to be remanded or arrested.]

Order X,
rule 5.

FORM 53

WARRANT OF COMMITTAL UNDER SECTION 71

[General Title—Form 1]

To the Sheriff, and to the Officer in charge of.....Prison:

WHEREAS by an order of this court dated the.....day of....., 19....., [*here recite the order*]:

AND WHEREAS on the.....day of....., 19....., the court, being of the opinion that the said.....then appearing [*or having been duly served with the said order*], was guilty of a contempt of this court by a breach of [*or by neglecting to obey*] the said order, that is to say by [*here set out the particular matter of contempt*], ordered that he be committed for his contempt.

These are therefore to require you the said Sheriff forthwith to arrest the said.....and safely convey and deliver him to the Officer in charge of the Prison at.....and you

FIRST SCHEDULE — continued

FORM 53 — continued

the said Officer to receive the said.....and keep him safely in the said prison until further order of the court.

Dated this.....day of....., 19.....

Judge [or Magistrate]

[If required, add:—]

Note.—The costs of the issue and execution of this warrant, and of the application for the order grounding the same, were upon the hearing of the application ordered to be paid by the said.....

Registrar

FORM 54

Order X, rule 5.

WARRANT OF ARREST AND DETENTION OF JUDGMENT DEBTOR

[General Title—Form 1]

To the Sheriff, and to the Officer in charge of.....Prison.

Whereas on the.....day of....., 19....., a judgment summons was issued from this court against the defendant.....in the above action [returnable on the.....day of....., 19.....]:

AND WHEREAS it is necessary to secure or enforce the attendance of the said defendant to answer the said summons [or (it appears to the court that) the said defendant has been guilty of misconduct at the hearing of the said summons (or in relation to the judgment debt) and he is required to show cause why he should not be punished for such misconduct] [unless he shall sooner pay the sum stated below as that on payment of which he shall be discharged]:

These are therefore to require you the said Sheriff to arrest the said defendant and bring him before this court forthwith [or on the.....day of....., 19.....] [or on the first convenient opportunity] [or upon the further order of the court] [and in the meanwhile to deliver him to the Officer in charge of the Prison at.....and you the said Officer to receive the said defendant and keep him safely in the said prison until the.....day of....., 19..... (or until the first convenient opportunity when he may be brought before the court or until the further order of the court), when you shall bring him (or deliver him to the Sheriff to be brought) before this court at the hour of.....in the.....noon] unless he shall be sooner discharged by due course of law.

Dated this.....day of....., 19.....

Judge [or Magistrate]

FIRST SCHEDULE — *continued*

FORM 54 — *continued*

	£ s d
Sum on payment of which the debtor is to be discharged	_____
<i>[For use when part payment made after issue of warrant]</i>	
Deduct amount paid after issue of warrant... ..	_____
Balance on payment of which the debtor is to be discharged	_____

.....
Registrar

[Note.—A separate warrant must be issued in respect of every defendant required to be arrested.]

Order X,
rule 5.

FORM 55

PRODUCTION WARRANT

[General Title—Form 1]

To [the Sheriff and] the Officer in charge of.....Prison:

These are to require you the Officer in charge of the Prison at.....
to bring the defendant.....now in your custody
[or to deliver the defendant.....now in your custody
to the Sheriff, and you the said Sheriff to bring the said defendant] before
this court on the.....day of....., 19....., at
the hour of.....in the.....noon, unless he shall be sooner
discharged by due course of law, and to have there then the order [or
warrant] under which the said defendant was imprisoned.

Dated this.....day of....., 19.....

.....
Judge [or Magistrate]

Order X,
rule 7.

FORM 56

PRAECIPE FOR ISSUE OF ORDER OR WARRANT OF COMMITMENT

Plaintiff's names in full.....	No. of plaint.....
His residence and occupation or description.....	No. of suit.....
.....	No. of judgment summons.....
Names of all defendants.....	No. of order of commitment.....
.....	Subsistence allowance.....
Name of defendant against whom order of commitment was made	<i>per diem</i> ,.....to be paid before issue of warrant

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

FIRST SCHEDULE—continued

FORM 56 — continued

His address and occupation or description.....

I hereby request you to issue [a warrant for the enforcement of] the order of commitment [or arrest and detention] made under section 64 [or 67] [or 71] [or 57 (or 60) (or 65)] of the Law against the above-named defendant on the.....day of....., 19.....

Dated this.....day of....., 19.....

Judgment Creditor or Solicitor

[To be filled up by the Registrar if payment has been ordered through the Court.]

Date of Judgment [or order].....	Sum in payment of	£	s	d
Order.....	which defendant has			
Committed on.....	made default at the			
....., 19.....	time of the issue of the			
for days	judgment summons			

Order suspended for.....	Fees and costs on issue and	£	s	d
.....	hearing of judgment sum-			
on payment of.....	mons			
.....				
	Deduct amount paid since			
	issue of judgment summons			
	Fees for issue of order or			
	warrant			

FORM 57

Order X,
rule 7.

NOTICE OF PAYMENT OF SUBSISTENCE MONEY

Note.—Subsistence money has been fixed at.....per diem,
of which the sum of £ : : has been paid to me by the
judgment creditor.

Registrar

FIRST SCHEDULE — *continued*

Order X,
rule 11.

FORM 58

ENDORSEMENT ON AN ORDER OF COMMITMENT SENT
TO A FOREIGN COURT

To the Officer in charge of.....Prison.

Take notice that, in accordance with the provisions of section 38 of the Sheriffs and Civil Process Law, this order [*or warrant*] of commitment has been sent to me and that the debtor, if arrested within the division [*or district*] of this court, is to be conveyed to the above-named prison, and is to be there kept for the time mentioned in this order [*or warrant*] unless sooner discharged by law.

Dated this.....day of....., 19.....

.....
Registrar,.....Court

Order X,
rule 16.

FORM 59

CERTIFICATE BY OFFICER IN CHARGE OF PRISON OF PAYMENT
OF JUDGMENT DEBT

[*General Title—Form 1*]

I hereby certify that the defendant, who was committed to my custody by virtue of an order of commitment made by the High/Magistrate's Court of the.....Judicial Division/Magisterial District, bearing date the.....day of....., 19....., has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable in respect thereof, [and that I have today discharged him out of my custody].

Dated this.....day of....., 19.....

.....
Officer in charge of.....Prison

To the Registrar of the High/Magistrate's Court of the.....
Judicial Division/Magisterial District.

Order X.
rule 16.

FORM 60

NOTICE OF PART PAYMENT

[*General Title—Form 1*]

Take notice that the defendant.....who was committed to your [*or my*] custody by virtue of an order [*or warrant*] issued from the [Magistrate's] Court of the.....Division/District bearing date the.....day of....., 19....., has paid the sum of

FIRST SCHEDULE — *continued*

FORM 60 — *continued*

£ : : towards satisfaction of the sum on payment whereof he is to [or may] be discharged [by order of the court], and you are to deduct [or, I have deducted] the sum paid from the last-mentioned sum as entered on the said order, [or warrant] [which shall thenceforth operate as an order (or warrant) of commitment for non-payment of the balance].

Dated this.....day of....., 19.....

.....
Registrar
[or Officer in charge of Prison]

To the Officer in charge of the.....Prison
[or to the Registrar of the (Magistrate's) Court of the.....
Division/District.]

FORM 61

ENDORSEMENT OF REFUSAL OF DISCHARGE ORDER

[*General Title—Form 1*]

Order X,
rule 21.

To the Officer in charge of.....Prison.

Take notice that, upon hearing the application of the within-named defendant for his discharge, the court on the.....day of....., 19....., has seen fit to make no order, and this warrant remains in full force and effect and you are to keep the defendant in your custody accordingly.

Dated this.....day of....., 19.....

.....
Judge [or Magistrate]

FORM 62

ENDORSEMENT OF RECOMMITMENT

Order X,
rule 22.

The within-named defendant, having failed to comply with the terms upon which he was liberated [or to make a full disclosure of his property], was today ordered to be recommitted to prison for (*state period*) and this order [or warrant] now operates accordingly.

Dated the.....day of....., 19.....

.....
Judge [or Magistrate]

FIRST SCHEDULE — continued

FORM 63

WARRANT FOR ARREST OF SHIP

[General Title—Form 1]

Order XI,
rule 1.

To the Sheriff.

WHEREAS it appears that the ship.....
is about to leave Eastern Nigeria:

AND WHEREAS it has been shown on the application this day of the plain-
tiff.....who claims from.....the sum
of £ : : for [or an order for].....

that it is necessary to stop the clearance and order the arrest and detention
of the said ship on the ground that (*here recite proved circumstances showing
extreme urgency, or as the case may be*):

AND WHEREAS the court this day ordered that the said ship be arrested
and detained:

These are therefore to require and order you forthwith to detain the
said ship until such time as (*here recite any condition as to giving of security
or otherwise which may have been imposed*) or until the said ship shall be
otherwise released by due course of law.

Dated this.....day of....., 19.....

.....
Judge [or Magistrate]

Order XI,
rule 2.

FORM 64

WRIT OF INTERIM ATTACHMENT

[General Title—Form 1]

WHEREAS it has been shown to the satisfaction of the court that the
defendant....., with intent to obstruct or delay
the execution of any judgment that may be given against him in this suit,
is about to dispose of [or, remove from Eastern Nigeria] [or, that the defen-
dant is absent from Eastern Nigeria (*or that there is probable cause to
believe that the defendant is concealing himself to evade service*) and that
the plaintiff is beneficially entitled to the debts or] the property hereinafter
specified:

AND WHEREAS on the.....day of....., 19.....
it was ORDERED that the said defendant should within.....
days thereafter [appear and show cause why he should not] furnish security
in the sum of £ : : to produce and place at the disposal
of the court [(the value of) the said property] [or such portion of the said
property as may be of the value of £ : :]:

617

FIRST SCHEDULE — *continued*

FORM 64 — *continued*

AND WHEREAS [it was further ordered that the said property should be attached forthwith, pending the defendant's (appearance:) (or furnishing such security:)] [or the defendant having appeared has failed to show cause as aforesaid and has not furnished such security:] [or the said period of.....days has expired, and the defendant (has failed to appear and) has not furnished such security:]

These are therefore to require and order you forthwith to seize, take into your hands, [enter upon,] and attach [such portion of] the defendant's property specified on the back of this writ [as may be of the value of £ : :] wheresoever it may be found within the..... Judicial Division/Magisterial District (except the wearing apparel and bedding of him and his family and the tools and implements of his trade, to the value of five pounds) and to hold the same until the further order of the court and to make return of what you have done under this writ immediately on the execution thereof.

Dated this.....day of....., 19.....

.....
Judge [or Magistrate]

To the Sheriff and Bailiffs of the Court.

Fees on issue of this writ £ s d

Application was made to the Registrar for this writ at..... minutes past the hour of.....in the.....noon of the day last mentioned above.

.....
Registrar

(See back)

[Endorsement]

SPECIFICATION OF PROPERTY TO BE ATTACHED

Number	Description	Estimated value	Where to be found	Name of person indebted to defendant, or in whose custody or control defendant's property is

FIRST SCHEDULE — *continued*

Order XI,
rule 3.

FORM 65

WARRANT TO ARREST ABSCONDING DEFENDANT

(For use in the High Court)

[*General Title—Form 1*]

WHEREAS there is probable cause for believing that the defendant is about to leave [or has (or is about to) dispose of or remove (some part of) his property from] the jurisdiction of the court by reason whereof the execution of any judgment which may be given against him in this suit is likely to be obstructed or delayed:

You are therefore hereby commanded to bring the said defendant before this court forthwith, in order that he may show cause why he should not [give bail for his appearance at any time when called upon while this suit is pending and until execution or satisfaction of the judgment, if any] [or give bail for the satisfaction of the judgment, if any.]

Dated the day of, 19.....

.....
Judge

To the Sheriff and Bailiffs of the Court.

Fee on issue of this warrant £ s d

Notice.—If the defendant gives bail before a Magistrate or Justice of the Peace in the sum of £ : : with sufficient surety, [for his appearance as aforesaid] [or for the satisfaction of the judgment,] or if he deposits with you for transmission to the court the sum of £ : : or other property of the same or greater value he shall thereupon, in respect of this warrant, be discharged out of your custody.

Order XI,
rule 3.

FORM 66

WARRANT TO ARREST ABSCONDING DEFENDANT

(For use in a Magistrate's Court)

[*General Title—Form 1*]

WHEREAS the above-named plaintiff has a good cause of action against the defendant to the amount of £ : : .

AND WHEREAS there is probable cause for believing that the said defendant is about to quit Eastern Nigeria and that his absence from Eastern Nigeria will prejudice the plaintiff in the recovery of the said sum of £ : :

You are therefore hereby commanded forthwith to bring the said defendant if found in the Magisterial District, then before the

FIRST SCHEDULE — *continued*

FORM 66 — *continued*

Magistrate's Court of the said District, and if found in any other Magisterial District, then before the nearest Magistrate.

Dated the.....day of....., 19.....

.....
Magistrate

To the Sheriff and Bailiffs of the Court.

Fee on issue of this warrant £ s d

FORM 67

WRIT OF DELIVERY

[*General Title—Form 1*]

Order XI,
 rule 4.

WHEREAS on the.....day of....., 19....., the plaintiff obtained judgment against the defendant.....for the recovery of [*specify the goods which the court has ordered to be recovered of the defendant*]..... of the value of £ : : [and for the payment of (£ : : for damages for the detention of the said goods and of) £ : : for costs] and it was ordered that the said defendant should return the said goods to the plaintiff [or pay the said sum of £ : : their value] on or before the.....day of....., 19.....:

AND WHEREAS the said defendant did not on or before the said..... day of....., 19....., return the said goods to the plaintiff and default has been made in payment according to the said order of the said sum(s) of £ : : for damages [and £ : : for costs] [and £ : : the value of the said goods]:

These are therefore to require and order you forthwith to seize the said goods, wheresoever they may be found within the.....Judicial Division/Magisterial District, and to deliver the same to the plaintiff.

And if the same cannot be found by you within such Division/District, you are required and ordered to make and levy the said sum of £ : : [*the assessed value of the goods*] by distress and sale of the goods and chattels of the said defendant wheresoever they may be found within the..... Judicial Division/Magisterial District (except the wearing apparel and bedding of him or his family and the tools and implements of his trade, to the value of five pounds), and also by seizing and taking any money, bank notes, bills of exchange, promissory notes, bonds, specialties, or securities for money belonging to the said defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution in respect of the said sum of £ : :

And you are further required and ordered to make and levy [(the said sum of £ : : [*damages for detention*] and) the said sum of £ : : costs, together with] the costs of this writ and the costs

FIRST SCHEDULE — *continued*

FORM 67 — *continued*

of executing the same, by distress and sale of the goods and chattels of the said defendant, wheresoever they may be found, within the..... Judicial Division/Magisterial District (except the wearing apparel and bedding of him or his family and the tools and implements of his trade, to the value of five pounds), and also by seizing and taking any money, bank notes, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to the said defendant which may there be found, or such part or so much thereof as may be sufficient to satisfy this execution.

And you are further required to bring into court what you shall have levied, and to make return of what you have done under this writ immediately upon the execution thereof.

Dated the.....day of....., 19.....

.....
Judge [or Magistrate]

To the Sheriff and Bailiffs of the Court.

		<i>£</i>	<i>s</i>	<i>d</i>
Assessed value of the specified goods
Damages for detention of goods
Costs
Fees on issue of this writ
Total amount to be levied exclusive of further costs, if any, of execution

Application was made to the Registrar for this writ at..... minutes past the hour of.....in the.....noon of the day last mentioned above.

Note.—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 the defendant requests it.

.....
Registrar

Order XI,
rule 4.

FORM 68

WRIT OF DELIVERY WITH EXECUTION AGAINST
IMMOVABLE PROPERTY

[*General Title—Form 1*]

[*Recitals 1 and 2—Form 67*]

AND WHEREAS no movable property of the defendant can with reasonable diligence be found [sufficient to satisfy the said sum(s) of £ : : (damages) and £ : : (costs) and £ : : (value of goods)]:

Judgments (Enforcement) Rules—Forms

FIRST SCHEDULE — continued

FORM 68 — continued

AND WHEREAS upon the application of the plaintiff it was, on the..... day of....., 19....., ordered that execution might be levied upon the immovable property of the defendant for [the sum of £ : : being part of] the said sum(s) of £ : : [and £ : :] [and £ : :] remaining unpaid.

These are therefore to require and order you forthwith to seize the said goods, wheresoever they may be found within the..... Judicial Division/Magisterial District, and to deliver the same to the plaintiff:

And if the same cannot be found by you within such Division/District, you are required and ordered to make and levy the said sum of £ : : [the assessed value of the goods], by entering upon and attaching the immovable property of the defendant wheresoever it may be found within the..... Judicial Division and by selling the same, or such part or so much thereof as may be sufficient to satisfy this execution in respect of the said sum of £ : : .

And you are further required and ordered to make and levy [the said sum of £ : : (damages for detention) and] the said sum of £ : : [costs] together with the costs of this writ and the costs of executing the same, by entering upon and attaching the immovable property of the defendant wheresoever it may be found within the Judicial Division and by selling the same or such part or so much thereof as may be sufficient to satisfy this execution.

And you are further required to bring into court [continue as in Form 67, to the words "the day last mentioned above" omitting the words "or Magistrate"].

Note.—[as in Form 38].

Registrar

FORM 69 WRIT OF SEQUESTRATION [General Title—Form 1]

Order XI, rule 8.

To.....

WHEREAS on the..... day of..... the plaintiff obtained judgment [or an order] in this court against the defendant..... for the sum of £ : : for debt [or damages] and costs [or that..... (recite the effect of the order)]:

AND WHEREAS upon the failure of the said defendant to pay the said sum [or comply with (or obey) the said order] there was issued from this court on the..... day of....., 19....., an order for the

FIRST SCHEDULE — *continued*FORM 69 — *continued*

commitment [*or* a warrant for the commitment (*or* arrest and detention)] of the said defendant:

AND WHEREAS the said defendant is not and cannot be found [*or* is taken and detained in custody without obeying the said judgment (*or* order)]:

Know ye therefore, that by these presents full power and authority is given to you to enter upon all the immovable property whatsoever of the said.....and to collect, receive and sequester into your hands not only all the rents and profits of the said immovable property, but also all his movable property whatsoever; and therefore you are commanded that you do at certain proper and convenient days and hours go to and enter upon all the immovable property of the said.....and that you do collect, take and get into your hands not only the rents and profits of his said immovable property, but also all his movable property, and detain and keep the same under sequestration in your hands until the said.....shall clear his contempt or this court shall make other order to the contrary.

Dated this.....day of....., 19.....

.....
Judge

Application was made to the registrar for this writ at.....minutes past the hour of.....in the.....noon of the day last mentioned above.

.....
Registrar

Order XII,
rule 4.

SECOND SCHEDULE

FEES

	£	s	d
1. On the issue of every writ of interim attachment—			
(a) where the amount in dispute does not exceed £50 ...	0	9	6
(b) where the amount in dispute exceeds £50 ...	0	12	6
2. On the issue of every writ of execution, where the amount of the judgment debt, or the value of the property to be recovered, or the sum of such amount and value—			
(a) does not exceed £5 ...	0	5	0
(b) exceeds £5 but not £10 ...	0	6	3
(c) exceeds £10 but not £25 ...	0	7	6
(d) exceeds £25 but does not exceed £50 ...	0	12	6
(e) exceeds £50 ...	1	5	0
3. For execution of every writ:			
(a) for not more than £5 ...	0	5	0
(b) for more than £5 ...	0	7	6
4. For the man in possession, per diem ...	0	2	6

SECOND SCHEDULE—*continued*

FEEs — *continued*

5. Sheriff's expenses of sale, where the property sold produces—
- (a) £300 or less 5 per cent.
 - (b) more than £300 but not more than £400 ... 4½ per cent.
 - (c) more than £400 but not more than £500 ... 4 per cent.
 - (d) more than £500 3½ per cent.
6. Auctioneer's commission and expenses (including printing of notices, placarding, and bellman) of sale of any property under order of court (unless the court makes an order otherwise determining such commission and expenses); where the gross proceeds amount to—

	<i>Commission not exceeding</i>	<i>Expenses not exceeding</i>		
	<i>per cent.</i>	£	s	d
(a) £50 or less	5	1	5	0
(b) more than £50, but not more than £100	5	1	10	0
(c) more than £100, but not more than £300	5	2	2	0
(d) more than £300, but not more than £400	4½	2	12	6
(e) more than £400, but not more than £500	4	3	0	0
(f) more than £500	3½	3	0	0

£ s d

Provided that the commission chargeable under any of the classes (b) to (f) above shall not be less than that chargeable under the preceding class.

7. For every notice under section 35, and every certificate of title, for each £25 and part of £25 of the purchase money (payable by purchaser) 0 5 0
8. For affixing copy order under Order VII r. 10 (payable by purchaser) 0 1 6
 (plus mileage fees)
9. On the hearing of interpleader proceedings, payable by the claimant: the amount payable on the issue of a summons for recovery of the goods claimed, at their appraised value
10. For every appraisal, for every £5 of the amount to be levied, but not exceeding 10s 0 2 6
11. On the issue of a judgment summons or a garnishee order, and on the filing of an application under Order II, r. 27, or Order V, r. 8: where the amount of the judgment debt, or debt to be garnisheed, whichever is the less—
- (a) does not exceed £10 0 3 0
 - (b) exceeds £10 but does not exceed £50 0 6 3
 - (c) exceeds £50 0 12 6

SECOND SCHEDULE — *continued*FEES — *continued*

	£	s	d
12. On the issue of every order or warrant of commitment, or for arrest and detention of a judgment debtor	0	12	6
13. For every personal arrest	0	6	3
14. For every arrest of a ship	0	12	6
15. In the case of difficulty in any arrest or execution, or where the property is of large amount, the court may authorize a larger fee not exceeding	1	5	0
16. For every warrant sent with any process to a foreign court ...	0	1	6
17. For a warrant for possession of premises:			
(a) where the annual rent or value does not exceed £25 ...	0	12	6
(b) where it exceeds £25	1	5	0
18. For the settling of any instrument by the court: such fee, not exceeding the fee chargeable by a legal practitioner for the like service, as the court may direct.			
19. For the execution of any instrument by the registrar ...	0	12	6
20. For the issue of the notice required by Order IX, r. 13 (2) ...	0	6	3
21. On making any application under the Law or these rules, not specifically charged: the fee chargeable in respect of an interlocutory application in the particular court, under the rules for the time being in force.			
22. For the drawing up and issue of an order in a form prescribed by the Law or these rules—			
(a) In the Magistrates' Courts	0	6	3
(b) In the High Court	0	12	6
23. For the service of a document, mileage and any other proceeding or service chargeable in civil cases under the rules for the time being in force: the fees payable in the Magistrates' Courts or the High Court, as the case may be, where no specific provision is made in this Schedule.			

E.R.L.N.
107 of 1956.
*

Fed. Cap.
189.

Inter-Regional Enforcement of Judgments and Service of Process Rules

*made under section 93 of the Sheriffs and Civil Process
Law and section 111 of the Sheriffs and Civil Process Act*

1. These rules may be cited as the Inter-Regional Enforcement of Judgments and Service of Process Rules, 1956.

*These Rules (as their title indicates) regulate the inter-Regional enforcement of judgments and service of process, which is the subject matter of Part VII of the Sheriffs and Civil Process Act (Fed. Cap. 189), which Part is of Federal application. Section 111 of that Part VII extended the power, which the Chief Justice has under section 93 of this Sheriffs and Civil Process Law to make rules for the purposes of the Law, to the making of rules for Eastern Nigeria for the purposes of Part VII of the Act. The Rules are not subsidiary legislation of this Sheriffs and Civil Process Law, but are printed here for convenience, because they are not included in the subsidiary legislation of the Act in the 1958 edition of the Federal Laws.

Inter-Regional Rules

2. (1) The fees set out in the First Schedule hereto shall be payable in respect of the registration of a certificate of judgment in the Nigerian Register of Judgments kept in accordance with the provisions of section 105 of the Sheriffs and Civil Process Act hereinafter called "the Act".

Fed. Cap.
189.

(2) Subsequent to the registration of a certificate of judgment, the fees payable in respect of the enforcement and execution of the judgment, the issue of process upon the certificate, the filing of affidavits, the making of applications and the like, shall be the same as would be payable if the judgment were the judgment of the court of registration and the fees so payable may be dealt with by an order under section 106 of the Act.

3. (1) An order made under section 106 of the Act shall be made by a Judge if the court of registration is the High Court, and by a Magistrate if the court of registration is a Magistrate's Court.

(2) Such an order may be made or refused without the hearing of any party.

(3) No such order shall be made unless the judgment creditor or his solicitor has lodged in the court of registration a written request for such an order, stating the reasons for the registration of the certificate.

(4) When such an order is made the Registrar of the court of registration shall cause to be indorsed upon any writ of execution which issues upon the certificate the sum which is, by virtue of the order, payable by the judgment debtor to the judgment creditor, and the sum so indorsed shall be added to the judgment debt (if any) and shall be recoverable as such.

4. Where a writ of summons or other originating process is issued by the High Court of this Region for service in any other Region, or part of the Federation of Nigeria, two copies thereof, with duplicates of the particulars of claim annexed, duly certified by the Registrar of the High Court shall be sent by him together with the copy of the order (if any) for any special form of service with a request for jurisdiction in the particular area of the Region, or other part of the Federation of Nigeria where service is to be effected. The letter of request shall specify how service is to be effected and shall further request that one of the certified copies be returned in due course to the Registrar of the High Court of this Region

indorsed with a certificate setting out the date, place and mode of service (or stating why service cannot be effected), and bearing the signature of the process server and the authentication of such signature by a Judge of the Court of service.

5. Where a summons or other originating process is issued by a Magistrate's Court in this Region and such summons or other process is to be served on a defendant in another Region or part of the Federation of Nigeria, such summons or process together with a copy thereof and a copy of the plaint certified by the Registrar of the said Court shall be sent by him to the Registrar of the Magistrate's Court exercising jurisdiction in the particular area of the Region or part of the Federation of Nigeria where service is to be effected, together with a copy of the order (if any) made for any special kind of service. The letter of request shall specify how service is to be effected and shall further request that the copy of the summons be returned in due course to the Registrar of the Court of issue indorsed with a certificate setting out the time, place and mode of service (or stating why service cannot be effected) and bearing the signature of the process server and the authentication of such signature by the Magistrate of the Court of service.

6. (1) The Registrar of the High Court of this Region or of a Magistrate's Court in this Region, shall, on receipt of a letter of request for service of a writ of summons or other originating process from a Court in another Region or part of the Federation of Nigeria submit such request to a Judge or a Magistrate as the case may be, who will (subject to all just exceptions) indorse the writ of summons for service as requested.

(2) After service has been effected, the process server shall indorse and sign on the proper document a certificate setting out the date, place and mode of service (or stating why service cannot be effected) and his signature shall be authenticated by a Judge or Magistrate, as the case may be.

(3) The writ of summons or originating process so indorsed and authenticated shall be returned to the Court which requested service.

(4) No service shall be effected unless a sum sufficient to cover the fees and expenses of service has been received.

Inter-Regional Rules

7. Where the copy of a writ of summons or summons sent for service to a court of another Region or part of the Federation of Nigeria is returned indorsed and authenticated in the manner prescribed above, the indorsement shall be accepted as *prima facie* proof of service.

8. Nothing in these rules contained shall affect or derogate from the provisions of Order VI of the Magistrates' Courts Rules and all provisions contained in the Magistrates' Courts Rules and in the High Court Rules (as the same may from time to time be amended) affecting the issue of a summons or a writ of summons for service out of this Region shall be valid and effectual, these rules notwithstanding.

9. The Nigerian Register of Judgments shall be in the form set out in the Second Schedule hereto.

10. The forms set out in the Third Schedule hereto shall be used for the purposes mentioned in section 110 of the Act.

FIRST SCHEDULE

	£	s	d
Registration of a certificate of a judgment of a High Court ...	2	0	0
Registration of a certificate of a judgment of any other Court ...	1	0	0

SECOND SCHEDULE

NIGERIAN REGISTER OF JUDGMENTS

.....(Enter name of Court)

Index No. of Registration	Date of Registration	Full title and No. of Suit	Full title of Court issuing certificate*	Name and address of party to whom payment is to be made or in whose favour Judgment is given	Name and address of party ordered to pay money or to do or not to do any act	Date of Judgment	Abstract of Judgment	Remarks (Enter here order made under section 106 of Fed. Cap. 189, and particulars of amount recovered)	Signature of Registering Officer

*Magistrate's Court, Enugu, Eastern Nigeria.

THIRD SCHEDULE

FORM 1

IN THE HIGH COURT OF EASTERN NIGERIA

OR

IN THE MAGISTRATE'S COURT (.....)

To The Registrar,

High Court/Magistrate's Court* of.....

Suit No.....

vs.....

TAKE NOTICE that the certificate of judgment, issued out of your Court on the.....day of....., 19....., in respect of the above-named suit, has this day been registered in the Nigerian Register of Judgments kept in this Court.

GIVEN under my hand this.....day of....., 19.....

*Registrar**High Court/Magistrate's Court****Delete words not required.*

FORM 2

IN THE HIGH COURT OF EASTERN NIGERIA

OR

IN THE MAGISTRATE'S COURT (.....)

To The Registrar,

High Court/Magistrate's Court* of.....

Suit No.....

vs.....

TAKE NOTICE that on the.....day of....., 19....., a..... (here state nature of process, etc.,) for..... (here state the amount in respect of which process was issued) was issued out of this Court upon the certificate of judgment in the above-mentioned suit.

GIVEN under my hand this.....day of....., 19.....

*Registrar**High Court/Magistrate's Court****Delete words not required.*

Inter-Regional Rules

IN THE HIGH COURT OF EASTERN NIGERIA

OR

IN THE MAGISTRATE'S COURT (.....)

FORM 3

To The Registrar,

High Court/Magistrate's Court* at.....

Suit No.....

.....*vs.*.....

TAKE NOTICE that on the.....day of....., 19....., the sum ofwas paid into this Court in full (or part as the case may be) satisfaction of the judgment certified in the certificate of judgment issued out of your Court on the.....day of....., 19....., in the above-mentioned suit.

.....
Registrar

*High Court/Magistrate's Court**

**Delete words not required.*

IN THE HIGH COURT OF EASTERN NIGERIA

OR

IN THE MAGISTRATE'S COURT (.....)

FORM 4

To The Registrar,

High Court/Magistrate's Court* at.....

Suit No.....

.....*vs.*.....

TAKE NOTICE that in respect of the certificate of judgment issued out of this Court on the.....day of....., 19..... in the above-mentioned suit and registered in your Court on the.....day of....., 19....., the sum of.....was on the.....day of....., 19....., paid into this Court in full (or part as the case may be) satisfaction of the said judgment.

GIVEN under my hand this.....day of....., 19.....

.....
Registrar

*High Court/Magistrate's Court**

**Delete words not required.*

CHAPTER 119

SHIPPING AND NAVIGATION (REGIONAL
INLAND WATERS) LAW

Arrangement of Sections

PART I.—PRELIMINARY

Section

1. Short title and commencement.
2. Interpretation.

PART II.—REGIONAL INLAND WATER NAVIGATION

3. Application of Part II.
4. Persons who shall be in charge of steam vessels.
5. Power to make regulations.

PART III.—CARRIAGE OF GOODS UPON REGIONAL
INLAND WATERS

6. Application of this Part.
7. Interpretation.
8. Limit of liability of ship and carrier.
9. Carriage of dangerous goods.

PART IV.—FISHING BOATS

10. Definition of "fishing boat".
11. Power to make regulations.

PART V.—LICENSING OF BOATS

12. Definition of "boat".
 13. Licences to be taken out yearly.
 14. Licensing officers.
 15. Examination of boats.
 16. Offences.
 17. Power to make regulations for the purposes of this Part.
 18. Power of local government councils to make rules.
-

CHAPTER 119

L. of N. 1948 **A Law relating to Shipping and Navigation in Regional**
Cap. 206. **Inland Waters within Eastern Nigeria.**
N. 20 of
1952.N. 7 of 1954.
N. 27 of
1954.
N.L.N. 131
of 1954.[Parts I, II and V—30th August, 1917]
[Part IV—13th February, 1947]
[Part III]

PART I.—PRELIMINARY

Short title
and com-
mencement.1. (1) This Law may be cited as the Shipping and Navigation
(Regional Inland Waters) Law.(2) Part III of this Law shall come into operation on a
day to be fixed by the Governor by notice in the *Eastern
Nigeria Gazette*.Interpreta-
tion.

2. In this Law—

“launch” means a steam vessel not exceeding one hundred
and fifty tons displacement when loaded;

“night” means between sunset and sunrise;

“passenger” includes any person, not being a child of less
than one year of age, carried in a ship other than the
master and crew, and the owner or agent and the family
of either such owner or agent;“power driven small craft” means a craft propelled by a
portable out board engine not exceeding fifteen brake-
horse power;“Regional Inland Waters” means inland waters within
Eastern Nigeria except tidal waters, the River Niger and
its affluents and any other inland waterway declared by
Parliament to be an international or an Inter-Regional
waterway;“small craft” includes any vessel not exceeding fifteen tons
burden;

*Part III is not yet in operation.

“steam vessels” includes all ships which are propelled by means of steam, internal combustion, or electric machinery or other mechanical power.

PART II.—REGIONAL INLAND WATERS NAVIGATION

3. (1) The provision of this Part do not apply to vessels in the service of the Government of the Federation of Nigeria or of any Region thereof. Application
of Part II.

(2) The provisions of this part do not apply to ports appointed under the Ports Act. (Fed. Cap.
155)

(3) Save as aforesaid this part shall apply to all Regional inland waters and to all vessels navigating such waters.

4. (1) Every steam vessel of or exceeding ten tons displacement when loaded shall, when navigating in the Regional inland waters, be in charge of—

(a) if the vessel exceeds one hundred and fifty tons displacement when loaded, a master holding a master's certificate recognized by the Shipping and Navigation Act, 1962, or a river master holding a certificate of competency granted under that Act; (1962, No.
30)

(b) in the case of a launch, such master or river master as aforesaid or a quarter-master holding a certificate of competency granted under the said Act.

(2) Nothing in subsection (1) contained shall be deemed to authorize any person other than a pilot to be in charge of vessel navigating in circumstances in which the vessel is required to be in the charge of a pilot.

(3) The owner and the person in charge of any vessel, in respect of which there shall be any contravention of subsection (1), shall be liable to a fine of fifty pounds.

(4) The provisions of this section do not apply to any vessel which is a fishing boat within the meaning of section 10.

5. The Minister may make regulations for all or any of the following purposes— Power
to make
regulations.

(a) requiring vessels in the Regional inland waters to carry lights, and to prescribe what lights shall and may be carried by any vessel or class of vessels;

goods shall be liable for all damages and expenses directly or indirectly arising out of or resulting from such shipment.

(2) If any such goods shipped with such knowledge and consent shall become a danger to the ship or cargo, they may in like manner be landed at any place or destroyed or rendered innocuous by the carrier without liability on the part of the carrier except to general average, if any.

PART IV.—FISHING BOATS

Definition of
"fishing
boat".

10. In this Part, the expression "fishing boat" means a boat of whatever size propelled by mechanical power and used within Regional inland waters for catching fish for profit.

Power
to make
regulations.

11. The Minister may make regulations for the purpose of controlling the use of fishing boats in such manner as he may deem necessary to ensure the safety of such boats and their crews, and, without prejudice to the generality of the foregoing power, such regulations may make provision—

- (a) for the registration, lettering and numbering of fishing boats;
- (b) prescribing the persons who shall be in charge of fishing boats;
- (c) for the surveying of fishing boats;
- (d) for the examination of and issue of certificates of competency to persons in charge of fishing boats;
- (e) prescribing the life-saving appliances to be carried by fishing boats;
- (f) regulating the times within which fishing boats may proceed to and remain at sea;
- (g) for matters connected with or incidental to the foregoing matters.

PART V.—LICENSING OF BOATS

Definition
of "boat".

12. In this Part the term "boat" does not include any steam vessel, but includes all other canoes, lighters, barges, boats, crafts, power driven small craft, and all other small craft of whatsoever kind or description which are employed on any Regional inland waters.

Shipping and Navigation (Regional Inland Waters)

13. (1) The owner of—

- (a) any boat (other than a canoe) which carries passengers, goods or merchandise; or
- (b) any canoe, which carries passengers when towed by a steam vessel,
- (c) any power driven small craft which plies for hire or carries passengers, goods or merchandise,

shall, within ten days of the 1st January of each year, or if such boat shall have been acquired subsequently to the 1st January, then within ten days of such acquirement, register and take out a licence for such boat in accordance with the provisions of the regulations made under this Part.

(2) Every such licence shall expire on the 31st December next following the date on which it is taken out.

Licences to
be taken
out yearly.

14. The officer in charge of the district, or such other officer as the Minister may appoint, shall be licensing officers for the purposes of this Part.

Licensing
officers.

15. A licensing officer may refuse to register any boat which he is satisfied is not in a seaworthy condition.

Examination
of boats.

16. Any person who—

- (a) plies for hire with or carries passengers, goods, or merchandise in any boat (other than a canoe) required to be licensed under this Part which is not duly licensed; or
- (b) carries passengers in a canoe when it is being towed by a steam vessel, such canoe not being duly licensed; or
- (c) plies for hire with, or carries passengers, goods or merchandise in, any power driven small craft required to be licensed under this Part which is not licensed; or
- (d) being the owner of a licensed boat, fails to comply with any regulation made under this Part which is applicable to such boat; or
- (e) loads any licensed boat (other than a canoe) so that any part of the load line is submerged, or navigates the same when so loaded; or
- (f) using a licensed canoe for carrying passengers when it is being towed by a steam vessel, has the canoe so loaded that the load line is submerged,

Offences.

shall be liable for a first offence to a fine of five pounds and

for a second or subsequent offence to a fine of twenty-five pounds or imprisonment for three months.

Power to make regulations for the purposes of this Part.

17. The Minister may make regulations for all or any of the following purposes—

- (a) prescribing the registers to be kept of licensed boats and the particulars to be entered therein;
- (b) prescribing the forms of licences;
- (c) requiring any change of ownership or of the address of an owner to be reported to the licensing officer;
- (d) prescribing the fees to be paid for licences;
- (e) requiring the number of the licence and place of issue to be painted on a boat as directed;
- (f) prescribing the position and marking of the load line;
- (g) prescribing the maximum number of persons that may be carried in any licensed boat (other than a canoe) or in a licensed canoe when such canoe is being towed by a steam vessel;
- (h) prescribing the equipment and life-saving appliances to be carried in power driven small craft and the precautions to be taken against fire and otherwise for the safety of persons carried in such craft;
- (i) prescribing the qualifications which are required to be possessed by the person in charge of a power driven small craft when plying for hire or carrying passengers, goods or merchandise, and requiring the name and address of such person, and any change relating thereto, to be reported to the licensing officer;
- (j) declaring that this Part shall not apply to any boat or class of boats;
- (k) generally for the better carrying out of the purposes of this part.

Power of local government councils to make rules.

18. (1) Any local government council may, subject to the approval of the Minister, make rules with regard to boats owned by persons residing within the jurisdiction of the said council and to boats owned by persons not residing within the said jurisdiction but whose boats are kept or used within the said jurisdiction and which boats are not licensed

by some other local government council, or any class of such boats, or with regard to such boats or class of such boats where they are used for a particular purpose—

- (a) for the purpose of requiring the same to be registered and licensed under and in accordance with the provisions of such rules;
- (b) for all or any of the purposes for which the Minister may make regulations under section 58, except the purpose mentioned in paragraph (f), and
- (c) with regard to the maximum numbers of passengers which may be carried in licensed boats.

(2) When any rules made under this section come into force sections 14, 15 and 16 and any regulations made by the Minister under section 17 shall not apply to the boats or classes of boats owned by persons residing within the jurisdiction of the local government council making the rules, nor to boats or classes of boats owned by persons not residing within the said jurisdiction but which boats are nevertheless made subject to the provisions of the rules, nor to boats or classes of boats owned, kept or used within the area to which the rules may declare this Part shall not apply.

CHAPTER 119

SHIPPING AND NAVIGATION (REGIONAL INLAND
 WATERS) LAW

SUBSIDIARY LEGISLATION

Regulations
 37 of 1917,
 13 of 1919,
 23 of 1923,
 2 of 1925,
 18 of 1927,
 22 of 1929,
 15 of 1930,
 21 of 1939,
 44 of 1944.

Navigation of Regional Inland Waters Regulations

made under section 5

Citation.

*

1. These regulations may be cited as the Navigation of Regional Inland Waters Regulations.

Interpreta-
 tion.

2. In these regulations—

“Regional inland waters” means inland waters within Eastern Nigeria except tidal waters, the River Niger and its affluents and any other inland waterway declared by Parliament to be an international or an inter-Regional waterway;

Vessels
 meeting.

3. All steam vessels when meeting other steam vessels shall alter their course to starboard so as to keep to the right or starboard side of the channel, and shall signal by blowing one short blast on their whistles.

Vessels
 overtaking
 another.

4. When one steam vessel is overtaking another going in the same direction, the steam vessel so overtaking shall pass on the starboard side of the steam vessel so overtaken.

By night
 overtaken
 vessel to
 show light.

5. A steam vessel which is being overtaken at night by another going in the same direction shall show from her stern to such overtaking steamer a white or flare-up light, to be placed in a conspicuous position not higher than the deck.

*These Regulations apply (as their new title indicates) only to waters within Eastern Nigeria which are under the control of the Eastern Legislature. The Regulations applying to waters within Eastern Nigeria under the control of the Federal Legislature are to be seen in N.L.N. 165 of 1959, (page B 334 *et seq.* of Laws of Nigeria 1959 Volume).

Navigation of Regional Inland Waters Regulations

6. When the channel is too narrow to admit of one steam vessel passing another while going in the same direction, the overtaking steam vessel shall slow or stop her engines until a part of the channel is reached which will admit of her passing the other without danger to either vessel.

Vessel
overtaking
another in
a narrow
channel.

7. When two steam vessels meet in narrow channels or on approaching points or sharp bends, the vessel proceeding against the stream shall decrease speed and, if necessary, stop and wait to allow the steam vessel proceeding with the stream to pass clear.

Vessels
meeting at
sharp bends.

8. (1) Steam vessels proceeding with the stream by day or night shall, on approaching turning points or bends, give one blast of the steam whistle at short intervals and will continue to do so until the point or bend has been passed.

Vessels
approaching
turning
points to
signal.

(2) A steam vessel proceeding against the stream will, on hearing this signal, slow down, and, if necessary, stop and anchor, at the same time indicating what has been done by sounding three short blasts on the whistle if he has slowed down only and four short blasts if he has stopped and anchored.

9. (1) Steam vessels when under way at night shall carry a bright light at the mast head and the usual starboard and port lights.

Lights to
be carried
by vessel
under way.

(2) Steam vessels when towing small craft (other than their own boats), whether alongside or astern, shall carry in addition to such lights a bright light below the mast head light, such additional light to be not less than six feet below the mast head light in a vertical direction.

10. All steam vessels, when at anchor, shall hoist the usual anchor light. A steam vessel getting aground or from any cause becoming unmanageable and ceasing to make way through the water shall not display side lights.

Anchor light.

11. All steam vessels when approaching any neighbourhood outside the limits of a port, where it is customary for canoes to ply or where it is anticipated that such canoes may be found, shall give timely warning of their approach by short blasts on the steam whistle and, if necessary, slow down so as to avoid accident or distress to any canoe that may be passed.

Warning sig-
nals when
vessel appro-
aching waters
in which
canoes may
be expected.

Vessels navigated in inland waters not to cause obstruction or damage to other vessel or wharf, etc.

12. Every vessel being navigated in Regional inland waters shall be so navigated as not to cause obstruction, injury or damage to any other vessel whether under way, at anchor, or lying at a wharf, bridge or alongside another vessel, or to any wharf, bridge or moorings; and shall proceed at a moderate speed whilst passing any other vessel, or any wharf, bridge or moorings, or passing through any bridge.

Warning signals in thick or foggy weather.

13. In thick or foggy weather steam vessels shall at intervals of not more than two minutes sound a prolonged blast with the steam whistle. The person in charge of any steam vessel proceeding against the stream will, on hearing the fog signal of any steam vessel approaching from the opposite direction, proceed dead slow, or stop and anchor if necessary, and shall indicate the action taken in the manner prescribed in regulation 8.

Light to be carried by small craft.

14. (1) All small craft, excepting lighters and barges, shall at night have ready at hand a lantern showing a white light which shall be temporarily exhibited as a warning to another vessel in sufficient time to prevent a collision.

(2) A lighter or barge shall, when under way at night, exhibit the lights, as laid down by the British Board of Trade Regulations, and shall, when at anchor, carry a bright white light visible all round the horizon at a distance of not less than one mile.

Small craft to pass on starboard side.

15. All small craft when navigating Regional inland waters shall, when meeting other vessels, keep on the starboard or right-hand side of the channel in the direction in which they are proceeding.

Small craft not to anchor in fairway.

16. Small craft shall not anchor in any channel or fairway in such a way as to obstruct or interfere with steam vessels using such channel or fairway.

Small craft to be sufficiently manned.

17. All small craft shall at all times be sufficiently manned to maintain steerage way and to keep them under proper control.

Fishing canoes.

18. Fishing canoes employed on fishing duties in recognized steam vessel routes or channels must carry out their operations, either by day or night, in such a manner as not to obstruct or interfere with the safe navigation of such

Navigation of Regional Inland Waters Regulations

routes or channels, and no fishing or seine nets or fishing stakes shall be placed in or across any fairway or channel on such recognized routes.

19. No ballast, dirt, ashes, bottles, baskets, rubbish, animal or vegetable matter or anything of a like nature shall be thrown overboard from any vessel lying alongside a wharf or jetty at any station situated on the Regional inland waters.

No rubbish to be thrown overboard.

20. The owner, master or person in charge of any vessel in relation to which any breach of the provisions of these regulations is committed and any person who commits a breach of these regulations shall be liable to a fine of twenty pounds, in addition to payment of any expenses incurred in inspection and repair of any damage caused by such breach.

Penalties.

Floating of Logs

21. (1) No person shall float logs of timber or casks of oil on any Regional inland waters except in accordance with the following provisions—

Floating of logs and casks.

- (a) in any Regional inland waters rafts may be made up of one hundred and forty-four logs or three hundred and sixty casks but shall not exceed twenty-seven feet in width;
- (b) a crew of one man for every twenty logs or fraction of twenty or for every fifty casks or fraction of fifty shall be carried on each raft, provided that no raft shall have a crew of less than two men;
- (c) every raft shall at night exhibit a red light from each end of the raft at a point equidistant from each side of the raft.

(2) The owner of any logs or casks, with respect to which any of the provisions of sub-regulation (1) have not been complied with, shall be liable to a fine of fifty pounds, and each of the persons in charge of such logs or casks shall be liable to a fine of two pounds.

(3) Any raft or single log or cask found adrift and not in the charge of a raftsman in any Regional inland waters may be seized by any administrative, police, marine or forestry officer and detained by him for the period of one month from the

date of such seizure, after which such raft, log or cask may be forfeited to the Government:

Provided that—

- (a) the owner of such raft, log or cask may within the said period of one month redeem the same on payment of a penalty of ten shillings for each log and of five shillings for each cask, whether such log or cask forms part of a raft or not, and on payment of any expenses incurred by any such officer in removing such raft, log or cask to a place of safety to avoid danger to navigation; and
- (b) any such payment shall be in addition to any penalty that may be imposed under the provisions of sub-regulation (2).

Regulations
2 of 1935,
4 of 1948.

Licensing of Boats (Regional Inland Waters) Regulations

made under section 7

Citation.

1. (1) These regulations may be cited as the Licensing of Boats (Regional Inland Waters) Regulations.

Interpretation.

(2) In these regulations—
“boat” has the same meaning as in Part V of the Law;
“the Law” means the Shipping and Navigation (Regional Inland Waters) Law.

Limit of application.

(3) These regulations shall not apply to boats while they are on tidal waters, on the River Niger and its affluents and on any other inland waterway declared by Parliament to be an international waterway or an inter-regional waterway.

Form of licences and fees. First Schedule. Forms A and B.

2. (1) A licence granted under Part V of the Shipping and Navigation Law shall be in Form A or Form B in the First Schedule according as the licence is—

- (a) for a boat in the Region other than a canoe specified in paragraph (b), or

*These Regulations apply (as their new title indicates) only to boats on waters within Eastern Nigeria, which are under the control of the Eastern Legislature. The Regulations for licensing of boats on waters within Eastern Nigeria, which are under the control of the Federal Legislature are to be seen (as to boats other than power driven small craft and as to canoes) at page 2425 *et seq.*, Vol. X, Laws of the Federation, 1958 edition, and (as to power driven small craft) in L.N. 188 of 1959 at page B 375 of the Laws of Nigeria 1959 Volume.

Licensing of Boats (Regional Inland Waters)

(b) a canoe in the Region which will be used for carrying passengers when towed by a steam vessel.

(2) There shall be paid in respect of each such licence the fee prescribed in the Second Schedule.

Second
Schedule.

(3) Where a licence is issued after the 30th of June, there shall be paid one-half of the prescribed fees.

3. Every person in charge of a boat which is required by the Law to be registered and licensed shall on demand being made by any police officer or magistrate or officer of the Marine Department, produce the licence granted in respect of such boat.

Licence to
be produced
on demand.

Penalty, a fine of two pounds.

4. Each licensing officer shall keep a register which shall contain—

Registers to
be kept.

(a) the name and address of the owner of every boat registered by him;

(b) a description of the boat;

(c) the number of the licence (if any) issued in respect thereof and the date of issue; and

(d) the number of passengers the boat, not being a canoe specified in regulation 2 (1) (b), is licensed to carry, or in the case of a canoe specified in regulation 2 (1) (b), the number of passengers which the canoe is licensed to carry when towed by a steam vessel.

5. The licensing officer shall grant to the owner of every boat which has been registered as aforesaid a licence which shall bear upon the face of it—

Licence to
bear name
and address
of owner
and number
of boat.

(a) the name and address of the owner;

(b) the number under which the boat is registered;

(c) the date of its issue.

6. Every change of address of an owner or change of owner shall be reported to the licensing officer by whom the vessel is registered within one month of such change by the owner of the boat, and such change shall be noted in the register.

Change to be
notified.

7. If an owner loses his licence a duplicate may be issued by the licensing officer on payment of the fee prescribed in the Second Schedule.

Duplicate
licences.

Display
of licence
number.

8. (1) (a) The owner of a licensed boat, other than a lighter or other craft constructed of iron or steel, shall fix or cause to be fixed on both sides of the bow, in the place and position indicated by the licensing officer an enamelled iron plate showing the registered number as indicated on the licence and the place of issue of the licence indicated by its initial letter.

(b) The letter and figures shall be white on a background of a colour approved by the licensing officer, which colour shall be changed every year.

(c) The letter and figures shall not be less than two inches in height and shall at all times be legible at a distance of forty feet.

(2) (a) The owner of a lighter or other craft constructed of iron or steel shall paint or cause to be painted on both sides of the bow, in the place and position indicated by the licensing officer, the registered number as indicated on the licence and the place of issue of the licence indicated by its initial letter.

(b) The letter and figures shall be white on a background of a colour approved by the licensing officer. The colour shall be changed every year.

(c) The letter and figures shall not be less than four inches in height and shall at all times be maintained so as to be legible.

Load line.

9. The licensing officer shall ascertain in the manner hereinafter prescribed the position for the load line for each boat registered by him, and the owner of the boat shall paint or cause to be painted and thereafter maintained in the position indicated by the licensing officer on each side of the boat a broad white line three inches wide and two feet long, the lowest part of which shall be the load line.

Position of
load line.

10. The position of the load line shall be ascertained as follows—

(a) *Lighters, or barges with combings and hatches.*—For every foot depth of hold amidship from the flooring of the lighter to the under part of the deck or lower edge of the combings, there shall be allowed two inches of freeboard measured from the deck downwards.

Licensing of Boats (Regional Inland Waters)

- (b) *Open boats.*—For every foot depth measured amidship from a lath placed across the gunwales to the bottom of the canoe or lighter, there shall be allowed four inches of freeboard measured from the edge of the gunwales downwards.

11. (1) For the purposes of arriving at loaded displacement the following formulae should be employed—

Formulae for arriving at loaded displacement.

- (a) *For lighters and barges.*—Tonnage displaced equals length x breadth x mean loaded draught x .8 ÷ 35.
- (b) *For other boats.*—Tonnage displaced equals length x breadth x mean draught x .6 ÷ 35.

(2) Measurement for length and breadth shall be taken at the load line.

12. (1) The number of persons which may be carried by a boat (other than a canoe) required to be licensed under Part V of the Law shall be governed by the deck space available, six superficial feet being allowed to each person for a voyage exceeding twelve hours in duration and four superficial feet to each person for shorter voyages. For lighters and barges the deck space shall include closed hatchways, but for each six superficial feet occupied by cargo, animals or goods one person shall be deducted.

Number of persons to be carried.

(2) For the purpose of calculating the number of persons which may be carried in any canoe the following formula shall be adopted—

$$\frac{\text{Length in feet} \times \text{breadth in feet} \times \text{depth in feet} \times .6}{10}$$

10

(3) The measurement for length and breadth shall be taken at the load line.

13. The following boats are exempt from the provisions of Part V of the Shipping and Navigation (Regional Inland Waters) Law—

Boats exempt from the provisions of Part V of Law.

- (a) Any boat belonging to a registered ship.
- (b) Any boat belonging to the subject of a foreign State who is not resident in Eastern Nigeria, provided the boat does not ply for hire or carry passengers within Eastern Nigeria.

- (c) Any boat kept solely for pleasure purposes.
- (d) Any boat kept exclusively for the purpose of fishing.
- (e) Any canoe in the Region other than those which are towed by a steam vessel carry passengers.

FIRST SCHEDULE

Reg. 2 (1).

FORM A
Boat Licence

No.....

A licence is hereby granted for the craft herein described—

Registered No. on craft.....
 Place of issue.....
 Name of registered owner.....
 Address.....
 Description of craft and owner's mark thereon.....
 Particulars as to size.....

Cost of licence	£	
Marking fee		
Total paid	£	_____

The above-mentioned boat is licensed to carry.....passenger
 voyages exceeding twelve hours in duration and.....passenger
 shorter voyages and goods and merchandise until the 31st day of I
 19....., subject to the provisions of Part V of the Shipping and Navigation
 (Regional Inland Waters) Law and the regulations made thereunder

Cap. 119.

Dated this.....day of....., 19.....

.....
Licensing Officer

Reg. 2 (1).

FORM B
*Licence for Canoe used in the Region for carrying Passengers
 when towed by Steam Vessel*

No.....

A licence is hereby granted for the canoe herein described
 to carry passengers when towed by a steam vessel until the 31st day of I

FIRST SCHEDULE—*continued*

FORM B—*continued*

Registered No. on craft.....

Place of issue.....

Name of registered owner.....

Address.....

Description of canoe and owner's mark thereon.....

Particulars as to size.....

	£	s	d
Cost of licence			
Marking fee			
Total paid	£		

Dated this.....day of....., 19.....

.....
Licensing Officer

SECOND SCHEDULE

Reg. 2 (2).

1. Fees to be paid for Licences.

(a) Lighters—	shillings
Exceeding 150 tons loaded displacement ...	80
Exceeding 100 tons but not exceeding 150 ...	60
Exceeding 50 tons but not exceeding 100 ...	50
Exceeding 20 tons but not exceeding 50 ...	40
Not exceeding 20 tons loaded displacement ...	30
(b) Other boats—	
Exceeding 30 tons loaded displacement ...	50
Exceeding 20 tons but not exceeding 30 ...	40
Exceeding 10 tons but not exceeding 20 ...	30
Not exceeding 10 tons loaded displacement ...	10

2. Duplicate copy of any licence issued as above ... 2

CHAPTER 120

THE STAMP DUTIES LAW

Arrangement of Sections

PART I.—PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II.—PROVISIONS APPLICABLE TO INSTRUMENTS GENERALLY

Charge of Duty upon Instruments

3. Charge of duties in Schedule.
4. Manner of denoting duty.

Appointment of Commissioners

5. Commissioners of stamp duties.
6. Discontinuance and issue of dies.
7. Instruments to be separately charged with duty in certain cases.
8. Facts and circumstances affecting duty to be set forth in instrument.
9. Mode of calculating *ad valorem* duty in certain cases.

Use of Adhesive Stamps

10. Cancellation of adhesive stamps.
11. Proper time for stamping instruments.
12. Penalty for fraud in relation to adhesive stamps.

Appropriated Stamps

13. Appropriated stamps.

Adjudication by a Commissioner

14. As to denoting certificate.
15. The commissioner may be required to express his opinion as to duty.
16. The commissioner may call for and refuse to proceed without evidence.
17. Persons authorized to take declarations and affidavits.
18. Effect of assessment by commissioner and payment of duty in accordance therewith.
19. Two commissioners not to adjudicate on same instrument.

*Stamp Duties**Section*

20. Persons dissatisfied may appeal.
21. Terms upon which instruments not duly stamped may be received in evidence.

Stamping of Instruments after Execution

22. Stamping of instruments after execution.

Entries upon Rolls, Books and Documents

23. Certain rolls and books to be open to inspection.
24. Penalty for enrolling instrument not stamped.

Destruction of Unclaimed Instruments

25. Destruction of unclaimed instruments.

PART III.—REGULATIONS APPLICABLE TO PARTICULAR INSTRUMENTS

Admission

26. Mode of denoting duty.

Agreements

27. Adhesive stamps may be used for agreements.
28. Certain mortgages of stock to be chargeable as agreements.
29. Hire purchase agreement to be stamped.

Appraisements

30. Definition of "appraiser".
31. Appraisements to be written out.

Instruments of Apprenticeship

32. Meaning of instrument of apprenticeship.

Bills of Lading

33. Bills of lading.

Bills of Sale

34. Bills of sale.
35. Provisions as to duty on charter-party.
36. Charter-parties executed abroad.
37. Terms upon which charter-parties may be stamped after execution.

Contract Notes

38. Provisions as to contract notes.
39. Obligation to execute contract note.
40. Extension of provisions as to contract notes to sale or purchase of options.

*Stamp Duties**Conveyances on Sale**Section*

41. Meaning of "conveyance on sale".
42. How *ad valorem* duty is to be calculated in respect of stock and securities.
43. How consideration consisting of periodical payments to be charged.
44. Conveyance on sale with further covenant.
45. How conveyance in consideration of a debt is to be charged.
46. Direction as to duty in certain cases.
47. Certain contracts to be chargeable as conveyances on sale.
48. Where interest in land transferred by sale and possession without a conveyance.
49. As to sale of an annuity or right not before in existence.
50. Principal instrument, how to be ascertained.
51. Duty payable in certain cases under Law on vesting of property.
52. Duty on gifts *inter vivos*.
53. Licence with a grant to enter upon land.

Conveyances on any occasion except Sale or Mortgage

54. What is to be deemed a conveyance on any occasion not being a sale or mortgage.

Duplicates and Counterparts

55. Provision as to duplicates and counterparts.

Exchange and Partition or Division

56. As to exchange, partition or division.

Leases

57. Agreements to be charged as lease.
58. Leases, how to be charged in respect of produce.
59. Directions as to duty in certain cases.
60. Duty on certain leases may be denoted by adhesive stamp.

Letters or Powers of Attorney and Voting Papers

61. Provisions as to proxies and voting papers.
62. Power by more than one person or to more than one person to count as one power.

Marketable Securities

63. Meaning of "marketable securities".
64. Meaning of marketable security transferable on delivery and instrument to bearer.

*Stamp Duties**Section*

65. Marketable security transferable on delivery to be stamped on execution.
66. Duty reduced in case of short-term marketable securities.

Mortgages

67. Meaning of "mortgage".
68. Direction as to duty in certain cases.
69. Security for future advances, how to be charged.

Notarial Acts

70. Duty on notarial acts may be denoted by adhesive stamps.

Receipts

71. Provisions as to duty upon receipts.
72. Certain forms of receipts not dutiable.
73. Terms upon which receipts may be stamped after execution and used in evidence unstamped.
74. Penalty for offences in reference to receipts.

Settlements

75. As to settlement of policy or security.
76. Settlements; when not to be charged as securities.
77. Where several instruments, one only to be charged with *ad valorem* duty.

Warrant for Goods

78. Meaning of and provisions as to warrants for goods.

PART IV.—SUPPLEMENTAL

Miscellaneous

79. Innocent person suffering loss may recover against guilty person.
80. Power to make regulations for compounding duty.
81. Conditions and agreements as to duty void.
82. Provision for remission of duty in certain cases.
83. Duty and debts recoverable with fines and penalties.
84. Duties and fines may be recovered summarily.
85. Fixed penalties.
86. Power to mitigate fines and stay proceedings.
87. Fines and penalties recoverable within five years.
88. Power to make regulations relating to stamp duties.
89. Schedule may be varied by resolution and order.
90. Repeal of Chapter 126 of the 1923 edition and amending Ordinances.

SCHEDULE

CHAPTER 120

A Law to provide for the Levying of Stamp Duties in certain cases.

L. of N. 1948
Cap. 209.
N. 2 of 1953.
N.L.N. 131
of 1954.
N.L.N. 47
of 1955.

[1st April, 1939]

PART I.—PRELIMINARY

1. This Law may be cited as the Stamp Duties Law.
2. In this Law—
 - “Accountant-General” means the Accountant-General of the Region;
 - “commissioner” means a commissioner of stamp duties appointed as hereinafter provided;
 - “die” includes any plate, type, tool, or implement whatever used under the direction of the Minister for expressing or denoting any duty, or rate of duty, or the fact that any duty, or rate of duty or penalty has been paid, or that an instrument is duly stamped, or is not chargeable with any duty, or for denoting any fee, and also any part of any such plate, type, tool or implement;
 - “duty” means any stamp duty for the time being chargeable under this or any other Law and also includes any fee chargeable hereunder;
 - “executed” and “execution” with reference to instruments not under seal, mean signed and signature;
 - “Government” includes the Government of the Region and any Ministry or non-Ministerial department thereof, and a local government council and an officer acting in his official capacity on behalf of the Government of the Region or any Ministry or non-Ministerial department thereof, or of a local government council, and not on behalf of a private person;
 - “instrument” includes every written document;
 - “marketable security” includes a security of such a description as to be capable of being sold in any stock market of Nigeria or the United Kingdom;

Short title.

Interpretation.

- “material” includes every sort of material upon which words or figures can be expressed;
- “money” includes all sums expressed in the currency of any part of the Commonwealth or in any foreign currency;
- “stamp” means as well a stamp impressed by means of a die as an adhesive stamp for denoting any duty or fee;
- “stamped” with reference to instruments and material, applies as well to instruments and material impressed with stamps by means of a die as to instruments and material having adhesive stamps affixed thereto;
- “write”, “written” and “writing” include every mode in which words or figures can be expressed upon material.

PART II.—PROVISIONS APPLICABLE TO INSTRUMENTS GENERALLY

Charge of Duty upon Instruments

Charge of duties in Schedule.

L. of N. 1948
Cap. 209.

3. (1) From and after the commencement of this Law the duties to be charged upon the several instruments specified in the Schedule shall be the several duties in the said Schedule specified, which duties shall be in substitution for the duties heretofore chargeable under the enactments repealed by the Stamp Duties Ordinance and shall be subject to the exemptions contained in this Law and in any other Law for the time being in force.

(2) The duties charged under this Law shall be accounted for in a manner to be prescribed by the Minister.

(3) The function under this Law of the Governor, the Minister and of a Commissioner appointed by the Governor shall be confined to matters in respect of which the Legislature of Eastern Nigeria is competent to make laws:

(Fed. Cap. 191)

Provided that nothing herein shall be interpreted as preventing the appointment by the Governor-General under section 5 of the Stamp Duties Act, and by the Governor under section 5 of this Law, of the same person to be both a Federal commissioner under that Act and a Regional commissioner under this Law.

Manner of denoting duty.

4. (1) All duties for the time being chargeable under the provisions of this Law upon any instruments are to be paid and denoted according to the provisions in this Law contained, and, except where express provision is made to the contrary

Stamp Duties

in this Law or by the regulations made hereunder, are to be denoted by impressed stamps only. Where the duty may be denoted by adhesive stamps, postage stamps may, subject to the provisions of any Law or regulation, be used for the purpose.

(2) Every instrument written upon stamped material is to be written in such a manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument and cannot be used or applied to any other instrument written upon the same piece of material.

(3) No impressed or embossed stamp or stamps made by means of a die may be used in any manner except upon the document upon which it was originally impressed, embossed or stamped.

(4) The amount of the duty upon any instrument may be denoted by several stamps and stamps of greater value than is required may be used upon any instrument.

Appointment of Commissioners

5. (1) The Governor may appoint one or more officers who shall be commissioners of stamp duties and shall have the care and management of the duties to be taken under this Law.

Commis-
sioners of
stamp duties.

(2) Save as otherwise provided by this Law or by any law for the time being in force, any decision, act or thing required to be made or done by a commissioner may be made or done by any one of the said commissioners when there are more than one commissioner.

(3) When appointing a commissioner the Governor may signify that the duty of such commissioner be confined to adjudication under section 15 of this Law.

6. (1) Until discontinued as hereinafter provided, the dies for impressed revenue stamps in use at the coming into force of this Law shall continue to be used, and the commissioners may, from time to time, procure new dies of the same design.

Disconti-
nuance and
issue of dies.

(2) No die of new design of impressed revenue stamp may be used without the approval of the Minister and a notification of such approval shall be published in the *Eastern Nigeria Gazette* at least one month before such new die shall be used.

(3) The Minister may by notice in the *Eastern Nigeria Gazette* determine to discontinue the use of any die for the use of a revenue stamp and provide a new die to be used in lieu thereof: then from and after any day to be stated in the notice (such day not being within one month after the same is so published) the new die shall be the only lawful die for denoting the duty chargeable in any case in which the discontinued die would have been used; any and every instrument first executed by any person, or bearing date after the day so stated, and stamped with the discontinued die, shall be deemed to be not duly stamped:

Provided that—

- (a) if any instrument stamped as last aforesaid, and first executed after the day so stated at any place out of the Region is brought to a commissioner within twenty-one days after it has been received in the Region, then upon proof of the facts to the satisfaction of the commissioner the stamps thereon shall be cancelled and the instrument shall be stamped with the same amount of duty by means of the lawful die, without the payment of any penalty;
- (b) all persons having in their possession any material stamped with the discontinued die, and which by reason of the providing of such new die has been rendered useless, may at any time within six months after the day stated in the notice, send the said material to the Accountant-General who shall cause the stamp on such material to be cancelled and refund the amount of duty paid upon such material.

Instruments to be separately charged with duty in certain cases.

7. Except where express provision to the contrary is made by this or any other Law—

- (a) an instrument containing or relating to several distinct matters is to be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of such matters;
- (b) an instrument made for any consideration or consideration in respect whereof it is chargeable with *ad valorem* duty, and also for any further or other valuable consideration, or considerations, is to be separately and distinctly charged, as if it were a separate instrument, with duty in respect of each of the considerations.

Stamp Duties

8. All the facts and circumstances affecting the liability of any instrument to duty, or the amount of the duty with which any instrument is chargeable, are to be fully set forth in the instrument; and every person who, with intent to defraud the Government of the Region—

Facts and circumstances affecting duty to be set forth in instrument.

- (a) executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or
 - (b) being employed or concerned in or about the preparation of any instrument neglects or omits fully and truly to set forth therein all the said facts and circumstances,
- shall incur a fine of twenty pounds.

9. (1) Where an instrument is chargeable with *ad valorem* duty in respect of—

Mode of calculating *ad valorem* duty in certain cases.

- (a) any money in any foreign or colonial currency; or
 - (b) any stock or marketable security,
- the duty shall be calculated on the value, on the day of the date of the instrument, of the money in Nigerian currency according to the current rate of exchange, or of the stock or security according to the average price thereof.

(2) Where an instrument contains a statement of current rate of exchange, or average rate of exchange, or average price, as the case may require, and is stamped in accordance with that statement, it is, so far as regards the subject-matter of the statement, to be deemed duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is in fact insufficiently stamped.

Use of Adhesive Stamps

10. (1) An instrument, the duty upon which is required or permitted by law to be denoted by an adhesive stamp, is not to be deemed duly stamped with an adhesive stamp unless the person required by law to cancel such adhesive stamp cancels the same by writing on or across the stamp his name or initials, or the name or initials of his firm, together with the true date of his so writing, or otherwise effectively cancels the stamp and renders the same incapable of being used for any other instrument or for any postal purpose or for payment of a telegram:

Cancellation of adhesive stamps.

Provided that, when the person required by law to cancel an adhesive stamp shall be an illiterate person, the stamp

shall be deemed to be sufficiently cancelled, if the mark of such person, together with the true date of the making thereof, be written on or across such stamp.

(2) When two or more adhesive stamps are used to denote the duty upon an instrument, each or every stamp is to be cancelled in the manner aforesaid.

(3) Every person who, being required by law to cancel an adhesive stamp, neglects or refuses duly and effectively to do so in the manner aforesaid, shall incur a fine of ten pounds.

Proper
time for
stamping
instruments.

11. Every instrument first executed in Eastern Nigeria, which by law may be or is required to be stamped with an adhesive stamp shall be stamped on or before its first execution, and such stamp shall be cancelled by the person by whom the instrument is first executed and at the time of such execution:

Provided that wherean instrument is prepared or attested by or executed before a commissioner of oaths, a justice of the peace or a notary public such stamp shall be cancelled by such commissioner of oaths, justice of the peace or notary public at the time of its first execution.

Penalty for
fraud in
relation to
adhesive
stamps.

12. (1) If any person—

(a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or affixes to any other instrument any adhesive stamp which has been so removed, with intent that the stamp may be used again; or

(b) sells or offers for sale, or utters any adhesive stamp which has been so removed, or utters any instrument having thereon any adhesive stamp which has to his knowledge been so removed as aforesaid,

he shall, in addition to any other fine or penalty to which he may be liable, incur a fine of fifty pounds.

(2) The expression "instrument" in this section includes a telegram and any postal articles within the meaning of the Post Office Act.

(Fed. Cap.
156)

Appropriated Stamps

Appropriated
stamps.

13. (1) A stamp which by any word or words on the face of it is appropriated to any particular description of instrument is not to be used, or if used, is not to be available, for an instrument of any other description.

(2) An instrument falling under the particular description to which any stamp is so appropriated as aforesaid is not to be deemed duly stamped, unless it is stamped with the stamp so appropriated.

Adjudication by a Commissioner

14. Where the duty with which an instrument is chargeable depends in any manner upon the duty paid upon another instrument, the payment of such last-mentioned duty shall, upon the application to a commissioner, payment of a fee of two shillings and sixpence and production of both the instruments, be denoted upon such first-mentioned instrument by a certificate under the hand of the commissioner.

As to denoting certificate.

15. (1) Subject to such regulations as the Minister may think fit to make, a commissioner may be required by any person to express his opinion with reference to the amount of duty (if any) payable on any executed instrument. In such case, a certificate shall be endorsed on the instrument, under the hand of the commissioner, stating that, in his opinion, such instrument is not chargeable with any duty, or the particular amount with which, in his opinion, it is chargeable or, if in his opinion such is the case, that it is duly stamped:

The commissioner may be required to express his opinion as to duty.

Provided that nothing in this section shall extend to any instrument chargeable with *ad valorem* duty and made as a security for money or stock without limit; or shall authorize the stamping after the execution thereof of any instrument which by law cannot be stamped after execution.

(2) An adhesive stamp for the fee prescribed under sections 14 and 55 shall be supplied to the commissioner by the person requiring the certificate at the time when the application for the certificate is made and such stamp shall be fixed to the instrument by the commissioner and cancelled by him prior to giving the certificate.

16. In any case of application to a commissioner with reference to any instrument the commissioner may require to be furnished with such evidence by means of affidavit or otherwise as he may deem necessary in order to show to his satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of the

The commissioner may call for and refuse to proceed without evidence.

duty chargeable thereon, are fully and truly set forth therein, and may refuse to proceed upon any such application until such evidence has been furnished accordingly.

Persons authorized to take declarations and affidavits.

17. Any statutory declaration or affidavit made in pursuance of or for the purposes of this Law or any other Law for the time being in force relating to stamp duties may be made before any of the commissioners or any other person authorized by law to administer oaths.

Effect of assessment by commissioner and payment of duty in accordance therewith.

18. Every instrument bearing a certificate of a commissioner that it is not chargeable with duty or that it is duly stamped, or being stamped with the amount of duty assessed and certified by him shall be admissible in evidence and available for all purposes, notwithstanding any objection relating to duty:

Provided that an instrument upon which the duty has been assessed by a commissioner shall not be stamped otherwise than in accordance with the assessment of the commissioner.

Two commissioners not to adjudicate on same instrument.

19. Any person, other than a public officer in the exercise of his official duties who, after an instrument has been submitted to a commissioner for his opinion as to the amount of duty with which the instrument is chargeable, subsequently submits the same instrument to a different commissioner for an expression of his opinion as to the amount of duty with which the instrument is chargeable shall be guilty of an offence and shall incur a fine of ten pounds.

Persons dissatisfied may appeal.

20. (1) Any person who is dissatisfied with the assessment of a commissioner may, within twenty-one days after the date of the assessment, and on payment of duty in conformity therewith, appeal against the assessment to the High Court and may for that purpose require the commissioner to state and sign a case, setting forth the question upon which his opinion was required, and the assessment made by him.

(2) The commissioner shall thereupon state and sign a case and deliver the same to the person by whom it is required, and the case may, within seven days thereafter but not later, be filed by him in the High Court and thereafter be heard by the said court.

(3) Upon the hearing of the case the court shall determine the question submitted, and, if the instrument in question is

Stamp Duties

in the opinion of the court chargeable with any duty, shall assess the duty with which it is chargeable.

(4) If it is decided by the court that the assessment of the commissioner is wrong, the court shall assess the correct amount of duty; and

(a) in the event of an excess of duty having been paid in conformity with the erroneous decision of the commissioner any excess of duty which may have been paid in conformity with such decision, together with any fine or penalty which may have been paid in consequence thereof, shall be ordered by the court to be repaid to the appellant, with or without costs as the court may determine; and

(b) in the event of the court assessing an amount of duty greater than that assessed by the commissioner the difference between the amount of duty assessed by the commissioner and the amount assessed by the court together with any fine or penalty which may have been incurred but not yet paid, with or without costs as the court may determine, shall be paid by the appellant, forthwith or within such time as the court may direct, in stamps which shall be affixed to or impressed on the document in the presence of a commissioner and in the case of adhesive stamps cancelled by him.

21. (1) Upon the production of an instrument chargeable with any duty as evidence in any court of civil judicature in the Region, or before any arbitrator or referee, notice shall be taken by the judge, magistrate, arbitrator, or referee, of any omission or insufficiency of the stamps thereon, and if the instrument is one which may legally be stamped after the execution thereof, it may, on payment to the officer of the court whose duty it is to read the instrument, or to the arbitrator or referee, of the amount of the unpaid duty, and the penalty payable on stamping the same, and of a further sum of one pound be received in evidence, saving all just exceptions on other grounds.

(2) The officer, or arbitrator, or referee receiving the duty and penalty shall give a receipt for the same, and make an entry in the proper book kept for the purpose of showing receipts of money and of the amount thereof, and shall communicate to a commissioner the name or title of the

Terms upon which instruments not duly stamped may be received in evidence.

proceedings in which and of the party from whom, he received the duty and penalty, and the date and description of the instrument, and shall pay over to the Accountant-General the money so received by him for the duty and penalty.

(3) On production to the commissioner of any instrument in respect of which any duty or penalty has been paid, together with the receipt, the payment of the duty and penalty shall be denoted on the instrument.

(4) Save as aforesaid and subject to the provisions of section 73 (3) an instrument executed in Nigeria, or relating, wheresoever executed, to any property situate or to any matter or thing done or to be done in Nigeria, shall not, except in criminal proceedings, be given in evidence, or be available for any purpose whatever, unless it is duly stamped in accordance with the law in force in Nigeria at the time when it was first executed.

Stamping of Instruments after Execution

Stamping of
instruments
after
execution.

22. (1) (a) Save where other express provision is in this Law made, any unstamped or insufficiently stamped instrument may be stamped with an impressed stamp at any time within forty days from the first execution thereof (unless such period of forty days is reduced by order as hereinafter in subsection (7) provided) upon payment of the duty or unpaid duty only but after that time the said instrument may only be stamped upon payment of the unpaid duty and a penalty of ten pounds, and also by way of further penalty, where the unpaid duty exceeds ten pounds, of interest on such duty, at the rate of five pounds *per centum* per annum, from the day upon which the instrument was first executed up to the time when the amount of interest is equal to the unpaid duty.

(b) Stamps representing the amount of the unpaid duty together with the penalty shall—

(i) in the case of impressed stamps, be impressed on the instrument; and

(ii) in the case of adhesive stamps, be affixed to the instrument,

in the presence of a commissioner, who shall thereupon in the case of adhesive stamps cancel the stamps by writing his initials and the date thereon, and in addition in the case of those stamps whether impressed or adhesive which do not

Stamp Duties

clearly indicate that they represent a penalty write the word "PENALTY" thereon, and any such cancellation shall be effective for all purposes.

(2) In the case of such instruments hereinafter mentioned as are chargeable with *ad valorem* duty, the following provisions shall have effect—

- (a) the instrument, unless it is written upon duly stamped material, shall be duly stamped with the proper *ad valorem* duty before the expiration of thirty days after it is first executed, or after it has been first received in Nigeria in case it is first executed at any place outside Nigeria;
- (b) if any such instrument executed after the coming into operation of this Law has not been or is not duly stamped in conformity with the foregoing provisions of this subsection, the person in that behalf hereinafter specified shall incur a fine of ten pounds, and in addition to the penalty prescribed under subsection (1) on stamping the instrument, there shall be paid a further penalty equivalent to the unpaid duty thereon, unless a reasonable excuse for the delay in stamping or the omission to stamp, or the insufficiency of stamp, be afforded to the satisfaction of the commissioner, or of the court, arbitrator or referee before whom it is produced;
- (c) the instruments and persons to which the provisions of this subsection are to apply are as follow—

<i>Title of Instrument as described in the Schedule</i>	<i>Person liable to penalty</i>
Bond, covenant, or instrument of any kind whatsoever.	The obligee, covenantee or other person taking the security.
Conveyance on sale	The vendee or transferee.
Conveyances or transfers operating as voluntary dispositions <i>inter vivos</i> .	The grantor or transferor.
Lease	The lessee.
Mortgage bond, debenture, covenant, and warrant of attorney to confess and enter up judgment.	The mortgagee or obligee, in the case of a transfer or reconveyance, the transferee, assignee or disponee or the person redeeming the security.
Settlement	The settlor.

(3) Save where other express provision is made by this Law in relation to any particular instrument, any unstamped or insufficiently stamped instrument which has been first executed at any place outside Nigeria, may be stamped, at any time within thirty days after it has been first received in Nigeria, on payment of the unpaid duty only.

(4) Where an instrument is void unless it has been approved or sanctioned by the Governor or some public officer, the periods mentioned in this section shall be deemed to run from the date of such approval or sanction.

(5) Where an instrument has been submitted to a commissioner for his opinion before the period within which it may be stamped has expired, the instrument may be stamped in accordance with the assessment of the commissioner within twenty-one days after notice of the assessment.

(6) The date of the approval or sanction referred to in subsection (4) and of the notice of assessment in subsection (5) shall be the date upon which such approval, sanction or notice of assessment has been sent by registered or ordinary letter post to the address of the person who requested the approval or sanction referred to in subsection (4) or the assessment in subsection (5), as the case may be, or after notice of such approval, sanction or assessment has been handed personally to such person or his representative.

(7) (a) Where the Minister is of the opinion that the period of forty days specified in subsection (1) or thirty days specified in subsections (2) and (3) is—

(i) being used in any manner for the purpose of evading the payment of stamp duties, or

(ii) too long or too short in view of the fact that a commissioner is either easy or difficult of access for the purpose of assessing the duty payable upon any instrument or of having stamps impressed upon an instrument liable to duty, the Minister may by order declare that for the period of forty days specified in subsection (1) and for the periods of thirty days specified in subsections (2) and (3) or either of them there shall be substituted such lesser or longer period of time as may be specified in the said order and thereafter such lesser period shall be substituted for

Stamp Duties

the period of forty days specified in subsection (1) and such lesser or longer period for the periods of thirty days specified in subsections (2) and (3) or either of them, as the case may be, in the application of this section to instruments first executed or received in those towns, areas or places to which the order relates.

- (b) An order under this subsection may specify different periods of time in respect of different places and may be restricted or increased in the case of a period of time referred to in subsection (2) to instruments first executed in Nigeria.

Entries upon Rolls, Books and Documents

23. (1) Every person having in his custody any rolls, books, records, papers, documents, or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person thereto authorized by the commissioner to inspect the rolls, books, records, papers, documents, and proceedings, and to take such notes and extracts as he deem necessary, without fee or reward, and in case of refusal, shall for every offence incur a fine of ten pounds.

Certain rolls and books to be open to inspection.

(2) Where such rolls, books, records, papers, documents or proceedings are in the custody of any bank such inspection shall first be made by a commissioner unaccompanied by any other person unless the commissioner decides that it is necessary for him to have assistance in determining whether any fraud or omission in relation to any duty has taken place.

24. If any person whose office it is to enrol, register or enter in or upon any rolls, books, or records any instrument chargeable with duty, enrolls, registers or enters any such instrument not being duly stamped, he shall incur a fine of ten pounds.

Penalty for enrolling instruments not stamped.

Destruction of Unclaimed Instruments

25. Where any instrument has been left with or at the office of any commissioner for any purpose connected with any of the provisions of this Law and the instrument is not claimed by the person to whom the same belongs within six

Destruction of unclaimed instruments.

months of its being so left, a notice may be inserted in an issue of the *Eastern Nigeria Gazette* stating that the instrument will be destroyed if not claimed by such person within two months of the publication of the notice and if the instrument is not so claimed it may be destroyed.

PART III.—REGULATIONS APPLICABLE TO PARTICULAR INSTRUMENTS—

Admission

Mode of denoting duty.

26. (1) The duty payable upon an admission is to be denoted on the instrument of admission delivered to the person admitted, if there be any such instrument, or if not, on the register, entry, or memorandum of the admission in the rolls, books, or records of the High Court and in cases in which no instrument of admission is delivered, and no register, entry, or memorandum is made, on the receipt or warrant for admission.

(2) If any person whose office it is to prepare or deliver out any instrument of admission chargeable with duty, or to register, enter, or make any memorandum of any admission in respect of which no instrument of admission is delivered to the person admitted, neglects or refuses, within one month after the admission, to prepare a duly stamped instrument of admission, or to make a duly stamped register, entry, or memorandum of the admission, as the case may require, he shall incur a fine of ten pounds.

Agreements

Adhesive stamps may be used for agreements.

27. The duty of one shilling on an agreement may be denoted by an adhesive stamp which must be cancelled by the person by whom the agreement is first signed before he delivers it out of his hands.

Certain mortgages of stock to be chargeable as agreements.

28. (1) Every instrument under hand only (not being a promissory note or bill of exchange) given upon the occasion of the deposit of any share warrant or stock certificate to bearer, or foreign or colonial share certificate or any security for money transferable by delivery, by way of security for any loan, shall be deemed to be an agreement, and shall be charged with duty accordingly.

Stamp Duties

(2) Every instrument under hand only (not being a promissory note or bill of exchange) making redeemable or qualifying a duly stamped transfer, intended as a security, of any registered stock or marketable security shall be deemed to be an agreement and shall be charged with duty accordingly.

(3) A release or discharge of any such instrument shall not be chargeable with any *ad valorem* duty.

29. Any agreement for or relating to the supply of goods on hire, whereby the goods in consideration of periodical payments will or may become the property of the person to whom they are supplied shall be charged with duty as an agreement and if under seal as a deed, as the case requires, and the exemption numbered (3) under the heading "Agreement or any Memorandum of an Agreement" in the Schedule shall not apply in the case of any such instrument.

Hire purchase agreement to be stamped.

Appraisements

30. For the purposes of this Law the expression "appraiser" means a person who values or appraises any estate or property, real or personal, or any interest, whether in possession or not, in any estate or property, or any goods, merchandise, or effects for or in expectation of any hire, gain, fee or reward.

Definition of "appraiser".

31. (1) Every appraiser, by whom an appraisement or valuation chargeable with duty is made, shall, within fourteen days after the making thereof, write out the same in words and figures showing the full amount thereof, and shall duly stamp the same and if he neglects or omits so to do, or in any other manner first discloses the amount of the appraisement or valuation, he shall incur a fine of fifty pounds.

Appraisements to be written out.

(2) Every person who receives from any appraiser, or pays for the making of any such appraisement or valuation, not so written out and stamped as aforesaid shall incur a fine of twenty pounds.

Instruments of Apprenticeship

32. Every writing relating to the service or tuition of any apprentice, clerk, or servant placed with any master to learn any profession trade, or employment is to be deemed an instrument of apprenticeship.

Meaning of instrument of apprenticeship.

Bills of Lading

Bills of lading.

33. (1) A bill of lading is not to be stamped after the execution thereof.

(2) Every person who makes or executes any bill of lading not duly stamped shall incur a fine of fifty pounds.

Bills of Sale

Bills of sale.

34. A bill of sale is not to be registered under any law for the time being in force relating to the registration of bills of sale unless the original, duly stamped, is produced to the proper officer.

Provisions as to duty on charter-party.

35. (1) For the purposes of this Law the expression "charter-party" includes any agreement or contract for the charter of any ship or vessel or any memorandum, letter, or other writing between the captain, master, or owner of any ship or vessel, and any other person for or relating to the freight or conveyance of any money, goods, or effects on board of a ship or vessel.

(2) The duty upon a charter-party may be denoted by an adhesive stamp, which is to be cancelled by the person by whom the instrument is last executed, or by whose execution it is completed as a binding contract.

Charter-parties executed abroad.

36. Where a charter-party is first executed out of Nigeria without being duly stamped, any party thereto may, within ten days after it has been first received in Nigeria, and before it has been executed by any person in Nigeria, affix thereto an adhesive stamp denoting the duty chargeable thereon, and at the same time cancel such adhesive stamp, and the instrument when so stamped shall be deemed duly stamped.

Terms upon which charter-parties may be stamped after execution.

37. A charter-party may be stamped with an impressed stamp after execution upon the following terms—

(a) within seven days after the first execution thereof, on payment of the duty and a penalty of four shillings and sixpence;

(b) after seven days but within one month after the first execution thereof, on payment of the duty and a penalty of ten pounds,

and shall not in any other case be stamped with an impressed stamp.

Contract Notes

38. (1) For the purpose of this Law, the expression "contract note" means the note sent by a broker or agent to his principal, or by any person who by way of business deals, or holds himself out as dealing, as a principal in any stock or marketable securities, advising the principal, or the vendor or purchaser, as the case may be, of the sale or purchase of any stock or marketable security, but does not include a note sent by a broker or agent to his principal where the principal is himself acting as broker or agent for a principal.

Provisions as to contract notes.

(2) Where a contract note is a continuation or carrying over note made for the purpose of continuing or carrying over any transaction for the sale or purchase of stock or marketable security, the contract note, although it is made in respect of both a sale and purchase, shall be charged with duty under this section as if it related to one of those transactions only, and, if different rates of duty are chargeable in respect of those transactions, to that one of those transactions which would render the contract note chargeable at the highest rate.

(3) Where a contract note advises the sale or purchase of more than one description of stock or marketable security, the note shall be deemed to be as many contract notes as there are descriptions of stocks or securities sold or purchased.

39. (1) Any person who effects any sale or purchase of any stock or marketable security as a broker or agent, and any person who by way of business deals, or holds himself out as dealing, as a principal in any stock or marketable security, and buys or sells any such stock or marketable security, shall forthwith make and execute a contract note, and transmit the note to his principal, or to the vendor or purchaser of the stock or marketable security, as the case may be, and in default of so doing shall incur a fine of twenty pounds.

Obligation to execute contract note.

(2) If any person makes or executes any contract note chargeable with duty and not being duly stamped, he shall incur a fine of twenty pounds.

(3) No broker, agent, or other person shall have any legal claim to any charge for brokerage, commission or agency, with reference to the sale or purchase of any stock or marketable security if he fails to comply with the provisions of this section.

(4) All stamp duties on a contract note may be denoted by an adhesive stamp which is to be cancelled by the person by whom the note is executed.

(5) Any duty on a contract note may be added to the charge for brokerage or agency, and shall be recoverable as part of such charge.

Extension of provisions as to contract notes to sale or purchase of options.

40. (1) The provisions of this Law as to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, as it applies to the sale or purchase of any stock or marketable security, but the duty on such a contract shall be one-half only of that chargeable on a contract note:

Provided that, if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

(2) Any contract note made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract duly stamped in accordance with the provisions of this section shall be charged with one-half only of the duty which would otherwise have been chargeable thereon under this Law:

Provided that it bears on its face a certificate by the broker, agent or other person mentioned in section 49 to the effect that it is made or executed in the exercise of an option for which a duly stamped contract has been rendered on the date mentioned in the certificate.

Conveyances on Sale

Meaning of "conveyance on sale".

41. For the purposes of this Law the expression "conveyance on sale" includes—

- (a) every instrument, and every decree or order of any court whereby any property, or any estate or interest in any property, upon the sale thereof is transferred to or vested in a purchaser, or any other person on his behalf or by his direction;
- (b) a decree or order for, or having the effect of an order for foreclosure:

Provided that—

(i) the *ad valorem* duty upon any such decree or order shall not exceed the duty on a sum equal to the

Stamp Duties

value of the property to which the decree or order relates, and where the decree or order states that value that statement shall be conclusive for the purpose of determining the amount of the duty; and

(ii) where *ad valorem* duty is paid upon such decree or order, any conveyance following upon such decree or order shall be exempt from the *ad valorem* duty.

42. (1) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any stock or marketable security, the conveyance is to be charged with *ad valorem* duty in respect of the value of the stock or security.

How *ad valorem* duty is to be calculated in respect of stock and securities.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of any security not being a marketable security, the conveyance is to be charged with *ad valorem* duty in respect of the amount due on the day of the date thereof for principal and interest upon the security.

43. (1) Where the consideration, or any part of the consideration, for the conveyance on sale consists of money payable periodically for a definite period not exceeding twenty years, so that the total amount to be paid can be previously ascertained, the conveyance is to be charged in respect of that consideration with *ad valorem* duty on such total amount.

How consideration consisting of periodical payments to be charged.

(2) Where the consideration, or any part of the consideration, for a conveyance on sale consists of money payable periodically for a definite period exceeding twenty years or in perpetuity or for an indefinite period not terminable with life, the conveyance is to be charged in respect of that consideration with *ad valorem* duty on the total amount which will or may, according to the terms of sale, be payable during the period of twenty years next after the day of the date of the instrument.

(3) Where the consideration, or any part of the consideration, for the conveyance on sale consists of money payable periodically during any life or lives, the conveyance is to be charged in respect of that consideration with *ad valorem* duty on the amount which will or may, according to the terms of the sale, be payable during the period of twelve years next after the day of the date of the instrument.

(4) No conveyance on sale chargeable with *ad valorem* duty in respect of any periodical payments, and containing a provision for securing the payments, is to be charged with any duty in respect of such provision, and no separate instrument made in that case for securing the payments to be charged with any higher duty than ten shillings.

Conveyance on sale with further covenant.

44. A conveyance on sale made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and further consideration of a covenant by the purchaser to make or of his having previously made, any substantial improvement of or addition to the property conveyed to him, or any covenant relating to the subject-matter of the conveyance is not chargeable, and shall be deemed not to have been chargeable, with any duty in respect of such further consideration.

How conveyance in consideration of a debt is to be charged.

45. Where any property is conveyed to any person for consideration, wholly or in part, of any debt due to him, subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, the debt for money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with *ad valorem* duty.

Direction as to duty in certain cases.

46. (1) Where property contracted to be sold for a consideration for the whole is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration is to be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating thereto, and such conveyance is to be charged with *ad valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for a consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, and conveyed in separate parts or parcels by separate instruments to the persons by or for whom the same was purchased, and distinct parts of the consideration, the conveyance of each separate part or parcel is to be charged with *ad valorem* duty.

Stamp Duties

(3) Where there are several instruments of conveyance for completing the purchaser's title to property sold, the principal instrument of conveyance only is to be charged with *ad valorem* duty, and the other instruments are to be respectively charged with such other duty as they may be liable to, but the last mentioned duty shall not exceed the *ad valorem* duty payable in respect of the principal instrument.

(4) Where a person having contracted for the purchase of any property, but not having obtained a conveyance thereof, contracts to sell the same to any other person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance is to be charged with *ad valorem* duty in respect of the consideration moving from the sub-purchaser.

(5) Where a person having contracted for the purchase of any property but not having obtained a conveyance contracts to sell the whole, or any part or parts thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts or parcels, the conveyance of each part or parcel is to be charged with *ad valorem* duty in respect only of the consideration moving from the sub-purchaser thereof, without regard to the amount or value of the original consideration.

(6) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration moving from him, and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable only with such other duty as it may be liable to, but the last mentioned duty shall not exceed the *ad valorem* duty.

47. (1) Any contract or agreement under seal, or under hand only, for the sale of any equitable estate or interest in any property whatsoever, or for the sale of any estate or interest in any property except property locally situated out of Nigeria or goods, wares, or merchandise, or stock or marketable securities, or any ship or vessel or part interest, share, or property of or in any ship or vessel, shall be charged with the same *ad valorem* duty, to be paid by the purchaser, as if it were an actual conveyance on sale of the estate, interest or property contracted or agreed to be sold.

Certain contracts to be chargeable as conveyances on sale.

(2) Where the purchaser has paid the said *ad valorem* duty and before having obtained a conveyance or transfer of the property, enters into a contract or agreement for the sale of the same, the contract or agreement shall be charged, if the consideration for that sale is in excess of the consideration for the original sale, with the *ad valorem* duty payable in respect of such excess consideration, and in any other case with the fixed duty of one pound or of one shilling, as the case may require.

(3) Where the duty has been paid in conformity with the foregoing provisions, the conveyance or transfer made to the purchaser or sub-purchaser, or any other person on his behalf or by his direction, shall not be chargeable with any duty, and a commissioner upon application, either shall denote the payment of the *ad valorem* duty upon the conveyance or transfer, or shall transfer the *ad valorem* duty thereto upon production of the contract or agreement, or contracts or agreements, duly stamped.

(4) Where any such contract or agreement is stamped with the fixed duty of one pound or ten shillings, as the case may require, the contract or agreement shall be regarded as duly stamped for the mere purpose of proceeding to enforce specific performance or recover damages for the breach thereof.

(5) Where any such contract or agreement is stamped with the said fixed duty, and a conveyance or transfer made in conformity with the contract or agreement is presented to a commissioner for stamping with the *ad valorem* duty chargeable thereon within a period of six months after the first creation of the contract or agreement, or within any such longer time as the commissioner may think reasonable in the circumstances of the case, the conveyance or transfer shall be stamped accordingly, and the same, and the said contract or agreement shall be deemed to be duly stamped:

Provided that nothing in this subsection shall alter or affect the provisions as to stamping an instrument after the execution thereof.

(6) The *ad valorem* duty paid upon any such contract or agreement shall be returned by the Accountant-General on

Stamp Duties

reason be not substantially performed or carried into effect, so as to operate as or be followed by a conveyance or transfer.

(7) Any certificate required from the commissioner under this section shall be free of charge.

48. Where any instrument which purports to convey any estate or interest in land, hereditament or heritage does not operate in law to transfer such estate or interest, then, if the instrument constitutes an agreement or contract to sell such estate or interest, it shall be deemed to be a contract or agreement within the meaning of the preceding section:

Where interest in land transferred by sale and possession without a conveyance.

Provided that where the purchaser is entitled to such an estate or interest by virtue of an instrument creating or transferring the same and such estate interest or instrument is registered under any Law, any contract or agreement for the sale of such estate or interest shall not be chargeable with duty under the preceding section.

49. Where upon the sale of an annuity or other right not before in existence such annuity or other right is not created by actual grant or conveyance, but is only secured by bond, warrant of attorney, covenant, contract, or otherwise, the bond or other instrument, or some one of such instruments, if there be more than one, is to be charged with the same duty as an actual grant or conveyance, and is for the purposes of this Law to be deemed an instrument of conveyance on sale.

As to sale of an annuity or right not before in existence.

50. The parties may determine for themselves which of several instruments is to be deemed the principal instrument, and may pay the *ad valorem* duty thereon accordingly.

Principal instrument, how to be ascertained.

51. Where by virtue of a Law, either—

- (a) any property is vested by way of sale in any person; or
- (b) any person is authorized to purchase property;

such person shall within three months of the passing of the Law, or the date of vesting, whichever is later, or after the completion of the purchase, as the case may be, produce to a commissioner a copy of the Law or some instrument relating to the vesting in the first case, and an instrument of the conveyance of the property in the other case, duly stamped with the *ad valorem* duty payable upon a conveyance on sale of the property; and in default of such production the duty with interest thereon at the rate of five pounds *per centum* per annum from the passing of the Law, date of

Duty payable in certain cases under Law on vesting of property.

vesting or completion of the purchase, as the case may be, shall be a debt to the State from such person.

Duty on gifts
inter vivos.

52. (1) Any conveyance or transfer operating as a voluntary disposition *inter vivos* shall be chargeable with the like duty as if it were a conveyance or transfer on sale, with the substitution in each case of the value of the property conveyed or transferred for the amount or value of the consideration for the sale:

Provided that this section shall not apply to a conveyance or transfer operating as a voluntary disposition of property to a body of persons incorporated by a special Act or Law, if that body is by its Act or Law precluded from dividing any profit among its members and the property conveyed is to be held for the purposes of an open space or for the purposes of its preservation for the benefit of the Region.

(2) A commissioner may be required to express his opinion under section 15 on any conveyance or transfer operating as a voluntary disposition *inter vivos*, and no such conveyance or transfer shall be deemed to be duly stamped unless a commissioner has expressed his opinion thereon in accordance with that section.

(3) Where any instrument is chargeable with duty both as a conveyance or transfer under this section and as a settlement under the heading "SETTLEMENT" in the Schedule, the instrument shall be charged with duty as a conveyance or transfer under this section, and not as a settlement.

(4) Any conveyance or transfer (not being a disposition made in favour of a purchaser or incumbrancer or other person in good faith and for valuable consideration) shall, for the purposes of this section, be deemed to be a conveyance or transfer operating as a voluntary disposition *inter vivos*, and (except where marriage is the consideration) the consideration for any conveyance or transfer shall not for this purpose be deemed to be valuable consideration where the commissioner is of opinion that by reason of the inadequacy of the sum paid as consideration or other circumstances the conveyance or transfer confers a substantial benefit on the person to whom the property is conveyed or transferred.

(5) A conveyance or transfer made for nominal consideration for the purpose of securing the repayment of an advance or loan or made for effectuating the appointment of a new trustee or the retirement of a trustee, whether the trust is

Stamp Duties

expressed or implied, or under which no beneficial interest passes in the property conveyed or transferred, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust, whether expressed or implied, or a disentailing assurance not limiting any new estate other than an estate in fee simple in the person disentailing the property, shall not be charged with duty under this section, and this subsection shall have effect notwithstanding that the circumstances exempting the conveyance or transfer from charge under this section are not set forth in the conveyance or transfer.

53. A licence to a person to enter upon land coupled with a grant whether such grant be the removal of material from land or other transfer of property shall (where a premium is paid by the licensee) be subject to *ad valorem* duty as a conveyance on sale for the premium so paid or, where rent is paid by the licensee be subject to duty as a lease at the rent so payable.

Licence with a grant to enter upon land.

Conveyances on any occasion except Sale or Mortgage

54. Every instrument, and every decree or order of any court, whereby any property on any occasion, except a sale, or mortgage, is transferred to or vested in any person, is to be charged with duty as a conveyance or transfer of property:

What is to be deemed a conveyance on any occasion not being a sale or mortgage.

Provided that a conveyance or transfer made for effectuating the appointment of a new trustee or for effectuating the retirement of a trustee although no new trustee is appointed is not to be charged with any higher duty than ten shillings.

Duplicates and Counterparts

55. The duplicate or counterpart of an instrument chargeable with duty (except the counterpart of an instrument chargeable as a lease, such counterpart not being executed by or on behalf of any lessor or grantor) is not to be deemed duly stamped, unless it is stamped as an original instrument, or unless it is made to appear to a commissioner (who shall upon payment of a fee of two shillings and sixpence in adhesive stamps, certify on such duplicate or counterpart accordingly) that the full and proper duty has been paid upon the original instrument of which it is the duplicate or counterpart.

Provision as to duplicates and counterparts.

Exchange and Partition or Division

As to
exchange,
partition or
division.

56. Where upon the exchange of any real property for any other real property, or upon the partition or division of any real property, any consideration exceeding in amount or value one hundred pounds is paid or given, or agreed to be paid or given, for equality, the principal or only instrument whereby the exchange or partition is effected is to be charged with the same *ad valorem* duty as a conveyance on sale for the consideration, and with that duty only; and where in any such case there are several instruments for completing the title of either party, the principal instrument is to be ascertained, and the other instruments are to be charged with duty in the manner hereinbefore provided in the case of several instruments of conveyance.

Leases

Agreements
to be charged
as lease.

57. (1) An agreement for a lease, or with respect to the letting of any lands or tenements, is to be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement.

(2) A lease made subsequently to, and in conformity with, such an agreement duly stamped, is to be charged with the duty of one shilling only.

Leases, how
to be charged
in respect of
produce.

58. (1) Where the consideration, or any part of the consideration, for which a lease is granted or agreed to be granted, consists of any produce or other goods, the value of the produce or goods is to be deemed a consideration in respect of which the lease or agreement is chargeable with *ad valorem* duty as for a conveyance on sale.

(2) Where it is stipulated that the value of the produce or goods is to amount at least to, or is not to exceed, a given sum, or where the lessee is specially charged with, or has the option of paying after any permanent rate of conversion, the value of the produce or goods is, for the purpose of assessing the *ad valorem* duty, to be estimated at the given sum or according to the permanent rate.

(3) A lease or agreement for a lease made either wholly or partially for any such consideration, if it contains a statement of the value thereof, and is stamped in accordance with the statement, is so far as regards the subject-matter of

10.17

Stamp Duties

the statement, to be deemed duly stamped, unless or until it is otherwise shown that the statement is incorrect, and that the lease or agreement is in fact not duly stamped.

59. (1) A lease or agreement for a lease or with respect to any letting, is not to be charged with any duty in respect of any penal rent, or increased rent in the nature of a penal rent, thereby reserved or agreed to be reserved or made payable, or by reason of being made in consideration of the surrender or abandonment of any existing lease, or agreement, of or relating to the same subject-matter.

Directions as to duty in certain cases.

(2) A lease made for any consideration in respect whereof it is chargeable with *ad valorem* duty, and in further consideration either of a covenant by the lessee to make, or of his having previously made, any substantial improvement of or addition to the property demised to him, or of any covenant relating to the matter of the lease is not to be charged with any duty in respect of such further consideration:

Provided that if the further consideration in the lease consists of a covenant which if it were contained in a separate deed would be charged with *ad valorem* duty the lease shall in any such case be charged with duty in respect of any such further consideration under section 7.

(3) An instrument whereby the rent reserved by any other instrument chargeable with duty and duly stamped as a lease is increased is not to be charged with duty otherwise than as a lease in consideration of the additional rent thereby made payable.

60. The duty upon an instrument chargeable with duty as a lease for any definite term less than a year and the duty upon the duplicate or counterpart of any such instrument may be denoted by an adhesive stamp which is to be cancelled by the person by whom the instrument is first executed.

Duty on certain leases may be denoted by adhesive stamp.

Letters or Powers of Attorney and Voting Papers

61. (1) Every letter or power of attorney for the purpose of appointing a proxy to vote at a meeting, and every voting paper, hereby respectively charged with the duty of two pence, is to specify the day upon which the meeting at which it is intended to be used is to be held, and is to be available only at the meeting so specified, and any adjournment thereof.

Provisions as to proxies and voting papers.

(2) Every person who makes or executes, or votes, or attempts to vote, under or by means of any such letter or power of attorney or voting paper, not being duly stamped, shall incur a fine of fifty pounds, and every vote given or tendered under the authority or by means of the letter or power of attorney or voting paper, shall be void.

Power by more than one person or to more than one person to count as one power.

62. No instrument chargeable with duty under the heading "LETTER OR POWER OF ATTORNEY, and COMMISSION FACTORY, MANDATE or other instrument in the nature thereof" in the Schedule shall be charged with duty more than once by reason only that more persons than one are named in the instrument as donors or donees (whether jointly, severally or otherwise) of the powers thereby conferred or that those powers relate to more than one matter.

Marketable Securities

Meaning of "marketable securities".

63. Marketable securities whether or not transferable by delivery for the purposes of the charge of duty thereon include—

- (a) a marketable security made or issued by or on behalf of any company or body of persons corporate or incorporate formed or established in Nigeria;
- (b) a marketable security by or on behalf of any foreign State or Government, or foreign or colonial municipal body, corporation or company (hereinafter called a "foreign security") formed or established outside Nigeria—
 - (i) which is made or issued in the Region;
 - (ii) which, though originally issued out of Nigeria is offered for subscription, and is given or delivered to a subscriber in the Region;
 - (iii) which is assigned, transferred or in any manner negotiated in the Region;
- (c) a marketable security by or on behalf of any Commonwealth Government which if the borrower were a foreign Government would be a foreign security (hereinafter called a Commonwealth Government Security).

Stamp Duties

64. An instrument used for the purpose of assigning, transferring or in any manner negotiating the right to any marketable security, share or stock, shall, if the delivery thereof is by usage treated as sufficient for the purpose of a sale on the market, whether that delivery constitutes a legal assignment, transfer or negotiation, or not, be deemed a marketable security, transferable on delivery, or an instrument to bearer, as the case may be, and the delivery thereof an assignment, transfer or negotiation.

Meaning of marketable security transferable on delivery and instrument to bearer.

65. (1) A marketable security transferable on delivery (not being a foreign security or a Commonwealth Government Security made or issued out of Nigeria) shall be stamped on or before the issue or first execution thereof, and a foreign security or a Commonwealth Government Security made or issued out of Nigeria shall be stamped before being dealt with in the manner specified in section 63 (b) (ii) and (iii).

Marketable security transferable on delivery to be stamped on execution.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall incur a fine of twenty pounds.

66. (1) The stamp duty charged on marketable securities transferable by delivery shall, when the amount secured by the security is to be paid off within a term not exceeding three years after the date on which the duty is payable, and the date by which the amount is to be paid off is conspicuously stated on the face of the security, be reduced to sixpence for every ten pounds or fractional part of ten pounds of the money secured, if that money is to be paid off within a term not exceeding one year from the date on which the duty is payable, and one shilling for every ten pounds or fractional part of ten pounds of the money secured, if that money is to be paid off within a term exceeding one year but not exceeding three years from the date on which the duty is payable.

Duty reduced in case of short-term marketable securities.

(2) If the marketable security upon which the stamp duty has been charged in accordance with this section is assigned, transferred or in any manner negotiated in the Region after the date stated on the face of the security as the date by which the amount secured is to be paid off, stamp duty thereon shall be charged at the full rate of duty, an allowance being made for the duty already paid, and if any person in the Region after the said date assigns, transfers or in any manner

negotiates or is concerned as broker or agent in assigning, transferring or in any manner negotiating any such security, and the security is not stamped in accordance with this provision; that person shall incur a fine of twenty pounds.

(3) Paragraph (3) under the heading "MARKETABLE SECURITY" in the Schedule, shall not apply in the case of marketable securities given in substitution for marketable securities which have been stamped only with the reduced rate under this section.

Mortgages

Meaning of
"mortgage"

67. (1) For the purposes of this Law the expression "mortgage" means a security by way of mortgage for the payment of any definite and certain sum of money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable, or for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be; and includes—

- (a) conditional surrender by way of mortgage, further charge or disposition; and
- (b) any conveyance of any lands, estate or property whatsoever in trust to be sold or otherwise converted into money, intended only as a security and redeemable before the sale or other disposal thereof, either by express stipulation or otherwise, except where the conveyance is made for the benefit of creditors generally, or for the benefit of creditors specified who accept the provision made for payment of their debts in full satisfaction thereof, or who exceed five in number; and
- (c) any defeasance, letter of reversion, declaration or other deed or writing for defeating or making redeemable or explaining or qualifying any conveyance, transfer or disposition of any lands, estate or property whatsoever, apparently absolute, but intended only as a security; and
- (d) any agreement (other than an agreement chargeable with duty as an equitable mortgage), contract, or bond accompanied with a deposit of title deeds for making a

Stamp Duties

mortgage, or any other security or conveyance as aforesaid of any lands, estate, or property comprised in title deeds, or for pledging or charging the same as a security; and

(e) any deed operating as a mortgage of any stock or marketable security.

(2) For the purposes of this Law the expression "equitable mortgage" means an agreement or memorandum under hand only—

"equitable mortgage".

(a) relating to the deposit of any title deed or instrument constituting or being evidence of the title to any property whatever (other than stock or marketable security); or

(b) creating a charge on lands, tenements or hereditaments whether or not such charge is expressed to be created by "pledge" or otherwise.

(3) Where a mortgage gives a power of sale to the party taking the security or power to enter into receipt of rents and profits or declaring that he is to have the power conferred by law upon mortgagees, such mortgage shall be chargeable with duty as a legal mortgage notwithstanding that it would have been an equitable mortgage had it not contained the power of sale or other provisions specified in this subsection.

68. (1) A security for the transfer of any stock is to be charged with the same duty as a similar security for a sum of money equal in amount to the value of the stock; and a transfer, assignment or disposition of any such security, and a reconveyance, release, discharge, surrender, resurrender, warrant to vacate, or renunciation of any such security, is to be charged with the same duty as an instrument of the same description relating to a sum of money equal in amount to the value of the stock.

Direction as to duty in certain cases.

(2) A security for the payment of any rent charge, annuity, or periodical payments, by way of repayment, or in satisfaction or discharge of any loan, advance, or payment intended to be so repaid, satisfied, or discharged is to be charged with the same duty as a similar security for the payment of the sum of money so lent, advanced or paid.

(3) A transfer of a duly stamped security, and a security by way of further charge for money or stock, added to money or stock previously secured by a duly stamped instrument, is not to be charged with any duty by reason of its containing any further or additional security for the money or stock transferred or previously secured, or the interest or dividends thereof, or any new covenant, proviso, power, stipulation, or agreement in relation thereto, or any further assurance of the property comprised in the transferred or previous security.

(4) An instrument chargeable with *ad valorem* duty as a mortgage is not to be charged with any further duty by reason of the equity of redemption in the mortgaged property being thereby conveyed or limited in any other manner than to a purchaser, or in trust for, or according to the direction of, a purchaser.

Security
for future
advances,
how to be
charged.

69. (1) A security for the payment or repayment of money to be lent, advanced, or paid, or which may become due upon an account current, either with or without money previously due, is to be charged, where the total amount secured or to be ultimately recoverable is in any way limited, with the same duty as a security for the amount so limited.

(2) Where such total amount is unlimited, the security is to be available for such an amount only as the *ad valorem* duty impressed thereon extends to cover, but where any advance or loan is made in excess of the amount covered by that duty the security shall for the purposes of stamp duty be deemed to be a new and separate instrument, bearing date on the day on which the advance or loan is made:

Provided that no money to be advanced for the insurance of any property comprised in the security against damage by fire, or for keeping up any policy of life insurance comprised in the security, or for effecting in lieu thereof any new policy, or for the renewal of any grant or lease of any property comprised in the security upon the dropping of any life wherein the property is held, shall be reckoned as forming part of the amount in respect whereof the security is chargeable with *ad valorem* duty.

*Stamp Duties**Notarial Acts*

70. The duty upon a notarial act and upon the protest by a notary public of a bill of exchange or promissory note may be denoted by an adhesive stamp which is to be cancelled by the notary.

Duty on notarial acts may be denoted by adhesive stamps.

Receipts

71. (1) For the purposes of this Law the expression "receipt" includes any note, memorandum, or writing whereby any money amounting to two pounds or upwards, or any bill of exchange or promissory note for money amounting to two pounds or upwards, is acknowledged or expressed to have been received or deposited or paid, or whereby any debt or demand, or any part of a debt or demand, of the amount of two pounds or upwards, is acknowledged to have been settled, satisfied, or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

Provisions as to duty upon receipts.

(2) The duty upon a receipt may be denoted by an adhesive stamp which is to be cancelled by the person by whom the receipt is given before he delivers it out of his hands.

72. Neither the name of a banker (whether accompanied by words of receipt or not) written in the ordinary course of his business as a banker upon a bill of exchange or promissory note duly stamped, nor the name of a payee written upon a draft or order, if payable to order, shall constitute a receipt chargeable with duty.

Certain forms of receipts not dutiable.

73. (1) A receipt given without being stamped may be stamped with an impressed stamp upon the following terms—

Terms upon which receipts may be stamped after execution and used in evidence unstamped. (Sec. 102 varied and extended)

(a) within twenty-eight days after it has been given, on payment of the duty and a penalty of two pounds;

(b) after twenty-eight days, but within fifty-six days, on payment of the duty and a penalty of ten pounds,

and shall not in any other case be stamped with an impressed stamp.

(2) The payment of the penalty under subsection (1) shall be certified on the face of the receipt under the hand of a commissioner.

(3) (a) Where in any legal proceedings or before any arbitrator or referee a receipt is inadmissible by reason of it

not being duly stamped, the officer presiding over the court, the arbitrator or referee may, having regard to the illiteracy and ignorance of the party tendering the receipt in evidence, admit the receipt upon payment of a penalty of two pounds and the officer presiding over the court, the arbitrator or referee, as the case may be, shall note the payment of the penalty upon the face of the receipt so admitted and a receipt shall be given for the same.

(b) A receipt so admitted in evidence shall not be deemed to be duly stamped but shall be available for the purposes of the suit in which it is tendered in evidence and for that purpose only.

(c) Where a person has been permitted under this subsection to tender a receipt not duly stamped upon payment of the penalty of two pounds such person may recover the said sum of two pounds from the person whose duty it was to stamp the receipt at the time when it was first issued.

(4) Nothing in this section contained is to relieve any person from any other penalty incurred by him in relation to such receipt.

Penalty for offences in reference to receipts.

74. If any person—

- (a) gives a receipt liable to duty and not duly stamped; or
- (b) in any case where a receipt would be liable to duty refuses to give a receipt duly stamped; or
- (c) upon a payment to the amount of two pounds or upwards gives a receipt for a sum not amounting to two pounds, or separates or divides the amount paid with the intent to evade the duty,

he shall incur a fine of ten pounds.

Settlements

As to settlement of policy or security.

75. Where any money which may become due or payable upon any policy of life insurance, or upon any security not being a marketable security, is settled or agreed to be settled, the instrument whereby the settlement is made or agreed to be made is to be charged with *ad valorem* duty in respect of that money:

Provided that—

- (a) where, in the case of a policy, no provision is made for keeping up the policy, the *ad valorem* duty is to be

Stamp Duties

charged only on the value of the policy at the date of the instrument;

- (b) if in any such case the instrument contains a statement of the said value, and is stamped in accordance with the statement, it is, so far as regards the policy, to be deemed duly stamped, unless or until it is shown that the statement is untrue, and that the instrument is in fact insufficiently stamped.

76. An instrument chargeable with *ad valorem* duty as a settlement in respect of any money, stock, or security is not to be charged with any further duty by reason of containing provision for the payment or transfer of the money, stock, or security, or by reason of containing, where the money, stock, or security is in reversion or is not paid or transferred upon the execution of the instrument, provision for the payment by the person entitled in possession to the interest or dividends of the money, stock, or security, during the continuance of such possession, of any annuity or yearly sum not exceeding interest at the rate of four pounds *per centum* per annum upon the amount or value of the money, stock or security.

Settlements; when not to be charged as securities.

77. (1) Where several instruments are executed for effecting the settlement of the same property, and the *ad valorem* duty chargeable in respect of the settlement of the property exceeds ten shillings, one only of the instruments is to be charged with the *ad valorem* duty.

Where several instruments, one only to be charged with *ad valorem* duty.

(2) Where a settlement is made in pursuance of a previous agreement upon which *ad valorem* settlement duty exceeding ten shillings has been paid in respect of any property, the settlement is not to be charged with *ad valorem* duty in respect of the same property.

(3) In each of the aforesaid cases the instruments not chargeable with *ad valorem* duty are to be charged with the duty of ten shillings.

Warrant for Goods

78. (1) For the purposes of this Law, the expression "warrant for goods" means any document or writing, being evidence of the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods, wares or merchandise lying in any warehouse or dock, or upon

Meaning and provisions as to warrants for goods.

any wharf, and signed or certified by or on behalf of the person having the custody of the goods, wares or merchandise.

(2) The duty upon a warrant for goods may be denoted by an adhesive stamp, which is to be cancelled by the person by whom the instrument is made, executed or issued.

(3) Every person who makes, executes or issues, or receives, or takes by way of security or indemnity, any warrant for goods not being duly stamped, shall incur a fine of twenty pounds.

PART IV.—SUPPLEMENTAL

Miscellaneous

Innocent person suffering loss may recover against guilty person.

79. Where any person by the production of an unstamped or insufficiently stamped instrument or otherwise, renders himself subject to a fine, penalty or forfeiture and is made thereby to suffer any fine, penalty or forfeiture but is not the person whose duty it was by law originally to provide for the stamping of the document, such first mentioned person shall upon proof to the satisfaction of a court that he was not the person originally responsible for having the document stamped and that he has thereby suffered a fine, penalty or forfeiture, be entitled to obtain judgment for the amount to which he has been penalised, together with costs, against the person whose duty it originally was to have the document stamped.

Power to make regulations for compounding duty.

80. Where the collection of duty or the stamping of instruments according to the provisions of this Law is impracticable or inexpedient, or where such collection or stamping causes undue inconvenience to trade or business or where the exercise of the power conferred by this section is in the interest of the Region, the Minister may make regulations—

- (a) for compounding any duty; or
- (b) for delivery of accounts by, and collecting duty from, the persons making or issuing the instruments upon which the duty is charged.

Conditions and agreements as to duty void.

81. Every condition of sale framed with the view of precluding objection or requisition upon the ground of absence or insufficiency of stamp upon any instrument executed after

Stamp Duties

the commencement of this Law, and every contract, arrangement, or undertaking for assuming the liability on account of absence or insufficiency of stamp upon any such instrument or indemnifying against such liability, absence or insufficiency shall be void.

82. Where it is shown to the satisfaction of the Minister that duty has been paid on an instrument in the Region in addition to stamp duty already paid elsewhere the Minister may, if he considers it advisable in the interest of the Region to do so, authorize a refund of the duty paid in the Region, or such portion thereof as may to him seem fit.

Provision for remission of duty in certain cases.

83. Proceedings for the recovery of any duty imposed by this Law or for the recovery of any debt due to the State under this Law may be included in any proceedings for the recovery of a fine or penalty under this Law.

Duty and debt recoverable with fines and penalties.

84. All duties, fines, penalties and debts due to the State imposed by this Law shall be recoverable in a summary manner in the name of the Attorney-General.

Duties and fines may be recovered summarily.

85. The amount to which any person is declared to be liable in respect of any fine or penalty and the amount due as a debt to the State under this Law shall not, save as hereinafter provided, be subject to any mitigation.

Fixed penalties.

86. (1) The Minister may in his discretion mitigate any fine or penalty or debt due to the State under this Law or stay or compound any proceedings for recovery thereof and may also after judgment further mitigate or entirely remit any such fine, penalty or debt.

Power to mitigate fines and stay proceedings.

(2) The decision of the Minister to stay or compound any proceedings which have been commenced may be intimated to the court by a law officer, state counsel or some person on behalf of a law officer or state counsel.

87. All proceedings for the recovery of any duty, fine, penalty and debt due to the State imposed by this Law may be commenced or prosecuted at any time within five years after the offence committed by reason whereof such duty, fine, penalty or debt shall be incurred.

Fines and penalties recoverable within five years.

Power to make regulations relating to stamp duties.

88. In addition to the powers conferred on him by sections 15 and 80 the Minister may make regulations relating—

- (a) to the custody of the dies to be used under this Law;
- (b) to the circumstances in which allowance shall be made for spoiled stamps;
- (c) to the accounting for the revenue derived from stamp duties;
- (d) to the substitution of adhesive stamps for impressed stamps, or of impressed stamps for adhesive stamps, or of revenue stamps for postage and revenue stamps;
- (e) to the manner in which and the persons by whom impressed stamps shall be affixed to document; and
- (f) to the further and better carrying into effect of the objects and purposes of this Law.

Schedule may be varied by resolution and order.

89. The legislature of the Region may by resolution increase, diminish or repeal the duty chargeable under any of the heads specified in the Schedule in respect of documents regarding which the Government of the Region is competent to make laws and in respect of any other matter within such competence may add new duties or otherwise add to, vary or revoke the Schedule.

Repeal of Chapter 126 of the 1923 edition and amending Ordinances.

90. The Stamp Ordinance, the Stamp (Amendment) Ordinance, 1928, the Stamp (Amendment) Ordinance, 1931, all Orders in Council made under section 4 of the Stamp Ordinance, all regulations and all appointments made under the Stamp Ordinance are hereby respectively repealed, revoked and cancelled:

Provided that where an instrument has been first executed before the coming into operation of this Law such instrument shall be stamped in accordance with the provisions of the Ordinances hereby repealed.

As amended by N. 38 of 1950, N. 2 of 1953. Resolutions and Orders 2 of 1948, and 1 of 1951. Resolution 6 of 1951. N.L.N. 64 of 1954, N.L.N. 47 of 1955.

SCHEDULE

	£	s	d
AFFIDAVIT, AFFIRMATION and STATUTORY DECLARATION			
Except where express provision is made as to the manner in which it is to be taken	0	3	0

Exemptions

- (1) Affidavit or affirmation made for the immediate purpose of being filed, read, or used in any court in Nigeria, or before any judge or officer of any such court.

Stamp Duties

SCHEDULE — *continued*

£ s d

(2) Affidavit, affirmation or declaration made upon a requisition of a commissioner under this Law, or a commissioner of any public board of revenue in Nigeria or in England or any of the officers acting under them, or required by any law of Nigeria.

(3) Affidavit, affirmation or declaration which may be required by the Bank of England to prove the death of any proprietor of any stock transferable there, or to identify the person of any such proprietor, or to remove any other impediment to the transfer of any such stock.

AGREEMENT or CONTRACT, accompanied with a deposit. *See* Mortgage and sections 28 and 67.

AGREEMENT for a lease or for any letting. *See* Lease and section 57.

AGREEMENT for Sale of Property. *See* Conveyance on Sale and section 47.

AGREEMENT or any MEMORANDUM of an AGREEMENT under hand only and not otherwise specifically charged with any duty whether the same be only evidence of a contract or obligatory upon the parties from its being a written instrument 0 1 0

Exemptions

(1) Agreement or Memorandum the matter whereof is not of the value of £5.

(2) Agreement or Memorandum for the hire of any labourer, artificer, manufacturer or menial servant.

(3) Agreement, letter or memorandum made for or relating to the sale of any goods, wares, or merchandise. *See* sections 27, 28 and 29.

AGREEMENT, HIRE PURCHASE,

If under hand only	...	...	...	...	...	...	...	0	1	0
If under seal	...	...	...	...	...	...	...	1	0	0

See section 29

ANNUITY, conveyance in consideration of. *See* Conveyance on Sale, and section 43.

Purchase of. *See* Conveyance on Sale, and section 49.

Creation of, by way of security. *See* Mortgage, and section 68.

Instruments relating to, upon any other occasion. *See* Bond, Covenant, or Instrument of any kind whatsoever.

*Stamp Duties*SCHEDULE — *continued*

	£	s	d
APPOINTMENT of a new trustee, and APPOINTMENT in execution of a power of any property, or of any use, share, or interest in any property, by any instrument not being a will ... <i>See section 54</i>	0	10	0
APPOINTMENT of commissioner for taking affidavits and declarations under any Ordinance or Law and of a justice of the peace under the provisions of any Ordinance or Law relating to magistrates' courts	3	0	0
APPRAISEMENT or VALUATION of any property, or of any interest therein, or of the annual value thereof, or of any dilapidations, or of any repairs wanted, or of the materials and labour used or to be used in any building, or of any artificers' work whatsoever.			
Where the amount of the appraisement or valuation—does not exceed £100, for every £25 or fractional part thereof ...	0	2	6
exceeds £100, for every £100 or fractional part thereof ...	1	0	6

Exemptions

- (1) Appraisement or valuation made for, and for the information of, one party only, and not being in any manner obligatory as between parties either by agreement or operation of any law of Nigeria.
- (2) Appraisement or valuation made in pursuance of the order of a court in the exercise of its Admiralty Jurisdiction.
- (3) Appraisement or valuation of property of a deceased person made for the information of an executor or other person required to deliver an affidavit of the estate of such deceased person.
- (4) Appraisement or valuation of any property of a deceased person made for the purpose of ascertaining any duty payable thereon.
- (5) Appraisement or valuation made by or on behalf of a local authority and in connexion with the raising of the revenues of a local authority.

APPRENTICESHIP, instrument of	0	2	6
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See section 32

ASSIGNMENT:

By way of security, or of any security. *See Mortgage.*Upon a sale, or otherwise. *See Conveyance.*ASSURANCE. *See Policy.*ATTORNEY, LETTER or POWER of. *See Letter of Attorney.*WARRANT of. *See Warrant of Attorney.*

Stamp Duties

SCHEDULE — *continued*

	<i>£</i>	<i>s</i>	<i>d</i>
AWARD:			
(1) Where the amount or value of the matter in dispute does not exceed <i>£</i> 100, for every <i>£</i> 25 or fractional part of <i>£</i> 25 thereof	0	2	6
(2) Where the amount or value exceeds <i>£</i> 100, for every <i>£</i> 100 or fractional part of <i>£</i> 100 thereof	1	0	0
BILL OF LADING of or for any goods, merchandise, or effects to be exported	0	0	6

See section 33

Exemption

The master's copy.

BILL OF SALE:

Absolute. *See conveyance on Sale.*

By way of security. *See Mortgage. See section 34.*

BONDS:

BOND for securing the payment or repayment of money or the transfer or re-transfer of stock. *See Mortgage, and Marketable Security.*

BOND in relation to any annuity upon the original creation and sale thereof. *See Conveyance on Sale and section 49.*

BOND, COVENANT, or INSTRUMENT of any kind whatsoever.

(1) Being the only or principal or primary security for any annuity (except upon the original creation thereof by way of sale or security, and except a superannuation annuity), or for any sum or sums of money at stated periods, not being interest for any principal sum secured by a duly stamped instrument, nor rent reserved by a lease.

For a definite and certain period, { The same *ad valorem* duty as a mortgage or a bond for such total amount.

For the time of life or any other indefinite period—
For every *£*5, and also for any fractional part of *£*5, of the annuity or sum periodically payable 0 5 0

(2) Being a collateral or auxiliary or additional or substituted security for any of the above-mentioned purposes where the principal or primary instrument is duly stamped.

Where the total amount to be ultimately payable can be ascertained, { The same *ad valorem* duty as a mortgage or a bond of the same kind for such total amount.

*Stamp Duties*SCHEDULE — *continued*

	£	s	d
In any other case—			
For every £5, and also for any fractional part of £5, of the annuity of sum periodically payable	0	1	0
(3) Being a grant or contract for payment of a superannuation annuity, that is to say a deferred life annuity granted or secured to any person in consideration of annual premiums payable until he attains a specified age and so as to commence on his attaining that age.			
For every £5 and also for any fractional part of £5 of the annuity	0	1	0
Bond given pursuant to the directions of any Law or of a Commissioner, or of the Accountant-General, or any of their officers, for or in respect of any of the duties or revenue of the Region or for preventing frauds or evasions thereof, or for any other matter or thing relating thereto.			
Where the penalty of the bond does not exceed £100 ...	0	5	0
In any other case	0	10	0

Exemptions

BOND given as aforesaid upon, or in relation to, the receiving or obtaining, or for entitling any person to receive or obtain, any drawback of any duty or revenue, for or in respect of any goods, wares or merchandise exported from Nigeria and bonds given in respect of the removal, transhipment, exportation or shipment as stores of any goods.

(Fed. Cap. 161) BOND on obtaining letters of administration or on the sealing of a probate or letters of administration under the Probates (Re-sealing) Act 0 5 0

Exemptions

BOND given by any person where the estate to be administered does not exceed one hundred pounds in value.

BOND of any kind whatsoever not specifically charged with any duty.

Where the amount limited to be recoverable does not exceed £300. { The same *ad valorem* duty as a mortgage or a bond for the amount limited.

In any other case 1 0 0

BOND, accompanied with a deposit of title deeds, for making a mortgage or other security on any estate or property therein comprised. See Mortgage, and section 79,

*Stamp Duties*SCHEDULE — *continued*

	£	s	d
BOND, DECLARATION, or other DEED or WRITING for making redeemable any disposition apparently absolute, but intended only as a security. <i>See</i> Mortgage, and sections 28 and 67.			
CERTIFICATE from a commissioner—			
For denoting under section 14, or that the full and proper duty has been paid upon the original of any document under section 55	0	2	6
That an instrument is not chargeable with duty, or that it is duly stamped or the amount of duty with which it is chargeable in pursuance of section 15	0	5	0
<i>Exemptions</i>			
Any certificates relating to any instruments the subject of general exemption (3) or (4). <i>See</i> section 47.			
CHARTER-PARTY, or any agreement for or relating to the freight or conveyance of any goods or effects on board a ship ...	0	0	6
CONTRACT. <i>See</i> Agreement.			
CONTRACT NOTES.			
CONTRACT NOTE for or relating to the sale or purchase of any stock or marketable security—			
Where the value of the stock or marketable security is less than £5	0	0	2
Where the value of the stock or marketable security—			
is £5 and does not exceed £100	0	1	0
exceeds £100, for every £100 or part thereof	0	1	0
<i>See</i> sections 38, 39 and 40.			
CONTINUATION NOTES. <i>See</i> section 38 (2).			
OPTION NOTES. <i>See</i> section 40 (1).			
CONTRACT NOTE following a duly stamped Option Note. <i>See</i> section 40 (2).			
CONVEYANCE OR TRANSFER ON SALE, of any property. For every £25, and also for every fractional part of £25, of the amount or value of the consideration for the sale	0	5	0
<i>See</i> sections 41–53.			
CONVEYANCE or Transfer by way of security of any property or of any security. <i>See</i> Mortgage and sections 2 and 63–65.			
CONVEYANCES or Transfers operating as voluntary dispositions <i>inter vivos</i> . <i>See</i> sections 22 and 52.			
CONVEYANCE or Transfer of any kind not hereinbefore described	1	0	0

SCHEDULE — continued

£ s d

See section 54.

COUNTERPART. See Duplicate.

COVENANT for securing the payment or repayment of money, or the transfer or re-transfer of stock. See Mortgage.

COVENANT in relation to any annuity upon the original creation and sale thereof. See Conveyance on Sale, and section 49.

COVENANT in relation to any annuity (except upon the original creation and sale thereof) or to other periodical payments. See Bond, Covenant.

COVENANT. Any separate deed of covenant (not being an instrument chargeable with *ad valorem* duty as a conveyance on sale or mortgage) made on the sale or mortgage of any property, and relating solely to the conveyance or enjoyment of, or the title to, the property sold or mortgaged, or to the production of the muniments of title relating thereto, or to all or any of the matters aforesaid—

Where the *ad valorem* duty in respect of the consideration or mortgage money does not exceed £1. { A duty equal to the amount of such *ad valorem* duty.

In any other case 1 0 0

DECLARATION of any use of trust of or concerning any property by any writing, not being a will, or an instrument chargeable with *ad valorem* duty as a settlement 1 0 0

DECLARATION (Statutory). See Affidavit.

DEED of any kind whatsoever, not described in this Schedule ... 1 0 0

DEFEASANCE. Instrument of defeasance of any conveyance, transfer apparently absolute but intended only as a security for money or stock. See Mortgage and section 67.

In respect of Marketable securities under hand only, see Agreement and section 28.

DEMISE. See Lease.

DEPOSIT of title deeds. See Mortgage, and section 67.

DUPLICATE or COUNTERPART of any instrument chargeable with any duty—

Where such duty does not amount to 7s 6d. { The same duty as the original instrument.

In any other case 0 5 0

See section 55.

EQUITABLE MORTGAGE. See Mortgage and sections 28 and 67.

EXCHANGE, Instruments effecting. In the case specified in section 56 see that section.

In any other case 1 0 0

*Stamp Duties*SCHEDULE — *continued*

FIDELITY BOND. Where the amount limited to be recoverable does not exceed £300. { The same *ad valorem* duty as a bond for the amount limited.

	£	s	d
In any other case	1	0	0

GUARANTEE. Other than a Fidelity Bond *see* Agreement and Bond.

FURTHER CHARGE OF FURTHER SECURITY. *See* Mortgage, and section 67.

HIRE PURCHASE AGREEMENT. *See* Agreement, Hire Purchase and section 29.

LEASE.

(1) For any definite term less than a year—

(a) where the rent does not exceed the rate of £25 a year	0	0	6
(b) where the rent exceeds the rate of £25 a year ...	0	2	6

(2) For any other definite term or for any indefinite term—

(a) for every £25 and also for every fractional part of £25 of the rent for the year—

(i) if the term is definite and does not exceed seven years	0	2	6
exceeds seven years and does not exceed twenty-one years	0	10	0
exceeds twenty-one years	1	0	0

(ii) if the term is indefinite	1	0	0
---------------------------------------	---	---	---

(iii) where the consideration, or any part of the consideration, moving either to the lessor or to any other person, consists of any money, stock, or security:

in respect of such consideration.	{	The same duty as a conveyance on a sale for the same consideration.
-----------------------------------	---	---

(3) Of any other kind whatsoever not hereinbefore described	1	0	0
---	---	---	---

(4) A lease by the Government of State Lands shall be assessed as if there was no revision clause and the initial rent was the rent payable throughout the term.
See also sections 57-60.

Exemptions

A temporary occupation licence granted under section 4 of the State Lands Law.

(Cap. 122)

*Stamp Duties*SCHEDULE — *continued*

	£	s	d
LETTER or POWER of ATTORNEY, and COMMISSION, FACTORY, MANDATE, or other instrument in the nature thereof—			
(1) For the sole purpose of appointing or authorizing a proxy to vote at any one meeting at which votes may be given by proxy, whether the number of persons named in such instrument be one or more	0	0	2
(2) By any petty officer, seaman, marine, or soldier, serving as a marine, or his representatives, for receiving prize money or wages	0	2	0
(3) For the receipt of the dividends or interest of any stock— Where made for the receipt of one payment only ...	0	2	0
In any other case	0	10	0
(4) For the receipt of any sum of money, or any bill of exchange or promissory note for any sum of money, not exceeding £20, or any periodical payments not exceeding the annual sum of £10 (not being hereinbefore charged) ...	0	10	0
(5) Of any kind whatsoever not hereinbefore described ...	1	0	0

Exemptions

- (1) Letter or power of attorney for the receipt of dividends of any definite and certain share of the Imperial Government or Parliamentary stocks or funds producing a yearly dividend less than £3.
 - (2) Letter or power of attorney or proxy filed in the High Court in connexion with Probate Jurisdiction of the Court.
 - (3) Order, request, or direction under hand only from the proprietor of any stock to any company or to any officer of any company or to any banker to pay the dividends or interest arising from the stock to any person therein named.
 - (4) Letter or power of attorney for the sale, transfer or acceptance of any of the United Kingdom Government or Parliamentary stocks or funds.
 - (5) Power of attorney given exclusively for the purpose of authorizing the receipt of money payable on the redemption of Government stock.
 - (6) Power of attorney or authority given to any person to receive from the Treasury any moneys payable to any person in the service of the Government. *See sections 61 and 62.*
- | | | | |
|------------------------------------|---|---|---|
| (a) Letter of Hypothecation | 0 | 2 | 6 |
|------------------------------------|---|---|---|

*Stamp Duties*SCHEDULE — *continued*

	£	s	d
instrument, or by any warrant of attorney to enter up judgment, or by any judgment—			
For every £100, and also for any fractional part of £100, of the amount transferred, assigned, or disposed, exclusive of interest which is not in arrear	0	1	0
And also where any further { The same duty as a principal money is added to the money } security for such further money already secured.			
(5) RECONVEYANCE, RELEASE, DISCHARGE, SURRENDER, RE-SURRENDER, WARRANT TO VACATE, or RENUNCIATION of any such security as aforesaid, or of the benefit thereof, or of the money thereby secured—			
For every £100, and also for any fractional part of £100, of the total amount or value of the money at any time secured	0	1	0
<i>See sections 67–69.</i>			
MORTGAGE OF STOCK or Marketable Security—			
Under hand only. <i>See</i> Agreement and section 28.			
By deed. <i>See</i> Mortgage, and section 67.			
MUTUAL DISPOSITION. <i>See</i> Exchange.			
NOTARIAL ACT of any kind whatsoever (except a protest of a bill of exchange or promissory note)	0	1	0
<i>See</i> section 70.			
PARTITION or DIVISION, Instruments effecting—			
In the case specified in section 56. <i>See</i> that section.			
In any other case	1	0	0
POWER OF ATTORNEY. <i>See</i> Letter of Attorney.			
PROCURATION, deed or other instrument of	0	10	0
RECEIPT given for or upon the payment of money amounting to £2 or upwards	0	0	2

Exemptions

- (1) Receipt given by any person or his representative for or on account of any salary, pay or wages or for or on account of any other like payment made to or for the account of any person being the holder of an office or an employee, in respect of his office or employment, or for or on account of money paid in respect of any pension, superannuation allowance, compassionate allowance or other like allowance.
- (2) Receipt endorsed or otherwise written upon or contained in any instrument liable to stamp duty and duly stamped, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity thereby secured or therein mentioned.

Stamp Duties

SCHEDULE — *continued*

- (3) Receipt given for money deposited in any bank, or with any banker, to be accounted for and expressed to be received of the person to whom the same is to be accounted for, or for money withdrawn from a savings bank account.
- (4) Receipt given by the payee of a money order.
- (5) Receipt given for or upon the payment of any Government duties or taxes or of money to or for the use of the Government.
- (6) The duplicate of any receipt required by Government to be given in duplicate, the original receipt being duly stamped.
- (7) Receipt given by an officer of a public department of the Government for money paid by way of imprest or advance, or in adjustment of account, where he derives no personal benefit therefrom, or for the refund of out-of-pocket expenses due from Government.
- (8) Receipt given for drawback or bounty upon the exportation of any goods or merchandise.
- (9) Receipt given for the return of any moneys over-collected by Government.
- (10) Receipt given by a prisoner on discharge, for money placed on deposit in the Treasury, or otherwise retained, during the term of his imprisonment.
- (11) Receipt given by an accused person for money or other property taken from him on his arrest.
- (12) Receipt given for money given or subscribed to the Nigerian Troops Comforts and Welfare Fund.
- (13) Receipt given for money given or subscribed to the Nigerian Red Cross Society.

RECONVEYANCE, RELEASE or RENUNCIATION of any security.

See Mortgage.

RELEASE or RENUNCIATION of any property, or of any right or interest in any property—

Upon a sale. *See Conveyance on Sale.*

By way of security. *See Mortgage.*

In any other case 1 0 0

RENUNCIATION. *See Reconveyance and Release.*

RENUNCIATION, LETTER OF. *See Letter of Allotment.*

REVOCATION of any use or trust of any property by any writing, not being a will 0 10 0

SCHEDULE — *continued*

SETTLEMENT. Any instrument, whether voluntary or upon any good or valuable consideration other than a *bona fide* pecuniary consideration whereby any definite and certain principal sum of money (whether charged or chargeable on lands or other hereditaments or not, or to be laid out in the purchase of lands or other hereditaments or not) or any definite and certain amount of stock, or any security is settled or agreed to be settled in any manner whatsoever—

£ s d

For every £100, and also for any fractional part of £100 of the amount or value of the property settled or agreed to be settled 0 5 0

Exemption

Instrument of appointment relating to any property in favour of persons specially named or described as the objects of a power of appointment, where duty has been duly paid in respect of the same property upon the settlement creating the power or the grant of representation of any will or testamentary instrument creating the power. *See sections 75-77.*

SUPERANNUATION ANNUITY. *See Bond, Covenant.*

SURRENDER—

Of any kind whatsoever not chargeable with duty as a conveyance on sale or a mortgage and not being a surrender of a mining lease or water right under the Minerals Act 0 10 0

Fed. Cap.
121.

TRANSFER. *See Conveyance or Transfer.*

VOTING PAPER. Any instrument for the purpose of voting by any person entitled to vote at any meeting of any body exercising a public trust, or of the shareholders, or members, or contributors to the funds of any company, society or institution. *See section 61* 0 0 2

WARRANT OF ATTORNEY to confess and enter up a judgment given as a security for the payment or repayment of money, or for the transfer or re-transfer of stock. *See Mortgage.*

WARRANT OF ATTORNEY of any other kind 1 0 0

WARRANT FOR GOODS 0 0 6

Exemptions

- (1) Any document or writing given by an inland carrier acknowledging the receipt of goods conveyed by such carrier.
- (2) A weight note issued together with a duly stamped warrant, and relating solely to the same goods, wares, or merchandise. *See section 78.*

GENERAL EXEMPTIONS FROM ALL STAMP DUTIES—

- (1) Instruments for the sale, transfer or other disposition, either absolutely, or by way of mortgage, or otherwise, of

Stamp Duties

SCHEDULE — *continued*

any ship or vessel or any part, interest, share or property of or in any ship or vessel.

- (2) All instruments on which the duty would be payable by Government.
 - (3) All instruments on which the duty would be payable locally by the Government of the United Kingdom or any of the departments thereof.
 - (4) An instrument of apprenticeship to which the Government is a party.
 - (5) Bond given by public officer for the execution of his duties.
 - (6) All instruments relating to the alienation of land or any interest therein which are approved by any local government council under any bye-law made under the Local Government Law.
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CHAPTER 120

STAMP DUTIES LAW

SUBSIDIARY LEGISLATION

L. of N. 1948
Vol. IX
p. 704.

APPOINTMENT OF COMMISSIONERS OF STAMP DUTIES
UNDER SECTION 5 OF THE STAMP DUTIES LAW

The Governor has been pleased to appoint the following persons to be commissioners of stamp duties—

- (a) The Solicitor-General.
- (b) The Accountant-General.
- (c) All State Counsel.
- (d) The Administrator-General.
- (e) The officers of the Accountant-General's Department in charge of the Sub-Treasuries at—
Enugu, Port Harcourt.
- (f) The Principal Lands Officer.
- (g) The Sub-Treasurer, Calabar.

Regulations
11 of 1939,
73 of 1940,
39 of 1953.

Stamp Duties (Custody of Dies) Regulations

made under section 88

1. These regulations may be cited as the Stamp Duties (Custody of Dies) Regulations.

2. The dies used under the authority of the Law shall be kept in the custody of the following persons—

- (a) the Accountant-General;
- (b) the officers of the Treasury in charge of the Sub-Treasuries at Enugu and Calabar;
- (c) the officer in charge of the Stamp Duties Section, the Treasury, Port Harcourt.

3. The Accountant-General, subject to the production of such evidence by affidavit or otherwise as he may require,

Custody of Dies Regulations

shall make allowance for stamps spoiled in the cases hereinafter mentioned, that is to say—

(1) The stamp on any material inadvertently and undesignedly spoiled, obliterated or by any means rendered unfit for the purpose intended, before the material bears the signature of any person, or any instrument written thereon is executed by any party.

(2) Any adhesive stamp which has been inadvertently and undesignedly spoiled or rendered unfit for use and has not in the opinion of the Accountant-General been affixed to any material.

(3) The stamp used for any of the following instruments—

- (a) An instrument executed by any party thereto, but afterwards found to be absolutely void from the beginning.
- (b) An instrument executed by any party thereto, but afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended.
- (c) An instrument executed by any party thereto, which has not been made use of for any purpose whatever and which by reason of the inability or refusal of some necessary party to sign the same or to complete the transaction according to the instrument is incomplete and insufficient for the purpose for which it was intended.
- (d) An instrument executed by any party thereto which, by reason of the refusal of any person to act under the same, or for want of registration within the time required by law, fails of the intended purpose or becomes void.
- (e) An instrument executed by any party thereto which is inadvertently and undesignedly spoiled and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped, or which becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument duly stamped:

Provided that—

- (i) the application for relief is made within six months after the stamp has been spoiled or become useless or in

the case of an executed instrument after the date of the instrument or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed;

(ii) in the case of an executed instrument no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled;

(iii) in the case of an instrument which has become void for want of registration within the time required by law, failure to register such instrument is not due to the neglect of the person to whom relief would ordinarily be given under these regulations.

4. The Accountant-General may in his discretion make allowance for spoiled stamps either in stamps or in money.

Regulations
34 of 1939.

Stamp Duties (Adhesive Stamps) Regulations.

made under section 88

1. These regulations may be cited as the Stamp Duties (Adhesive Stamps) Regulations.

2. The duty chargeable upon the endorsement of a certificate on a manifest of a ship by an officer of the customs and excise at the ports of Degema and Opobo may be denoted by one or more adhesive stamps.

CHAPTER 121

STAMP DUTIES (EVIDENCE) LAW

Arrangement of Sections

Section

1. Short title.
2. Instruments stamped in other Regions or Federal Territory receivable in evidence in Eastern Nigeria.

CHAPTER 121

A Law to provide for the receiving in Evidence of Documents duly stamped in accordance with the Law of a Region of the Federation of Nigeria other than Eastern Nigeria, or of the Federal Territory.

E.R.N.
4 of 1955.
E.N.L.N.
79 of 1961.

[3rd January, 1956]

1. This Law may be cited as the Stamp Duties (Evidence) Law. Short title.

2. Notwithstanding the provisions of the Stamp Duties Law an instrument executed within the Federation of Nigeria or relating, wheresoever executed, to any property situate or to any matter or thing done, or to be done, within the Federation of Nigeria shall be receivable in evidence in any court of civil judicature in Eastern Nigeria or before any arbitrator or referee or be available for any purposes whatsoever within Eastern Nigeria, provided that it is stamped in accordance with the law in force in the Region in which it was stamped or in the Federal Territory, as the case may be, at the time when it was stamped. Instruments stamped in other Regions or Federal Territory receivable in evidence in Eastern Nigeria.

SUBSIDIARY LEGISLATION

(No subsidiary legislation)

CHAPTER 122

STATE LANDS LAW

*Arrangement of Sections**Section*

1. Short title.
2. Interpretation.
3. Power to grant leases, and licences for temporary occupation.
4. Power of Minister
 - (a) to accept surrender of leases.
 - (b) Remit covenants.
 - (c) Extend time for performing condition.
5. Licences to take building materials.

GENERAL PROVISION RELATING TO LEASES

6. Implied covenants.
7. (1) Covenants and conditions binding on persons claiming under the lease.
(2) Obligation of minors.
8. Revision of rent.
9. Penal rent.
10. Building on leased State lands.
11. Sale of lease by order of court to be to a purchaser approved by Minister.
12. Rent.
13. Penalty when rent in arrear.
14. Principal Lands Officer may sue for rents in arrear.
15. Principal Lands Officer may distrain for rent due.
16. Forfeiture of lease if rent unpaid or for breach of covenant.
17. Debt to State not extinguished by forfeiture.
18. Acceptance of rent not to operate as a waiver of forfeiture.

RESERVATIONS

19. Reservation of water.
20. Reservation of foreshore.
21. Reservation of minerals.

RESUMPTION OF LAND FOR PUBLIC PURPOSES

22. Power to erect telegraph poles.
23. Resumption of lands for roads, railways, etc.

ROADS AND THOROUGHFARES

Section

24. Saving of public thoroughfare.

SURVEYS AND BOUNDARY MARKS

25. State land to be surveyed before sale or lease.
 26. Purchasers, etc., to maintain boundary marks.
 27. Owners and occupiers of land abutting on State lands to keep the boundaries defined.

MISCELLANEOUS

28. Recovery of State lands in unlawful occupation.
 29. Evidence in proceedings.
 30. Right of State to sue not to be barred by limitation.
 31. Suit for rent not barred by limitation.
 32. Right of way not to be presumed against the State.
 33. Service of notice.
 34. Lessee to permit officer to enter and inspect State land.
 35. Penalty for unauthorized occupation of State land.
 36. Power to make regulations.

CHAPTER 122

L. of N. 1948
 Cap. 45.
 N.L.N.131
 of 1954.

A Law to make further and better Provision for the Management and Disposal of State Lands.

[8th April, 1918]

Short title.

1. This Law may be cited as the State Lands Law.

Interpretation.

2. In this Law—
 “State Land” means all public lands in Eastern Nigeria which were on the 30th day of September, 1960, subject to the control of Her Majesty and held for a public purpose and all land thereafter acquired by or on behalf of the Government of Eastern Nigeria and held for any such purpose.

Power to grant leases and licences for temporary occupation.

3. (1) Subject to the regulations made under this Law, the Governor may grant leases of State Land for any term, or in the case of a lease to a citizen of Nigeria for an indefinite term, and may grant licences for the temporary occupation of State land.

(2) Subject to the regulations made under this Law, the Minister may grant licences for the temporary occupation of State land.

4. The Minister may—

(a) accept on such terms and conditions (if any) as he may think proper the surrender of any lease granted under this Law or any Law repealed by this Law.

Power of Minister to accept surrender of leases.

(b) wholly or partially remit, except as otherwise prescribed, all or any of the covenants or conditions in any lease, where, owing to special circumstances, compliance therewith would be impossible or great hardships would be inflicted upon the lessee; and

Remit covenants.

(c) extend, except as otherwise prescribed, the time to the lessee for performing the conditions contained in any lease liable to forfeiture for such period, and upon such terms and conditions, as he may think fit, and the period so extended and the terms and conditions so imposed shall be deemed to be inserted in the lease, and shall be binding on the lessee.

Extend time for performing condition.

5. (1) It shall be lawful for the Minister to grant a licence to any person to enter upon any State land which is not the subject of a lease or a temporary occupation licence granted under this Law, or of a mining lease, mining right or exclusive prospecting licence granted under the Minerals Act or of a lease or licence granted under the Mineral Oils Act, and remove or extract therefrom any stone, gravel, clay, sand or other similar substance (not being a mineral within the meaning assigned to that term in the Minerals Act) that may be required for building or for the manufacture of building materials.

Licences to take building materials.

(Fed. Cap. 121)
(Fed. Cap. 120)

(2) A licence may be granted for such period and subject to such conditions as the Minister thinks fit or as may be prescribed.

(3) A licence shall not be transferable.

(4) The Minister may cancel a licence if the licensee fails to comply with any of the conditions thereof.

GENERAL PROVISIONS RELATING TO LEASES

Implied
covenants.

6. Except as otherwise prescribed or provided in the lease, there shall in every lease under this Law be implied by virtue of this Law—

(a) covenants by the lessor—

(i) that he has full power to grant the lease;

(ii) that the lessee, paying the rent and fulfilling the conditions therein contained shall quietly hold and enjoy the premises without any interruption by the lessor or any person claiming under him except in so far as the laws in force for the time being in Eastern Nigeria may permit;

(b) covenants by the lessee—

(i) that he will pay to the Principal Lands Officer or to such officer as the Minister may appoint on the issue of the lease rent at the rate of the rent specified in the lease for the period from the commencement of the lease to the 31st day of December next following, and that he will thereafter pay in advance without demand on the 1st day of January in each year to the Principal Lands Officer or to such other officer as the Minister may appoint the yearly rent specified in the lease, or if the yearly rent be revised or a penal rent be imposed in lieu of the yearly rent, such revised or penal rent as may for the time being be payable in respect of the premises;

(ii) that he will pay all taxes, rates, charges, duties, assessments or outgoings of whatever description as may be imposed, charged or assessed upon the lands comprised in such lease or the buildings thereon or upon the lessor or lessee;

(iii) not to assign, sublet or otherwise part with the possession of the land comprised in such lease or any part thereof, without the previous consent of the Minister in writing.

Covenants
and condi-
tions binding
on persons
claiming
under the
lease.

7. (1) Every covenant or condition whether expressed or implied in a lease under this Law, which is binding on a lessee, shall, unless otherwise expressly provided in the lease, be binding on all persons claiming an interest in the land the subject of the lease and whose title is derived through or under the lessee.

(2) Any minor who becomes a lessee under this Law shall be in the same position with regard to his liability and obligation under or in respect of his lease as if he were of full age.

Obligation
of minors.

8. (1) In every lease under this Law there shall, unless expressly excepted, be reserved by virtue of this Law to the Minister the right to revise and fix the rent for such periods (hereinafter referred to as the revision periods) as may be specified in the lease.

Revision
of rent.

(2) (a) As nearly as conveniently may be to the commencement of each revision period the Minister shall revise and fix the yearly rent which shall be payable for such revision period, but so that the rent fixed shall not exceed the rent obtainable at the time of revision for similar lands of similar area and amenities similarly situate:

Provided that if for any reason the Minister considers it desirable to postpone the revision of the rent reserved under any lease, the Minister may postpone such revision for such time, irrespective of any revision period, as he shall think fit; but should the right to revise be subsequently exercised the rent then fixed shall be payable for the remainder of the current revision period.

(b) In revising the rent no improvements made by the lessee on the land shall be taken in account.

(3) The amount at which the rent is fixed by the Minister shall be notified to the lessee, who if he considers that the rent fixed is in excess of that which can properly be demanded under the terms of subsection (2) may within one month of such notification appeal to the Minister.

(4) If the Minister and the lessee are unable to agree as to the rent to be paid the matter shall be referred to an arbitrator to be agreed upon by the Minister and the lessee or in the absence of such agreement to be appointed by a judge of the High Court.

(5) The decision of the arbitrator shall be final and if the rent fixed by the arbitrator is not less than that demanded by the Minister the lessee shall pay the cost of the arbitration.

Penal rent.

9. (1) When in any lease under this Law the lessee has covenanted to develop or effect improvements on the land leased and has committed a breach of such covenant the Minister may at the time of such breach or at any time thereafter, and at the expiration of every year thereafter so long as the breach be not remedied, fix a penal rent which shall be payable for one year from the date it is fixed and shall be paid by the lessee in addition to and at the same time and manner as the rent reserved is payable and shall be recoverable as rent. The first penal rent shall not exceed the rent reserved in the lease and penal rents subsequently fixed shall not exceed double the penal rent payable in respect of the preceding year.

(2) Notice of such penal rent being imposed and the amount thereof and the date from which it is payable shall be given in writing to the lessee.

(3) The fact that a penal rent has been imposed shall not preclude the Minister, in lieu of fixing a subsequent penal rent, from taking or directing to be taken proceedings for the forfeiture of the lease by reason of the breach in relation to which the penal rent has been imposed, provided that such proceedings shall not be taken during the period for which a penal rent has been paid.

Buildings on
leased State
lands.

10. In the absence of special provisions to the contrary in any lease under this Law all buildings and improvements on State lands, whether erected or made by the lessee or not, shall on the determination of the lease, pass to the State without payment of compensation:

Provided, however, that, in the absence of any special provision to the contrary in the lease, when land is leased for a term not exceeding thirty years the lessee shall be at liberty within three months of the termination (otherwise than by forfeiture) of such lease to remove any buildings erected by him on the land leased during the currency of such lease, unless the Minister shall elect to purchase such buildings. In the event of the Minister and the lessee not agreeing as to the purchase price of such buildings, the same shall be determined by arbitration. The lessee shall make good any damage done to the land by any such removal.

State Lands

11. No lease under this Law, which contains a covenant, express or implied, not to assign without the consent of the Minister, and no lease under the State Lands Act or under any Ordinance repealed by the State Lands Act, which contains a covenant not to assign without the consent of the Governor, shall be sold by or under the order of a court in execution of a decree or otherwise howsoever, save to a purchaser approved in writing by the Minister and under terms, as to adequacy of price or otherwise, also so approved.

Sale of lease by order of court to be to a purchaser approved by Minister. (Fed. Cap. 45)
*

12. The rent reserved or payable under any lease granted under this Law or under any Law repealed by this Law shall be a debt to the State and shall be paid at the office of the Principal Lands Officer or at such other office as the Minister may appoint.

Rent.

13. If any such rent as aforesaid shall at any time be unpaid for a space of ninety days after the same became due, and a notice shall have been served on the person in default, there shall be payable by way of penalty a sum equivalent to five *per centum* of the rent due. If such rent and penalty shall be unpaid for a space exceeding one hundred and twenty days after the rent became due, and a notice shall have been served as aforesaid, there shall be payable by way of penalty a further sum equivalent to five *per centum* of the rent due.

Penalty when rent in arrear.

14. The Principal Lands Officer or any person appointed by the Principal Lands Officer on that behalf may, without prejudice to the right of the State to recover rent in arrear in any other way, sue for the same, together with the penalty (if any) which may be payable under the last preceding section, and such suit may be instituted in the High Court or a magistrate's court.

Principal Lands Officer may sue for rents in arrear.

15. The Principal Lands Officer may, on behalf of the State, distrain for rent due under any lease under this Law, or under any Law repealed by this Law and may authorize any person to act for him in this behalf.

Principal Lands Officer may distrain for rent due.

*Federal Cap. 45 was Ordinance No. 7 of 1918, which repealed Chapters 107 and 108 of the 1908 edition of the Laws of Southern Nigeria and Ordinance 13 of 1908 of Southern Nigeria.

Forfeiture of lease if rent unpaid or for breach of covenant.

16. If the rent reserved or payable under a lease under this Law or under any Law repealed by this Law is in arrear, or if there shall be any breach of the lessee's covenants or of the conditions of the lease whether express or implied, the Principal Lands Officer may serve a notice upon the lessee specifying the rent in arrear or the covenant or condition of which a breach has been committed, and at any time after one month from the service of the notice may commence an action in the High Court or in a magistrate's court for the recovery of the premises, and, on proof of the facts, the court shall, subject to relief on such terms as may appear just, declare the lease forfeited, and the Principal Lands Officer may re-enter upon the premises.

Debt to State not extinguished by forfeiture.

17. No forfeiture shall operate to extinguish any debt to the State in respect of any rent or payment to be made by a lessee under a lease forfeited.

Acceptance of rent not to operate as a waiver of forfeiture.

18. The acceptance by or on behalf of the State of any rent shall not be held to operate as a waiver by the State of any forfeiture accruing by reason of the breach of any covenant or condition, express or implied, in any lease under this Law or under any Law repealed by this Law.

RESERVATIONS

Reservation of water.

19. A conveyance or lease under this Law shall not, unless otherwise expressly provided therein, confer any right to the water of any spring, river, lake or stream, other than such water as may be required for domestic purposes upon the land sold or leased.

Reservation of foreshore.

20. A conveyance or lease under this Law shall not, unless otherwise expressly provided therein, confer any right to the foreshore, or to the banks of any navigable waterway.

Reservation of minerals. (Fed. Cap. 120)

21. (1) A conveyance or lease under this Law shall not confer any right to any mineral as defined in the Minerals Act or to any mineral oil.

(2) There is hereby reserved to the State the right to enter upon any land sold or leased under this Law and—

(a) to search for, mine and remove any mineral as aforesaid or any mineral oil; and

State Lands

(b) except in the case of lands leased for building purposes only, to remove any stone, gravel, soil or other substance required for the construction or repair of any road, Government building or other public work.

(3) The right reserved to the State under subsection (2) may be exercised as to (a) by any person authorized by or under any Act relating to minerals or mineral oils, or as to (b) by any person authorized by the Minister.

RESUMPTION OF LAND FOR PUBLIC PURPOSES

22. Any person authorized by the Minister may at any time enter upon any land sold or leased under this Law and may—

Power to erect telegraph poles, etc.

- (a) set up poles on and carry electric lines across such land; and
- (b) lay sewers, drains, water pipes or electric lines therein, without paying compensation but making good all damage done.

23. (1) When any land sold or leased under this Law exceeds two hundred acres the Minister may at any time enter and resume any portion of such lands for roads, railways, tramways, canals, water channels or trigonometrical stations or any other public undertaking without paying compensation for the land, but compensation shall be paid for buildings or crops destroyed or damaged:

Resumption of lands for roads, railways, etc.

Provided that in the event of a larger portion than four *per centum* of such land being resumed for any such purpose as aforesaid there shall be paid to the owner or lessee, as the case may be, compensation for the land taken in excess of such portion.

(2) When any land sold or leased under this Law does not exceed two hundred acres the Minister may at any time enter and resume any portion of such lands for any of the purposes mentioned in subsection (1), paying compensation for the land taken.

(3) Whenever land which has been leased is resumed under this section the lessee shall be entitled to a proportionate reduction in his rent,

(4) The Minister may authorize any officers of the Government, their servants and agents, to exercise the powers reserved to him by this section.

(5) Compensation payable under this section shall not exceed, in the case of buildings or crops, the market value of such buildings or crops, and in the case of land resumed the market value of such land.

(Fed. Cap.
167)

(6) The compensation to be awarded under this section shall, if not agreed upon between the Minister and the claimant, be determined by the High Court in the like manner as compensation is determined under the Public Lands Acquisition Act.

(7) Resumption of land under this section may be effected before the compensation (if any) is paid, either by actual entry on the land resumed, or by service of notice of resumption on the owner or lessee.

ROADS AND THOROUGHFARES

Saving of
public
thorough-
fare.

24. All public thoroughfares existing on any land sold or leased under this Law shall be deemed to be and shall be reserved and shall remain free and uninterrupted unless the same be closed or altered by the order of the Minister or by other competent authority.

SURVEYS AND BOUNDARY MARKS

State land to
be surveyed
before sale
or lease.

25. No State land shall be sold or leased under this Law until the same has been surveyed and demarcated by a Government or licensed surveyor and the plan thereof has been approved and signed by the Surveyor-General of Surveys, or by an officer of the Survey Department acting on his behalf.

Purchasers,
etc., to main-
tain bound-
ary marks.

26. The owner or lessee of any State land sold, granted or leased before or after the commencement of this Law shall at all times maintain in repair to the satisfaction of the Principal Lands Officer or of such other officer as the Minister may appoint in this behalf all boundary marks placed or erected to denote the boundaries of the land granted, sold or leased.

State Lands

27. (1) Every owner or occupier of land abutting on State land shall define and keep defined the boundary between the land owned or occupied by him and the adjoining State land to the satisfaction of the Principal Lands Officer, or of such other officer as the Minister may appoint in this behalf, and in default of his so doing the Principal Lands Officer or other officer as aforesaid may by notice in writing require such owner or occupier to define such boundary in such manner and within such time as may be specified in such notice.

Owners and occupiers of land abutting on State lands to keep the boundaries defined.

(2) Any owner or occupier who shall fail to comply with such requisition shall, on summary conviction, be liable to a fine of twenty pounds and in addition shall be ordered by the court to pay the expenses (if any) incurred by the Government in defining the boundary which he has neglected to define.

MISCELLANEOUS

28. (1) When any person without right, title or licence or whose right, title or licence has expired or been forfeited or cancelled, is in occupation of State land, the Attorney-General, or the Principal Lands Officer, or some person appointed by the Attorney-General, may enter a suit in the High Court to recover possession thereof.

Recovery of State lands in unlawful occupation.

(2) If on the hearing of such suit the defendant does not appear, or appears but fails to establish an absolute right or title to the possession of the land, the court shall order that the possession of the land sought to be recovered shall be given by the defendant to the plaintiff, either forthwith or on or before such day as the court shall think fit to name, and shall issue such process as may be necessary for carrying such order into effect.

29. In any action, suit or proceedings against any person for or in respect of any alleged unlawful occupation, use of or trespass upon State land, the proof that the occupation or use in question was authorized, shall lie on the defendant, and in every such action, suit or proceedings and in every action by or against the Government in which title to land shall be in issue the averment that any land is State land shall be sufficient without proof of such fact, unless the defendant prove the contrary.

Evidence in proceedings.

Right of State to sue not barred by limitation.

30. No action or other remedy by or on behalf of the State for the recovery of the possession of State land shall be barred or affected by any law of limitation.

Suit for rent not barred by limitation. (Fed. Cap. 45)

31. No Law of limitation shall bar or affect any action or remedy for the recovery of any rent due under any lease granted under this Law, or under the State Lands Act, or under any Ordinance repealed by the State Lands Act.

Right of way not to be presumed against the State.

32. No right of way shall be presumed or allowed to be asserted or established against the State, by reason only of user, whether such user commenced before or after the commencement of this Law.

Service of notice.

33. A notice served personally on the person to be served, or left at or sent by registered post to his last known address in Nigeria, or if his address is not known, published in the *Eastern Nigeria Gazette*, shall be deemed to be good service for the purposes of this Law.

Lessee to permit officer to enter and inspect State land.

34. A lessee of State land shall permit any Land Officer or Government Surveyor, or any administrative officer to enter upon and inspect the same.

Penalty: a fine of fifty pounds.

Penalty for unauthorized occupation of State land.

35. Any persons who shall unlawfully occupy State land in any manner whatsoever, shall be liable to a fine of fifty pounds.

Power to make regulations.

36. The Minister may make regulations for all or any of the purposes following—

- (a) classifying leases according to the purpose for which or the class of persons to whom the same may be granted and prescribing the form of any lease;
- (b) prescribing the covenants or conditions which shall be implied in any class of lease;
- (c) prescribing the term of years for which any class of lease may be granted;
- (d) prescribing the praemia and rents to be paid and providing for the revision of rent;
- (e) prescribing the manner in which application for leases shall be made and the fees to be paid;
- (f) providing for the survey and demarcation of State land to be sold or leased, and the fees to be paid for such survey and demarcation;

State Lands

- (g) prescribing the fees to be paid for any instrument issued under this Law;
 - (h) providing for and regulating the sale of leases by * auction;
 - (i) prescribing the period for which and the conditions under which licences for the temporary occupation of State land may be issued;
 - (j) providing for the care, management and protection of unoccupied State land; and
 - (k) generally for carrying out and giving effect to the purposes of this Law.
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*See footnote to section 11.

CHAPTER 122
STATE LANDS LAW
SUBSIDIARY LEGISLATION

State Lands (Leases) Regulations

made under section 36

Regulations
34 of 1918,
29 of 1927,
20 of 1932,
81 of 1940,
L.N. 131
of 1954.

Citation.

1. These regulations may be cited as the State Lands (Leases) Regulations.

Different
kinds of
lease.

2. A lease of State lands shall ordinarily be of one of the several descriptions following—

- (a) "agricultural lease" issued for the purpose of cultivation, planting and farming;
- (b) "building lease" issued for the purpose of erecting buildings for residential, business or any special purpose;
- (c) "railway site lease" issued in respect of land situate near a railway for the purpose of erecting warehouses to be used for the storage or manipulation of railway-borne produce;
- (d) "an occupation lease" issued for residential, business or, in the case of a Nigerian, farming purposes.

Agricultural Leases

Term and
area.

3. An agricultural lease shall not ordinarily be issued for a term exceeding forty-five years, or for an area exceeding twelve hundred acres.

Restriction
on the holder
of a lease
acquiring a
further lease.

4. No person who already holds an agricultural lease shall be granted a further agricultural lease unless two-thirds of the cultivable portion of the area held by him under his existing lease or leases is, at the time of his application for a further lease, under cultivation to the satisfaction of the Minister.

State Lands (Leases) Regulations

5. The following special covenants on the part of the lessee and conditions shall, unless expressly varied or excepted, be implied in every agricultural lease—

Implied
covenants
and con-
ditions.

A.—Covenants

- (a) To pay such compensation as may be fixed by the Minister or his authorized agent for disturbance of the inhabitants in their use or occupation of the land.
- (b) During the first two years of the term of the lease to expend on cultivation and clearing a sum at least equivalent to five shillings per acre of the total area demised.
- (c) To bring the cultivable portion of the land demised under cultivation at the rate of one-eighth of such land in each of the first eight years of the term of the lease, and thereafter to keep in cultivation the whole of the cultivable portion of the area of the lease to the satisfaction of the Minister.
- (d) Should live stock be brought on the land demised, to erect and maintain such fences as will prevent such stock from straying off such land.
- (e) Not to construct upon the land demised any dwelling-house or any permanent erection except labourers' huts and buildings to be used for storing agricultural machinery, tools or produce or for other purposes directly connected with the carrying on of cultivation, planting or farming or the housing of live stock.
- (f) Not to plant or erect any building within thirty-three feet of the centre of any main road.

B.—Conditions

- (a) If any question shall arise as to whether any portion of the land demised is cultivable, the decision of the Minister thereon shall be final.
- (b) All rights of inhabitants in respect of water, sacred trees and groves, on the land demised are reserved.
- (c) The formation of labourers' camps shall be subject to the following conditions—
 - (i) that the persons living therein remain entirely under the Government and local government council

and that officers of the Government and local government council shall at all times have the right of access to such camps;

(ii) that the camp is kept in a thoroughly sanitary state;

(iii) that no fees or rental are charged to the persons living therein for their houses.

(d) When inhabitants are at the date of the lease occupying any part of the land demised, the compensation to be paid to them by the lessee for improvements and disturbance will be assessed by the Minister or his authorized agent, as soon as conveniently may be after the date of the lease, and any such inhabitant shall have the option either—

(i) to vacate immediately the land and receive the compensation assessed, or

(ii) to remain on the land until the lessee requires them to vacate or they desire to vacate the land and on vacating the land to receive from the lessee the compensation assessed as aforesaid:

Provided that if the lessee permits persons, whether in occupation of the land at the date of the lease or allowed by the lessee subsequently to occupy any part of the land, to make improvements upon the land after the date of the lease, the lessee shall be liable to pay compensation for such improvements upon requiring the persons to vacate the land.

Form of
agricultural
lease.
Form A.

6. An agricultural lease may be in the Form A in the Schedule.

Building Lease

Term of
building
lease.

7. No building lease shall be granted for a term exceeding ninety-nine years.

Implied
special
covenants.

8. The following special covenants on the part of the lessee shall, unless expressly varied or excepted, be implied in every building lease—

(a) Within the time stated in the lease to erect and complete on the land demised buildings or other works of the nature and of a value not less than that stated in the lease to the satisfaction of the Controller of Works

State Lands (Leases) Regulations

Services or of such other officer as the Minister may appoint on that behalf.

- (b) Not to use or permit the use of the land demised for any purpose other than that specified in the lease.
- (c) To clear and keep clear the land demised of stagnant water, growth of long grass, rank weeds and bush, and accumulation and deposit of rubbish and unwholesome matter; and to keep the same in all respects in a clean and sanitary condition, and for such purposes to do and execute all such acts and works as the Minister or any officer appointed by the Minister on that behalf may reasonably require.

9. A building lease may be in the Form B in the Schedule.

Form of
building
lease.
Form B.

Railway Site Lease

10. No railway site lease shall be granted for a term exceeding ninety-nine years.

Term of
railway site
lease.

11. The following special covenants on the part of the lessee and conditions shall, unless expressly varied or excepted, be implied in every railway site lease—

Implied
covenants
and con-
ditions.

A.—Covenants

- (a) Within the time stated in the lease to erect and complete upon the land demised to the satisfaction of the Minister (or of any officer appointed by the Minister in that behalf) a warehouse together with its appurtenances which shall include a suitable platform of a width of not less than eight feet and built up to truck floor level (or other specified level) on that side of the land which abuts on the railway siding. The said warehouse and all its appurtenances to be in accordance with specifications and plans including a site (or block) plan showing the exact location proposed for the warehouse and appurtenances on the land demised and also the proposed system of drainage for dealing with surface water all of which must have received the approval in writing of the Chief Engineer of the Railway Corporation (or any other officer appointed by the Minister in that behalf) before construction is commenced.

- (b) That he will use and permit the land demised to be used for warehouse or factory purposes which require railway access and facilities and that he will not use or permit the said land or any building erected thereon to be used as a place of residence except for a caretaker or watchman or as a place of business except as described in the first part of this covenant:

Provided always that in such cases where there is no other trading site in possession of the lessee within a distance of two miles the lessee shall be entitled to use the land demised for trading in merchandise subject to the following conditions—

- (i) wines, spirits or beer are not to be sold on retail;
 - (ii) kerosene, petrol, dangerous or inflammable goods are not to be stored or sold;
 - (iii) access to the store is to be other than over railway lines;
 - (iv) the right to use the land demised for trading in merchandise may, without in any way derogating from the right to determine the lease by virtue of any condition therein contained or implied, be withdrawn at any time by notice in writing by the General Manager of the Railway Corporation to the effect that such trading is contrary to efficient or safe working of the railway in the locality;
 - (v) the lessee shall not be entitled to claim compensation for any disturbance or improvements made by him for the purpose of carrying on trading under this proviso.
- (c) At all times during the term of the lease to use the land demised so as to facilitate the discharge and loading of railway-borne goods.
- (d) To clear and keep clear the land demised of stagnant water, growth of long grass, rank weeds and bush, and accumulation and deposit of rubbish and unwholesome matter; and to keep the same in all respects in a clean and sanitary condition, and for such purposes to do and execute all such acts and works as the General Manager of the Railway Corporation or any officer appointed by the Minister on that behalf may reasonably require.

*State Lands (Leases) Regulations**B.—Conditions*

- (a) If during the term of the lease it shall appear to the Minister that the land demised or any part thereof is required for any public purpose or if the railway system of dealing with traffic is so altered that in the opinion of the Minister it is desirable that the land demised be resumed by the Government, the Minister may give notice in writing to the lessee of his intention to resume the land, and on the expiration of six months from the date of such notice the lease shall forthwith determine, and the Minister shall repay to the lessee the proportion of the annual rent paid in respect of the unexpired portion (if any) of the then current year of the term, and, if the lease is determined before the date on which the rent may be first revised, a proportionate part of the premia (if any) paid for the lease.
- (b) The lessee shall be entitled to be paid the value of any buildings on the land (such value if not agreed upon, to be determined by arbitration), but shall not be entitled to compensation for disturbance for or any claim arising therefrom.

12. A railway site lease may be in the Form C in the Schedule.

Form of
lease.
Form C.

Occupation Lease

13. An occupation lease may be granted to a Nigerian for any term or for an indefinite term and to a non-Nigerian for a term not exceeding ninety-nine years.

Form of non-
European
occupation
lease.

14. An occupation lease may be granted for residential, business or farming purposes or all or any of such purposes; provided that such a lease shall not be granted for farming purposes to a non-Nigerian.

Purposes for
which the
lease may be
granted.

15. The following special covenants on the part of the lessee and conditions shall, unless expressly varied or excepted, be implied in every occupation lease, provided that condition B (a) shall not be implied in a lease to a non-Nigerian—

Implied
covenants
and
conditions.

A.—Covenants

- (a) When the lease is granted for residential or business purposes, the covenants (a) implied in a building lease by virtue of regulation 7.

- (b) Not to use or permit the land demised to be used for any purpose other than that specified in the lease.

B.—Conditions

- (a) Whenever a lease shall be forfeited by reason of any breach of the covenants or conditions of the lease, the Minister shall cause the unexhausted improvements effected on the land by the lessee to be valued and shall pay to the lessee the value of such improvements after deducting any moneys which may be due from the lessee to the Government:

Provided that if the lessee is dissatisfied with the valuation of the improvements the matter shall be referred to an arbitrator to be agreed upon by the Minister and the lessee, or in the absence of such agreement, to be appointed by a judge of the High Court. The decision of the arbitrator shall be final, and if the sum awarded by the arbitrator is not more than that offered by the Minister the lessee shall pay the cost of the arbitration.

- (b) Except as provided by section 16 of the State Lands Law, the Principal Lands Officer shall not during the term of the lease recover possession of the land demised otherwise than by voluntary surrender by the lessee, or by proceedings under the Public Lands Acquisition Law.

(Cap. 105)

Form of lease.
Form D.

16. An occupation lease may be in the Form D in the Schedule.

SCHEDULE

FORM A

Agricultural Lease

Reg. 6.

1. This indenture made this.....day of..... between....., Governor for and on behalf of the Government of Eastern Nigeria (who and whose successors in office are hereinafter designated and included in the term "the Governor") of the one part, and.....(who and whose.....and assigns are hereinafter designated and included in the term "the lessee") of the other part witnesseth that the Governor in pursuance of the powers conferred

State Lands (Leases) Regulations

SCHEDULE — continued

FORM A — continued

upon him by the State Lands Law, doth hereby demise unto the lessee all that parcel of land situate at.....more particularly marked and delineated in the plan set out on these presents and coloured..... for the term of.....years from the.....day of....., 19....., subject to the provisions of the aforesaid Law and to the covenants and conditions implied by virtue of the said Law and of the regulations for the time being in force under the said Law (and to the special covenants and conditions hereinafter contained).

Rent.....per annum.

Revision periods.....

2. The lessee covenants with the Governor as follows (a)—

(a) Insert any special covenants not implied by virtue of the Law or regulations.

3. Provided always that it is hereby agreed as follows (b)—

(b) Insert any special conditions not implied by virtue of the Law or regulations.

In witness whereof the parties hereto have set their hands and seals this.....day of....., 19.....

Signed, sealed and delivered by the } said..... in the presence of

Signed, sealed and delivered by the } said..... in the presence of

FORM B

Reg. 9.

Building Lease

1. This indenture made this.....day of..... between.....Governor, Eastern Nigeria for and on behalf of the Government of Eastern Nigeria (who and whose successors in office are hereinafter designated and included in the term "the Governor") of the one part, and.....(who and whose.....and assigns are hereinafter designated and included in the term "the lessee") of the other part witnesseth that the Governor in pursuance of the powers conferred upon him by the State Lands Law, doth hereby demise unto the lessee all that parcel of land situate at.....more particularly marked and delineated in the plan set out on these presents and coloured.....for the term of.....years from the.....

(Cap. 122)

SCHEDULE — continued

FORM B — continued

day of....., 19....., subject to the provisions of the aforesaid Law and to the covenants and conditions implied by virtue of the said Law and of the regulations for the time being in force under the said Law (and to the special covenants and conditions hereinafter contained).

Rent.....per annum.

Revision periods.....

Description and value of buildings }
to be erected }
Time within which such buildings }
are to be erected }
Purposes for which the land }
demised may be used }

(a) Insert any special covenants not implied by virtue of the Law or regulations.

2. The lessee covenants with the Governor as follows (a)—

.....
.....

(b) Insert any special conditions not implied by virtue of the Law or regulations.

3. Provided always that it is hereby agreed as follows (b)—

.....
.....

In witness whereof the parties hereto have set their hands and seals this.....day of....., 19.....

Signed, sealed and delivered by the }
said..... }
in the presence of }

Signed, sealed and delivered by the }
said..... }
in the presence of }

Reg. 12.

FORM C

Railway Site Lease

1. This indenture made this.....day of..... between....., Governor for and on behalf of the Government of Eastern Nigeria (who and whose successors in office are hereinafter designated and included in the term "the Governor") of the one part, and.....(who and whose..... and assigns are hereinafter designated and included in the term "the lessee") of the other part witnesseth that the Governor in pursuance of the powers conferred upon him by the State Lands Law, doth hereby demise unto the lessee all that parcel of land situate at.....more particularly marked and delineated in the plan set out on these presents and coloured.....for the term of.....years from the.....

(Cap. 122)

SCHEDULE — continued

FORM C — continued

day of....., 19....., subject to the provisions of the aforesaid Law and to the covenants and conditions implied by virtue of the said Law and of the regulations for the time being in force under the said Law (and to the special covenants and conditions hereinafter contained).

Rent.....per annum.

Revision periods.....

Time within which the warehouse }
to be erected on the land is to be com- }
pleted. }

2. The lessee covenants with the Governor as follows (a)—

(a) Insert any special covenants not implied by virtue of the Law or regulations.

3. Provided always that it is hereby agreed as follows (b)—

(b) Insert any special conditions not implied by virtue of the Law or regulations.

In witness whereof the parties hereto have set their hands and seals this.....day of....., 19.....

Signed, sealed and delivered by the }
said..... }
in the presence of }

Signed, sealed and delivered by the }
said..... }
in the presence of }

FORM D

Reg. 16.

Non-Nigerian Occupation Lease

1. This indenture made this.....day of..... between....., Governor for and on behalf of the Government of Eastern Nigeria (who and whose successors in office are hereinafter designated and included in the term "the Governor") of the one part, and.....(who and whose.....and assigns are hereinafter designated and included in the term "the lessee") of the other part witnesseth that the Governor in pursuance of the powers conferred upon him by the State Lands Law, doth hereby demise unto the lessee all that parcel of land situate at.....more particularly marked and delineated in the plan set out on these presents and coloured.....for the term of.....years from the.....

(Cap. 122)

SCHEDULE — continued

FORM D — continued

day of....., 19....., subject to the provisions of the aforesaid Law and to the covenants and conditions implied by virtue of the said Law and of the regulations for the time being in force under the said Law (and to the special covenants and conditions hereinafter contained).

Rent.....per annum.

Revision periods.....

Nature and value of buildings to be erected. }

Time within which such buildings are to be erected. }

Purposes for which the land demised may be used. }

(a) Insert any special covenants not implied by virtue of the Law or regulations.

2. The lessee covenants with the Governor as follows (a)—

.....

(b) Insert any special conditions not implied by virtue of the Law or regulations.

3. Provided always that it is hereby agreed as follows (b)—

.....

In witness whereof the parties hereto have set their hands and seals this.....day of....., 19.....

Signed, sealed and delivered by the said..... in the presence of

Signed, sealed and delivered by the said..... in the presence of

Temporary Occupation Regulations

made under section 36

Regulations 10 of 1928, 2 of 1946.

1. These regulations may be cited as the State Lands (Temporary Occupation) Regulations.

2. Licences for the temporary occupation of State Lands in the Region may be issued by the Principal Lands Officer for a period not exceeding twelve months.

State Lands (Temporary Occupation) Regulations

3. All such licences shall expire on the date mentioned therein, unless surrendered or sooner determined under regulation 5.

4. The sum payable for the issue of any such licence and the use to which the land is to be put or the persons to whom licences are issuable shall be determined by the Principal Lands Officer.

5. Every such licence shall be subject to the following conditions—

- (a) Neither the licence nor any of the rights conferred by it shall be transferred or assigned to any other person; nor shall the land the subject of the licence or any part of it be sublet.
- (b) The buildings standing in the said area shall be kept in repair to the satisfaction of the Principal Lands Officer or other officer authorized in that behalf by the Principal Lands Officer and the provisions of section 11 of the Law shall apply to such buildings as though such licence were a lease under the Law.
- (c) The Principal Lands Officer may at any time post on the said area a notice to the occupier to quit the whole or part of the said area on or before such date as may be specified in such notice and the occupier shall quit the said area (or part thereof, as the case may be) on or before that date, and no refund or compensation shall be payable to the occupier by the Government in respect of the unexpired period of the licence unless such notice shall have been served owing to the land being required for Government use (as to which the certificate of the Principal Lands Officer in charge of the province shall be final), in which case a refund shall be made in respect of any complete month of such unexpired period; and in the event of the notice to quit applying to a part only of the said area, such refund shall bear a like proportion to the whole sum paid in respect of the months for which it is made, as the area of the said part bears to the whole area.

6. A licence for the temporary occupation of State lands shall be in the form in the Schedule or to the like effect.

Reg. 6.

SCHEDULE

LICENCE FOR THE TEMPORARY OCCUPATION OF STATE LANDS

No.....Office.

In consideration of the payment of.....
is permitted to occupy the State Land at.....
containing an area of.....square yards or thereabouts, and
(here insert description by referring to plan, if such exists, or if no plan by
giving an identifying description).

This licence expires on the*....., 19.....

Provided that the Principal Lands Officer or other authorized officer
may post on the said area a notice to the occupier to quit the whole or any
part of the said area from any date specified in the notice and thereupon
this licence expires upon the date so specified in respect of the whole area
or such part, as the case may be.

In such case no refund is payable unless the area is required for Govern-
ment use.

Neither this licence nor any of the rights conferred by it shall be trans-
ferred to any other person; nor shall the land hereinabove described or
any part of it be sublet.

Dated this.....day of....., 19.....

.....
Issuing Officer

Regulations
18 of 1950.

State Lands (Fees) Regulations*made under section 36*

1. These regulations may be cited as the State Lands
(Fees) Regulations.

2. The fees set out in the Schedule hereto shall be payable
in respect of the matters specified therein:

Provided that the Minister may, at his discretion, reduce
or remit the amount of any fee.

*The date must not be more than one year later than the date of issue.

Appointments

SCHEDULE

	£	s	d
1. For the preparation of a building lease, railway site lease, or Occupation lease	3	0	0
2. For the preparation of a deed of assignment or sublease under Occupation lease	3	0	0
3. For the preparation of any other lease—for every folio of seventy-two words	0	5	0
4. For the preparation of any deed of variation, memorandum of agreement, assignment or sublease other than assignment or sublease under Occupation lease, surrender, or other document of a like nature—for every folio of seventy-two words	0	5	0

APPOINTMENTS

The following Planning Authorities have been appointed under the sections set out in the Schedule in respect of the areas for which the Authorities have been appointed under section 4 of the Town and Country Planning Law—

SCHEDULE

Section 12.—Rents to be paid at the office of—

	<i>Public Notices</i>
Enugu Planning Authority	193 of 1951.
Umuahia-Ibeku Planning Authority	198 of 1951.
Aba Planning Authority	203 of 1951.
Port Harcourt Planning Authority	52 of 1951.

Section 14.—Recovery of arrears of rent by suing for the same by—

Enugu Planning Authority	194 of 1951.
Umuahia-Ibeku Planning Authority	199 of 1951.
Aba Planning Authority	204 of 1951.
Port Harcourt Planning Authority	55 of 1951.

Section 26.—Owners or lessees to maintain boundary marks in repair to the satisfaction of—

Enugu Planning Authority	195 of 1951.
Umuahia-Ibeku Planning Authority	200 of 1951.
Aba Planning Authority	205 of 1951.
Port Harcourt Planning Authority	53 of 1951.

SCHEDULE — *continued*

Section 27.—Owners and occupiers of abutting land to keep the boundaries of the land defined to the satisfaction of—

	<i>Public Notices</i>
Enugu Planning Authority	196 of 1951.
Umuahia-Ibeku Planning Authority	201 of 1951.
Aba Planning Authority	206 of 1951.
Port Harcourt Planning Authority	54 of 1951.

Section 28 (1).—Entry of suits for recovery of possession of State Land—

Enugu Planning Authority	197 of 1951.
Umuahia-Ibeku Planning Authority	202 of 1951.
Aba Planning Authority	207 of 1951.
Port Harcourt Planning Authority	56 of 1951.

CHAPTER 123

SUPREME COURT (MISCELLANEOUS
PROVISIONS) LAW

Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Appeals from interlocutory orders, etc., in special cases.

CHAPTER 123

A Law to make Provision for the Appeal from Interlocutory Orders and Decisions in Special Cases. E.N. 11 of 1962.

[21st June, 1962]

1. This Law may be cited as the Supreme Court (Miscellaneous Provisions) Law. Short title.

2. In this Law—
“the Ordinance” means the repealed Federal Supreme Court (Appeals) Ordinance; Interpretation. (Fed. Cap. 67) (N. 12 of 1960)
“the Act” means the Supreme Court Act, 1960; and
“the Federal Order” means the Adaptation of Laws (Miscellaneous Provisions) Order, 1960. (N.L.N. 22 of 1960)

3. Whereas—
(1) By the Federal Order, section 6 of the Ordinance (in the Order referred to as section 3) was inadvertently fully repealed, it having been the true intent and purpose of the Order to preserve as far as possible the right of appeal to the Court of Appeal in special cases arising out of interlocutory orders and decisions of a High Court in the exercise of its original jurisdiction: Appeals from interlocutory orders, etc., in special cases.
(2) The Ordinance having been duly repealed by the Act and by reason of the Constitution of the Federation it

being no longer possible to reinstate the restricted right of appeal in the special cases aforesaid, it is necessary to make other provisions for such appeals:

Section 21 of the Act in its application to Eastern Nigeria is hereby amended—

- (a) by renumbering the section as subsection (1); and
- (b) by *inserting* immediately after that subsection the following additional subsections—

(2) Where in the exercise by the High Court of its original jurisdiction an interlocutory order or decision is made in the course of a suit or matter an appeal shall by leave of that court or of the Supreme Court, as the case may be, lie to the Supreme Court; but no appeal shall lie from an order made *ex parte*, or by consent of the parties, or relating only to costs.

(3) Nothing in subsection (2) shall be construed so as to authorize an application to the Supreme Court in the first instance for leave to appeal from an interlocutory order or decision made in the course of a suit or matter brought in the High Court.

SUBSIDIARY LEGISLATION

(No subsidiary legislation)

CHAPTER 124**SURVEY LAW***Arrangement of Sections**Section*

1. Short title.
2. Interpretation.
3. Plans attached to a registrable instrument or court judgment to be signed by a surveyor and counter-signed by the Surveyor-General.
4. Unlicensed persons not to undertake professional surveying.
5. Powers in relation to all public surveys.
6. Compensation.
7. Power of surveyor to enter upon land.
8. Penalty for removing survey and boundary marks.
9. Duty of owners and occupiers in relation to survey marks.
10. Duty of chief, and local government council.
11. Penalty for uncovering or neglecting to recover survey beacons or marks.
12. Reward to informer.
13. Execution of order at the expense of person disobeying it.
14. Penalty for obstructing surveyors.
15. Recovery of moneys due.
16. Delegation of functions of Surveyor-General.
17. Power of Minister to make regulations.

CHAPTER 124**A Law to amend and consolidate the Law relating to the Survey of Lands.**

N. 29 of
1952.
N.L.N. 131
of 1954.

[7th February, 1953]

1. This Law may be cited as the Survey Law.

Short title.

* The provisions of this Law relate to the making of surveys of land and not to the surveyors who make them. The law as to surveyors, the licensing of them, their professional conduct and so on is to be found in the Survey Act (Federal Cap. 194).

Interpreta-
tion.
(Fed. Cap.
194)

2. In this Law—

“licensed surveyor” means a surveyor licensed under the Survey Act or under any Act providing for such licensing which was in force at any time before the commencement of the Survey Act;

“owner”, in relation to any land, means any person receiving rents or profits from any tenant or occupier thereof whether on his own account or as agent or trustee for any other person or who would receive the same if the land were let;

“public survey” means any survey made for the purpose of defining the boundaries of any land which is owned by the State or any public authority, or in which the State or any public authority possesses or disposes of any interest, or any survey which forms part of the general survey of Eastern Nigeria or of any part thereof;

“registrable instrument” means any document relating to land the registration of which is required by any written law;

“Survey Division” means the Survey Division of the Ministry of Town Planning.

“surveyor” means a licensed surveyor or an officer of the Survey Department authorized by the Surveyor-General to carry out surveys.

“Surveyor-General” means the Surveyor-General of the Survey Division and, in relation to any function delegated to an officer of the Survey Division under the provisions of section 16, includes such officer.

Plans
attached to
registrable
instruments
or tendered
in evidence
to be signed
by surveyor
and counter-
signed by
Surveyor-
General.

3. (1) No map, plan or diagram of land—

(a) if prepared after the 1st day of June, 1918, shall be accepted for registration with any registrable instrument which is required by any written law to contain a map, plan or diagram; and

(b) if prepared, after the 20th day of October, 1897, shall, save for good cause shewn to the court, be admitted in evidence in any court,

unless the map, plan or diagram—

(i) has been prepared and signed by a surveyor or is a copy of a map, plan or diagram so prepared and

Survey

signed and is certified by a surveyor as being a true copy; and

(ii) has been examined by the Survey Division and bears the countersignature of the Surveyor-General.

(2) The countersignature of the Surveyor-General shall be conclusive proof that the map, plan or diagram to which it is affixed has been examined by the Survey Division, but shall not for any purpose be deemed to amount to a representation by the Surveyor-General as to the accuracy of such map, plan or diagram.

4. Any person who practises or professes to practise the profession of surveying, not being a surveyor, shall be guilty of an offence and shall be liable to a fine of fifty pounds in respect of each transaction in which he was engaged, and shall not be entitled to sue in any court for remuneration in respect of a survey, plan, map or diagram made by him.

Unlicensed persons not to undertake professional surveying.

5. (1) For the purposes of any public survey the Surveyor-General or any surveyor authorized by him may enter upon any land with such assistants as may reasonably be required, and may affix or set up or place thereon or therein trigonometrical stations, survey beacons, marks or poles, and do all things necessary for such survey.

Powers in relation to all public surveys.

(2) The surveyor shall, when practicable, give reasonable notice to the owner or occupier of the land of his intention to enter thereon.

6. Compensation shall be payable out of the public revenues to the owner of any crops or trees cut or damaged in the exercise of any of the powers conferred by section 5; and if any question shall arise as to the amount of compensation to be paid or the right of a claimant to recover compensation, such question shall, in default of agreement between the Surveyor-General and all persons concerned, be finally determined by a magistrate on application made by the Surveyor-General or any person authorized by him in that behalf, or by any person claiming to be entitled to compensation under the provisions of this subsection:

Compensation.

Provided that no such application shall be granted if it is by a person claiming to be entitled to compensation and is made more than thirty days after the date on which the crops or trees in respect of which the claim is brought were cut or damaged.

Power of surveyor to enter upon land.

7. Any surveyor may, for the purpose of surveying any land which he is employed to survey, enter on and pass over any land, whether private or public, causing as little inconvenience to the owner or occupier of such land as is consistent with his duties.

Penalty for removing survey and boundary marks.

8. Any unauthorized person who shall wilfully obliterate, remove or injure any trigonometrical station, survey beacon, mark or pole or any boundary mark affixed, set up or placed for the purpose of any public survey or any survey ordered by a court shall be liable to a fine of twenty pounds or to imprisonment for three months or to both, and in addition may be ordered to pay the cost of repairing or replacing the thing obliterated, removed or damaged and of making any survey rendered necessary by the act for which the conviction is had.

Duty of owners and occupiers in relation to survey marks.

9. (1) It shall be the duty of the owner and the occupier of any land on or in, or on the boundaries of which any trigonometrical station, survey beacon, mark or pole has been affixed, set up or placed, to preserve such trigonometrical station, survey beacon, mark or pole, and forthwith to report to the nearest district officer if the same shall be obliterated, removed or injured or shall require repair.

(2) Any owner or occupier failing to comply with the provisions of this section shall be guilty of an offence and shall be liable to a fine of five pounds.

Duty of chief and local government council.

10. (1) It shall be the duty of every chief or local government council—

(a) to prevent the obliteration, removal or injury of any trigonometrical station, survey beacon, mark or pole or boundary mark within the local limits of his or its jurisdiction; and

(b) forthwith to report to the nearest district officer any such obliteration, removal or injury.

(2) Any chief or local government council failing to comply with the provisions of this section shall be guilty of an offence and shall be liable to a fine of five pounds.

Penalty for uncovering or neglecting to recover survey beacons or marks.

11. (1) Any person who, unless acting on the authority of the Surveyor-General, shall uncover any survey beacon or mark buried below the surface of the ground, or covered with earth, stone or other material, shall be guilty of an offence and shall be liable to a fine of twenty pounds.

(2) Any person who, having uncovered a survey beacon or mark with the authority of the Surveyor-General, shall neglect—

(a) in the case of a covered beacon or mark to cover the same in the prescribed manner; or

(b) in the case of a buried beacon or mark properly to fill up the hole with the same material as the ground or road under which the beacon or mark is buried;

shall be guilty of an offence and shall be liable to a fine of twenty pounds.

12. Any informer on whose information a conviction is secured against any person of an offence under section 8 or section 11 of this Law or under section 458 of the Criminal Code may, with the approval of the Minister, be paid a reward not exceeding five pounds out of the public revenues.

Reward to informer.

(Cap. 30)

13. If any owner or occupier of any land, or any other person, being ordered in accordance with the provisions of this Law to perform any act, fails to perform such act within a reasonable time, the officer who gave the order may, after giving notice to such owner, occupier or other person of his intention so to do, cause the act to be performed; and the expenses incurred in such performance shall be payable by such owner, occupier or other person.

Execution of order at the expense of person disobeying it.

14. Any person who wilfully obstructs, hinders, resists or threatens any surveyor in the execution of his duty in or about the conduct of any public survey or any survey ordered by a court, or any workman or other person acting in aid of any such surveyor, shall be guilty of an offence and shall be liable to a fine of fifty pounds or imprisonment for six months or both.

Penalty for obstructing surveyors.

15. Any sum due under the provisions of this Law may be sued for and recovered by the Surveyor-General or any person authorized by him by action in any court of competent jurisdiction.

Recovery of moneys due.

16. (1) The Surveyor-General may by notice in the *Eastern Nigeria Gazette* delegate any of his functions under this Law to any officer of the Survey Division by name or office, except the function prescribed by this section.

Delegation of functions of Surveyor-General.

(2) Any such delegation shall be revocable at will and no delegation shall prevent the exercise by the Surveyor-General of any function.

Power of
Minister
to make
regulations.

17. The Minister may make regulations for—

- (a) prescribing the manner in which surveys are to be made, the records to be kept by licensed surveyors and the manner of keeping the same;
 - (b) prescribing the manner of the demarcation of boundaries in connexion with surveys;
 - (c) with regard to plans of survey and their preparation and the matters to be shown thereon;
 - (d) with regard to the publication, issue, service and form of notices to be published, issued or served under this Law or regulations made thereunder;
 - (e) prescribing the returns to be made by licensed surveyors to the Surveyor-General;
 - (f) requiring surveyors to report to the Surveyor-General matters connected with surveys on which they are engaged or with previous surveys, ascertained by them during the course of their work;
 - (g) for securing the maintenance of boundary marks in their correct position and the preservation of the same;
 - (h) providing for the checking of surveys alleged to be erroneous and for the incidence of the expenses of such checking;
 - (i) providing for the checking and correction of tapes and instruments used by surveyors;
 - (j) providing for and regulating the inspection and the taking of copies of plans of surveys in any office of the Survey Division;
 - (k) prescribing the fees which may be charged for services rendered by the Survey Division;
 - (l) prescribing any other matters which this Law requires or authorizes to be prescribed;
 - (m) generally for giving effect to the purposes of this Law.
-

Survey Regulations

CHAPTER 124

SURVEY LAW

SUBSIDIARY LEGISLATION

THE SURVEY REGULATIONS

CONTENTS

Citation	Regulation 1
Part I.—Definitions	Regulation 2
Part II.—Field Survey Methods	Regulations 3–9
Part III.—Demarcation	Regulations 10–29
Part IV.—Survey Plans, Records and Information	Regulations 30–40
Part V.—Private Applications for Survey to the Surveyor-General	Regulations 41–46
Part VI.—Miscellaneous	Regulations 47–52
Schedule	Forms 1–6

INDEX

	<i>Regulation</i>
Angle irons	11
Angular observations	5 (a)
Areas—	
Calculation	5 (e) (iv)
Representation	31 (j)
Azimuths—	
Accuracy	5 (b)
Datum	6
Beacons	10–29
Construction	10–13
Conterminous boundaries	7, 17
Damage, etc., reporting	26, 28
Definition	2
Inside building	10 (c)
Intervals	16
Minimising	8
Mining, defining area	12
Mound (cairn)	11
Mining, construction	24
Numbering	14

INDEX—*continued*

	<i>Regulation</i>
Obstacles to	10 (d), 18
Preservation	25
Re-establishing	17, 29
Uncovering	48, 49
Bearings—	
Computations	5 (e) (i)
Misclosures	5 (a)
Representation	31 (e)
Boundaries—	
Blazed trees on	20
Clearing, width	19
Conterminous	7
Curved, avoidance of	22
E.P.L., disagreement with plan	24 (d)
Linear accuracy	3
Mining	24
Objections to	23
Railway	21 (i)
Representation	31 (e) (i)
River	21 (iii)
Road	21 (ii)
Building Lines, representation	31 (e) (iv)
Cairns	11
Catenary taping	5 (c) (ii)
Certification of plans	38
Checking—	
Responsibility for payment	45
Computations	5 (e)
Inspection of	34
Concrete, preparation	13
Connexions	4
Representation	31 (e) (ii), 33
Conterminous boundaries	7
Co-ordinates—	
Computation	5 (e) (iii)
Plotting	31 (b)
Country lands—	
Beaconing large areas	11
Definition	2
Curves, avoidance of	22
Datum, checking	6
Detail, survey of	31 (f)
Entry upon land	47
E.P.L., disagreement of beacons and plan	24 (e)
Erasures	5 (d) (ii)

INDEX—continued

	<i>Regulation</i>
Excavations—	
Authority for	48
Warnings of	49
Field Books	5 (d)
Inspection	34
Forms—	
Approved	5 (e) (v)
Modifications of	51
Grids, rectangular	31 (b)
Information to licensed surveyors	39, 40
Inspection of plans	35
Investigations of surveys	34
Liability for payment	46
Licensed surveyors' surveys	45
Office checking	34
Judgments of court, plans for	32 (2)
Licensed surveyors—	
Checking charges	45, 46
Information to	39, 40
Investigation of work	34, 42 (2), 46
Plans for court judgments	32 (2)
Purchase of plans	37
Tape standardizations	50
Registrable plans	32 (i)
Linear measurements—	
Accuracy	5 (c) (i)
Computations	5 (e) (ii)
Corrections to	5 (c) (iii)
Representation	31 (e)
Local origin	4 (2)
Mining areas—	
Beacons	12
Boundaries	24
E.P.L., plan at variance with beacons	24 (e)
Scales of plans	31 (i) (i), (ii)
Offsets—	
Irregular boundaries	9
Representation	31 (e) (iii)
Original drawing	30, 31
Pegs, hardwood	11
Plans	30-40
Areas	31 (j)
Certification of	38
Data on	1
Inspection	35
Judgments of court	32 (2)
Registrable instruments	32 (i), 33

INDEX—*continued*

	<i>Regulation</i>
Sale	36, 37
Scales	31 (i)
Preliminary fees—	
Retention, withdrawal of application	43 (2)
Preservation of beacons	25
Records of survey, calling for	34
Registrable instruments, plans	32 (i), 33
Scales of plans	31 (i)
Standardizations	50
Record of	5 (d) (iii)
Surveys—	
Accuracy	3
Definition	2
Private	41-46
Title deed plans—	
Copy of original to be supplied	32 (i)
Data	33
Town lands, definition	2
Traverses, accuracy	3
Representation	31 (e) (ii)
Trig. connexions	4

E.R. No. 12
of 1953.

The Survey Regulations

made under section 17

1. These regulations may be cited as the Survey Regulations.

PART I.—DEFINITIONS

2. In these regulations—

“beacon” means a permanent mark of any kind made of concrete, iron or stone, and includes a pillar or boundary post of such material;

“country lands” means all lands other than plots of less than 10 acres inside or within one mile of the boundaries of a Municipality, urban county, Government station, town or country planning area, or Local Government Council settlement area;

“demarcation” means the marking of lines by beacons or blazed trees;

“survey” means any survey made in connexion with any plan prepared under the Law for any registrable instrument or judgment or order of court;

*What is now section 17 was section 38 in 1955 when the Regulations were made.

Survey Regulations

“Survey Division” means the Survey Division of the Ministry of Town Planning;

“the Law” means the Survey Law;

(Cap. 124)

“town lands” include all lands other than country lands.

PART II.—FIELD SURVEY METHODS

3. Subject to such modifications as may be authorized by the Surveyor-General for any particular survey, the survey of the boundaries of any parcel of land shall be effected by methods defining the boundary to an accuracy equivalent to that of a surround traverse with a closing error of $1/3,000$ controlled in direction by connexion to Government survey framework beacons or by astronomical observations for azimuth.

4. (i) Surveys shall wherever possible be connected by closed traverse or triangulation to a Government survey beacon or beacons. Connexions shall be made to the accuracy laid down under regulation 3, and need not be by traverse if the length of the connexion exceeds a mile. Where it is not possible to close the traverse the lengths shall be double chained and, if exceeding twenty stations, a check azimuth shall be observed to control the bearings.

(ii) When there are no available Government survey beacons, a local origin shall be established by a permanent beacon described by reference to neighbouring identifiable landmarks, to which local origin the survey of the parcel of land shall be connected.

5. Subject to such modifications as the Surveyor-General may authorize for any particular survey the following shall be observed for survey measurements and for their recording and reduction—

(a) Theodolite Stations.

(i) Readings each station: 1 face right, 1 face left.

(ii) Maximum number of stations “N” for closure of bearings: 30.

(iii) Maximum misclosure in bearings: $30'' \times \sqrt{N}$.

(b) Azimuth.

(i) Readings each station: three separate sun or star observations; unless the latitude is certain within

one minute of arc it shall be necessary to pair observations east and west of the meridian.

- (ii) Maximum range in the 3 azimuth: 30".
- (c) Linear Measurements.
- (i) Readings: to the nearest hundredth of a foot for theodolite traverse.
 - (ii) Method of taping: along the ground where the nature of the ground and the required standards of accuracy warrant such procedure, otherwise in catenary.
 - (iii) Corrections to measurements: to the nearest 1/100th of a foot for standard, slope, and, where necessary, temperature and sag, in the case of theodolite traverses.
- (d) Field Books.
- (i) All necessary measurements shall be entered in ink as they are made.
 - (ii) No erasures shall be made or pages torn out.
 - (iii) The contents shall include: surveyor's name, title of survey, location, identity of instruments used, error of field tape and date of its standardization, index and dates of observations, explanatory diagrams accompanying the observations wherever necessary, measurements to permanent features shown on or alongside the boundaries.
- (e) Computations.
- (i) Bearings: surveys by theodolite traverse shall be computed on True bearings, or on Colony bearings where connected to points of the main framework of Nigeria, reduced to the nearest 30".
 - (ii) Lengths: corrected lengths shall be reduced to the nearest tenth of a foot preparatory to the computation of co-ordinates.
 - (iii) Co-ordinates: they shall be computed to the nearest tenth of a foot either by logarithms of not less than five figures or by calculating machine.
 - (iv) Areas: the area of a piece of land bounded by straight lines shall be computed arithmetically from the co-ordinates of the corners. The area

Survey Regulations

enclosed between any irregular boundary and adjacent traverse line shall be computed as a series of trapezoids.

- (v) Forms: all routine computations shall be made on forms approved by the Surveyor-General or on good quality foolscap paper similarly ruled.

6. Where surveys begin or end on marks of old surveys the accuracy of the datum shall be assured by angular and linear measurements. On long lines of framework or primary traverse the linear measurement may be dispensed with, but the accuracy of the position of the marks must be checked by angular measurement. When the old marks are found to be out of position, a full report shall be made to the Surveyor-General so that inquiry may be made and steps taken if necessary and possible to correct their positions. A new datum from unmoved marks shall then be selected or astronomical observations taken to establish a correct bearing.

7. Where a boundary side of a new survey is conterminous with a longer boundary side of a previously surveyed area, the boundary mark or marks of the new survey shall be placed exactly on line between the boundary marks of the old area so that the old area is not affected by the new survey.

8. Boundaries shall be laid out and surveyed with as few angular points as local conditions and the requirements of the survey necessitate.

9. Where a boundary such as that caused by a stream is irregular, traverse lines shall follow approximately the course of the boundary and offsets shall be taken at suitable points along the traverse to determine the position of the boundary.

PART III.—DEMARICATION

10. (i) Subject to the provisions of regulation 11 and subject to such modifications as the Survey or-General may authorize in special cases, survey boundary marks shall be constructed as follows—

- (a) At every change of direction: by concrete pillars (property beacons) measuring seven inches square in section with three inches above ground and two feet

three inches below, and having a metal pin or spike in the centre of the surface. The broad arrow symbol, the letters P.B. and an identification letter and number shall be stamped on pillars emplaced by an officer of the Survey Division. Two identification letters and a number shall be stamped on pillars emplaced by a licensed surveyor, and when such pillars are incorporated in a survey made by an officer of the Survey Division, the broad arrow symbol shall be added.

- (b) At intermediate corners in layouts: by concrete pillars (cemetery-type) measuring four inches square in section with three inches above ground and one foot three inches below and having a metal pin or spike in the centre of the surface.
- (c) Inside a building: an "X" with identification number shall be cut or painted on the outside of the building at points it is intersected by the boundary. Officers of the Survey Division will use a double arrow.
- (d) At an obstacle: if the beacon cannot be placed in the true position, an iron pin shall be set in concrete in the obstacle and the identification number stamped near the pin; if the obstacle is of such material that a pin cannot be sunk nor the number cut or stamped, a dot may be marked thereon along with the identification marks. The position of the pin or dot relative to the true position of the beacon shall be clearly shown in the field book.

(Fed. Cap.
120)

(ii) This regulation shall not apply to areas the subject of applications under the Minerals Act.

(Fed. Cap.
120)

11. For large country surveys, other than surveys of areas the subject of applications under the Minerals Act, which require a large number of beacons, demarcation may, subject to the agreement of the person for whom the survey is undertaken, be made by hardwood pegs, angle irons, etc., capped with a circular pat of cement of at least 6" diameter bearing the identification marks described in regulation 10 (i) (a). Such marks shall after the necessary measurements have been made, be covered by a mound of earth or stones at least 2 feet high. Where azimuths are observed, or connexions made to Government survey beacons or to another survey, three consecutive stations shall however be marked by concrete pillars as described in regulation 10 (i) (a).

Survey Regulations

12. For areas the subject of applications under the Minerals Act the surveyed boundaries shall be demarcated by mushroom-shaped pillars constructed of concrete. The underground portion shall be undercut and at least six inches in diameter at the base, and be sunk to a depth of eight inches; the upper portion shall have a diameter of ten inches and project six inches above the ground. The upper surface shall be smooth and have a hole about a quarter of an inch in diameter at the centre. The relevant letters E.P.L., M.L., or M.R., together with the allotted number shall be marked on the top of the beacon in characters and figures not less than one inch in height on the side adjacent to the land in question, with direction arrows drawn to indicate the course of the boundary. (Fed. Cap. 120)

13. Concrete prepared for the purposes of regulations 10 to 12 shall comprise not more than five parts of sand, or sand and rubble, to one of cement.

When the survey is to be undertaken by the Survey Division, the applicant shall inform the Surveyor-General whether he intends to provide all beacons or materials or whether he wishes them to be supplied by the Surveyor-General.

14. The Surveyor-General shall allot the distinctive letters prefixing the consecutive numbers stamped on all property beacons emplaced by licensed surveyors, who shall forward to the Surveyor-General each month a list of all the numbered beacons used by them the previous month; if no beacons have been used a "nil" return shall be made.

15. The demarcation of all boundaries shall be done prior to or simultaneously with the measurements determining their positions.

16. Beacons shall be placed at the intersections of a boundary with important roads and streams; on long straight lines intermediate beacons shall be so emplaced that consecutive beacons are intervisible and not more than a quarter-mile apart.

17. When a beacon is placed in accordance with computed data or in line with two beacons, proof must be shown by actual measurements recorded in the field book and by any

necessary computations that the beacon has been placed in accordance with the required conditions; except the direct lining-in of cemetery-type beacons in regular layouts.

18. Where, owing to interference with traffic or for any other reason, a beacon cannot be placed at a corner, a beacon shall be placed on each of the lines intersecting at the corner and as close to it as possible. No beacon shall be placed where it would interfere with, or be inconvenient to, traffic.

19. In forest or scrub country, boundary lines shall be cleared of undergrowth and trees of no economic value only, to a width of four feet.

20. Trees within two feet of the line, provided their economic value is not impaired thereby, shall be blazed on both sides in the direction of the line, and those through which the line passes shall be double blazed on each side in the direction of the line.

21. (i) When a railway reserve forms a boundary of a property being surveyed, the position of all tangent points shall be beacons as accurately as possible by inspection on the ground, and the radii of the curves and the lengths of the chords shall be recorded.

(ii) When a road forms a boundary, beacons shall be placed at all turning points of the road, and the boundary will be defined by the chords joining such beacons, which shall be placed to conform with existing regulations and bye-laws defining the width of roads.

(iii) When a river constitutes a boundary, beacons shall only be placed at points between which such river is the boundary. These beacons must be placed on the river bank above flood level and the distances from the beacons to the river bank shewn on the plan.

22. Wherever possible the adoption of curved boundaries shall be avoided, straight lines from point to point being used as boundaries in lieu of curves.

23. Where objection is made by the owner of the adjoining land to the position of a boundary as pointed out by the person for whom a survey is being made, or as located by the surveyor from the documents of title under which the land is

Survey Regulations

claimed, the surveyor shall survey the position of this boundary and show the same on his plan, but may decline to demarcate that portion to which objection has been made. In such case the survey and demarcation shall not be regarded as incomplete, so far as the surveyor is concerned.

24. For areas the subject of applications under the Minerals Act—

- (a) the surveyed boundaries shall conform as closely as possible to the positions indicated by the applicant's beacons;
- (b) the surveyor's ruling as to the positions of the beacons shall be final;
- (c) the surveyor shall have entire discretion to alter the positions of the beacons to bring the area within the limit allowed under the Minerals Act if the area on survey is found to exceed the said limit by not more than 20 per cent.;
- (d) the surveyor shall report to the Surveyor-General if the area on survey is found to exceed by 20 per cent. the maximum allowed under the Minerals Act, or if the area cannot be identified on the ground from the applicant's plan and beacons;
- (e) if, in respect of an exclusive prospecting licence granted on a survey made by the applicant or his agent, the area as beaconed is found to be at variance with the plan furnished by the applicant or his agent, the Surveyor-General may require the area to be surveyed by an officer of the Survey Division, and all charges for the survey shall be borne by the holder of the exclusive prospecting licence.

25. Where practicable, notices in accordance with Form 1 in the Schedule shall be served upon the owners or occupiers of any land the boundaries of which have been defined by boundary marks under the Law, and notices in accordance with Form 2 in the Schedule shall be served upon local government councils, and chiefs within the local limits of whose jurisdiction any trigonometrical station, survey beacon, mark or pole or boundary mark is situated.

Forms
1 and 2.

26. The removal, obliteration or defacement of any survey mark which comes to the notice of a surveyor shall be reported by him in writing to the Surveyor-General.

27. In the resurvey of land unless the original beacons have obviously been disturbed the principle shall be observed that those beacons on the ground indicate the true boundary, even though the data obtained on resurvey disagrees with the data recorded on the original plan.

28. When the surveyor discovers any such disagreement in data or any damage to or loss or displacement of Government beacons he shall make careful search and enquiry and shall forward a full report thereon to the Surveyor-General accompanied by—

- (a) a record of the accurate positions of the beacons as determined by the surveyor, accompanied by explanatory diagrams;
- (b) descriptions of the beacons;
- (c) particulars of development in the neighbourhood of the beacons and of any other evidence bearing on the matter.

29. A Government survey shall only be amended, and Government beacons removed or re-sited, on the instructions of the Surveyor-General and the surveyor shall report in writing when such instructions have been carried out.

PART IV.—SURVEY PLANS, RECORDS AND INFORMATION

30. The original plan of a survey shall be drawn in waterproof ink on mounted drawing paper or on other material approved by the Surveyor-General. The size of the plan shall not be less than 12 inches by 8 inches.

31. The original plan of a survey shall shew the following information—

- (a) title of survey, description of land, locality, the name of the person or body for whom the survey is made, the signature and designation of the surveyor and the date;
- (b) a grid in blue based on and defining either True North or Colony North for the local origin of the survey; all co-ordinated points of the survey shall be plotted by

Survey Regulations

- rectangular co-ordinates on this grid system. True North or Colony North, as the case may be, shall be written along a north and south line of the grid;
- (c) the magnetic variation from True North, when the survey is made on Magnetic North;
 - (d) a description of the origin of co-ordinates;
 - (e) (i) demarcated boundaries: firm red lines where they do not follow lines of existing detail, and all round pink verge internal of the enclosed area. Different colours may be used for verges where it is necessary to distinguish conflicting claims or overlapping areas on the same plan.
 - (ii) other traverse lines, connexions (inset, if necessary): blue lines,
 - (iii) offsets: black figures between arrows;
bearings to the nearest minute and distances to the nearest tenth of a foot in appropriate colours for the above; the initial bearing adopted for the survey to be marked "I.B.;" bearings and distances deduced from the computations, not from direct measurements, to be marked "Cal.;" bearings and distances adopted from a previous survey to be marked "P.O." (per original); astronomical determinations to be marked "Az." (Azimuth);
 - (iv) building lines: firm blue lines marked "Building Line;"
 - (f) topographical and other detail occurring on any line run by the surveyor; also any detail required by the Surveyor-General or the person for whom the survey is made, along or within the boundaries of the parcel of land;
 - (g) the position and nature of all beacons and boundary marks whether permanent or temporary, including all Government survey beacons to which connexion has been made or the co-ordinates and description of some point shewn on the plan which is tied to such beacons, also any measurements to permanent features which will assist in locating the marks on the ground;
 - (h) adjacent lot names or numbers, if available;

- (i) the scale of the plan with a graphic representation in feet; subject to such modifications as the Surveyor-General may authorize in particular cases, scales of plans shewing property boundaries shall ordinarily be as follows—
- | | | |
|--|----|---|
| (i) exclusive prospecting licences | .. | 1/25,000 |
| (ii) mining leases and rights .. | .. | 1/5,000 |
| (iii) other plans | .. | 1/240, 1/480,
1/1,200, 1/2,400,
1/4,800, 1/6,250,
1/12,500,
1/25,000; |
- (j) the area of each plot, to the following accuracy—
- | | | |
|--|----|------------------------------------|
| (i) building lots, and plots under 2 acres | .. | in square yards to the 2nd decimal |
| (ii) plots from 2 to 10 acres .. | .. | in acres to the 3rd decimal |
| (iii) over 10 acres, to 100 acres .. | .. | in acres to the 2nd decimal |
| (iv) over 100 acres, to 1,000 acres .. | .. | in acres to the 1st decimal |
| (v) over 1,000 acres | .. | to the nearest acre. |

Conventional signs and symbols published by the Survey Division shall be used for the representation of details and beacons unless otherwise directed.

32. (1) A licensed surveyor making a survey of the boundaries of land for any registrable instrument or grant under section 23 of the Law shall send two complete copies, on tracing cloth, of the original plan of his survey to the Surveyor-General for countersignature by the latter. The Surveyor-General shall retain one copy and return the other to the licensed surveyor.

(2) A licensed surveyor preparing a plan which implements any judgment or order of court shall send two copies on tracing cloth to the Surveyor-General, together with a certified copy of the judgment or order of court.

Survey Regulations

(3) The cost of the plans and documents supplied under this regulation shall be borne by the persons for whom the surveys are made.

33. Plans prepared from the original for attachment to any registrable instrument or grant under section 23 of the Law are required to shew only the following information taken from the original, save as the Surveyor-General may otherwise require in particular cases—title of survey, the name of the person or body for whom it is made, connexion to Government survey beacon or co-ordinates of a point referred to the local origin, the linear dimensions, area, location and lot number (if any) of the parcel of land, the scale of the plan and the indication of the north point, the signature and countersignature required under section 23.

34. A licensed surveyor may be required by the Surveyor-General to submit for inspection the field books, computations and any other records or information in connexion with a survey undertaken by the licensed surveyor. The Surveyor-General may make any investigation or check he deems desirable on any survey.

35. Copies of survey plans kept in the Survey Division may, at the discretion of the Surveyor-General be inspected by the public on payment of the fee prescribed by regulations made by the Minister from time to time, but no information shall be copied without the permission of the Surveyor-General.

36. Copies of plans of surveys made by the Survey Division may, at the discretion of the Surveyor-General be purchased by the public on payment of the charges prescribed by regulations made by the Minister from time to time.

37. Copies of plans submitted by licensed surveyors under regulation 32 shall be available for purchase only to the surveyors who lodged the particular plans and to the persons for whom the surveys were made or their legal representatives at the rates prescribed by regulations made by the Minister from time to time.

38. (1) When certified true copies of plans made by officers of the Survey Division or licensed surveyors are supplied by

the Surveyor-General or by a licensed surveyor they shall bear the following certificate—

Certified true copy of plan made by.....
of the Survey Division/Licensed Surveyor on....., 19.....

.....
Surveyor-General/Licensed Surveyor

Date....., 19.....

(2) Copies of plans of surveys made by officers of the Survey Division shall not be certified as true copies by licensed surveyors, and shall only be prepared and sold to the public by the Surveyor-General.

39. Any licensed surveyor may demand from the Surveyor-General and shall be given, without payment, any information filed in the office of the Surveyor-General which he may reasonably require, to enable him to connect a survey to Government survey beacons where such beacons exist in the neighbourhood of the land about to be surveyed.

40. The Surveyor-General may decline to give such information as he considers unnecessary for the survey, and his decision shall be final.

PART V.—PRIVATE APPLICATIONS FOR SURVEY TO THE SURVEYOR-GENERAL

Form 3.

41. (1) Applications to the Surveyor-General for the survey of a parcel of land shall be accompanied by particulars of the locality, ownership, area and a sketch plan of the parcels together with the nature of the work required.

(2) For applications to the Surveyor-General to investigate alleged inconsistencies in an existing survey, the complainant shall, in addition to the above information, supply full details of the alleged inconsistencies and such other information as the Surveyor-General may require.

42. (1) The Surveyor-General may in his discretion refuse to undertake any survey or investigations.

(2) The Surveyor-General may investigate or undertake any survey when he considers it in the public interest to do so, whether or not any application has been made to him to carry out the investigation or survey.

Survey Regulations

43. (1) If the Surveyor-General accepts an application for survey he shall assess the charges for the work and call on the applicant to deposit the amount in the nearest Treasury.

(2) If the application is withdrawn after the survey has been arranged, but prior to its completion, the Surveyor-General may in his discretion arrange for the preliminary fee prescribed by regulations made by the Minister from time to time, together with other charges incurred, to be paid to revenue.

44. In any case in which the Surveyor-General accepts an application or directs that the survey shall be undertaken by the Survey Division, the applicant may be required in accordance with Form 4 to attend personally or by agent for the purpose of indicating the boundaries of the land, and shall state his intention regarding supply of beacons or the materials.

Form 4.

45. For surveys by licensed surveyors which involve services by the Survey Division such as checking the work or supplying title deed plans, the Surveyor-General shall assess the necessary charges, which shall be paid to revenue by the applicant except in respect of checking carried out under the provisions of any regulations made by the Minister from time to time which shall be paid for by the licensed surveyor.

46. For investigations undertaken under regulation 41 (2), the complainant shall bear the cost of any investigations undertaken if the complaint is proved to be unfounded. If the original survey is found to be at fault the charges for the investigations shall be paid by the person for whom the original survey was made or by the licensed surveyor in the case of checking carried out under the provisions of regulation 34.

PART VI.—MISCELLANEOUS

47. Notice of a surveyor's intention to enter upon occupied land shall, where practicable, be given. Such notice may be in accordance with Form 5 in the Schedule.

Form 5.

48. If for the purpose of any survey, it is necessary or desirable for the surveyor to uncover a buried Government

Form 6.

beacon, the surveyor shall apply to the Surveyor-General for authority, which shall be issued in accordance with Form 6 of the Schedule. Full directions for the restoration of the covering shall also be issued to the surveyor on the form, a copy of which shall be filed in the office of the Surveyor-General.

49. No excavations to bury or uncover a beacon shall be made in any street or road unless a red flag by day and a red lamp by night is provided and displayed to warn approaching traffic.

50. Licensed surveyors shall arrange for their steel tapes to be standardized by the Survey Division at least once a year and shall pay the fee prescribed by regulations made by the Minister from time to time and obtain a certificate signed by the Surveyor-General in respect of such standardization. Tapes shall also be standardized afresh each time they have been repaired, and the prescribed fee paid by the surveyor if the re-standardization is done by the Survey Division.

51. Forms set out in the Schedule to the Survey Regulations may be modified at the discretion of the Surveyor-General as special circumstances require.

52. The Survey Regulations shall be observed by all surveyors save when their application is specially limited either to the Survey Division or to licensed surveyors.

SCHEDULE

FORM 1

The Survey Regulations

Reg. 25.

NOTICE TO AN OWNER OR OCCUPIER

Take notice that you are hereby required to maintain in position and repair all boundary marks erected to define the boundaries of the land situated at..... and described as follows—

.....

You are also required to give notice to the Surveyor-General or to the Divisional Officer of your district if any of the said marks are injured, destroyed or removed.

Survey Regulations

SCHEDULE — *continued*

FORM 1 — *continued*

DATED this..... day of....., 19.....

.....
Surveyor/Divisional Officer

..... Division..... Province

To.....
.....
.....

FORM 2

The Survey Regulations

Reg. 25.

NOTICE TO A LOCAL GOVERNMENT COUNCIL OR A CHIEF

Take notice that you are required to prevent the obliteration, removal or injury of the trigonometrical stations, survey beacons, marks, poles or boundary marks on, or on the boundaries of, the land situated at....., and described as follows—
.....
.....

You are also required to report to the Surveyor-General or to the Divisional Officer of your district if any of the said stations, beacons, marks, poles or boundary marks are obliterated, removed or injured.

DATED this..... day of....., 19.....

.....
Surveyor/Divisional Officer

..... Division..... Province

To.....
.....
.....

FORM 3

The Survey Regulations

Reg. 41.

APPLICATION FOR SURVEY OR DEMARCATION TO BE UNDERTAKEN BY THE SURVEY DIVISION

1. Name of Applicant.....
2. Address.....
3. Situation and description of land to be surveyed or demarcated
.....
4. Name of owner.....
5. Approximate area.....

*Survey*SCHEDULE — *continued*FORM 3 — *continued*

6. Position of applicant in regard to land, whether owner or his representative, lessee, tenant or mortgagee.....

7. Nature of work required.....

8. Number of plans required.....

DATED this.....day of....., 19.....

.....
Applicant

To: THE SURVEYOR-GENERAL
EASTERN NIGERIA.

N.B.—A sketch plan of the land must accompany this Form.

FORM 4

The Survey Regulations

Reg. 44.

NOTICE TO APPLICANT

You are hereby required to attend personally or by agent duly authorized by you in writing in the form set out below at.....
on the.....day of....., 19..... for the
purpose of indicating to the officer of the Survey Division—

- (a) the boundaries of the parcel of land on your application for survey,
- (b) your corner and direction beacons upon your application for a mining lease, a mining right, an exclusive prospecting licence
.....acres/square miles near.....

You or your agent may be required to remain with the surveyor until the area is finally beaconed and marked.

Should the position of any boundary beacon as determined by the surveyor be in dispute, a written protest should be made to the surveyor who will forward it together with his report to the Surveyor-General.

You are requested to state whether it is your intention to supply all boundary beacons or materials, or that the Survey Division should provide beacons.

Signed.....

Office.....

Eastern Nigeria

Date....., 19.....

Survey Regulations

SCHEDULE — continued

FORM 4 — continued

FORM OF AUTHORIZATION

(If attending by Agent)

On behalf of (a)..... (a) Name of company or individual.

I hereby authorize (b)..... to accompany (b) Name of person authorized.

the officer of the Survey Division during the survey of (c)..... (c) Description of area.

and, unless written protest is made by him to the surveyor at the time of survey, hereby accept the position of all boundary marks as determined by the surveyor.

I will/will not supply boundary beacons or materials for same.

For and on behalf of (d)..... (d) Name of company or individual.

.....

DATED this..... day of....., 19.....

Signature

FORM 5

The Survey Regulations

Reg. 47.

NOTICE TO OCCUPIER BEFORE ENTRY FOR SURVEY PURPOSES

Take notice that I shall attend on..... the....., 19..... between the hours of 6 a.m. and 6 p.m. upon your land situate at.....

for survey purposes connected with:

the property occupied by you;

adjoining property;

a public survey.

DATED this..... day of....., 19.....

Surveyor, Eastern Nigeria

To.....

.....

.....

SCHEDULE — *continued*

FORM 6

Reg. 48.

The Survey Regulations

PERMISSION TO UNCOVER BEACON

You are hereby given permission to uncover Government Survey Beacon
No. at

In order to comply with subsection (2) of section 31 of the Survey Law,
it will be necessary for you to observe the following directions in restoring
the covering—

DATED this day of, 19

.....
Surveyor-General, Eastern Nigeria

To

.....

.....

E.R.L.N.
100 of 1955.
E.N.L.N.
41 of 1963.
*

Citation and
commence-
ment.

The Survey (Fees) Regulations*made under section 17*

1. These regulations may be cited as the Survey (Fees) Regulations and shall come into force on the 19th day of May, 1955.

PART I.—DEFINITIONS

2. In these regulations—

“beacon” means a permanent mark of any kind made of concrete, iron or stone, and includes a pillar or boundary post of such material;

“country lands” includes all lands which are not town lands;

“demarcation” means the marking of lines by beacons or blazed trees;

“Survey Division” means the Survey Division of the Ministry of Town Planning;

“town lands” includes plots not exceeding ten acres in extent lying within a Municipality, County Council, Urban County Council or Government station or within one mile of the boundary of a Municipality, County Council, Urban County Council or Government station.

*What is now section 17 was section 38 in 1955 when the Regulations were made.

Survey (Fees) Regulations

PART II.—SURVEY FEES

- 3. The fees for surveys of parcels of land undertaken by the Survey Division shall be in accordance with the provisions of the First Schedule to these regulations.

Fees for survey of parcels of land. First Schedule.
- 4. The fees for survey services rendered by Survey Division other than those referred to in regulation 3 shall be in accordance with the provisions of the Second Schedule to these regulations.

Fees for other survey services. Second Schedule.
- 5. In any case where fees are specified in the First or Second Schedule to these regulations as being chargeable at rates other than time-rates the Surveyor-General or any officer of the Survey Division authorized by him may, if he thinks it desirable to do so, substitute time-rates for such other rates.

Alteration of rates of charge.
- 6. (1) Traverse fees for the survey of a common boundary between contiguous plots of land shall be paid in full by each of the owners or occupiers of such plots.

Layout surveys.

(2) The Surveyor-General may waive a separate preliminary fee for each plot of land where two or more such plots are included in a single layout survey:

Provided that a single preliminary fee only shall be charged for an entire survey undertaken at the instance of a single owner or occupier.
- 7. The Minister may, when it is deemed necessary owing to a general increase in the level of costs, add a surcharge to the fees chargeable in accordance with the provisions of the First and Second Schedules to these regulations.

Power to impose surcharge. *
- 8. The Minister may, when it is in the public interest to do so, waive or reduce the survey fees payable in particular cases.

Power to waive or reduce fees in particular cases.

*A surcharge of 15% has been imposed. See the Notification printed next after these Regulations.

FIRST SCHEDULE

REGULATION 3

Fees chargeable by Survey Division for surveys of parcels of land—

1. *Preliminary Fees:*

	£	s	d
Town Surveys	5	0	0
Country Surveys	8	0	0
Mining Surveys	8	0	0
Renewals and Re-issues including Part-surrenders and Part-renewals	5	0	0

2. *Beacon Fees:*

Standing Property Beacons and Mining Beacons, each ...	0	16	0
Cemetery Beacons, other Beacons each	0	8	0

If all materials are supplied by applicant the charge shall be 10s and 6s each respectively.

If a beacon is established in accordance with computed data the above rates shall be increased by 50 per cent.

3. *Traverse Fees* shall be at the following rates per 100 feet.

	Level country			Broken or swampy country			Rugged country		
	£	s	d	£	s	d	£	s	d
Open, or lines properly cleared by applicant	0	2	6	0	3	0	0	3	6
Thick grass, orchard bush, light forest, or built-up areas	0	3	6	0	4	3	0	5	0
Medium forest	0	5	0	0	6	0	0	7	0
Heavy forest or dense secondary growth	0	7	0	0	8	6	0	10	0
Heavy forest with dense secondary growth or mangrove swamp ...	0	10	0	0	12	6	0	15	0
Minimum fee: £2 10s 0d.									

4. *Astronomical Determination Fees* shall be charged at time rates.5. *Trigonometrical Connexion Fees* shall be charged at time rates.6. *Survey Party Fees.* The cost—

(a) of the transport of the survey party and stores to and from the survey; and

(b) the salaries, wages and allowances of the party for the time necessarily spent in travelling, shall be paid by the applicant.

Delays to the survey party caused by default of the applicant shall be paid for by him at time rates.

*Survey (Fees) Regulations*FIRST SCHEDULE — *continued*7. *Deed Plan Fees:*

For deed plans not exceeding 13" x 8" a standard charge of £1 10s 0d shall be made. For plans exceeding the above size, charges shall be in accordance with the rates prescribed in paragraph 4 of the Second Schedule.

8. *Time Rates* shall be at the rate of £1 an hour.

SECOND SCHEDULE

REGULATION 4

Fees chargeable by Survey Division for other survey services—

1. *Office Checking Fees:*

For checking the field books, computations and plan of every mining survey there shall be charged a checking fee of £3 3s 0d plus 10 per cent. of the traverse charges for open level country plus 7s 6d for each astronomical determination.

The checking of licensed surveyors' field books, computations and plans shall be charged at time rates.

2. *Countersignature Fees.*

(1) A fee of 15s shall be charged for the countersignature by the Surveyor-General of a set of two copies of the original plan submitted by a licensed surveyor under regulations 3 of the principal Regulations.

(2) An additional fee of 5s shall be charged upon the re-submission for the Surveyor-General's countersignature of each set of two copies of a plan submitted under paragraph (1) and referred back to a licensed surveyor for amendment.

3. *Tape Standardization Fees:*

£1 10s 0d shall be charged for the first 100 feet and 7s 6d for each additional 100 feet or less. The cost of return postage shall be added to the above charges.

4. *Drawing and Tracings Fees* other than those specified in paragraph 7 of the First Schedule shall be charged as follows—

(a) Finished Drawings;

Time Rates:

Minimum fee: £3.

(b) Tracing of single plots;

£1 10s 0d per square foot.

Minimum fee: £1.

(c) Other Tracings.

Time Rates.

Minimum fee: £1.

(d) Lithoprints and Sunprints;

Ninepence per square foot.

Minimum fee: 2s 6d.

SECOND SCHEDULE — *continued*5. *Certification Fees* in respect of true copies of diagrams and plans.

	£	s	d
(a) Area up to 10 acres	0	5	0
(b) over 10 acres	0	7	0
(c) Over 100 acres	0	10	0

6. *Public Inspection Fees* in respect of plans and prints deposited in the Survey Division. For each inspection period on search of half an hour or less, 3s.

7. All survey services other than those specified above shall be charged at time rates.

8. Time rates shall be at the rate of £1 an hour.

THE SURVEY (FEES) REGULATIONS

Notification of Surcharge

(Date of commencement: 7th July, 1955)

It is notified for general information that the Minister, in exercise of the powers conferred upon him by regulation 7 of the Survey (Fees) Regulations, has deemed it necessary, owing to a general increase in the level of costs, to add a surcharge of 15 *per centum* to the fees chargeable in accordance with provisions of the First and Second Schedules to the aforesaid regulations.

CHAPTER 125**TORTS LAW***Arrangement of Sections**Section*

1. Short title.
2. Interpretation.
3. Apportionment of liability in case of contributory negligence.
4. Common employment not a defence.
5. Proceedings against, and contribution between joint and several tortfeasors.

CHAPTER 125**A Law to amend certain Aspects of the Law relating to Torts.** E.N. 7 of 1962.

[7th June, 1962]

1. This Law may be cited as the Torts Law. Short title.
2. In this Law— Interpreta-
tion.

“Court” means in relation to a claim the Court or arbitrator by or before whom the claim falls to be determined;

“damage” includes loss of life and personal injury;

“dependant” has the same meaning as that assigned to the expression “immediate family” in the Fatal Accidents (Cap. 52) Law;

“fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort, or would apart from this Law give rise to the defence of contributory negligence.

CONTRIBUTORY NEGLIGENCE

3. (1) Subject to subsections (2) and (3), where a person suffers damage as the result partly of his own fault and partly of the fault of another person, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the Court thinks just and equitable having regard to the share of the claimant in the responsibility for the damage. Apportion-
ment of
liability
in case of
contributory
negligence.

(2) Subsection (1) shall not operate to defeat a defence arising under a contract.

(3) Where a contract or enactment providing for the limitation of liability is applicable to a claim, the amount of damages recoverable by the claimant by virtue of subsection (1) shall not exceed the maximum limit so applicable.

(4) Where damages are recoverable by a person by virtue of subsection (1) subject to such reduction as is therein mentioned, the Court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(5) Where a person dies as a result partly of his own fault and partly of the fault of another person and, if death had not ensued, damages would have been recoverable by him by virtue of subsection (1) of an amount reduced in accordance with that subsection, any damages recoverable in the action brought for the benefit of the dependants of that person under the Fatal Accidents Law shall be reduced to a proportionate extent.

(Cap. 52)

(6) Where in any case to which subsection (1) applies, one of the persons at fault avoids liability to any other person or his personal representative by pleading any enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from the other person or representative by virtue of the said subsection.

P.N. 73 of
1953.

(7) Article 21 of the Convention contained in the First Annex to the First Schedule to the Carriage by Air (Colonies, Protectorates and Trust Territories) Order, 1953 (which empowers a Court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person) as applied by that Order or by the Carriage by Air (Non-international Carriage) (Colonies, Protectorates and Trust Territories) Order, 1953, shall have effect subject to this section.

(8) This section shall not apply to a claim to which section 1 of the Act of the United Kingdom known as the Maritime Conventions Act, 1911, applies and that Act shall have effect as if this Law had not been passed.

*This Order is to be seen at pages 618-634 of Vol. XI of the Laws of the Federation of Nigeria and Lagos, 1958, Article 21 being on page 627.

(9) This section shall not apply to a case where the act or omission giving right to the claim occurred before the passing of this Law.

COMMON EMPLOYMENT

4. (1) It shall not be a defence to an employer who is sued in respect of personal injuries caused by the negligence of a person employed by him that the person was at the time the injuries were caused in common employment with the person injured.

Common employment not a defence.

(2) Any provisions contained in a contract of service or apprenticeship or in an agreement collateral thereto (including a contract or agreement entered into before the commencement of this Law) shall be void in so far as it would have the effect of excluding or limiting any liability of the employer in respect of personal injuries caused to the person employed or apprenticed by the negligence of persons in common employment with him.

(3) In this section the expression "personal injuries" includes any disease and any impairment of a person's physical or mental condition and the expression "injured" shall be construed accordingly.

LIABILITY OF TORTFEASORS

5. (1) Where damage is suffered by a person as a result of a tort (whether crime or not)—

- (a) judgment recovered against a tortfeasor liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tortfeasor in respect of the same damage;
- (b) if more than one action is brought in respect of that damage by or on behalf of the person by whom it was suffered, or for the benefit of his estate, or of any dependant of that person, against tortfeasors liable in respect of the damages (whether as joint tortfeasors or otherwise) the sums recoverable under the judgments given in these actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given; and in any of these actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the Court is of

Proceedings against, and contribution between joint and several tortfeasors.

opinion that there was reasonable ground for bringing the action;

- (c) a tortfeasor liable in respect of that damage may recover contribution from any other tortfeasor who is, or would if sued have been liable in respect of the same damage, whether as a joint tortfeasor or otherwise, so, however, that no person shall be entitled to recover contribution under this section from a person entitled to be indemnified by him in respect of the liability in respect of which the contribution is sought.

(2) In any proceedings for contribution under this section the amount of contribution recoverable from a person shall be such as may be found by the Court to be just and equitable having regard to the extent of that person's responsibility for the damage; and the Court shall have power to exempt a person from liability to make contribution, or to direct that the contribution to be recovered from a person shall amount to a complete indemnity.

(3) This section shall apply in any case where two or more persons are liable, or would, if they had all been sued, be liable by virtue of subsection (1) of section 3 in respect of the damage suffered by any person as it would apply if they had been so liable apart from that subsection.

(4) In this section the reference to "the judgment first given" shall in a case where that judgment is reversed on appeal, be construed as a reference to the judgment first given which is not so reversed and, in a case where a judgment is varied on appeal, be construed as a reference to that judgment as so varied.

(5) Nothing in this section shall—

- (a) apply with respect to a tort committed before the commencement of this Law, or
- (b) affect any criminal proceedings against a person in respect of a wrongful act, or
- (c) render enforceable an agreement for indemnity which would not have been enforceable if this section had not been passed.

SUBSIDIARY LEGISLATION

(No subsidiary legislation)

CHAPTER 126

TOWN AND COUNTRY PLANNING LAW

Arrangement of Sections

PART I.—PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II.—PLANNING SCHEMES AND PLANNING AUTHORITIES

3. Scope of planning schemes.
4. Minister may appoint planning Authorities.
5. Membership of planning Authorities.
6. Secretary of planning Authority.
7. Names and incorporation of planning Authorities.
8. Conduct of business.
9. General powers of the Authority.
10. Declaration of planning areas.
11. (1) Interim development orders.
(6) "Interim development."

PART III.—PREPARATION AND APPROVAL OF SCHEMES AND SUPPLEMENTARY SCHEMES, AND VARIATION AND ABANDONMENT OF SCHEMES

12. Preparation of planning schemes.
13. Scope, contents and effect of schemes.
14. Obligation to give information to the Authority.
15. Power of entry, examination and survey for preparation of scheme.
16. Preparation and publication of notice as to scheme.
17. Submission of scheme to Minister.
18. Order of Minister.
19. Scheme non-effective until approved.
20. Supplementary schemes.
21. When scheme deemed to be rejected.
22. Deposit of scheme after approval.
23. Abandonment of scheme.
24. Supplementary orders.

Section

25. General development orders.
26. Power to permit building pending the coming into operation of a general development order.

PART IV.—EXECUTION OF SCHEMES

27. Provision for execution of scheme.
28. Power to make and perform contracts.
29. Power to enforce and carry into effect schemes.
30. Power of entry and survey for carrying out a scheme.
31. Penalty for obstruction.
32. Penalty for contravention of a scheme.

PART V.—ACQUISITION AND DISPOSAL OF LAND FOR SCHEMES

33. Power to purchase land.
34. Determination of leases.
35. Vesting of land acquired and payment of compensation.
36. Surrender of possession.
37. Payment of compensation if no objection to offer under section 35 (4).
38. Reference of certain matters to court.

PART VI.—COMPENSATION AND BETTERMENT

39. Provisions as to compensation for injurious affection.
40. (1) No compensation in certain classes of cases.
(6) General powers of Authority to pay compensation.
41. Exclusion or limitation of compensation in certain other cases.
42. Date on which compensation is calculated.
43. Making of claims for compensation.
44. Recovery of betterment from owners of property increased in value.

PART VII.—LEGAL PROCEDURE

45. Determination of claims and recovery of amounts due.
46. Concurrent jurisdiction of High Court and customary courts.
47. Reference to court for decision in any matter affecting a scheme.
48. Appearance of parties in court.
49. Form of summons in High Court and procedure thereon.
50. Notice of hearing in the High Court.
51. Procedure when party fails to appear on summons in the High Court.
52. Validation of acts and proceedings.
53. Legal proceedings.
54. Protection of members and servants of the Authority.

Section

55. Notice of action against the Authority.
56. Evidence of Authority's approval.
57. Signing of notices.
58. Service of notices and documents.

PART VIII.—FINANCIAL MATTERS

59. Authority may accept property or other assistance.
60. Regulation of finances.
61. An Authority may order rates to be imposed or itself impose rates.
62. The rate to be paid quarterly.
63. Liability for and recovery of rates.
64. Payment of moneys and deposit in bank.
65. Estimates.
66. Supplemental estimates.
67. Approved estimates binding on Authority.
68. Accounts and audit.
69. Bad debts.
70. Minister may direct an Authority to pay funds into general revenue.
71. Power of borrowing.
72. Power to buy and sell.
73. Power to accept debentures and mortgages.
74. Bank account.
75. Investments.

PART IX.—MISCELLANEOUS

76. Rehousing of displaced persons.
77. Redistribution of holdings.
78. Redistribution scheme and surrendering of holdings.
79. Transfer to the authority of powers of local government council or Controller of Works Services.
80. Scheme may state who is to execute portion of it.
81. General offences.
82. Contravention of regulations.
83. Compensation to be paid by offenders for damage caused by them.
84. Regulations by the Minister.
85. Regulations by an Authority.

FIRST SCHEDULE—SCOPE AND CONTENTS OF SCHEMES
SECOND SCHEDULE—ORIGINATING SUMMONS

CHAPTER 126

L. of N. 1948
Cap. 155.
N. 11 of
1950.
Sec. 244 of
16 of 1950.
N.L.N. 47
of 1951.
N.L.N. 131
of 1954.
N.L.N. 47
of 1955.
Sec. 227 of
E.R.N.L.
17 of 1960.

A Law to make Provisions for the replanning, improvement and development of different parts of Eastern Nigeria.

[28th March, 1946]

PART I.—PRELIMINARY

Short title. 1. This Law may be cited as the Town and Country
* Planning Law.

Interpreta- 2. (1) In this Law—
tion. “Authority” or “the Authority” means an executive authority
 appointed under section 4;
 “building operations” include any road works preliminary or
 incidental to the erection of buildings;
 “court” means either the High Court or a customary court as
 the case may be;
 “development” in relation to any land includes any building
 or rebuilding operations and any use of the land or any
 building thereon for a purpose which is different from the
 purpose for which the land or building was last being
 used:

Provided that the laying down by the occupier of farm-
land to fallow or any change of crops grown or to be
grown or in the method of their cultivation by the said
occupier shall not be deemed to be development save in
so far as the Minister, the Authority or a local govern-
ment council may determine;

*This Law does “not apply in relation to any railway land” (*see* section 97 of the Nigerian Railway Corporation Act—Fed. Cap. 139); and also it does “not apply to any land for the time being vested in or in the possession of the Nigerian Ports Authority” (*see* section 116 of the Ports Act—Fed. Cap. 155). Port Harcourt, Bonny and Calabar are ports of that Authority.

Town and Country Planning

“existing building” means a building erected or constructed before the date of the order declaring a planning area under section 10, and includes a new building within the meaning of the Townships Ordinance;

(L. of N.
1948
Cap. 216)
*

“fence” includes any hoarding, paling, banks and walls used as such;

“hedge” includes any tree or shrub forming a part of a hedge;

“holding” means any piece or parcel of land, and “original holding” and “final holding” means respectively, with reference to a scheme which provides for the redistribution of holdings, a holding prior to its amalgamation with other holdings for the purpose of redistribution and a holding allotted in pursuance of redistribution;

“land” includes land covered with water and also everything attached to the earth or permanently fastened to anything which is attached to the earth and also all chattels real and tenures of every description and any interest therein and also undivided shares of land but does not include minerals;

*The Townships Ordinance, which was Chapter 216 of the Laws of Nigeria 1948, no longer has any application in Eastern Nigeria. What was deemed to be a new building within the meaning of the Ordinance was set out in its section 2 (a), which was as follows—

“2 (a) For the purposes of this Ordinance each of the following operations, namely—

(i) the re-erection, wholly or partially, of any building pulled down to or below the top of the ground floor, or of any frame building of which only the framework is left down to or below the top of the ground floor;

(ii) the re-erection, wholly or partially, of any building of which an outer wall is pulled down to or within ten feet of the surface of the ground adjoining the lowest storey of the building, and of any frame building so far pulled down as to leave only the framework of the lowest storey or part of such framework;

(iii) the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only;

(iv) the reconversion into a dwelling-house of any building which has been discontinued as or appropriated for any purpose other than that of a dwelling-house;

(v) the making of any addition to an existing building by raising any part of the roof, by constructing or altering a wall, or making any projection from the building, but so far as regards the addition only; and

(vi) the roofing or covering over of an open space between walls or buildings; shall be deemed to be the erection of a new building.

(b) For the purposes of this subsection a building or wall shall be deemed to have been pulled down if it has been taken down or been burnt down or has fallen down by reason of decay or otherwise.

“owner” includes joint owner, lessee, tenant for life, and any other person in the actual possession of premises or entitled to receive the rents of premises of any tenure or description, and the agent or attorney of such persons or any of them, and any other person who has an interest in or draws the rents;

“planning area” means an area declared by the Minister to be an area to which this Law relates and “planned area” shall be construed accordingly;

“premises” includes messuages, buildings, lands, tenements and hereditaments;

“responsible authority” means, with reference to a scheme, the authority named in the scheme as responsible for the due execution of the scheme or any part thereof;

“road” includes any road whether public or private and any street, square, court, alley, lane, bridge, footway, trace, bridle path, path, passage or highway, whether a thoroughfare or not;

“scheme” means a town or country or a joint town and country planning scheme made under this Law;

“site” in relation to any building includes offices, outbuildings, yards, courts or gardens occupied or intended to be occupied therewith.

(2) For the purposes of this Law the placing or keeping on any land of any shed, tent or other object whether fixed or movable or collapsible, which is not a building shall be a use of that land.

PART II.—PLANNING SCHEMES AND PLANNING AUTHORITIES

Scope of
planning
schemes.

3. A planning scheme may be made under this Law with respect to any land, whether there are or are not buildings thereon, with the general object of controlling the development and use of land comprised in the area to which the scheme applies, of securing proper sanitary conditions, amenity and convenience, and of preserving buildings or other objects of architectural, historic or artistic interest and places of natural interest or beauty and generally of protecting existing amenities whether in urban or rural portions of the area.

Town and Country Planning

4. (1) Where the Minister is of the opinion that a scheme should be made for any part of Eastern Nigeria he may appoint a planning Authority for such area, which planning Authority shall contain adequate local representation.

Minister may
appoint
planning
Authorities.

(2) Such planning Authority shall be the executive Authority for the planning and carrying through of any scheme under this Law relating to the area for which the planning Authority was appointed.

(3) The same planning Authority may be appointed for one or more areas.

5. (1) Subject to the provisions of subsection (2)—

Membership
of planning
Authorities.

(a) the Authority shall consist of such members as the Minister may appoint;

(b) the Minister may appoint one of the members of the Authority to be the chairman of the Authority.

(2) Notwithstanding the provisions of subsection (1) the Minister may at any time by notice in the *Eastern Nigeria Gazette*—

(a) appoint additional members to the Authority for such purpose as may be specified in such notice;

(b) vary the constitution of the Authority by appointing other persons as members of the Authority in substitution for those originally appointed;

(c) appoint a different chairman in the place of the one originally appointed.

(3) The Authority shall, if it considers such action desirable, have the power to co-opt as members of the Authority for such period or for such purpose as it deems fit any person or persons interested in the development of the area in connexion with which the Authority has been constituted:

Provided that while a member so co-opted shall have all the rights of a member he shall not be entitled to vote.

(4) Where the Minister appoints a local government council as a planning Authority the provisions of section 8 relating to a quorum shall not apply unless the Minister otherwise directs and the business of the local government council shall be conducted in accordance with its standing rules and orders and in the absence of such standing rules and orders, in such manner as the Minister may approve.

(5) Where the Minister appoints a local government council to be a member of the Authority, such council may be represented by any member thereof authorized from time to time by the council concerned to act on its behalf and such council shall be bound by the acts and decisions of its member so authorized.

Secretary
of planning
Authority.

6. The Minister, or the Authority with the approval of the Minister, may appoint a member or some other person to be the secretary to the Authority.

Names and
incorporation
of planning
Authorities.

7. (1) The Authority shall be given by the Minister a name indicative of the area or place in which the Authority is carrying out its duties and such name shall include the words "planning authority".

(2) The Authority shall be a body corporate and have perpetual succession and a common seal of such device as may be approved by the Minister and may sue and be sued by the name aforesaid.

(3) The seal of the Authority shall be authenticated by the signatures of the chairman or some other member of the Authority authorized by the Authority to act in his stead in that behalf, and of the secretary to the Authority or some person authorized by the Authority to act in his stead in that behalf and a record shall be kept of every occasion on which the seal is used.

(4) Every document purporting to be an instrument executed by the Authority and to be sealed with the seal of the Authority authenticated in the manner provided by subsection (3) shall be officially and judicially noticed and be deemed to be such an instrument without further proof unless the contrary be shown.

Conduct of
business.

8. (1) The chairman may, whenever he thinks fit, call a meeting of the Authority and subject as aforesaid the Authority shall meet and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment as it may think fit.

(2) The Minister may specify the number of members of the Authority, inclusive of the chairman, necessary to form a quorum and in the absence of such specification a quorum shall consist of not less than half the total membership of the Authority, and provide for the selection of a chairman in the absence of the chairman appointed under section 5.

(3) The chairman in addition to his vote as a member of the Authority shall also have a casting vote in cases where the votes are equally divided.

9. (1) The Authority, subject to the provisions of subsection (2), shall carry out its duties under this Law in accordance with such general or specific directions as the Minister may give, such directions not conveying any power or right additional to or in extension of any of the powers or rights conferred upon the Authority by this Law.

General powers of the authority.

(2) When constituting an Authority or at any time after the Authority has been constituted the Minister may from time to time direct that the Authority shall not exercise certain specified powers under this Law and thereupon such of the provisions of this Law as relate to such powers shall not vest in the Authority.

(3) The Authority may engage or employ such officers and servants as are deemed necessary for the due and proper execution and enforcement of its duties under this Law.

10. (1) Upon the appointment of an Authority, the Authority shall make such investigation into the planning of the area in question as it may consider necessary and if the Authority is of the opinion that schemes should be made for the area or any part thereof and makes representation to that effect to the Minister, the Minister may by order declare that the area specified in such representation shall be a planning area:

Declaration of planning areas.

Provided that the Minister may before approving, modify the area specified in the Authority's representation by adding thereto or by omitting therefrom any portion or portions thereof.

(2) Such order shall be published in the *Eastern Nigeria Gazette* and shall be given such further publicity as the Authority may consider necessary and shall come into operation upon the date of such publication in the *Eastern Nigeria Gazette* and shall cease to have effect if within three years from such date no scheme in respect of the planning area has been approved under the provisions of section 18.

11. (1) When an order declaring a planning area has been published under section 10 no person shall, within the planning area, carry out any development of land or any

Interim development orders.

construction, demolition, alteration, extension, repair or renewal of any building until a scheme is approved under section 18 for the area containing such land or building:

Provided that the Minister may make a general order with respect to the interim development of land within the planning area and may make special orders with respect to the interim development of any such land in any particular area.

(2) Subject to the terms of any general order made by the Minister under subsection (1) the Authority may grant to any person applying in writing therefor interim development permission, subject to such conditions as it may deem necessary to impose, to develop land or to construct, demolish, alter, extend, repair or renew a particular building lying within the planning area.

(3) An application for interim development permission shall be deemed to be refused unless within two months of the date of its receipt by the Authority notice has been given that the Authority has decided—

- (a) to grant permission with or without conditions;
- (b) to refuse permission; or
- (c) to postpone consideration on the ground that the development cannot be carried out immediately.

(4) An aggrieved person may appeal to the Minister against a decision made by the Authority under the preceding subsection and such appeal must be made within twenty-eight days of the receipt of such decision or of the date by which the application is deemed to have been refused.

(5) (a) Every person who otherwise than under a scheme as finally approved under section 18 proceeds with or does any work in a planning area without such permission shall be liable, on summary conviction, to a fine of twenty pounds and after conviction may be required by the Authority to remove any work performed and reinstate the land or building to the condition in which it was prior to the commencement of such work.

(b) If the person in question fails to comply with the requirements of the Authority the Authority may itself have such work performed and recover the cost thereof from the person convicted.

(6) For the purpose of this section the expression "interim development" means development between the date on which the declaration of a planning area takes effect and the date of the coming into operation of the scheme.

"Interim development".

PART III.—PREPARATION AND APPROVAL OF
SCHEMES AND SUPPLEMENTARY SCHEMES,
AND VARIATION AND ABANDONMENT OF
SCHEMES

12. Upon the declaration of a planning area the Authority shall either frame a planning scheme for such area or any part thereof or adopt with or without modification any scheme proposed by any or all of the owners of the land within such area.

Preparation of planning schemes.

13. (1) A scheme may be made under this Law with respect to any land, in any municipality, urban county, town, village, settlement or rural area, whether there are or are not buildings thereon, with the general object of controlling the development and use of the land comprised in the area to which the scheme applies, of securing proper sanitary conditions and conveniences, and the co-ordination of roads and public services, of protecting and extending the amenities and of conserving and developing the resources of such area.

Scope, contents and effect of schemes.

(2) Every scheme shall specify and define clearly the area to which it relates and shall include a plan in which shall be shown the extent of the scheme and such other matters as can conveniently be included therein.

(3) Every scheme shall contain such provisions as are necessary or expedient for prohibiting or regulating the development and use of land in the area to which the scheme applies, and generally for carrying out any of the objects for which the scheme is made, and in particular for dealing with any of the matters mentioned in the First Schedule.

First Schedule.

(4) A scheme may provide for the redistribution of lands or for the readjustment of the boundaries and areas of any such lands.

(5) Any law relating to development, road construction, or building operations inconsistent with the provisions of a scheme or the application of which would tend to hinder

the carrying out of the scheme shall not apply to the area to which the scheme relates:

Provided that where the scheme contains provisions suspending any enactment contained in a law the scheme shall not come into force unless a draft thereof has been submitted to and received the approval of the Legislative Houses of the Region:

And provided further that the refusal of a Legislative House to approve shall be without prejudice to the making of a new scheme.

Obligation to give information to the Authority.

14. (1) The Authority may, for any purpose arising in relation to the making, enforcement or carrying out of a scheme, by notice in writing require the owner of any land or building in the area to which such scheme relates or is intended to relate to state in writing and deliver or forward by registered post to the Authority within sixty days of the date of the notice, particulars of his estate, interest in or right over or in respect of such land or building, and the name and address, and the estate, interest or right, so far as they are known to him, of every person who to his knowledge has any estate or interest in or right over or in respect of such land or building.

(2) Every person required to make and deliver or forward a statement under this section who shall wilfully make and deliver or forward any false statement, or fail or refuse to make and deliver or forward a statement, shall be liable, on summary conviction, to a fine of fifty pounds.

Power of entry, examination and survey for preparation of scheme.

15. (1) The Authority may at any time cause the whole or any part of any land to be entered upon, examined and surveyed and the circumstances and requirements thereof to be investigated for the purpose of deciding whether or not a scheme should be made in respect of any such land or any part thereof and of making such scheme if decided upon.

(2) Any person authorized in that behalf in writing by the Authority may, for the purpose of any entry, examination, survey or investigation which the Authority is authorized by this section to cause to be made, and on production of such written authority, enter and there do anything which such person shall reasonably consider to be necessary for the said purpose.

(3) Every person who wilfully obstructs or interferes with any other person in the exercise by such other person of any power vested in him by virtue of this section shall be liable, on summary conviction, to a fine of twenty-five pounds.

16. (1) A scheme when framed shall be signed by the chairman where a chairman has been appointed under the provisions of this Law and in other cases by the appropriate officer of the Authority.

Preparation
and publica-
tion of notice
as to scheme.

(2) The Authority shall forthwith prepare a notice stating—

- (a) the fact that the scheme has been framed;
- (b) the boundaries of the area comprised in the scheme; and
- (c) the place or places at which a copy of the scheme or plans of the area, and a statement of the land which it is proposed to acquire or such particulars as the Authority may deem necessary may be seen at reasonable hours.

(3) The Authority shall cause the notice referred to in subsection (2) to be published in two issues of the *Eastern Nigeria Gazette* and it shall be given such further publicity as the Authority may consider necessary.

(4) A copy of the scheme (together with the plans, if any) shall be deposited at the place or places mentioned in paragraph (c) of subsection (2) for a period of fourteen days subsequent to the publication of such notice as aforesaid in the *Eastern Nigeria Gazette* during which period the said scheme shall be open to the inspection of all persons interested free of charge.

(5) (a) The Authority shall, within one month after publication of such notice, if practicable, cause to be brought to the notice of every owner of property affected by the scheme the fact that his property is affected and require him if he wishes to object to the scheme, to lodge an objection with the chairman within a period of six weeks from the date of the notice in the *Eastern Nigeria Gazette*.

(b) In the case of areas within the area of the authority of a local government council a notification in the manner in which the public notices of such council are made known shall be a sufficient compliance with paragraph (a).

(6) Any person affected by a scheme may within six weeks from the date of publication in the *Eastern Nigeria Gazette*

lodge with the chairman a written objection to any matter contained therein, other than an estimate of valuation.

(7) Every such objection shall within two months of its lodgment with the chairman be considered at a meeting of the Authority of which the objector shall be informed in writing.

(8) At such consideration the objector may appear and be heard in person or by duly authorized agent:

Provided that where the Authority is a local government council, the agent may not be a legal practitioner.

(9) Where on the consideration of any such objection, or otherwise, the Authority considers any modification of the scheme to be necessary, it shall cause notice of such proposed modification to be given to any person who appears to it to be affected or likely to be affected thereby; requiring him, if he wishes to object to such proposed modification, to lodge an objection with the chairman within a period to be stated in the notice, not being less than twenty-one days.

(10) If such objection be lodged within the period stated in the notice, the provisions of subsections (7) and (8) shall apply thereto.

Submission
of scheme to
Minister.

17. (1) Within three months of the consideration of all objections and modifications necessitated thereby the Authority shall submit the scheme to the Minister.

(2) Every scheme submitted to the Minister shall be accompanied by—

- (a) an estimate of the number of persons who will be dis-housed by the execution of the scheme;
- (b) a schedule of such objections as have been made under section 16, giving the names of the persons by whom the same were made;
- (c) a schedule showing the way in which the Authority has dealt with such objections;
- (d) a statement of the reasons for any modifications made in the scheme as originally framed; and
- (e) the suggested method of dealing with dis-housed persons.

Order of
Minister.

18. (1) The Minister may make an order approving a scheme submitted to him under section 17 or rejecting it or approving it with such conditions and modifications as he thinks fit.

(2) The approval or rejection of any scheme under subsection (1) shall be notified in the *Eastern Nigeria Gazette*.

(3) Notification of the approval or rejection of any scheme under subsection (2) shall be conclusive evidence that such scheme was duly framed and approved or rejected, as the case may be.

19. (1) A scheme shall not have effect unless and until it is approved by order of the Minister, and before giving his approval the Minister may make such modifications thereto as he thinks fit.

Scheme non-effective until approved.

(2) A scheme when so approved shall have effect as if enacted herein.

20. (1) In any case where a scheme prepared under the provisions of the Law and approved under section 18 is in operation, the Authority may prepare or adopt a scheme for any part of the area within the original scheme.

Supplementary schemes.

(2) A scheme prepared under the preceding subsection, and hereinafter referred to as a supplementary scheme, shall incorporate, with or without modifications, all such provisions of the original scheme as relate to the particular area and may include such additional provisions as may be necessary or desirable.

(3) The preparation of a supplementary scheme shall not affect the operation of the original scheme except that as from the date on which the supplementary scheme comes into operation it shall take the place of the original scheme in respect of the area or matters to which it applies.

21. If within six months from the date on which any scheme is submitted under section 17, approval or rejection of the same has not been notified under section 18, such scheme shall be deemed to be rejected.

When scheme deemed to be rejected.

22. When a scheme has been approved by the Minister in respect of the whole or part of a planning area, a copy of it shall be deposited for inspection in such office within the planning area as the Authority shall direct.

Deposit of scheme after approval.

23. (1) At any time after approval of a scheme has been notified under section 18, the Authority may, with the consent of the Minister and for reasons which the Minister considers satisfactory, abandon the scheme or any part thereof and thereupon such abandonment shall be notified in the

Abandonment of scheme.

Eastern Nigeria Gazette and upon such abandonment being so notified any right, title or interest in any land which ceased to have any effect when the land became vested in the Authority by virtue of this Law shall revest in all respects in the persons entitled thereto at the date on which any such land became vested in the Authority as if such right, title or interest had never ceased to have effect:

Provided that where land has been purchased by the Authority such land shall be disposed of as the Minister may direct.

(2) Upon the abandonment of an approved scheme or any part thereof, the Authority shall pay compensation to any person who has incurred reasonable and necessary expenditure for the purposes of complying with such scheme, in so far as such expenditure is rendered abortive by reason of such abandonment.

(3) In case of dispute such compensation shall be assessed by the court as hereinafter mentioned.

Powers as to Matters not finally dealt with by the Scheme

Supplemen-
tary orders.

24. (1) The Authority may make orders (in this Law referred to as supplementary orders) or adopt, with or without modifications, supplementary orders proposed by owners of land, as respects any area of the scheme, supplementing existing provisions or varying the scheme where necessary or expedient.

(2) A supplementary order requires the approval of the Minister as if it were a scheme.

(3) A supplementary order shall be deemed to form part of the scheme to which it relates and may be varied, modified or revoked by a subsequent supplementary order.

General
development
orders.

25. (1) The Authority may include in the scheme a provision prohibiting or restricting building operations to proceed pending the coming into operation of a general development order, which may be in respect of the whole or a part of the area subject to such prohibition or restriction and any such general development order shall require the prior approval of the Minister.

(2) Within a period of three months from the expiration of each three years after the coming into operation of a scheme, the Authority shall consider the desirability of making a general development order in respect of all land which remains subject to prohibitions or restrictions.

(3) Any person aggrieved by the failure of the Authority to make a general development order as respects any land in which he is interested, may appeal to the Minister for such an order to be made.

(4) A general development order may be revoked or varied by a subsequent general development order.

26. (1) Applications for permission to develop may be made in respect of areas subject to the coming into operation of a general development order.

Power to permit building pending the coming into operation of a general development order.

(2) The Authority may grant such applications, with or without conditions, where they are satisfied that the proposed development will not prejudice the proper carrying out of the scheme and that the operations will not—

- (a) involve injury or danger to health or involve excessive or premature expenditure of public money; or
- (b) be likely seriously to injure the amenities of the locality.

PART IV.—EXECUTION OF SCHEMES

27. Where the scheme has been approved in respect of a planning area, the Authority shall be responsible for executing and enforcing the scheme.

Provision for execution of scheme.

28. (1) The Authority may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of a scheme.

Power to make and perform contracts.

(2) Every such contract shall be approved by the Authority and shall be made on behalf of the Authority—

- (a) where there is a chairman, by the chairman;
- (b) where the Authority is a local government council, in the manner in which contracts may lawfully be entered into by the council concerned.

29. (1) The Authority may at any time—

- (a) remove, pull down, or alter, so as to bring into conformity with the provisions of the scheme, any building or other work which does not conform to those

Power to enforce and carry into effect schemes.

provisions, or the removal, demolition or alteration of which is necessary for carrying the scheme into effect or the erection or carrying out of which contravenes any provision of the scheme;

- (b) where any building or land is used in such manner as to contravene any provision of the scheme, prohibit it from being so used;
- (c) where any land has been, since the date when the order declaring a planning area under section 10 of the Law has been published, put to any use which contravenes any provision of the scheme, reinstate the land;
- (d) execute any work which it is the duty of any person to execute under the scheme in any case where in the opinion of the Authority delay in the execution of the work has occurred and the efficient operation of the scheme has been, will or may be thereby prejudiced.

(2) Before taking any action under this section the Authority shall serve a notice on the owner and on the occupier of the building or land in respect of which the action is proposed to be taken and on any other person who, in its opinion, may be affected thereby, specifying the nature of and the grounds upon which it proposes to take such action.

(3) The date stated in a notice served under this section as the date on or after which the intended exercise of the power therein mentioned is intended to be begun shall be not less than three months when any building is affected, and in any other case not less than one month after the date of service of such notice, and the Authority shall not do any act or thing in exercise of such power in relation to the building or land mentioned in the notice before such date.

(4) Every person who uses any building or land in a manner prohibited under this section shall, in addition to any civil liability, be guilty of an offence and liable, on summary conviction, to a fine of twenty-five pounds.

Power of entry and survey for carrying out a scheme.

30. Any person authorized in that behalf in writing by the Authority may, on production of such written authority, enter on any land in a planning area to which a scheme relates and there make such inspection, survey, examination and investigation and there carry out such work as may be necessary for the purposes of the enforcement or carrying out of a scheme.

31. Every person who wilfully obstructs or interferes with any person in the lawful exercise of any power conferred by this Law shall be liable, on summary conviction to a fine of twenty-five pounds.

Penalty for obstruction.

32. Any person who wilfully does any act which is a contravention of a provision contained in a scheme shall be liable, on summary conviction, to a fine of fifty pounds and in the case of a continuing offence, to a further fine of five pounds for every day during which the offence continues.

Penalty for contravention of a scheme.

PART V.—ACQUISITION AND DISPOSAL OF LAND FOR SCHEMES

33. (1) The Authority may, for the purpose of the execution of the provisions of this Law, purchase any land in an area declared under section 10 to be a planning area such purchase being either by agreement or compulsorily in manner hereinafter provided notwithstanding that such land is not immediately required.

Power to purchase land.

(2) The Authority may, if requested by a person to whom compensation is payable under this section retain the sum payable for such period as may be agreed upon and while such sum is so retained pay to him interest thereon at the rate of four pounds *per centum* per annum or such lower rate as may be agreed upon.

34. Where an approved scheme provides for the acquisition of any land by the Authority all leases and all rights of occupancy under any tenancy in respect of such land which are existing at the time of the notification that the scheme is approved under section 18 shall be deemed to be terminated, if not previously terminated by agreement, on the expiration of the period appointed in the scheme in that behalf, but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.

Determination of leases.

35. (1) Where an approved scheme provides for the acquisition of any land by the Authority such land shall vest in the Authority on such day as is appointed in the scheme in that behalf, free from incumbrances, but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.

Vesting of land acquired and payment of compensation.

(2) When any land situate in a planning area but not included in a scheme is to be acquired under the provision of section 33 such land shall vest in the Authority upon service of a notice by the Authority on the owner that such land is required by the Authority for the development of the area. All leases and rights of occupancy under any tenancy in respect of such land or building which are existing at the time of notification shall be deemed to be terminated, if not previously terminated by agreement, at the time of the service of the notice but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.

(3) Upon service of a notice as in subsection (2) the provisions of section 36 shall apply to such land as if provision for the acquisition of the same had been made in a scheme approved under section 18.

(4) When any land becomes vested in the Authority under the provisions of this section, the Authority shall by notice in writing proceed to offer to the owner thereof and to such other persons, if any, as have any interest therein, such compensation therefor as the Authority thinks fit.

Surrender of
possession.

36. (1) At any time after an approved scheme has been notified under section 18 the Authority may serve a notice on the owner of any land or building thereby affected requiring him to give up possession thereof within a period to be specified in the notice, not being less than sixty days from the date of such service:

Provided that such period shall not expire earlier than the period appointed in the scheme for the determination of leases and rights of occupancy in respect of such land or building.

(2) A duplicate of such notice shall be served on the occupier or occupiers of such land or building.

(3) Every owner or occupier so served shall comply with the terms of the notice.

(4) Any such owner or occupier who fails to comply with the terms of such notice may be summarily evicted by any member of a police force upon a written request signed by the chairman and addressed to the officer in charge of the police in the area in question.

37. (1) If for sixty days after the service of a notice under section 35 (4) no objection to the offer made in such notice shall have been lodged with the Authority the amount specified in such offer shall be paid forthwith to the owner in full discharge of any claim for compensation.

Payment of compensation if no objection to offer under section 35 (4).

(2) If an objection is lodged within the prescribed time any question as to the amount of the compensation payable in respect of the land acquired and any question as to the apportionment of such compensation among the persons having an interest in the land shall, in default of agreement, be determined by the court as hereinafter mentioned.

38. (1) Any person interested in a matter that may be referred to the court for determination under this Law may by written application to the Authority require that the matter be so referred, and on receipt of such application the Authority shall forthwith refer such matter as required.

Reference of certain matters to court.

(2) Every such application shall be made within sixty days after the Authority shall have made known in writing to the person interested its final decision, and shall state the grounds on which it is based.

PART VI.—COMPENSATION AND BETTERMENT

Compensation

39. (1) Subject to the provisions of this Law, any person—

Provisions as to compensation for injurious affection.

(a) whose property within the area to which the scheme applies is injuriously affected by the coming into operation of any provision contained in a scheme or by the execution of any work under a scheme; or

(b) who for the purpose of complying with any provision contained in a scheme or in making or resisting a claim under the provisions of this Law relating to compensation and betterment, has incurred expenditure which is rendered abortive by a subsequent revocation or modification of the scheme; or

(c) who suffers damage by reason of any action taken by the Authority under section 29, subject to the provisions of subsection (3) of section 41,

shall, if he makes a claim within the time limited for the purpose by this Law, be entitled to recover as compensation

from the Authority the amount by which his property is decreased in value or, so far as it was reasonably incurred, the amount of the abortive expenditure, as the case may be.

(2) In awarding any compensation payable in respect of property injuriously affected by the coming into operation of any provision contained in a scheme, account shall not be taken of any additional injurious affection of the property by reason that since the commencement of this Law the Minister has refused, on an appeal made to him under an interim development order, to grant an application for permission to develop the property, or that the Minister has imposed any conditions on the grant of such an application made since that date.

No compensation in certain classes of cases.

40. (1) No compensation shall be payable in respect of the prohibition imposed by subsection (1) of section 11 upon development of land or construction, demolition, alteration, extension, repair or renewal of buildings.

(2) No compensation shall be payable in respect of any building the erection of which was begun after the date of the publication of the order declaring a planning area under section 10 unless such erection was begun and erected in accordance with the permission of the Authority.

(3) No compensation shall be payable in respect of any condition imposed by the Authority in respect of permission granted under subsection (2) of section 11 to develop land or to construct, demolish, alter, extend, repair or renew buildings.

(4) No compensation shall be payable in respect of any of the following provisions of a scheme, namely any provision which—

- (a) prescribes the space about buildings;
- (b) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected or made in or under any area;
- (c) imposes any sanitary conditions in connexion with buildings;
- (d) restricts the purposes for and the manner in which land or buildings may be used or occupied, or reserves or allocates any particular land or all land in any particular area for buildings of a specified class or classes or to be used for a special purpose;

- (e) regulates or empowers the Authority to regulate the size and height of buildings;
- (f) prohibits or restricts building operations only pending the coming into operation of a general development order;
- (g) prohibits or restricts building operations permanently on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services;
- (h) prohibits otherwise than by way of prohibition of building operations the use of land for a purpose likely to involve danger or injury to health, or detriment to the neighbourhood or restricts otherwise than by way of restriction of building operations the use of land so far as may be necessary for preventing such danger, injury or detriment;
- (i) in the interests of safety regulates, or empowers the Authority to regulate, the height and position of proposed walls, fences or hedges near the corners or bends of roads or at railway level crossings;
- (j) limits the number or prescribes the sites of new roads entering a road or the site of a proposed road;
- (k) fixes in relation to any road or intended road a line beyond which no building in that road or intended road may project unless within a period of two years immediately preceding the publication of an order under section 10 declaring the planning area within which the scheme lies, the land was or formed the site of a building;
- (l) in the case of the erection of any building intended to be used for purposes of business or industry, requires the provision of accommodation for parking, loading, unloading or fuelling vehicles, with a view to preventing obstruction of traffic on any road;
- (m) prohibits, restricts or controls, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, or on any vehicle, boat, aircraft or other movable object whether on land or on or in water or in the air, of all or

any particular forms of advertisements or other public notices; or

- (n) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of any building or by the objectionable or neglected condition of any land attached to a building or abutting on a road or situate in a residential area.
- (5) Nothing contained in subsection (4) shall preclude an owner from claiming compensation for loss or injury arising from—
- (a) being prevented by the operation of a scheme from maintaining a building which was in existence on the date of the publication of an order declaring a planning area under section 70 or from continuing to use any such building for the purpose for which it was used on such date; or
- (b) where a permanent building which was in existence at any time within two years immediately before the date of the publication of an order declaring a planning area under section 10 has been demolished or been destroyed by fire or when the owner is otherwise prevented by the operation of a final scheme from erecting on the site of such demolished or destroyed building a new building which substantially replaces such demolished or destroyed building or from using such new building for the purpose for which such demolished or destroyed building was last used.
- (6) In any case not otherwise expressly provided for in this Law the Authority may pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested by this Law, or any regulation made or scheme sanctioned thereunder, in the Authority, or in the chairman, or where the Authority is a local government council in the chairman of that council or in any officer or servant of the authority.

General powers of Authority to pay compensation.

Exclusion or limitation of compensation in certain other cases.

41. (1) Where any provision of a scheme is revoked or modified by a later scheme, no compensation shall be payable in respect of any property on the ground that it has been injuriously affected by any provision contained in the later scheme if and in so far as that later provision is the same, or substantially the same, as the earlier provisions so revoked or

modified; but if at the date when the revocation or modification of that earlier provision becomes operative—

- (a) there is still outstanding any claim for compensation duly made thereunder; or
- (b) the time originally limited for making such a claim has not expired,

any such outstanding claim and any such claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation, unless the claim is in respect of a restriction removed by the later scheme.

(2) No compensation shall be payable under this Law in respect of any property on the ground that it has been injuriously affected by any provision contained in a scheme, if and in as far as the same provision or a provision substantially to the same effect was, at the date the scheme came into operation, already in force by virtue of some other written law.

(3) A person shall not be entitled to recover compensation under this Law in respect of any action taken by the Authority under section 29 except in a case where a building or work which the Authority has removed, pulled down or altered, was an existing building or an existing work or where a use of a building or land which it has prohibited was an existing use.

(4) For the purposes of this section an "existing building" shall include a building erected, constructed or carried out in accordance with the terms of an interim development order and an "existing use" includes any use of a building or land permitted by or under an interim development order.

"existing building".

42. When an area has been declared a planning area under the provisions of section 10, the value of any building or land in such area shall, for the purposes of determining the amount of compensation or betterment payable under the provisions of this Law, be deemed to be the value of the building or land on the day twelve months immediately prior to such declaration.

Date on which compensation is calculated.

43. (1) A claim for compensation shall be made by serving upon the Authority a notice in writing stating the grounds of the claim and the amount claimed.

Making of claims for compensation.

(2) Subject to the provisions of subsection (3) no claim for compensation shall be entertained unless such written notice

has been served on the Authority within twelve months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in the scheme or, in respect of expenditure rendered abortive by the revocation or modification of a scheme within twelve months after the date on which the revocation or modification of the scheme became operative.

(3) Where it is alleged that property has been injuriously affected by the execution of any work, the period within which a claim in respect of that injurious affection may be made shall be a period of three years after completion of the work.

Betterment

Recovery of betterment from owners of property increased in value.

44. (1) Where by the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme, any property within the area to which the scheme applies is increased in value, the Authority, if it makes a claim for the purpose within three years after the date on which the provision came into operation, or within three years after the completion of the work, as the case may be, shall be entitled to recover from any person whose property is so increased in value an amount not exceeding seventy-five *per centum* of the amount of that increase.

(2) A claim in respect of an increase in the value of any property shall be made by serving upon the person from whom the amount alleged to be payable is claimed a notice in writing stating the grounds of the claim and the amount claimed.

(3) Any sum recoverable under this section may be set off against any claim to compensation.

(4) Where any provision of a scheme is revoked or modified by a later scheme, no property shall be deemed to be increased if and in so far as that provision is the same, or substantially the same, as a provision contained in the scheme so revoked or modified:

Provided that, if at the date when the revocation or modification of such scheme becomes operative, there is still outstanding any claim in respect of an increase in the value of any property duly made thereunder, or the time originally limited for making such a claim has not expired, any such outstanding

claim, and any such claim made within the time so limited, shall be entertained and determined and may be enforced in the like manner in all respects as if all the provisions of the earlier scheme had continued in operation.

PART VII.—LEGAL PROCEDURE

45. (1) Any dispute under this Law as to—

- (a) the right of a claimant to recover compensation,
- (b) the right of the Authority to recover betterment, or
- (c) the amount and manner of payment of any such recoverable compensation or betterment,

shall, upon the application of any party concerned, be heard and determined by a court in the manner hereinafter provided.

(2) Any dispute referred to the court under the provisions of subsection (1) shall be by way of a suit by or against the Authority.

46. (1) All matters which by or under this Law may be referred to a court for determination may at the option of the Authority concerned and if the Authority is a local government council then with the approval of the Minister be determined either by the High Court or by a customary court upon which courts necessary jurisdiction is hereby conferred.

(2) When a matter is referred to the High Court for determination it shall be determined by a judge and the proceedings therein shall be as hereinafter provided.

(3) When a matter is referred to a customary court the steps to be taken for the appearance of the parties and the proceedings in court shall be the same as if it were a suit for determination by that court between two persons normally subject to the jurisdiction of that customary court.

47. In addition to the matters specifically provided for under this Law as being matters for determination by a court the chairman of the Authority may submit for determination by a court any other matter relating to a scheme.

48. (1) Upon the hearing of any matter before a court the Authority may appear by one of its officers or by a person specially appointed for that purpose by the Authority or when in the High Court or a magistrate's court, by a legal practitioner.

Determina-
tion of
claims and
recovery of
amounts due.

Concurrent
jurisdiction
of High
Court and
customary
courts.

Reference
to court for
decision in
any matter
affecting a
scheme.

Appearance
of parties
in court.

(2) Proceedings for offences against any of the provisions of this Law shall be instituted by the chairman of the Authority concerned or where the Authority is a local government council, then in the manner in which such proceedings may lawfully be instituted by the local government council concerned, and the Authority may appear by one of its officers or by a person specially appointed by the Authority for the purpose or when in the High Court or in a magistrate's court, by a legal practitioner.

Form of summons in High Court and procedure thereon.

49. (1) All matters referred by an Authority to the High Court for determination shall be heard and determined by the court—

Second Schedule.

(a) if the Authority is other than a local government council, upon an originating summons in the form in the Second Schedule taken out by the chairman of the Authority, and

(Cap. 79)

(b) if the Authority is a local government council, in the manner provided by Part XVII of the Local Government Law.

(2) The court shall hear and determine all matters herein as if the proceedings had been commenced in the ordinary way by a civil summons issued under the Law by which the court was established and the rules thereunder which shall govern all matters or procedure.

Notice of hearing in the High Court.

50. Summonses in the High Court shall be served upon every party in the manner provided by section 58 not less than seven days before the time appointed for hearing.

Procedure when party fails to appear on summons in the High Court.

51. Where in answer to a summons issued out of the High Court a party shall not appear at the time appointed for the hearing, a decision by the court may be given *ex parte* upon hearing the evidence adduced on the part of the Authority and of the parties and such decision shall be as effectual as if given after hearing and in the presence of all parties.

Validation of acts and proceedings.

52. (1) No act done or proceeding taken under this Law shall be questioned on the ground merely of—

(a) the existence of any vacancy in, or any defect in the constitution of, the Authority; or

(b) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Authority, the minutes of the proceedings of which have been duly signed, shall be taken to have been convened and to be free from all defect and irregularity.

53. The chairman with the approval of the Authority or where the Authority is a local government council the appropriate officer of that authority may— Legal proceedings.

- (a) institute any legal proceedings on behalf of the Authority and may withdraw from the same;
- (b) defend any legal proceedings brought against the Authority;
- (c) compound any offence against this Law; and
- (d) compromise any claim made by or against the Authority, and the Authority may appear in the manner provided in section 48 (2).

54. No matter or thing done and no contract entered into by the Authority, and no matter or thing done by any member or by any servant of the Authority or other person acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into *bona fide* for the purpose of carrying out the provisions of this Law, subject the members or any of them or any such servant or other person personally to any action, liability or claim whatsoever. Protection of members and servants of the Authority.

55. No suit shall be instituted against the Authority or any member or any servant of the Authority or any person acting under the direction of the Authority in respect of any act purporting to be done or any neglect of duty under this Law until the expiration of one month next after a written notice has been delivered at the office of the Authority or at the place of abode of such member, servant or other person stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims. Notice of action against the Authority.

56. Whenever under the provisions of this Law the power or right to do any act, or the validity of any act, depends upon the approval or consent of the Authority or the chairman, a document signed by the chairman purporting to express such approval or consent, or where the Authority is a local government council, by the appropriate officer of that council shall be sufficient evidence thereof. Evidence of Authority's approval.

Signing of notices.

57. (1) Every notice required or authorized by this Law or by any regulation made thereunder to be served or given by or on behalf of the Authority shall be signed by the chairman, or where the authority is a local government council, by the appropriate officer of that council.

(2) Any such notice shall be deemed to have been duly signed if it purports to bear the signature of the chairman, or where the Authority is a local government council by such other person as aforesaid.

Service of notices and documents.

58. (1) Every notice, order or other document required or authorized by this Law or by any regulations made thereunder to be served on any person may be served—

- (a) by delivering the same to such person or by delivering the same at the abode where such person ordinarily resides to some adult member or servant of his family; or
- (b) if the abode where such person ordinarily resides is not known, by forwarding the same by registered post addressed to such person at his last known place of abode or business; or
- (c) if the name of such person is not known, or if service cannot with reasonable diligence be effected under clause (a) or (b) of this subsection, by fixing the same on a conspicuous part of the premises in respect of which the notice, order or other document is issued.

(2) (a) Service upon an Authority, not being a local government council, shall be effected by delivering the same to or by sending it by registered post addressed to the chairman of the Authority concerned; and

(b) Service upon an Authority shall be effected by delivering the document to or by sending it by registered post to an officer of the local government council at the principal office of the local government council:

Provided that a court may, having regard to any particular circumstances, order service on an Authority being a local government council to be effected otherwise and in that case service shall be effected in accordance with the terms of that order.

(3) A notice, order or other document required or authorized by this Law or any regulations made thereunder to be

served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of such premises without further name or description.

PART VIII.—FINANCIAL MATTERS

Control of Finance

59. (1) An Authority shall be and hereby is empowered to accept any rates, money, property or other assistance for the furtherance of any of the objects of a scheme.

Authority may accept property or other assistance.

(2) All moneys from whatever sources received by the Authority shall become part of the funds of the Authority.

60. (1) The Minister may direct that any particular Authority shall regulate, control and manage its own finances and in default of any such direction all sums received to the credit of an Authority shall be paid into the general revenues of Eastern Nigeria and all expenses and disbursements lawfully incurred or to be paid by an Authority shall be defrayed from the general revenue of the Region and only such of the provisions of this Part as the Minister may direct shall apply to such Authorities.

Regulation of finances.

(2) Where the Minister directs that any particular Authority shall regulate, hold and manage its own finances the provisions of this Part shall apply and the Authority shall thereafter regulate, manage or control its finances in accordance with such provisions but the Minister may, in giving any such direction, further direct that all or any of the provisions of this Part be added to, modified, adapted or otherwise varied in respect of the Authority concerned and when such further direction is given the provisions of this Part shall be construed and read together with such further directions in relation to the particular Authority concerned and where any of such further directions are in conflict with the provisions of this Part, the provisions of such further directions shall prevail.

(3) Where the Minister has given a direction under subsection (1) or further directions under subsection (2) he may from time to time, in his discretion, revoke, add to, modify or otherwise vary such direction or further directions.

*The audited accounts of Planning Authorities are required to be laid on the Table of the House of Assembly and are subject to examination by the Public Accounts Committee. See E.R.L.N. 19 of 1960, which is printed on page 3222.

Rating

An Authority may order rates to be imposed or itself impose rates.

61. (1) An Authority, with the approval of the Minister, in exercise of its powers and duties under the provisions of this Law and to raise revenue for planning purposes may, by order require a local government council or any other authority to impose, levy and collect rates, hereinafter referred to as planning rates, either in accordance with and subject to regulations made by the Authority or in accordance with and subject to the directions set out in the order so made by the Authority.

(2) Such order—

- (a) shall prescribe the amount of the planning rate to be levied either generally throughout the area or in respect of any part thereof;
- (b) may exempt from a planning rate any premises or class of premises;
- (c) shall determine the date on which the first payment of such rate shall become due.

(3) The local government council or any other authority so ordered to impose, levy and collect a planning rate shall accordingly so do and shall pay over the proceeds of the rate to the Authority concerned.

(4) Any local government council or any other authority which is not empowered under the provisions of any other written law to impose, levy and collect rates is hereby empowered to impose, levy and collect the planning rate in accordance with the provisions of this Law.

(5) An Authority, instead of acting under the provisions of the preceding subsections, is hereby empowered, with the approval of the Minister, to impose, levy and collect the planning rate itself and such rate shall be imposed, levied and collected in the manner specified by the Authority.

The rate to be paid quarterly.

62. The planning rate, unless otherwise provided by the Authority by regulation or by the order requiring the imposition, levy and collection of the rate, shall be paid in advance at a place to be specified in the regulations or order or otherwise by the Authority by annual or half-yearly or quarterly instalments.

Town and Country Planning

63. (1) The owner and occupier of land or premises not exempt from the planning rate shall be liable for the payment of the planning rate, but the same shall be deemed to be an owner's rate and, as between the occupier and the owner of any premises shall, in the absence of any agreement to the contrary, be borne by the owner; and the amount thereof, if paid by the occupier, may be recovered by him from the owner in an action for money paid to his use, or may be deducted from any rent due or to become due in respect of the premises.

Liability for
and recovery
of rates.

(2) If any person fails to pay any planning rate for which he is liable within one month after the same became payable the Authority levying the rate under subsection (2) of section 61 or the Authority so levying under subsection (5) of section 61 may recover the same by suit with costs and interest at the rate of six *per centum* from the day when such rate ought to have been paid until the day of payment.

64. An Authority levying the planning rate under subsection (2) of section 61 shall on the first day of the months of January, April, July and October in every year pay to the Authority the planning rate levied and collected as hereinbefore mentioned in respect of the quarter immediately preceding such date and such planning rate paid as aforesaid shall form part of the funds of the Authority.

Payment of
moneys and
deposit in
bank.

Estimates

65. (1) An Authority shall in every year prepare estimates containing—

Estimates.

- (a) an estimate of the revenue of the Authority for the next ensuing year;
- (b) an estimate of all balances, exclusive of moneys raised by loan, which will be available for ordinary expenditure at the commencement of the next ensuing year;
- (c) an estimate of ordinary expenditure for the next ensuing year;
- (d) an estimate of the balances of loans available and the expenditure therefrom during the next ensuing year; and
- (e) an estimate of sums that will be required during the next ensuing year for the discharge of principal, the

payment of interest and for contribution to sinking funds in respect of loans.

(2) The financial year shall commence on the first day of April in any year and the estimates mentioned in subsection (1) shall be forwarded for approval to the Minister on or before the first day of December in any year.

(3) On consideration of the estimates so submitted the Minister may—

- (a) approve or disapprove such estimates as a whole; or
- (b) disapprove of any item or items contained therein, and shall notify the Authority accordingly.

(4) The estimates when approved by the Minister shall be the estimates of revenue and expenditure for the financial year for which they are made, and no expenditure shall be incurred otherwise than in accordance therewith save with the written approval of the Minister first obtained.

(5) Where the Minister disapproves of any item or items in estimates submitted for approval the remainder of any such estimates excluding such item or items so disapproved shall be deemed to be an approved estimate but the Authority shall not incur any expenditure or collect revenue as the case may be in respect of the item or items disapproved.

(6) Where the Minister has disapproved of estimates as a whole or has disapproved of any item or items in an estimate and subsequently approves such estimates or such item or items or subsequently approves amended or varied estimates or an amended or varied item or items then such estimates or such item or items shall be deemed to be and to have been approved item or items or approved estimates from the beginning of the financial year to which such estimates or item or items relate.

Supplemen-
tal estimates.

66. (1) An Authority may at any time prepare supplemental estimates to provide for unforeseen or urgently required expenditure containing—

- (a) a revised estimate of the revenue for the current year;
- (b) a revised estimate of the expenditure for the current year;
- (c) a statement showing how provision is therein made to meet additional expenditure.

(2) Such supplemental estimates shall be forwarded without delay to the Minister and the provisions of subsections (3), (4), (5) and (6) of section 65 shall apply to such supplemental estimates as if they were the annual estimates.

67. Save as hereinafter provided, the Authority shall be bound by the estimates or supplemental estimates as finally approved by the Minister, and shall not without the sanction of the Minister incur any expenditure unless it is covered by an item in such estimates or supplemental estimates:

Approved estimates binding on Authority.

Provided that the Minister may authorize the expenditure of money appropriated for any one purpose in the approved estimates or supplemental estimates on any other purpose therein contained, but no such expenditure shall be incurred for any purpose for which provision had not been made in such approved estimates or supplemental estimates, without the prior consent of the Minister, and no expenditure shall, in any case, be so incurred for any purpose in respect of which an item in the estimates or supplemental estimates relating thereto has been disapproved by the Minister:

Provided further that where in any financial year, it appears to the Authority that expenditure for any specified purpose is desirable, and no or insufficient provision therefor has been made in the estimates or supplemental estimates for such year, the Minister may approve such expenditure, and the approved estimates or supplemental estimates shall be amended accordingly.

Accounts

68. (1) An Authority shall keep accounts of the transactions of the Authority to the satisfaction of the Minister.

Accounts and audit.

(2) The accounts of any Authority shall be audited in every year either by the Audit Department of Government or by a person approved by the Minister.

69. An Authority may, with the approval of the Minister write off bad debts.

Bad debts.

Contributions to General Revenue

70. In addition to and not in derogation of the other powers in this Part conferred upon the Minister, where an Authority is regulating, controlling and managing its own finances under the provisions of section 60 the Minister may from

Minister may direct an Authority to pay funds into general revenue.

time-to time order that any such Authority shall pay into the general revenue or other funds of Eastern Nigeria all or any part of its revenue or funds and thereupon the Authority so ordered shall pay such sum into the general revenue or other funds of Eastern Nigeria and the Authority shall lose all right, title and interest in such sums which shall thereupon form part of the general revenue or other funds of the Region.

General

Power of borrowing.

71. (1) An Authority may from time to time borrow at such rate of interest and for such period and upon such terms as to the time and method of repayment and security for the repayment and otherwise as may be from time to time approved by the Minister.

(2) Any such approval may be general in respect of all or any Authorities or any class of Authority or may be specific in respect of any specified Authority or any separate transaction.

Power to buy and sell.

72. An Authority may buy and sell or may let, hire, lease, exchange or otherwise dispose of any property of whatever description whether movable or immovable for the purposes of its powers and duties under the provisions of this Law.

Power to accept debentures and mortgages.
Bank account.

73. An Authority may accept debentures and enter into mortgages by way of security for moneys owing to the Authority.

74. (1) Subject to the provisions of this Part all moneys paid to an Authority shall forthwith be paid into such bank or banks as may from time to time be approved by the Minister or by direction of the Minister be paid, in a similar manner, into any local treasury, local government treasury or other suitable depository.

(2) All orders or cheques against the said account shall be signed by the chairman and, where there is a secretary to an Authority, the secretary or by such other officer or person as may be approved by the Minister.

Investments.

75. Subject to the provisions of this Part money standing to the credit of an Authority may from time to time be invested in securities approved by the Minister and an Authority may from time to time, with the like approval, sell any or all of such securities.

PART IX.—MISCELLANEOUS

Rehousing Scheme

76. (1) In addition to and not in derogation of an Authority's powers to frame schemes under this Law an Authority in framing a scheme or in addition to framing a scheme under the provisions of this Law may frame schemes for the construction, maintenance and management of such and so many dwellings and shops as it may consider ought to be provided for persons of the poorer and labouring classes who—

Rehousing
of displaced
persons.

- (a) are displaced by the execution of the provisions of any scheme sanctioned under this Law; or
- (b) are likely to be displaced by the execution of the provisions of any scheme which it is intended to frame, or submit to the Minister for approval under this Law.

(2) Every rehousing scheme shall be submitted to the Minister who may either sanction it, with or without modification, or refuse to sanction it.

(3) The Authority shall not itself construct dwellings or shops under a rehousing scheme unless it is satisfied, after due inquiry, that no other person is willing and able to construct them and is prepared to construct, maintain and manage them under the control of the Authority.

Redistribution of Holdings

77. A redistribution of holdings comprised in any scheme shall be effected in the following manner, namely by—

Redistri-
bution of
holdings.

- (a) the amalgamation for the purpose of the redistribution of all holdings, whether belonging to private owners or to public bodies, and of all State land, together with all roads, streets, backlanes and open spaces public or private, within the scheme area;
- (b) the allotment of an area in respect of roads, streets, backlanes and open spaces;
- (c) the assignment, so far as is practicable, to as many original owners as is possible, having regard to the provisions of the scheme, of one or more final holdings, equivalent or proportionate in extent and value, or both combined, to their respective original holdings;

- (d) the preservation as far as possible to each owner of such special advantages in the way of position, frontage or otherwise as were attached to his original holding;
- (e) the extinction of any existing easement and the provision of any new easement necessary for the enjoyment of any final holding assigned to any owner under the scheme;
- (f) the payment of any compensation to individual owners for any special disadvantage in the final holdings assigned to them under the scheme and the payment of approximately equivalent amounts by individual owners in respect of any special advantage in the final holdings assigned to them under the scheme and the disposal of the sums so paid.

Redistribution scheme and surrendering of holdings.

78. (1) Upon the notification of approval of a scheme which includes a redistribution of holdings or upon such a date as may be declared in the scheme in that behalf the whole of the area subject to redistribution shall vest in the Authority free from incumbrances and every estate or interest in the land comprised in such area shall be extinguished:

Provided that in the case of State lands the Authority shall hold all such lands as the agent of the Government and subject to the directions of the Minister.

(2) The Authority shall make in favour of each person entitled by the scheme to a final holding a fresh grant of the area comprised in such holding. Every such grant shall be made so far as is practicable on the terms and subject to the conditions on which the person to whom it is made held his original holding.

(3) Every person entitled on the date prescribed in subsection (1) to any estate or interest in an original holding shall be deemed to have acquired a corresponding estate or interest in the final holding substituted therefor by the scheme.

Vesting of certain statutory powers in the Authority

Transfer to the Authority of powers of local government council or Controller of Works Services.

79. (1) The Authority may, at any time after the publication of a declaration, in accordance with the provisions of subsection (2) of section 10, that an area is a planning area declare, by notice in the *Eastern Nigeria Gazette*, its intention of framing and carrying out a scheme with respect to such area or a part thereof or with respect to any street in such area

and upon the scheme being approved the powers and duties exercisable and devolving upon a local government council or other authority or the Controller of Works Services in such area or part thereof by virtue of any written law or otherwise shall be transferred to and be vested in the Authority.

(2) Notwithstanding anything contained in subsection (1) the Authority if it considers that the local government council, other authority or the Controller of Works Services should continue in the exercise of any powers or duties transferred or vested in the Authority under subsection (1), may, with the approval of the Minister, call upon the local government council, other authority or the Controller of Works Services, as the case may be, to continue such exercise accordingly.

(3) A local government council or other authority shall from time to time furnish the Authority with such particulars and information as the Authority for the due execution of the provisions of this Law may require relating to the needs of any area and in particular but without derogating from the generality of the foregoing power with regard to the provision of new streets and open spaces, the widening or alteration of existing streets, and the probable direction and nature of the development of the area.

Authorities may require others to execute parts of schemes

80. (1) Provisions may be inserted in a scheme stating who is the responsible authority for executing each portion of the scheme and in what manner the cost of the same shall be met.

Scheme may state who is to execute portion of it.

(2) Upon the approval of the scheme, the duty of carrying out the portions of the scheme as and when required by the Authority shall devolve upon such responsible authorities as aforesaid.

(3) Provision may be made in any scheme for the execution thereof, wholly or in part, by the owner or owners of the land or premises comprised in the scheme area, subject to the control of the responsible authority or of the Authority and upon such terms and conditions as may be specified by the Authority.

Offences

81. If any person unlawfully—

(a) obstructs or molests any member of the Authority or any officer or servant of the Authority, or any person

General offences.

with whom the chairman or appropriate officer of an Authority has entered in a contract on behalf of the Authority in the performance or execution by such member, officer, servant or person as the case may be of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Law or any regulation or scheme made thereunder; or

- (b) removes any mark set up for the purpose of indicating any level or direction necessary for the execution of works authorized by this Law or any regulation made or scheme sanctioned thereunder; or
- (c) removes any notice fixed by the Authority on any premises,

he shall be liable on conviction to a fine of fifty pounds or to imprisonment for six months or to both such fine and imprisonment.

Contra-
vention of
regulations.

82. Any person who—

- (a) acts in contravention of any regulation made under the provisions of this Law; or
- (b) being legally bound to comply with any lawful order or with the requisition contained in any notice served under this Law or any regulation made thereunder refuses or neglects to comply therewith,

shall be deemed guilty of an offence and liable on conviction to a fine of fifty pounds or to imprisonment for six months or to both such fine and imprisonment.

Compensa-
tion to be
paid by
offenders for
charges
caused by
them.

83. (1) If on account of any act or omission any person has been convicted of an offence against this Law or any regulation made thereunder and, by reason of the same act or omission of the said person, damage has occurred to any property of the Authority, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the court before which he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said court as if it were a fine inflicted by the court on the person liable therefor.

Regulations

84. (1) The Minister may make regulations with respect to— Regulations
by the
Minister.

- (a) the determination and adjustments of the limits of plots or estates within planning areas;
- (b) the furtherance of the provisions and purposes of schemes or of any particular scheme;
- (c) any other matter which under this Law is required or permitted to be prescribed.

(2) Regulations made under subsection (1) may be either general or specific or refer to one or more schemes, and upon publication in the *Eastern Nigeria Gazette* shall have the same force and effect as if they had been enacted herein.

85. An Authority may make regulations with regard to— Regulations
by an
Authority.

- (a) the imposition, levy or collection of the planning rate,
- (b) the exemption of certain land or premises or classes of land or premises from the planning rate, and
- (c) the date upon which the planning rate shall become due.

FIRST SCHEDULE

SCOPE AND CONTENTS OF SCHEMES

Section 13.

The mention of particular matters in this Schedule shall not be held to prejudice or affect the generality of any other matter.

PART I.—ROADS

1. Providing for the reservation of land for roads, the construction of new roads, improvement of existing roads, establishment of public rights of way.

2. Providing for the closing or diversion of existing roads and public and private rights of way.

3. Restricting and controlling the construction of new roads and the alteration of existing roads whether by the Authority or owners.

4. Regulating the line, width, level, construction and general dimensions and character of roads whether new or existing.

5. Enabling the Authority to require an owner of land as a condition of his developing such land in any manner—

- (a) to reserve land for such roads as the Authority may think necessary,
- (b) to contribute to the cost of the construction of new roads or the improvement of existing roads by the Authority.

FIRST SCHEDULE — *continued*

6. Providing for and generally regulating the construction or execution whether by the Authority or by owners of works incidental to the making or improvement of any road including the erection of shelters, provision of seats, planting or protecting of grass, trees and shrubs on or adjoining such road.

PART II.—BUILDINGS AND OTHER STRUCTURES

1. Regulating and controlling, either generally or in particular areas, all or any of the following matters—

- (a) the size, height, spacing and building line of buildings;
- (b) the objects which may be affixed to buildings;
- (c) the location of buildings, the extent of yards, gardens and curtilage of buildings;
- (d) the purposes for and the manner in which buildings may be used or occupied including, in the case of dwelling-houses, the letting thereof in separate tenements;
- (e) the prohibition of building operations on any land or regulating such operations.

2. Reserving or allocating any particular land or all land in any particular area for buildings of a specified class or classes, or prohibiting or restricting, either permanently or temporarily, the making of any buildings or any particular class or classes of buildings on any specified land.

3. Reserving or allocating any particular land or all land in any particular area for the purpose of any industrial or trade purpose or for any specified undertaking.

4. Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or made on, in or under any area.

5. Providing for the removal, demolition or alteration of buildings or works which are inconsistent with or obstruct the operation of a scheme.

6. Providing for the reservation of sites for places of religious worship, schools and public buildings and for places required for public services.

7. Providing for sanitary conditions.

8. Providing for the reservation of sites for housing schemes.

9. Providing for slum clearance in specified areas.

PART III.—AMENITIES

1. Providing for the reservation of lands as open spaces, whether public or private, and for burial grounds.

2. Providing for the reservation of views and prospects and of the amenities of places and features of natural beauty or interest.

FIRST SCHEDULE.—*continued*

3. Providing for the preservation of buildings and objects of artistic, architectural, archaeological or historical interest.

4. Providing for the preservation or protection of forests, woods, trees, shrubs, plants and flowers.

5. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, on any vehicle, boat, aircraft or other movable object, whether on land, or in or on water or in the air, of all or any particular forms of advertisement or other public notices.

6. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.

7. The prohibition, regulation and control of the deposit or disposal of waste materials and refuse.

PART IV.—PUBLIC UTILITY SERVICES

Facilitating the construction of works in relation to lighting, water supply, sewerage, drainage, sewage disposal and refuse disposal or other public utility services.

PART V.—TRANSPORT AND COMMUNICATION

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.

2. Allocating sites for use in relation to transport and providing for the reservation of land for that purpose.

3. Providing for the establishment, extension and improvement of telegraphic, telephonic or wireless communication, allocating sites for use in relation to such communication and providing for the reservation of land for that purpose.

PART VI.—MISCELLANEOUS

1. Declaring the persons by whom and the manner in which the cost of the execution of works (whether of construction, demolition, removal or alteration) in pursuance of the scheme are to be borne.

2. Subject to the provisions of this Law, declaring the notices to be served for the purposes of the scheme by the Authority and the persons on whom, the manner in which and the times at or within which such notices are to be served.

3. Subject to the provisions of this Law, declaring the manner in which and the times at or within which notice for the purposes of the scheme may be served on the Authority by other persons.

4. Providing for and regulating the making of agreements for the purpose of a scheme by the Authority with owners and other persons and by such persons with one another.

FIRST SCHEDULE — *continued*

- 5. Dealing with the use or disposal of land acquired under the provisions of this Law.
- 6. Prohibiting the subdivision of land until a plan showing the subdivision and proposed access to the land has been approved together with an estate layout plan if called for by the Authority.
- 7. Making any provisions necessary for—
 - (a) adjusting and altering the boundaries and areas of any lands, roads or rights of way;
 - (b) effecting such exchanges of land or cancellation of existing subdivision as may be necessary or convenient for the purposes aforesaid.
- 8. Providing for and regulating the construction, alteration, removal and use of railways, pipe-lines, telegraph and telephone lines, electric current transmission lines, drainage or irrigation channels, aerial cable ways and their ancillary structures.
- 9. Preventing the pollution of streams, watercourses, rivers, wells, lagoons and harbours.
- 10. Works ancillary to or consequent on a scheme.
- 11. Any other matter, not hereinbefore mentioned, necessary or incidental to a scheme or its administration.

Section 49.

SECOND SCHEDULE

ORIGINATING SUMMONS

In the High Court of Eastern Nigeria

In the Matter of the Town and Country Planning Law.

Let all parties attend at.....on the.....day
 of....., 19....., at.....o'clock in the
noon on the hearing of an application on the part of the
 chairman (or other appropriate officer) of the.....
Planning Authority for the deter-
 mination of the following matters—

.....

If any person fails to comply with these instructions the court may order him to pay the costs of the proceedings.

DATED the.....day of....., 19.....

.....
(Signature of Chief Justice or Judge)

SECOND SCHEDULE — *continued*

This summons was taken out by the chairman (or other appropriate officer) of the.....Planning Authority.

To—

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

(Insert names of all parties interested in questions to be decided.)

CHAPTER 126
TOWN AND COUNTRY PLANNING LAW
SUBSIDIARY LEGISLATION

Note

The appointments of Planning Authorities, the Orders of Declaration of Planning Areas and of Approval of Planning Schemes are not printed in full in this edition of the Laws of Eastern Nigeria. The following tabulation of them is printed. In it are set out by Provinces, which are in alphabetical order, the titles of the Planning Authorities appointed under sections 4 and 5 of the Law, the areas declared under section 10 and the schemes approved under section 18, which were in force on the 1st October, 1963, together with reference to the publication of the appointments, declaration of areas and approval of schemes.

TABULATION

<i>Particulars</i>	<i>Publication</i>
ABAKALIKI PROVINCE	
APPOINTMENT UNDER SECTIONS 4 AND 5:	
1. Abakaliki Planning Authority (for the area of Abakaliki Urban County Council excluding State Land).	E.N.L.N. 78 of 1963.
2. Ugep Planning Authority (for the area of Ediba, Usumutong, Abayong, Adim, Idomi, Agoi-Ibami, Mkpani, Ekuri and Anong).	E.N.L.N. 62 of 1963.
PLANNING AREAS DECLARED UNDER SECTION 10:	
1. <i>Area under the Abakaliki Planning Authority—</i> Area of Abakaliki Urban County Council excluding State Land.	E.N.L.N. 135 of 1961.
2. <i>Area under the Ugep Planning Authority—</i> Ediba, Usumutong, Abayong, Adim, Idomi, Agoi-Ibami, Mkpani, Ekuri and Anong.	E.N.L.N. 67 of 1963.
SCHEME APPROVED UNDER SECTION 18: (No scheme.)	
ANNANG PROVINCE (No appointment or order.)	
CALABAR PROVINCE (The formerly existing Calabar Planning Authority has been dissolved.)	

TABULATION — *continued*

<i>Particulars</i>	<i>Publication</i>
DEGEMA PROVINCE	
<i>(No appointment or order.)</i>	
ENUGU PROVINCE	
APPOINTMENTS UNDER SECTIONS 4 AND 5.	
1. Enugu Planning Authority—(for the area of Enugu Municipality; and as extended).	E.N.L.N. 75 of 1963.
2. Nsukka Planning Authority (for the areas of the Obukpa, Orba, Nsukka, Eror Uno, Ovoko, Eha Alumona, Opi, Ede, Ibagwani and Edem Local Councils)	E.R.L.N. 245 of 1958. E.R.L.N. 292 of 1958. E.R.L.N. 81 of 1959.
PLANNING AREAS DECLARED UNDER SECTION 10:	
1. <i>Areas under the Enugu Planning Authority—</i>	
Enugu, Uwani Planning Area	Public Notice 25 of 1951.
Enugu, Coal Camp Planning Area	67 of 1951.
Enugu, Ogui and Asata Planning Area	82 of 1951.
Enugu, North-east Uwani Planning Area	E.R.L.N. 249 of 1955.
Enugu Planning Area (Extension)	E.N.L.N. 76 of 1963.
2. <i>Area under the Nsukka Planning Authority—</i>	
Nsukka Planning Area	E.N.L.N. 130 of 1962.
SCHEMES APPROVED UNDER SECTION 18:	
1. <i>Areas under the Enugu Planning Authority—</i>	
Enugu Town Planning Scheme (Uwani Layout)	Order 27 of 1951, E.N.L.N. 58 of 1962.
North-east Uwani Planning Scheme	E.R.L.N. 104 of 1959.
Layout of Plots behind the Colliery Clerks' Quarters Planning Scheme;	E.R.L.N. 152 of 1959.
Layout by the Enugu Police Refresher School Planning Scheme;	E.R.L.N. 151 of 1959.
Enugu Kingsway Road Layout Planning Scheme	E.R.L.N. 179 of 1959.
Uwani Commercial and Public Buildings Layout Planning Scheme;	E.R.L.N. 190 of 1959.
Uwani Central Layout Planning Scheme	E.N.L.N. 193 of 1961.
Enugu New Haven West Layout Planning Scheme	E.N.L.N. 2 of 1962, E.N.L.N. 46 of 1962.
Enugu New Haven East Layout Planning Scheme	E.N.L.N. 22 of 1963.
Ogui Nike Communal Land (No. 1) Layout Planning Scheme;	E.N.L.N. 15 of 1962.
Ogui Nike Communal Land (No. 2) Layout Planning Scheme;	E.N.L.N. 23 of 1962.
Achara Layout Planning Scheme	E.N.L.N. 56 of 1963.

TABULATION—*continued*

<i>Particulars</i>	<i>Publication</i>
2. <i>Area under the Nsukka Planning Authority— (No scheme.)</i>	
PLANNING RATES IMPOSED UNDER SECTION 61:	
1. <i>Areas under the Enugu Planning Authority—</i>	
All building plots in the Uwani Planning Area ...	Order 28 of 1951.
Building plots in the North-east Planning Area ...	E.N.L.N. 7 of 1962.
Building plots in the Achara Layout Planning Area ...	E.N.L.N. 84 of 1963.
All building plots in Ogui Nike Communal Land (No. 1) Layout;	E.N.L.N. 38 of 1962.
All Building plots in Ogui Nike Communal Land (No. 2) Layout;	E.N.L.N. 59 of 1962.
Building plots in the New Haven West Layout ...	E.N.L.N. 55 of 1963.
2. <i>Area under the Nsukka Planning Authority— (No imposition)</i>	
OGOJA PROVINCE	
APPOINTMENT UNDER SECTIONS 4 AND 5:	
Ikom Planning Authority (for the area declared under section 10 and mentioned below).	E.N.L.N. 398 of 1961.
PLANNING AREA DECLARED UNDER SECTION 10:	
All State Land within Ikom Town, together with the area within two miles radius of the Post Office covering the area surrounding the Four Corners and the approaches to the Four Corners from Bansara-Mamfe and Bendeghe Ayuk.	E.N.L.N. 169 of 1961.
SCHEME APPROVED UNDER SECTION 18: (<i>No scheme.</i>)	
ONITSHA PROVINCE	
APPOINTMENT UNDER SECTIONS 4 AND 5:	
Onitsha Planning Authority (for the area of the Onitsha Urban County Council).	E.N.N. 1192 of 1960.
PLANNING AREA DECLARED UNDER SECTION 10:	
Onitsha Planning Area... ..	E.N.L.N. 6 of 1962.
SCHEME APPROVED UNDER SECTION 18:	
Niger Bridge-head Area Planning Scheme	E.N.L.N. 50 of 1963.
OWERRI PROVINCE	
APPOINTMENT UNDER SECTIONS 4 AND 5:	
Owerri Town Planning Authority (for the area of the Owerri Urban County Council).	E.R.L.N. 385 of 1959.

*Authorities, Areas and Schemes*TABULATION—*continued*

<i>Particulars</i>	<i>Publication</i>
PLANNING AREA DECLARED UNDER SECTION 10:	
The whole area of jurisdiction of the Owerri Urban County Council.	E.R.L.N. 64 of 1960.
Ikenegbu Layout, Owerri	E.N.L.N. 77 of 1963.
SCHEME APPROVED UNDER SECTION 18: (<i>No Scheme</i>).	
PORT HARCOURT PROVINCE	
APPOINTMENTS UNDER SECTIONS 4 AND 5:	
1. Port Harcourt Planning Authority	G.N. 1578 of 1946. G.N. 24 of 1947.
<i>renamed—</i>	
Port Harcourt-Obia Planning Authority (for the areas described in Schedules A and B of E.R.L.N. 247 of 1958).	E.R.L.N. 247 of 1958. E.R.L.N. 209 of 1960.
2. Ahoada Planning Authority (for the area mentioned in the Schedule to E.R.L.N. 358 of 1959).	E.R.L.N. 358 of 1959.
PLANNING AREAS DECLARED UNDER SECTION 10:	
1. <i>Areas under the Port Harcourt-Obia Planning Authority—</i>	
Port Harcourt Creek Road Extension Planning Area...	Orders in Council 16 of 1947. 29 of 1947.
Area described in the Schedule to the Port Harcourt Area Planning Scheme (Declaration of Planning Area) Order in Council 29 of 1947;	
Port Harcourt (Creek Road Fore-shore Area) (Declaration of Planning Area) Order 1952;	E.R. Public Notice 14 of 1952.
Area described in the Schedule to the Port Harcourt (Redeclaration of Planning Area) Order 1954;	E.R.L.N. 292 of 1954.
Elechi Planning Area, Port Harcourt	E.R.L.N. 83 of 1955.
Wobo Planning Area, Port Harcourt	E.R.L.N. 83 of 1955.
Orije Planning Area, Port Harcourt	E.R.L.N. 83 of 1955.
Recreation Ground Planning Area, Port Harcourt ...	E.R.L.N. 32 of 1956.
Elechi Access Road Planning Area, Port Harcourt ...	E.R.L.N. 32 of 1956.
Oromineke Planning Area, Port Harcourt	E.R.L.N. 47 of 1956.
Ogbunabali Planning Area, Port Harcourt	E.R.L.N. 246 of 1958.
Obia (Number Two) Planning Area	E.R.L.N. 292 of 1959.
Mile 2 Diobu/Diobu Creek Planning Area	E.N.L.N. 168 of 1961.
Obia Planning Area	E.N.L.N. 170 of 1961.
Ogodogbo Creek Planning Area	E.N.L.N. 34 of 1963.
2. <i>Area under the Ahoada Planning Authority—</i>	
Ahoada Town Planning Area	E.R.L.N. 73 of 1960.
SCHEMES APPROVED UNDER SECTION 18:	
1. <i>Areas under the Port Harcourt-Obia Planning Authority—</i>	
Port Harcourt Creek Road Extension Area Planning Scheme;	Orders in Council 16 of 1948.

TABULATION—*continued*

<i>Particulars</i>	<i>Publication</i>
Port Harcourt Hospital Road Layout Planning Scheme	17 of 1948. 28 of 1948. 33 of 1951. 5 of 1952.
Port Harcourt Orugbum Layout Planning Scheme ...	E.R.L.N. 206 of 1955. E.R.L.N. 282 of 1955.
Port Harcourt Elechi Layout Planning Scheme ...	E.R.L.N. 16 of 1956.
Port Harcourt Orije Layout Planning Scheme ...	E.R.L.N. 27 of 1956.
Port Harcourt Creek Road Foreshore Planning Scheme	E.R.L.N. 28 of 1956.
Port Harcourt Wobo Layout Planning Scheme ...	E.R.L.N. 29 of 1956.
Elechi Light Industries Planning Scheme ...	E.R.L.N. 103 of 1956.
Oromineke Planning Scheme ...	E.R.L.N. 231 of 1956.
Port Harcourt Recreation Ground Planning Area ...	E.R.L.N. 220 of 1956.
Port Harcourt Gborokiri Layout Planning Scheme ...	E.R.L.N. 232 of 1956.
Mile 2 Diobu Planning Scheme ...	E.R.L.N. 19 of 1959.
Port Harcourt Ogbunabali West Layout Planning Scheme;	E.R.L.N. 42 of 1960.
Port Harcourt—Obia Diobu Creek (West) Layout Planning Scheme;	E.R.L.N. 43 of 1960.
Port Harcourt Coronation Layout Planning Scheme	E.R.L.N. 205 of 1955.
Diobu Government Residential Area Planning Scheme	E.N.L.N. 172 of 1961.
Port Harcourt—Obia (No. 1) Layout Planning Scheme	E.N.L.N. 37 of 1962. E.N.L.N. 42 of 1962.
Oroworukwo Community Layout Planning Scheme...	E.N.L.N. 39 of 1963.
2. <i>Area under the Ahoada Planning Authority—</i>	
Ahoada Igwa Phase 1 Layout Planning Scheme ...	E.N.L.N. 9 of 1963.
PLANNING RATES IMPOSED UNDER SECTION 61:	
1. <i>Areas under the Port Harcourt—Obia Planning Authority*</i> —	
All building plots in the Wobo Planning Area ...	E.R.L.N. 38 of 1956.
All building plots in the Orije Planning Area ...	E.R.L.N. 39 of 1956.
All building plots in the Coronation Layout Planning Area;	E.R.L.N. 40 of 1956.
All building plots in the Orogbum Planning Area ...	E.R.L.N. 135 of 1956.
All building plots in the Oromineke Planning Area ...	E.R.L.N. 94 of 1957.
All building plots in the Gborokiri Layout ...	E.R.L.N. 107 of 1957.
All building plots in Wobo Planning Area, Elechi Planning Area, Orije Planning Area, Recreation Ground Planning Area, Elechi Access Road Planning Area, Orogbum Layout (being a part of the Diobu "D" Planning Area);	E.R.L.N. 236 of 1958.
All building plots in the Coronation Layout ...	E.R.L.N. 253 of 1958.
Specified building plots (contribution to the capital cost incurred by the Electricity Corporation of Nigeria for the extension of electrical development);	E.R.L.N. 80 of 1959.

*The rates imposed by these orders are mostly of different amounts according to the kind, or the position, of the properties, as specified in the Orders.

*Authorities, Areas and Schemes*TABULATION—*continued*

<i>Particulars</i>	<i>Publication</i>
All buildings in the area of Mile 2 Diobu	E.R.L.N. 91 of 1959.
All plots in Ogunbali West Layout	E.N.L.N. 39 of 1962.
All building plots in Obia No. 1 Layout	E.N.L.N. 55 of 1962.
Plots in Obia No. 1 Layout	E.N.L.N. 40 of 1963.
All building plots in Ogunbali (West) Layout (Electricity Supply);	E.N.L.N. 24 of 1963.
All building plots in Obia No. 1 Layout (Electricity Supply);	E.N.L.N. 79 of 1963.
2. <i>Area under the Ahoada Planning Authority—</i> <i>(No imposition)</i>	
UMUAHIA PROVINCE	
APPOINTMENTS UNDER SECTIONS 4 AND 5:	
1. Aba Planning Authority (for the area of the Aba Urban County Council).	Government Notice 818 of 1948. E.R.L.N. 142 of 1954. E.R.N. 924 of 1960.
2. Nsulu Planning Authority (for the area of the Nsulu Local Council).	E.R.L.N. 208 of 1960.
3. Omoba Planning Authority (for the triangular area of land bounded by the Umuagu, Umuagba and Umuire roads, in the Aba Division).	E.R.L.N. 208 of 1960.
4. Umuahia-Ibeku Planning Authority (for the area of jurisdiction of the Umuahia-Ibeku Urban County Council).	Government Notices 170 of 1947. 1748 of 1947. 1415 of 1948. E.N.L.N. 13 of 1962.
PLANNING AREAS DECLARED UNDER SECTION 10:	
1. <i>Area under the Aba Planning Authority—</i> The area of authority of the Aba Urban County Council	E.R.L.N. 207 of 1956.
2. <i>Area under the Nsulu Planning Authority—</i> <i>(No area)</i>	
3. <i>Area under the Omoba Planning Authority—</i> <i>(No area)</i>	
4. <i>Area under the Umuahia-Ibeku Planning Authority—</i> The area of the Umuahia-Ibeku Urban County Council.	E.N.L.N. 13 of 1962.
SCHEMES APPROVED UNDER SECTION 18:	
1. <i>Area under the Aba Planning Authority—</i> Aba Town Planning Scheme	Order 17 of 1951.
Aba Soil Erosion Planning Scheme	E.R.L.N. 9 of 1957.
2. <i>Area under the Nsulu Planning Authority—</i> <i>(No scheme)</i>	
3. <i>Area under the Omoba Planning Authority—</i> <i>(No scheme)</i>	
4. <i>Area under the Umuahia-Ibeku Planning Authority—</i> <i>(No scheme)</i>	

TABULATION—*continued*

<i>Particulars</i>	<i>Publication</i>
PLANNING RATES IMPOSED UNDER SECTION 61:	
1. <i>Area under the Aba Planning Authority—</i>	
Building plots in the Southern Extension Planning Area;	E.N.L.N. 9 of 1962. E.N.L.N. 118 of 1962.
Building plots in the Southern Extension Planning Area known as the Mechanics Layout	E.N.L.N. 25 of 1962.
All building plots in the Aba River Layout (North) ...	E.N.L.N. 45 of 1963.
2. <i>Area under the Omoba Planning Authority—</i> <i>(No imposition)</i>	
3. <i>Area under the Umuahia-Ibeku Planning Authority—</i> <i>(No imposition)</i>	
UYO PROVINCE	
APPOINTMENT UNDER SECTIONS 4 AND 5:	
1. Ikot Ekpene Planning Authority (for the area of the Ikot Ekpene Urban County Council)	E.N.N. 515 of 1962.
2. Uyo Planning Authority (for the villages of Itiam and Ikot Ebia in Etoi Clan, Uyo, Ewet, Oniong, Anua, Iboko, Atan, Efiat and Aka in Offot Clan; Afaha Oku, Ikot Akpan, Ikot Oku, Ikot Udoro, Ikot Ebido and Ikot Ntuen in Oku Clan)	E.R.L.N. 113 of 1960. E.R.L.N. 290 of 1960.
PLANNING AREAS DECLARED UNDER SECTION 10:	
1. <i>Area under the Ikot Ekpene Planning Authority—</i> <i>(No area)</i>	
2. <i>Area under the Uyo Planning Authority—</i> The area around Piccadilly Circus at Uyo as specified in the Schedule to the declaration.	E.N.L.N. 85 of 1961.
SCHEMES APPROVED UNDER SECTION 18:	
<i>(No scheme)</i>	
PLANNING RATES IMPOSED UNDER SECTION 61:	
<i>(No imposition)</i>	
YENAGOA PROVINCE	
<i>(No appointment or order)</i>	

E.R.L.N.
19 of 1960.

Planning Authority (Examination of Accounts) Order
made under section 60 (2)

1. This order may be cited as the Planning Authority (Examination of Accounts) Order.

2. It is hereby directed that the audited accounts of all Planning Authorities in the Eastern Nigeria shall be laid on the Table of the Eastern House of Assembly and shall be subject to examination by the Public Accounts Committee.

CHAPTER 127

UNIVERSITY OF NIGERIA LAW

Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Incorporation and objects of the University of Nigeria.
4. Powers of the University.
5. No racial or religious qualifications.
6. The Visitor.
7. The Council of the University.
8. Composition of the Council.
9. The Chancellor.
10. Meetings of the Council.
11. Fees and allowances for members of the Council.
12. Composition of the Senate.
13. Functions of the Council of Deans.
14. Functions of the Senate.
15. Meetings of the Senate.
16. Faculties and Colleges.
17. Faculty Boards.
18. Composition of Faculty Boards.
19. Establishment and functions of College Boards.
20. Composition of College Boards.
21. The Vice-Chancellor.
22. Delegation of Vice-Chancellor's powers.
23. Academic and administrative staff.
24. Congregation.
25. Conditions of service.
26. The Statutes.
27. The Common Seal of the University.
28. Signification of documents.
29. Parol contracts.
30. Bank accounts.
31. Acquisition of land for purposes of the University.

SCHEDULE

CHAPTER 127

E.N. 21 of
1961.

A Law to consolidate the Laws relating to the University of Nigeria, at Nsukka, in Eastern Nigeria, and to provide for the Governance thereof and for matters incidental thereto.

[14th December, 1961]

Short title.

1. This Law may be cited as the University of Nigeria Law.

Interpretation.

2. (1) In this Law—

“the academic staff” means those members of the staff whose sole or primary duty as such members is teaching or research;

“the administrative staff” means those members of the staff who are not members of the academic staff;

“the authorities of the University” means the Council, the Senate, the Faculty and College Boards;

“the Chancellor” means the Chancellor of the University;

“College” means College of the University;

“members of the staff” means members of the staff of the University including the Vice-Chancellor;

“Statute” means a statute made, or deemed to have been made, by the Council under the provisions of this Law;

“the University” means the University established at Nsukka pursuant to the University of Nigeria Law, 1955.

(2) Any reference in this Law to any of the following authorities or officers, namely, the Council, the Senate, a Faculty Board, a College Board, the Visitor, the Chancellor, the Vice-Chancellor, the Registrar, the Bursar or the Librarian, shall be construed as reference to the authorities or officers of the University so designated.

(3) Any reference in this Law to a special resolution shall be construed as a reference to a resolution which is thereafter passed at a meeting of the Council by the votes of at least two-thirds of the members present and voting.

Incorporation and objects of the University of Nigeria.

3. (1) The University is established under the name of the University of Nigeria.

(2) The University is a body corporate and has perpetual succession and a common seal.

*No. 23 of 1955 and No. 18 of 1958 were repealed by this Law.

Edu. No. 17/66

Edu. No. 17/70

(E.R.N.
No. 23 of
1955)

(3) Without prejudice to its other powers, the University has power to hold examinations and award its own degrees, diplomas, certificates and other distinctions to persons who have pursued a course of study approved by the University and have satisfied such other requirements as the University may lay down.

(4) The objects of the University are—

- (a) to hold forth to all classes and communities without any distinction whatsoever an encouragement for pursuing a regular and liberal course of education;
- (b) to promote research and the advancement of science and learning;
- (c) to organize, improve and extend education of a University standard.

(5) All real and personal property, rights, trusts and liabilities of the provisional Council established by the University of Nigeria (Provisional Council) Law, 1958, are hereby vested in the University. (No. 18 of 1958)

(6) For the purposes of this Law, the University has power to sue and to be sued in its corporate name.

4. For carrying out the objects specified in section 3 the University has power— Powers of the University.

- (a) to acquire, hold, grant, charge, or otherwise deal with or dispose of movable and immovable property wherever situate;
- (b) to accept gifts, legacies and donations, but without obligation to accept the same for a particular purpose unless it approves the terms and conditions attaching thereto;
- (c) to enter into contracts, establish trusts, act as trustees, solely or jointly with any other person, and employ and act through agents;
- (d) to erect, provide, equip and maintain libraries, lecture halls, halls of residence, refectories, sports grounds, playing fields and other buildings or things (whether in Eastern Nigeria or elsewhere) necessary or suitable or convenient for any of the objects aforesaid;

*See footnote on page 3224.

- (e) subject to any limitations or conditions imposed by the Governor to invest any moneys appertaining to the University by way of endowment and whether for general or special purposes, and such other moneys as may not be immediately required for current expenditure, in any investments or securities or in the purchase or improvement of land, with power from time to time to vary any such investments and to deposit any moneys for the time being uninvested with any bank on deposit or current account;
- (f) subject to such terms and conditions as may be approved by the Governor to borrow, whether at interest or not and if need be upon the security of any or all the property movable or immovable of the University such moneys as the Council may from time to time in its discretion find it necessary or expedient to borrow;
- (g) to make gifts for any charitable purpose;
- (h) to do anything which it is authorized or required by the statutes to do;
- (i) to do all such acts or things, whether or not incidental to the foregoing powers, as may advance the objects of the University.

No racial or religious qualifications.

5. No racial or religious qualification shall be required of any member of the Council, officer, teacher or student of the University, and no such member, officer, teacher or student shall be under any disability or suffer any disadvantage on the ground of race or religion.

Edu- No 17/72

The Visitors.

6. ^{Administrators of the East-Central State and the Military Governor of the South-Eastern State shall each be a Visitor of the University.} The Governor of Eastern Nigeria is the Visitor of the University.

The Council of the University.

7. (1) There is constituted for the University a Council to be called "The Council of the University of Nigeria."

(2) The Council shall control the policies and finances of the University and shall be the supreme governing body of the University with power to manage all matters not otherwise provided for by this Law.

(3) The Council may subject to such terms and conditions as it may approve delegate any of its powers or duties, except the powers relating to the making, altering or annulling of

statutes, to the ^{Chairman} Chancellor or to any committee appointed by the Council and consisting—

- (a) of members of the Council; or
- (b) of one or more members of the Council and such other persons as the Council may appoint to the committee.

8. The following persons shall be the members of the Council— ^{See Edict No. 12/66} Composition of the Council.

- (a) the Chancellor; ^{Replaced by Edict No. 14/70}
- (b) the Vice-Chancellor;
- (c) two persons representing the Senate;
- (d) five persons appointed by the Governor who shall hold office at the pleasure of the Governor.
- (e) ^{two persons appointed by the Federal Military Government}

9. (1) Soon after the coming into operation of this Law a Chancellor who shall be the Head of the University shall be appointed by the Governor and shall hold office until his death or resignation. ^{Replaced by Edict No. 14/70} The Chancellor.

(2) Whenever a vacancy occurs in the office of Chancellor the Governor shall, after consultation with the Council, appoint a person, whether already a member of the Council or not, to fill that vacancy, and every person so appointed shall hold office until his death or resignation.

10. (1) Subject to subsection (2) the Council shall meet for the despatch of business at such times and places as the ^{Chairman} Chancellor or, if the office of Chancellor is vacant, the Visitor, shall appoint. Meetings of the Council.

(2) There shall be at least four meetings in every period of twelve months commencing on the first day of January.

(3) At any meeting of the Council the ^{Chairman} Chancellor shall preside, but in his absence the members present may appoint one of themselves to preside, and the person so appointed shall have all the powers of the ^{Chairman} Chancellor only at that particular meeting. Edict No. 12/66

(4) Except where a special resolution is required under the provisions of this Law or the Statutes, the Council shall act by resolution passed by a simple majority of the members present and voting.

(5) The Council shall appoint a Secretary to the Council who shall attend its meetings, but shall not be entitled to vote, and who shall maintain the office of the Council at the University. Deleted by EdU 15. 12/66

Fees and allowances for members of the Council.

11. There may be paid to the members of the Council, or any of them, such fees or allowances for expenses, or both, as the Council may determine.

Composition of the Senate.

12. There shall be a Senate for the University consisting of the following members—

- (a) the Vice-Chancellor, who shall preside at all meetings of the Senate;
- (b) the Deans of the several Faculties;
- (c) the Heads of the several Colleges; and
- (d) such other persons as may be provided for by the Statutes.

Functions of the Council of Deans.

13. The Deans of the several Faculties shall constitute the Council of Deans which shall be advisory to the Vice-Chancellor on all academic matters, and on particular matters referred to the University Council by the Senate.

Functions of the Senate.

14. (1) Subject to the provisions of this Law and the Statutes, the Senate is responsible to the University Council for the development and supervision of all academic matters.

(2) All proposals, recommendations and other matters referred to the University Council by the Senate shall include any advisory conclusions reached by the Council of Deans.

Meetings of the Senate.

15. (1) Subject to subsection (2) the Senate shall meet for the despatch of business at such times and places as may be provided by or under the statutes or regulations made by the Senate.

(2) (a) the Vice-Chancellor, or in his absence a person duly appointed by him, may call a meeting of the Senate at any time;

(b) there shall be at least four meetings in every period of twelve months beginning on the first day of January;

(c) if so requested in writing by any ten members of the Senate, the Vice-Chancellor or, in his absence a person duly appointed by him, shall call a meeting of the Senate to be held not later than the tenth day following that on which the request was received.

(3) At a meeting of the Senate the Vice-Chancellor, or in his absence a person duly appointed by him, shall preside, but if both the Vice-Chancellor and a person duly appointed by him are absent from the meeting, the members present may appoint one of themselves to preside.

(4) The Senate shall not meet unless at least seven members are present thereat.

(5) The Registrar shall be the secretary of the Senate and shall attend its meetings, but shall not be entitled to vote.

16. The Council may at any time establish all or any of the Faculties or Colleges described in the Statutes and every member of the academic staff shall be a member of a Faculty or a College or of more than one of such bodies.

Faculties and
Colleges.

17. (1) There shall be established in respect of each Faculty a Faculty Board, which, subject to the provisions of this Law and the Statutes, and subject also to the directions of the Vice-Chancellor, shall—

Faculty
Boards.

(a) regulate the teaching and study of, and the conduct of examinations connected with, the subjects assigned to the Faculty;

(b) deal with any other matter assigned to it by the Statutes or by the Vice-Chancellor or by the Senate; and

(c) advise the Vice-Chancellor or the Senate on any matter referred to it by the Vice-Chancellor or the Senate.

(2) A Faculty Board may deliberate upon any matter affecting the work of the Faculty.

18. (1) Subject to subsection (2) the composition of a Faculty Board shall be determined by the Statutes, and the Statutes may include provision for the appointment to a Faculty Board of persons who are not members of the academic staff but are specially qualified to assist in the work of the Faculty Board.

Composition
of Faculty
Boards.

(2) The Vice-Chancellor, or in his absence a person duly appointed by him, shall be a member of every Faculty Board.

19. (1) There shall be established in respect of each College a College Board, which subject to the provisions of this Law and the Statutes, and subject also to the directions of the Vice-Chancellor shall—

Establish-
ment and
functions
of College
Boards.

(a) regulate the teaching and study of, and conduct of

Registrar, the Bursar and all other members of the administrative staff holding university degrees or professional qualifications recognized by the University.

(2) The Vice-Chancellor shall preside at any meeting of Congregation or in his absence, a person duly appointed by him.

(3) Congregation may, with the approval of the Council, make regulations governing its own proceedings and the convening and frequency of its meetings.

(4) Congregation shall meet at least once in every academic year.

(5) Congregation shall, subject to control by the Council in all matters affecting the policies and finances of the University, have such powers and duties as may be conferred upon it by this Law or the Statutes, and, in addition, may deliberate and submit recommendation to the Council or the Vice-Chancellor or the Senate, upon any matter affecting the University including any matters referred to it by the Council or the Vice-Chancellor or the Senate.

25. (1) Save as may otherwise be expressly provided by this Law or the Statutes, the rates of remuneration, scales of salary and allowances and conditions of service in general for all members of the staff shall be such as the Council may from time to time determine. Conditions of service.

(2) Provisions may be made in the Statutes to authorize the University to contribute to any superannuation fund or other similar scheme for the benefit of members of the staff.

26. (1) The Council may enact Statutes for carrying into effect the provisions of this Law, and in particular for prescribing or regulating— The Statutes.

(a) the powers and duties of the authorities of the University, their composition and constitution, and all other matters relative to such authorities;

(b) the admission of students, their discipline and welfare;

(c) any other matters authorized by this Law to be prescribed or regulated by the Statutes, and

may amend or annul any such Statute.

(2) The making, amending or annulling of Statutes shall be by special resolution.

Schedule.

(3) The Statutes set out in the Schedule shall be deemed to have been made by the Council and shall continue in force save in so far as they may be amended or annulled by special resolution.

(4) A Statute or the amendment or annulment of a Statute may be proved in a court of law by the production of a copy thereof purporting to be signed and certified as true by the Vice-Chancellor or the Secretary to the Council.

(5) A Statute or amendment of a Statute made under this section shall be laid on the Table of the Houses of Legislature.

The
Common
Seal of the
University.

27. (1) The Secretary to the Council shall have custody of the common seal of the University and shall be responsible for affixing the same to documents.

(2) The common seal of the University shall not be used except upon the direction of the Council and shall be authenticated in the manner prescribed by the statutes, and shall be officially and judicially noticed.

Signification
of
documents.

28. All documents to which the University is a party other than those required by law to be under seal, may be signified under the hand of the Chancellor, the Vice-Chancellor or the Secretary to the Council or any member of the Council authorized by the Council in that behalf.

Parol
contracts.

29. A contract which, if made by a private person, would be by law valid although made by parol and not reduced into writing, may be made by parol on behalf of the Council by any person acting under its authority express or implied.

Bank
accounts.

30. (1) All moneys on account of the University shall be paid into such bank or banks as may be approved by the Council for the credit of one or other of the accounts of the University in accordance with the directions of the Council.

(2) The moneys or any portion thereof standing to the credit of any of the accounts of the University may, if the Council thinks fit, be invested in such securities as the Council directs or be placed on deposit in such bank or banks as the Council may determine.

Acquisition
of land for
purposes
of the
University.
(Cap. 105)

31. (1) Where it is made to appear to the Governor that any land to which the Public Lands Acquisition Law applies is required for the purposes of the University, and that there is any hindrance to the acquisition thereof by purchase or lease, the Governor may by order direct that proceedings be

examinations connected with, the subjects assigned to such Colleges;

- (b) deal with any other matter assigned to it by the Statutes or by the Vice-Chancellor or by the Senate; and
- (c) advise the Vice-Chancellor or the Senate on any matter referred to it by the Vice-Chancellor or the Senate.

(2) A College Board may deliberate upon any matter affecting the work of the College.

Composition
of College
Board.

20. (1) Subject to subsection (2) the composition of a College Board shall be determined by the Statutes, and the Statutes may provide for the appointment to a College Board of persons who are not members of the academic staff but are specially qualified to assist in the work of the College Board.

(2) The Vice-Chancellor, or in his absence a person duly appointed by him, shall be a member of every College Board.

The Vice-
Chancellor.

21. (1) The Vice-Chancellor shall be appointed by the Council and shall be responsible to the Council in accordance with the provisions of this Law and the Statutes.

(2) The Council may for adequate cause suspend the Vice-Chancellor from his duties, or subject to the approval of the Governor, may terminate the appointment of the Vice-Chancellor.

Delegation
of Vice-
Chancellor's
powers.

22. The Vice-Chancellor may, subject to the approval of the Council, appoint any person to perform any duty or function allocated to his office and that person shall, subject to the direction of the Vice-Chancellor, perform the duty or function to the extent of the power delegated to him; but the exercise of any such delegated power shall be temporary and duly specified.

Academic
and adminis-
trative staff.

23. Professors, Lecturers, a Registrar, a Bursar, a Librarian and other members of the academic staff and the administrative staff shall be appointed in accordance with the Statutes, and shall have such duties as may be allocated to them by or under the Statutes.

Congrega-
tion.

24. (1) There shall be a body, to be known as Congregation, which shall consist of all members of the academic staff, the Vice-Chancellor, the Secretary to the Council, the

taken under the said Law for acquiring the land for the Government and for determining the compensation to be paid to the parties interested; and upon such order being made the land to which it relates shall be deemed to be land required for a public purpose within the meaning of the said Law.

(2) Where land has been acquired in pursuance of an order made under subsection (1) and in accordance with the Public Lands Acquisition Law, the Governor may vest the land in the University by means of a Certificate under the hand and seal of the Minister of Town Planning to the effect that the land has been made over to the University.

(3) The compensation for such acquisition shall in the first instance be paid by the Government, but if and when so required the University shall refund to the Government any compensation so paid and all expenses incidental to the acquisition incurred by the Government.

(4) The University shall not alienate, mortgage, charge or demise any land vested in the University under this section without the approval in writing of the Governor.

SCHEDULE

THE STATUTES

Section 26
(3).

STATUTE 1.—DEFINITIONS

In these Statutes—

- (a) expressions which are defined in the Law shall have the meanings assigned to them by that Law;
- (b) "the Law" means the University of Nigeria Law.

STATUTE 2.—POWERS OF THE UNIVERSITY

For the purpose of achieving the objects mentioned in the Law the University shall have power to—

- (a) institute professorial chairs, lectureships and other posts and offices and make appointments thereto;
- (b) institute and award fellowships, scholarships, exhibitions, bursaries, medals, prizes and other titles, distinctions, awards and forms of assistance;
- (c) provide for the residence, discipline and welfare of members of the University;
- (d) arrange subject to the Education Law for the education and welfare of children of members of the staff.

SCHEDULE — *continued*

STATUTE 3.—CONSTITUTION AND PROCEDURE OF THE COUNCIL

(a) In addition to the Chancellor and the Vice-Chancellor, the following shall be members of the Council, namely—

- (i) five persons appointed by the Governor;
- (ii) two persons nominated by the Senate.

(b) A member appointed or nominated under this Statute shall hold office for a period of four years, but shall be eligible to be appointed or nominated for further periods of office.

(c) Any appointed or nominated member of the Council may at any time resign his membership by sending his resignation in writing to the Secretary of the Council.

(d) If requested in writing by any three members of the Council the Chancellor shall within twenty-eight days after such request call a meeting of the Council. The request shall specify the business to be considered at the meeting, and no business not so specified shall be transacted at the meeting.

(e) The Secretary to the Council shall send a notice to each member of the Council with a statement of the business to be transacted at any meeting of the Council so as to reach him at least seven days before the day fixed for the meeting.

(f) Proceedings of the Council shall not be invalidated by reason of any defect in the appointment of any member or by reason of any vacancies among its members, inadvertent omissions to send notices, inadvertent errors in addressing them and failure in the delivery thereof shall not invalidate the meeting of the Council thereby convened.

(g) (i) Each member of the Council shall have one vote. In the event of an equality of votes, the Chancellor or other person presiding may exercise in addition a casting vote.

(ii) The Council shall not sit unless at least five members are present thereat of whom three shall be members appointed by the Governor.

(iii) Subject to the provisions of these Statutes and the Law the Council shall make, and may from time to time alter, such regulations as it shall think fit with respect to its meetings and the meetings of any committee of the Council, and the procedure thereof.

(iv) Minutes of the meetings of the Council and of all its committees shall be kept by the Secretary to the Council and shall be open to the inspection of any member of the Council.

(h) The Council shall provide for the safe custody of the common seal of the University which shall not be affixed to any instrument except in the presence of two members and the Secretary to the Council, and in pursuance of an express resolution of the Council.

(i) There shall be a committee of the Council known as the Finance and General Purposes Committee, which shall consist of the Chancellor, the Vice-Chancellor and three of the members of the Council appointed by the Governor.

SCHEDULE — *continued*

(j) The Finance and General Purposes Committee of the Council shall act for and on behalf of the Council in the following matters—

- (i) authorizing or confirming payment of all accounts due from the University;
- (ii) supervising the collection and receipt of all debts and moneys due to the University;
- (iii) directing the deposit, and investment of all donations, subscriptions and other moneys paid to the University;
- (iv) causing proper accounts to be kept and audited;
- (v) dealing with any matter urgently requiring decision during the intervals between meetings of the Council;
- (vi) performing such other duties as the Chancellor may delegate to it.

(k) The Chancellor shall be Chairman of the Finance and General Purposes Committee.

(l) The Finance and General Purposes Committee may make recommendations for the making amendment or annulment of statutes.

(m) The action of the Finance and General Purposes Committee is subject to the ratification of the Council.

STATUTE 4.—THE SENATE

(a) In addition to the Vice-Chancellor, the Deans of the several Faculties and the Heads of the several Colleges, the following shall be members of the Senate—

- (i) the Professors of the University;
- (ii) the Librarian;
- (iii) the Director of Extra-Mural Studies.

(b) At any meeting of the Senate the Vice-Chancellor, or other person presiding, shall have one vote, but in the event of an equality of votes, may exercise in addition a casting vote.

(c) Minutes of the proceedings of every meeting of the Senate shall be kept, and shall be open to the inspection of any member of the Senate.

(d) Proceedings of the Senate shall not be invalidated by reason of any member not having been duly nominated or elected or by reason of any vacancy among its members, and inadvertent errors in addressing letters to them and failures in the delivery thereof shall not invalidate the meeting of the Senate thereby convened.

(e) Subject to the provisions of this Law, and of these Statutes the Senate may regulate the procedure at its meetings.

(f) The Senate may make regulations for the performance of any other duties assigned to the Senate.

(g) The Council, after consultation with the Senate, may award degrees, diplomas, certificates or other academic distinctions to any person *honoris causa*, but no degree, diploma, certificate or other academic distinction shall be awarded to any person *in cursu* by the Council without the concurrence of the Senate.

SCHEDULE — *continued*

(h) The Vice-Chancellor, after consultation with the Senate, shall publish from time to time regulations governing the following matters—

- (i) the admission of persons to courses of study;
- (ii) the organization of courses of study and syllabuses and the attendance of persons studying at the University at lectures or other instruction;
- (iii) the holding and conduct of examinations.

(i) Unless other special provision is made the Vice-Chancellor, after consultation with the Senate, shall determine the times and mode and conditions of competition for fellowships, scholarships, exhibitions, bursaries, medals, prizes and other titles, distinctions, awards and forms of assistance and shall award the same.

STATUTE 5.—FACULTIES

(a) There may be one or more of the following Faculties—

- (i) Faculty of Arts;
- (ii) Faculty of Medicine;
- (iii) Faculty of Research;
- (iv) Faculty of Science;
- (v) Faculty of Laws;
- (vi) Faculty of Social Studies;
- (vii) Faculty of Technology.

(b) The following persons shall be members of each Faculty, namely, the Vice-Chancellor, the Dean of the Faculty, all full members of the Faculty Board and all members of the academic staff assigned to that Faculty.

(c) The Faculty Board, in respect of each Faculty, shall consist of the following members—

- (i) The Vice-Chancellor;
- (ii) all the Heads, whether permanent or temporary, of Departments within the Faculty;
- (iii) such other full-time members of the academic staff holding permanent teaching or research posts and being members of that Faculty as the Vice-Chancellor may from time to time determine;
- (iv) such other persons, whether members of the University or not as the Vice-Chancellor may from time to time on the recommendation of the Faculty Board determine.

(d) The Council shall appoint the Dean of each Faculty after consultation with the Vice-Chancellor.

(e) Subject to the regulations in force for the registration of students in particular Departments, the Dean of each Faculty shall advise students in that Faculty as to University courses both at the time of registration and at any subsequent time when need arises.

(f) The Dean of each Faculty shall be responsible for providing the information needed by the Faculty Board for the terminal review of the work of students.

SCHEDULE — *continued*

- (g) Each Faculty Board shall meet at the times appointed by the Vice-Chancellor; the quorum for each meeting shall be three members.
- (h) Each Faculty Board shall, subject to the direction of the Senate—
- (i) arrange for and control the registration of individual students, the courses of study to be followed by individual students and the times and places of lectures and other instruction;
- (ii) deal with all business concerning the courses and examination of students, syllabuses and the University recommendations;
- (iii) make such recommendations to the Senate relating to academic matters as the Faculty Board may consider desirable.
- (i) Within each Faculty there shall be such Departments as the Vice-Chancellor, with the approval of the Council, shall from time to time determine, and the Council shall have power, on the advice of the Vice-Chancellor, to appoint any member of the academic staff to be Head of a Department.

STATUTE 6.—COLLEGES

- (a) There may be one or more of the following Colleges—
- (i) College of Agriculture.
- (ii) College of Architecture.
- (iii) College of Business Administration.
- (iv) College of Dentistry.
- (v) College of Diplomacy.
- (vi) College of Dramatics.
- (vii) College of Education.
- (viii) College of Engineering.
- (ix) College of Finance.
- (x) College of Fine Arts.
- (xi) College of Fishery.
- (xii) College of Forestry.
- (xiii) College of General Studies.
- (xiv) College of Home Economics.
- (xv) College of Journalism.
- (xvi) College of Languages.
- (xvii) College of Law.
- (xviii) College of Medical Laboratory Technology.
- (xix) College of Medicine and Surgery.
- (xx) College of Military Studies.
- (xxi) College of Music.
- (xxii) College of Nursing and Midwifery.

SCHEDULE — *continued*

- (xxviii) College of Optics.
- (xxiv) College of Pharmacy.
- (xxv) College of Physical Education.
- (xxvi) College of Physiotherapy.
- (xxvii) College of Public Administration.
- (xxviii) College of Public Health.
- (xxix) College of Radiography.
- (xxx) College of Religion.
- (xxxi) College of Secretarial Studies.
- (xxxii) College of Social Work.
- (xxxiii) College of Surveying.
- (xxxiv) College of Veterinary Science.
- (xxxv) College of African Studies.
- (xxxvi) College of Graduate Studies.

(b) The following persons shall be members of each College, namely, the Vice-Chancellor, the Head of the College, and all full members of the College Board and all members of the academic staff assigned to that College.

(c) The College Board, in respect of each College, shall consist of the following members—

- (i) the Vice-Chancellor;
- (ii) the Head whether permanent or temporary of any Department within the College;
- (iii) such other full time members of the academic staff holding permanent teaching posts and being members of that College as the Vice-Chancellor may from time to time determine;
- (iv) such other persons, whether members of the University or not, as the Vice-Chancellor may from time to time on the recommendation of the College Board determine.

(d) The Council shall appoint the Head of each College after consultation with the Vice-Chancellor.

(e) Subject to any regulations in force for the registration of students in particular Departments, the Head of each College shall advise students in that College as to courses in that College both at the time of registration and at any subsequent time when need arises.

(f) The Head of each College shall be responsible for providing the information needed by the College Board for the terminal review of the work of students.

(g) Each College Board shall meet at times appointed by the Vice-Chancellor; the quorum for each meeting shall be three members.

(h) Each College Board shall, subject to the direction of the Senate—

- (i) arrange for the control of the registration of individual students, the courses of study to be followed by individual students and the times and places of lectures and other instructions;

*University of Nigeria*SCHEDULE — *continued*

- (ii) deal with all business concerning the courses and examination of students, syllabuses and University recommendations;
- (iii) make such recommendations to the Senate relating to academic matters as the College Board may consider desirable.
- (i) Within each College there shall be such Departments as the Vice-Chancellor, subject to the approval of the Council shall from time to time determine, and the Council shall have power, on the advice of the Vice-Chancellor, to appoint any member of the academic staff to be Head of a Department.

STATUTE 7.—MEMBERS OF THE STAFF

(a) The number and status of persons to be employed by the University whether members of the academic or administrative staff or other employees, and the terms and conditions of service and remuneration for such persons, shall (subject to the provisions of the Law and of these Statutes) be such as the Council may from time to time determine.

(b) So far as may be found practicable the Council shall cause common forms of contract of service to be prepared and the appropriate form shall be brought to the notice of any person about to enter into a contract of service with the University and shall be incorporated in such contract.

(c) Whenever a vacancy occurs in the academic staff, or in the office of Registrar, Librarian, Bursar, or Director of Extra-Mural Studies, the Council shall except for good reason, cause the vacancy to be advertised and a suitable person to fill any such vacancy shall be chosen by the Council.

(d) Where a vacancy occurs in any position on the academic or administrative staff, other than the office of Vice-Chancellor, the Council shall after advertisement, appoint a suitable person to fill such vacancy and may, for adequate cause, suspend the person so appointed from his duties or terminate his appointment.

(e) (i) The Vice-Chancellor may, in a case of conduct by a member of the staff which in the opinion of the Vice-Chancellor is seriously prejudicial to the interests of the University, suspend such member. The suspension shall forthwith be reported to the Council.

(ii) For adequate cause any member of the staff may be suspended from his duties, or his appointment may be terminated by the Council.

(f) Notwithstanding the other provisions of this Statute, the Vice-Chancellor, or, subject to the directions of the Vice-Chancellor, a person duly appointed by him—

- (i) shall appoint members of the administrative staff and other employees paid at a rate not exceeding four hundred and fifty pounds a year;
- (ii) may for adequate cause suspend any such member or employee from his duties or terminate his appointment.

STATUTE 8.—THE REGISTRAR, THE BURSAR AND THE LIBRARIAN

(a) In addition to the duties imposed upon him by the Law the Registrar shall, in practice, under the direction of the Vice-Chancellor—

- (i) keep in safe custody all records of the University;
- (ii) act as Secretary to such bodies as the Vice-Chancellor may direct or these Statutes may prescribe;

SCHEDULE — *continued*

- (iii) arrange for the conduct of examinations.
- (b) The Bursar shall be the chief financial officer of the College subject to the directions of, and responsible to, the Vice-Chancellor.
- (c) (i) The Librarian, with the assistance and in consultation with the Library Board, shall be responsible for developing the Library of the University as a centre of learning and research and for implementing the policy of the University in respect thereof.
- (ii) The Library Board shall consist of a Chairman and six members appointed by the Vice-Chancellor after consultation with the Senate.
- (iii) The University Librarian shall sit as Chairman of the Library Board.

STATUTE 9.—STUDENTS OF THE UNIVERSITY

- (a) (i) A person shall not be admitted as a student of the University unless he shall have attained the age of seventeen years on the first day of the academic year in which he is first admitted.
- (ii) If any question shall arise concerning the age of a person seeking admission as a student, the question shall be determined by the Vice-Chancellor, whose decision shall be final.
- (b) There shall be an office of Student Affairs under the direction of a Dean who shall be responsible to the Vice-Chancellor. He shall be appointed by the Council after consultation with the Vice-Chancellor. The office of Student Affairs shall, subject to the provisions of this Law and the Statutes, and under the general supervision of the Vice-Chancellor—
 - (i) manage the Halls of residence for students of the University and enforce regulations relating to the residence, welfare and conduct of the students, and
 - (ii) promote the health and welfare of the students.
- (c) The Dean of Student Affairs shall consult with and be advised by the Board of Student Welfare. He shall be the Chairman of that Board which shall consist of—
 - (i) the Assistant Registrar (students);
 - (ii) two persons appointed by the Senate;
 - (iii) two students selected by the students in such manner as the Council may by regulation determine; and
 - (iv) two persons appointed by the Council.
- (d) (i) All matters relating to the discipline of students shall be the responsibility of the Vice-Chancellor, in consultation with the Senate and the Board of Student Welfare.
- (ii) A student suspended or dismissed by the Vice-Chancellor may appeal to the Council, which shall appoint a suitable body to hear the appeal and make recommendations for the consideration of the Council.
- (iii) The decision of the Council shall be final.

SUBSIDIARY LEGISLATION

(No subsidiary legislation)

CHAPTER 128

UNLICENSED GUIDES (PROHIBITION) LAW

Arrangement of Sections

Section

1. Short title and application.
2. Interpretation.
3. Guides to be licensed.
4. Offences with regard to licences and armlets.
5. Unlicensed person acting as guide.
6. Nuisance offences by guides and others.
7. Special provisions as to evidence in certain cases.
8. Certain presumptions of law.
9. Offences by motor vehicle drivers.
10. General penalty.
11. Prosecution to be with consent of superintendent of police.
12. Power to make regulations.

CHAPTER 128

A Law to prohibit unlicensed persons acting as Guides and to control the Activities of certain other persons.

L. of N. 1948
Cap. 222.
N.L.N. 47
of 1951.
N.L.N. 131
of 1954.

[1st December, 1941]

1. This Law may be cited as the Unlicensed Guides (Prohibition) Law; it shall apply to such places as the Governor may by order direct.

Short title
and applica-
tion.
*

2. In this Law—

“hackney carriage” means any motor vehicle designed or constructed to carry not more than seven persons or used or intended to be used for carrying passengers for hire or reward under contract expressed or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum;

Interpreta-
tion.

*This Law has been applied to Port Harcourt, Calabar and Opobo. The Orders are printed in the subsidiary legislation.

“licensed guide” means a person licensed as a guide under this Law;

“superintendent of police” means the officer in charge of the police in any place to which this Law may be applied.

Guides to
be licensed:

3. (1) Any person who, for a reward of any kind whatsoever, offers his services to any other person, for the purpose of directing or accompanying such other person to any public or private place, or for the purpose of giving information to any other person respecting any public or private place shall first obtain a licence as a guide from the superintendent of police.

(2) A licensed guide shall obtain a numbered armlet which shall be supplied to him by such superintendent of police on payment of the prescribed fee.

(3) Such superintendent of police may in his discretion refuse to grant a licence to an applicant and may likewise cancel a licence.

(4) Every licence shall, unless previously cancelled by such superintendent of police in the interim, remain in force up to the last day of December following the date of the issue of the licence; and the applicant shall pay the prescribed fee for such licence.

(5) Each licence shall contain the thumb-print impressions of the applicant together with his signature, if he is able to write, and his photograph, shall bear the stamp of the licensing authority placed in such a position that part of such stamp shall be on the photograph and part on the licence, and shall contain the scale of fees if any payable to the holder of such licence.

(6) Every person to whom a licence is granted shall when engaged on his occupation as a licensed guide wear his armlet, carry his licence with him, and produce his licence on being required so to do by any police, customs or administrative officer or any wayfarer.

(7) No person shall be in possession of or the holder of more than one licence or prescribed armlet at any time.

(8) Where a licence has been refused to any person applying for the same in any place to which this Law has been applied the applicant may within twenty-one days of the

date of refusal appeal to a committee of three persons appointed by the Minister for the purpose of hearing such appeals.

(9) The committee hearing an appeal against the refusal by a superintendent of police to grant a licence shall decide whether the applicant is or is not a suitable person to whom a licence under this Law may be granted for the place as aforesaid, and the decision of any such committee shall be final.

4. Any person who—

- (a) lends or transfers to any other person a licence or prescribed armlet; or
- (b) with a view to acting as a guide, borrows from, or is in possession of a licence or prescribed armlet belonging to, any other person; or
- (c) forges or imitates, or defaces, mutilates, alters or in any way changes or obliterates any licence or prescribed armlet or any part of any licence or prescribed armlet; or
- (d) fails to produce his licence or prescribed armlet when lawful demand is made therefor or produces a licence or prescribed armlet other than the licence or prescribed armlet, if any, issued to him; or
- (e) is in possession of, or is the holder of, more than one licence or prescribed armlet,

Offences with regard to licences and armlets.

shall be guilty of an offence and on summary conviction be liable to a fine of twenty-five pounds or imprisonment for three months.

5. (1) Any unlicensed person who for or in the hope of obtaining a reward of any kind acts or offers to act as a guide shall be guilty of an offence.

Unlicensed person acting as guide.

(2) Where a prosecution is instituted against an unlicensed person for an offence against this section the court shall presume that he acted or offered to act as a guide for or in the hope of obtaining a reward and the onus of proving to the contrary shall lie on the person charged.

6. Any licensed or unlicensed person who with a view to persuading any wayfarer to accept his services for the purpose of showing or taking such wayfarer to any public or private place whatsoever—

Nuisance offences by guides and others.

- (a) persistently follows or accompanies, either alone or with one or more licensed or unlicensed persons, any such wayfarer; or

- (b) watches, besets, wanders or loiters about any wharf, quay, jetty, landing place, railway station, taxi-stand, bus-stand or halt, licensed premises, hotel, cinema, shop, place of public entertainment, or any place where wayfarers are present or may be expected to be, or any approaches to any of the places mentioned in this paragraph; or
 - (c) accosts, calls out to or otherwise importunes any wayfarer; or
 - (d) makes any noise in order to attract the attention of any wayfarer; or
 - (e) by troublesome or frequent demands holds himself out as a guide; or
 - (f) acts in any way as to make himself objectionable, or a nuisance, to any wayfarer, or so as to cause annoyance, or inconvenience to any wayfarer,
- shall be guilty of an offence:

Provided that no licensed guide shall be liable to be prosecuted for an offence against the provisions of paragraph (b) hereof in connexion with any particular place mentioned therein if the conditions of the licence issued to him authorize his attendance at any particular place set out in the said licence.

Special provisions as to evidence in certain cases.

7. Evidence that the wayfarer made a complaint about the conduct of the defendant may be given by the person to whom the complaint was made on the hearing of any charge laid under section 6 or subsection (1) of section 9 if the wayfarer is unable to give evidence and notwithstanding that the complaint was made in the absence of the defendant:

Provided that the court is satisfied that owing to the conduct of the defendant in leaving the vicinity where the complaint was made, the complaint could not have been made in the presence and hearing of the defendant:

Provided further that the fact of the making of the complaint and the substance thereof shall be established to the satisfaction of the court by the testimony of two or more witnesses one of whom may be the person to whom the complaint was made.

Unlicensed Guides (Prohibition)

8. (1) In any charge laid under section 6, where the court is satisfied that the defendant did any of the acts set out in any of the paragraphs therein contained, the presumption shall be drawn that the defendant acted with the view to persuading the wayfarer to accept his services for one or more of the purposes therein set out, and the onus shall thereupon lie on the defendant to rebut that presumption.

Certain
presump-
tions of law.

(2) Where any charge relates to the provisions of paragraph (f) of section 6 and where it is established to the satisfaction of the court from the evidence of two or more witnesses that the defendant contravened any of the said provisions, the presumption shall be drawn that the defendant acted with the view to persuading the wayfarer to accept his services for one or more of the purposes aforesaid although the wayfarer did not give evidence at the hearing, and the onus shall thereupon lie on the defendant to rebut that presumption.

(3) Where any charge is laid under paragraph (b) of subsection (1) of section 9, and where it is established to the satisfaction of the court from the evidence of two or more witnesses that the defendant acted in contravention of any of the provisions of that paragraph, the charge shall be presumed to be proved although the wayfarer did not give evidence at the hearing, and the onus shall thereupon lie on the defendant to rebut that presumption.

9. (1) No owner or driver of a hackney carriage vehicle plying for hire or any person acting on his behalf shall—

Offences
by motor
vehicle
drivers.

(a) speak, or call out to, any wayfarer, make any noise or sound any instrument in order to attract the attention of any tourist, or

(b) by troublesome and frequent demands or by persistently following hold out any such vehicle for hire to any wayfarer in such a manner as to constitute a nuisance, or act in any way so as to cause annoyance or inconvenience or make himself objectionable to any such wayfarer.

(2) At no time when the vehicle is standing or plying for hire shall any person other than the driver or passengers be carried on the vehicle.

(3) Any person contravening the provisions of this section shall be guilty of an offence.

General
penalty.

10. (1) Except where otherwise provided, any person convicted of an offence against this Law shall on summary conviction be liable—

- (a) for a first offence to a fine not exceeding five pounds or to imprisonment for a term not exceeding one month;
- (b) for a second offence to a fine not exceeding ten pounds or to imprisonment for a term not exceeding three months, and in addition thereto may be ordered, if a male, to be whipped;
- (c) for a third or any subsequent offence to imprisonment for a term not exceeding six months, and in addition thereto may be ordered, if a juvenile offender, to be whipped.

(Cap. 31)

(2) The provisions of subsection (1) of section 382 of the Criminal Procedure Law shall not apply to any person who on conviction comes within paragraph (c) of subsection (1) of this section.

Prosecution
to be with
consent of
superinten-
dent of
police.

11. A prosecution for an offence under this Law shall not be instituted without the consent of a superintendent of police:

Provided that this section shall not prevent the arrest, or the issue or the execution of a warrant for the arrest, of any person in respect of any offence, or the remanding, in custody or on bail of any person charged with an offence under this Law, notwithstanding that the consent of a superintendent of police to the institution of a prosecution for the offence has not been obtained.

Power
to make
regulations.

12. The Minister may make regulations in respect of the following matters—

- (a) the registration, number, and classes of licences to be issued;
- (b) the fees, if any, to be paid in respect of the different classes of licence;
- (c) the class or classes of persons to whom licences may be issued;
- (d) the form of such licences;
- (e) the conditions attaching to such licences;

*The effect of this subsection (2) is to exclude the imposition of a fine in lieu of imprisonment.

Unlicensed Guides (Prohibition)

- (f) the replacement of lost licences or armlets;
 - (g) the fees payable by tourists to licence holders or different classes of licence holders;
 - (h) the design of the armlets to be worn;
 - (i) generally for any matter not herein provided for in connexion with the issues of licences and armlets and for the better carrying out of the provisions of this Law.
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CHAPTER 128

UNLICENSED GUIDES (PROHIBITION) LAW

SUBSIDIARY LEGISLATION

Orders in
Council
25 of 1942,
6 of 1943.

Citation.

Application
of Law.

Unlicensed Guides (Application) Order*made under section 1*

1. This order may be cited as the Unlicensed Guides (Application) Order in Council.

2. The Unlicensed Guides (Prohibition) Law shall apply to the places set out in the first column of the Schedule hereto with effect from the date set out adjacently thereto in the second column of the said Schedule.

SCHEDULE

Place*	Date
EASTERN PROVINCES	
The township of Port Harcourt ...	15th September, 1942.
The township of Calabar ...	1st March, 1943.
The township of Opobo ...	1st March, 1943.

Regulations
92 of 1941.

Licensed Guides Regulations*made under section 12*

1. These regulations may be cited as the Licensed Guides Regulations.

2. Any person who desires to obtain a licence to act as a guide shall apply in person at the office of the superintendent of police.

*These 1942 and 1943 Orders in Council have not been revoked or replaced. The townships mentioned in them no longer exist as such. The nearest present day equivalents to their areas are the areas of jurisdiction, respectively, of the Municipality of Port Harcourt, of the Urban County Council of Calabar and of the Urban County Council of Opobo.

Licensed Guides Regulations

3. Application shall be made within three weeks of the coming into operation of these regulations, or of the application of the Law to any place, and thereafter between the 1st and the 15th December in the year immediately preceding that in respect of which the licence is desired:

Provided that the superintendent of police may, by notice in the *Eastern Nigeria Gazette*, declare that he is prepared to consider applications at any time stated in such notice if he considers that additional guides are necessary in the interest of wayfarers and the existing number of guides is less than the maximum number permitted under these regulations.

4. Every applicant shall at the time of application furnish the superintendent of police, to his satisfaction, with two unmounted copies of a recent photograph of the head and shoulder of the applicant not larger than $2\frac{1}{2}$ inches by $2\frac{1}{2}$ inches nor less than 2 inches by 2 inches. If the licence is granted one copy shall be affixed to the licence and the other shall be filed with the register of licences referred to in regulation 13.

5. A licence shall not be granted to any person unless—

- (a) he has attained the age of eighteen years;
- (b) he possesses a degree of fluency in the English language to the satisfaction of the superintendent of police;
- (c) he is able to pass a test to the satisfaction of the superintendent of police as to his local knowledge of the district in which he is applying for a licence;
- (d) he satisfies the superintendent of police that he is a person of good character.

6. Every licence shall be in the Form A in the Schedule hereto and shall authorize the holder to seek employment in the area or areas specified therein. Form A.

7. (1) If the superintendent of police decides to grant a licence he shall so inform the applicant who shall thereupon be entitled to receive a licence subject to his paying the prescribed fee and complying with regulation 7 (2).

(2) The applicant shall affix his finger-prints to the licence, and shall sign his name thereon if he is able to write.

(3) The licence shall then be completed and the area or areas within which the applicant may seek employment shall be specified therein.

(4) The licence and a prescribed armlet shall be delivered to the applicant on the day from which the licence is to commence on his applying for the same at the office of the superintendent of police.

8. The prescribed armlet shall consist of a canvas band to which shall be affixed an oblong brass, or other metal, badge on which shall be engraved the number of the licence and the words "Licensed Guide".

9. An applicant shall pay a fee of ten shillings for the licence. This fee shall be payable at the time of application but shall be refunded in the event of the licence being refused.

10. Licences shall be renewable and applications for renewal for the succeeding year shall be made in person at the office of the superintendent of police between the 15th and the 30th of November in the current year of the licence.

11. If the superintendent of police decides to renew the licence he shall endorse the renewal thereon.

12. A fee of five shillings shall be paid by the licence holder before the renewal is endorsed on the licence.

Form B.

13. A register in the Form B in the Schedule hereto shall be kept at the office of the superintendent of police in which shall be recorded the particulars of all licences issued.

14. (1) The total number of licences at any one time shall not exceed twenty in any other place to which the Law may be applied.

(2) The superintendent of police may refuse to consider any further applications for any year after he has approved the maximum number of licences for that year.

15. (1) The following conditions shall be observed by every licence holder—

- (a) he shall seek employment only within the area or areas specified in the licence;
- (b) he shall not act or hold himself out as the representative of the keeper of any hotel, restaurant, licensed premises or other place of public entertainment;

Licensed Guides Regulations

(c) he shall not conduct a wayfarer who is under the influence of drink to any premises licensed for the sale of intoxicating liquor.

(2) Any licensed guide who fails to comply with the above conditions shall be guilty of an offence.

16. (1) On the expiration, non-renewal or revocation of a licence the holder shall deliver up the licence and armlet to the superintendent of police who shall thereupon destroy the finger-prints affixed to such licence.

(2) Any person who fails to deliver up such a licence or armlet within fourteen days shall be guilty of an offence and, in addition to the penalty prescribed in regulation 20, the court shall order such person to deliver up the licence or armlet within a specified time.

17. (1) Any licence holder who loses his licence or armlet shall report the loss to the superintendent of police within seven days.

(2) Any licence holder who fails so to report the loss of his licence or armlet shall be guilty of an offence.

18. A licence holder who satisfies the superintendent of police that he has lost his licence or armlet and reported the loss of such licence or armlet within seven days shall be entitled to receive a duplicate licence or armlet on payment of a fee of five shillings for a licence and two shillings and sixpence for an armlet:

Provided that the superintendent shall not issue a duplicate licence unless the holder supplies a photograph, affixes his finger-prints to the duplicate licence and signs his name thereon if he is able to write, in accordance with the procedure prescribed for the grant of new licences.

19. (1) The following charges shall be paid by wayfarers—

For the first quarter of an hour or part thereof . . . 6d.

For the next quarter of an hour or part thereof . . . 6d.

For each subsequent half hour or part thereof . . . 6d.

(2) Any wayfarer who refuses to pay the above charges and any licensed guide who demands more than the above charges shall be guilty of an offence.

20. Any person who is convicted of an offence against these regulations shall be liable to a fine of five pounds or to imprisonment for one month.

Unlicensed Guides (Prohibition)

SCHEDULE

Reg. 6.

FORM A

Licence to act as a Guide

<p>Page 1. No.....</p> <p style="text-align: center;">EASTERN NIGERIA</p> <p style="text-align: center;"><i>The Licensed Guides Regulations (No. 92 of 1941)</i></p>	<p>Page 2. No.....</p> <div style="border: 1px solid black; width: 100px; height: 60px; margin: 0 auto; text-align: center; padding: 5px;"> <p>Photograph</p> </div> <p style="text-align: center;">..... <i>Signature of Licensed Guide</i></p> <table style="width: 100%; margin: 0 auto;"> <tr> <td style="text-align: center; width: 50%;">Left Thumb</td> <td style="text-align: center; width: 50%;">Right Thumb</td> </tr> <tr> <td style="text-align: center;"><div style="border: 1px solid black; width: 60px; height: 60px; margin: 0 auto;"></div></td> <td style="text-align: center;"><div style="border: 1px solid black; width: 60px; height: 60px; margin: 0 auto;"></div></td> </tr> <tr> <td style="text-align: center;">Impression</td> <td style="text-align: center;">Impression</td> </tr> </table>	Left Thumb	Right Thumb	<div style="border: 1px solid black; width: 60px; height: 60px; margin: 0 auto;"></div>	<div style="border: 1px solid black; width: 60px; height: 60px; margin: 0 auto;"></div>	Impression	Impression
Left Thumb	Right Thumb						
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Impression	Impression						
<p>Page 3.</p> <p style="text-align: center;"><i>The Licensed Guides Regulations</i></p> <p>The Bearer..... residing at..... is hereby licensed as a guide under the provisions of the above Regulations.</p> <p>The licence is issued subject to the conditions set out herein.</p> <p>Issued at.....thisday of....., 19.....</p> <p>Expiring the 31st December, 19.....</p> <p style="text-align: center;">..... <i>Supt. of Police</i></p>	<p>Page 4.</p> <p style="text-align: center;"><i>Conditions to be observed</i></p> <p>The Bearer of this licence shall comply with the following conditions—</p>						
<p>Page 5.</p> <p>Area or areas within which the holder may seek employment—</p> <p style="text-align: center;"><i>Fees Payable</i></p> <p>(a) For the first quarter of an hour or part thereof 6d.</p> <p>(b) For the next quarter of an hour or part thereof 6d.</p> <p>(c) For each subsequent half hour or part thereof 6d.</p>	<p>Page 6.</p> <p style="text-align: center;"><i>Renewals</i></p>						

SCHEDULE — *continued*

FORM B

Reg. 13.

Register of Guides' Licences

No. of Licence	No. of Armlet	Date of Issue	To whom Issued	Address	Remarks

CHAPTER 129

VACCINATION LAW

*Arrangement of Sections**Section*

1. Short title.
2. Interpretation.
3. Public vaccinators.
4. Vaccination to be compulsory.
5. Vaccination of children.
6. Power for local government councils to make rules.
7. Power of public vaccinators to enter premises and vaccinate.
8. Power to examine strangers.
9. Employers of foreign labour to notify arrival.
10. Definition of "successful".
11. Penalties.
12. Penalty for inoculating with smallpox.
13. Power to make regulations.

SCHEDULE

CHAPTER 129

A Law to provide for Vaccination.

L. of N. 1948
Cap. 224.
N. 16 of 1950
(Schedule)
N.L.N. 47
of 1951.
N.L.N. 131
of 1954.

[8th November, 1917]

1. This Law may be cited as the Vaccination Law.
2. In this Law—
"adult" means a person who is or appears to be fourteen years of age or over;

Short title.

Interpreta-
tion.

“child” means a child who is or appears to be under fourteen years of age;

“medical officer” means a medical officer in the service of the Government and includes a qualified medical practitioner in the service of a local government council;

“parent” means the father or mother of a child and includes any person having the care or custody of a child;

“prescribed area” means an area in respect of which an order has been made under section 7 and is then in force.

Public
vaccinators.

3. (1) Every medical officer shall be a public vaccinator for the purposes of this Law.

(2) The Minister may appoint such additional persons as he may think necessary to be public vaccinators.

Vaccination
to be com-
pulsory.

4. (1) Every adult and every child shall be liable to be vaccinated.

(2) A medical officer of health may, by notice in the form set out in the Schedule hereto, call upon any adult or adults to attend within seven days of the service of such notice on him or them at such time and place as may be specified in such notice for examination and, if necessary, for vaccination, and such adult or adults shall subsequently attend at such time and place as the public vaccinator may direct for the purpose of ascertaining whether or not the vaccination has been successful and, if necessary, for revaccination.

Vaccination
of children.

5. (1) Each medical officer of health shall appoint the times and places at which parents may bring their children to be vaccinated.

(2) The parent of any child shall within three months of the birth of such child bring such child to a public vaccinator at a time and place appointed under subsection (1) for examination and, if necessary, for vaccination, and shall subsequently produce such child at such times and at such places as the public vaccinator shall direct for the purpose of ascertaining whether or not the vaccination has been successful, and, if necessary, for revaccination.

Power for
local govern-
ment
councils to
make rules.

6. (1) The Minister may by order apply the provisions of subsection (2) of this section to the area of any local government council or to any province as he may think fit.

Vaccination

(2) When an order is made under the provisions of subsection (1) then a local government council within the area specified in the order may, with the approval of the Provincial Secretary, make rules for all or any of the following purposes—

- (a) appointing the times and places at which adults may attend and to which parents may bring children for vaccination;
- (b) requiring adults to attend and children to be brought before a public vaccinator for inspection and, if necessary, for vaccination or for revaccination;
- (c) prohibiting arm to arm vaccination either generally or in any specified area;
- (d) specifying penalties for breaches of any rule made under the provisions of this subsection and providing for different penalties in the case of successive breaches;
- (e) generally for giving effect to the purposes of this Law within its area.

(3) The provisions of this section shall be without prejudice to the powers conferred upon medical officers of health by the provisions of sections 4 and 5:

Provided that where a local government council makes rules under the provisions of subsection (2) then the provisions of subsection (2) of section 4 and of section 5 shall not apply to the area in respect of which such rules are made.

7. Every public vaccinator may on any day, except Sunday, between the hours of six in the morning and six in the afternoon, enter any house and any yard or compound and any buildings therein and inspect every adult and child found therein, and may thereupon vaccinate any such adult and child unless he is satisfied that such adult or child has been previously vaccinated successfully or has already had smallpox:

Power of public vaccinators to enter premises and vaccinate.

Provided that in the event of an epidemic of smallpox the medical officer of health may order revaccination in which case a public vaccinator may revaccinate any adult or child who having been previously vaccinated shall fail to satisfy the public vaccinator that such vaccination was within a period of seven years.

Power to examine strangers.

8. Any public vaccinator may examine and vaccinate any person arriving in Nigeria by land, sea or air who cannot produce satisfactory evidence of having been attacked by smallpox or of successful vaccination.

Employers of foreign labour to notify arrival.

9. Any employer of labourers immigrant from other countries shall notify to a medical officer of health the arrival of such labourers employed by him within three days of their arrival, for the purpose of their inspection for vaccination.

Definition of "successful".

10. In this Law "successful" means a vaccination which in the opinion of a public vaccinator, after taking into account the nature of the vesicles or scars resulting from the vaccination and the time which has elapsed since the vaccination was performed, is efficient to protect against smallpox.

Penalties.

11. Any person who shall fail to comply with any of the provisions of this Law or shall wilfully endeavour to deceive by false statement or otherwise, or shall obstruct any public vaccinator or other person in the discharge of his duties under this Law shall be liable on summary conviction to a fine of five pounds or to imprisonment for one month, and when the failure continues after conviction, to a fine of one pound for each day on which such failure continues.

Penalty for inoculating with smallpox.

12. Any person who shall wilfully produce or attempt to produce smallpox in any person by inoculation with variolous matter, or by wilful exposure to variolous matter or to any matter, article or thing impregnated with variolous matter shall be liable to imprisonment for one year.

Power to make regulations.

13. The Minister may make regulations for all or any of the purposes following—

- (a) requiring all adults to attend before a public vaccinator for inspection and, if necessary, for vaccination;
- (b) prohibiting arm to arm vaccination either generally or in any specified area; and
- (c) generally for giving effect to the purposes of this Law.

Vaccination

SCHEDULE
THE VACCINATION LAW
(Chapter 129)

NOTICE REQUIRING ATTENDANCE FOR VACCINATION

To....., of.....

In accordance with the provisions of section 4 (2) of the Vaccination Law you are hereby required within seven days after the service of this notice on you to attend at.....

at.....a.m./p.m. to be examined and, if necessary, vaccinated.

DATED this.....day of....., 19.....

.....
Medical Officer of Health

CHAPTER 129
VACCINATION LAW
SUBSIDIARY LEGISLATION

Nigerian
Government
Notices
400 of 1940,
242 of 1941,
147 of 1949.

Appointment of Public Vaccinators

made under section 3 (2)

All persons holding under the Government or a local government council the undermentioned posts are appointed as public vaccinators—

Dressers
Health visitors
Midwives
Local government council dispensary attendants
Sanitary inspectors
Sanitary overseers
Sanitary superintendents
Sleeping sickness dispensary attendants
Sub-inspectors of sanitation
Vaccinators
Sleeping sickness superintendents
Field unit superintendents
Sleeping sickness assistants
Field unit dressers.

Regulations
11 of 1918.

Vaccination Regulations

made under section 13

- Citation. 1. These regulations may be cited as the Vaccination Regulations.
- Form A. 2. Every public vaccinator shall keep a record of every vaccination performed by him as in the Form A of the Schedule.

Vaccination Regulations

3. In this record all vaccinations performed shall be numbered consecutively throughout the year beginning with No. 1 for the first vaccination in each year.

4. Every public vaccinator shall send to the Chief Medical Officer a monthly return of vaccinations performed by him as soon as may be after the ending of each month in the Form B ^{Form B.} of the Schedule.

5. Except in special cases, sanctioned by the medical officer of health for the area, no public vaccinator shall grant a certificate of successful vaccination to any non-European.

6. No public vaccinator not a medical officer shall perform arm to arm vaccination unless he is ordered to do so by a medical officer; such order shall be in writing and shall specify the period over which such arm to arm vaccination shall continue and in what places or area it shall be done.

7. When arm to arm vaccination is carried out by a public vaccinator, not a medical officer and not under the direct personal supervision of a medical officer, lymph shall only be taken from a young child and from an unbroken perfectly formed vaccination vesicle, and only from such a child if it appears perfectly healthy and free from all sores and only after it has been ascertained that its parents are quite healthy or if dead were quite healthy at the time of the child's birth.

8. No public vaccinator other than a medical officer shall vaccinate any person who produces a certificate signed by a qualified medical practitioner dated within the preceding four months, that he is medically unfit to undergo vaccination.

9. Any public vaccinator who commits a breach of any of the provisions of regulations 6 to 8 shall be liable to a fine of ten pounds.

SCHEDULE

FORM A

Reg. 2

Year 19.....

REGISTER OF VACCINATIONS

Place or District.....

No.	Date	Name	Sex	Age	Residence	Nationality or tribe	Address where vaccinated	No. of marks and part of body	Source of lymph	Vaccinator's initials	Date of inspection	No. of marks				Vaccinator's initials
												Good	Not good	Failed	Un-known	

FORM B

MONTHLY RETURN OF VACCINATIONS

Reg. 4.

Month of....., 19.....

Place or District.....

Town, village or place	Number vaccinated	Number (a) successful	Number partly successful	Number failed	Number unknown	Source of lymph or if arm to arm

(a) The area of the marks of a successful vaccination taken together must be not less than half a square inch, and any marks of previous vaccination of less area than half a square inch shall not be accepted as evidence of successful vaccination.

Place

Date, 19.....

Signature

Title

3262

CAP. 129]

Vaccination

Application of section 6 (2)

Order in
Council
41 of 1949.

Order made under section 6

1. This Order in Council may be cited as the Vaccination (Application to the Eastern Nigeria) Order in Council. Citation.

2. The provisions of subsection (2) of section 6 of the Vaccination Law shall apply to Eastern Nigeria. Application of section 6 (2).

CHAPTER 130

VEGETABLE OIL REFINING (LICENSING
AND CONTROL) LAW

Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Licensing of oil refining; offence and penalty.
4. Condition attached to licence.
5. Offence.
6. Licences.
7. Minister may cancel licence.
8. Inspectors and other officers.
9. Powers of Inspectors.
10. Regulations.

CHAPTER 130

A Law for the Licensing and Control of Vegetable Oil Refining and for Matters connected therewith. E.R.N. 27
of 1956,
25 of 1958.

[1st November, 1957]

1. This Law may be cited as the Vegetable Oil Refining (Licensing and Control) Law. Short title.

2. In this Law— Interpretation.
“Inspector” means, an Inspector, other officer or employee each of whom has been appointed under section 8;
“the Minister” means the Minister for the time being charged with responsibility for the Produce Inspection Service;
“oil” means vegetable oil;
“oil refining” with its grammatical variations refers to any chemical treatment or process in which all or part of the free fatty acid is neutralized with the result that the oil has finally a reduced free fatty acid content or in which all or part of the natural glycerides of the oil are hydrolysed.

3. (1) Save as is hereafter provided, no person shall refine any oil unless he holds a licence granted by the Minister. Licensing of oil refining; offence and penalty.

(2) Any person engaged in or carrying on the trade or business of the refining of oil at the date of the commencement of this Law shall before the expiry of one month from such commencement, and every other person shall before commencing to refine any oil, apply in writing under this section to the Minister for a licence in respect of such oil refining.

(3) Any person who refines any oil without being licensed in accordance with this section shall be guilty of an offence and shall be liable to a fine not exceeding five hundred pounds or imprisonment for a term not exceeding two years.

Condition
attached to
licence.

4. Any licence granted under the provisions of section 3 shall contain a condition that the person to whom such licence is granted shall ensure that any oil refined by him shall be totally hydrolysed or saponified and that no residual oil remains after such refining for disposal:

Provided that the Minister may grant a special licence without such condition where it appears proper for them to do so.

Offence.

5. Any person to whom a licence has been granted under section 3 who fails to comply with any condition contained in such licence shall be guilty of an offence and shall be liable to a fine not exceeding five hundred pounds or to imprisonment for a term not exceeding two years.

Licences.

6. (1) Subject to the provisions of subsection (2), a licence issued under section 3 shall remain in force for one year.

(2) An application for a licence may be made at any time, and any subsequent application for a licence shall be made in the month of January.

Minister
may cancel
licence.

7. The Minister may, in his discretion, cancel any licence granted under section 3 where it appears to him that the processing of any oil in respect of which such licence has been issued is not being conducted in accordance with the conditions of a licence granted under the provisions of section 3, with the provisions of this Law or of any regulations made thereunder.

Inspectors,
and other
officers.

8. For the purpose of this Law, the Public Service Commission may appoint such Inspectors and such other officers as may be considered necessary.

Vegetable Oil Refining (Licensing and Control)

9. (1) For the purposes of this Law, an Inspector may at all reasonable times, by day and night, and without giving previous notice but so as not to interrupt the refining of any oil—

Powers of Inspectors.

- (a) inspect the refining of any oil;
- (b) examine and take samples of any oil, by-products or waste products of any oil, or any substances used in connexion with the refining of oil; and
- (c) apply any tests and make any experiments and generally make all such enquiries as seem to him to be necessary.

(2) The person refining oil and his agent shall render to every Inspector all necessary facilities for inspection, examination, the taking of samples, any testing and the making of experiments in pursuance of this Law.

(3) Every person refining oil who does not afford to an Inspector facilities as required by this Law, or who obstructs an Inspector or his agents in the execution of his powers under this Law, shall be guilty of an offence and liable to a fine not exceeding one hundred pounds or to imprisonment for six months.

10. The Minister may make regulations—

Regulations.

- (a) prohibiting or regulating the sale or possession of any refined oil or the by-products or waste products of oil;
- (b) empowering any Inspector to seize and detain any oil or by-products or waste products of oil or substance or any receptacle, container or article used in connexion with the refining of oil;
- (c) requiring a person to whom a licence has been given under the provisions of section 3 to keep such record books and accounts as the Minister considers to be adequate for the purposes of this Law and providing for the form in which such record books and accounts shall be kept and for the inspection thereof;
- (d) empowering a Magistrate's Court or the High Court upon conviction of an offence under the provisions of this Law to order the destruction of any oil, by-product, waste product, or any substance seized and detained by an Inspector acting under and in accordance with the provisions of this Law;

- (e) prescribing the conditions (subject to the provisions of section 4) of any licence issued under the provisions of this Law; and
 - (f) generally for giving effect to the objects of this Law and, in particular, prescribing penalties for any contravention of the regulations.
-

CHAPTER 130

VEGETABLE OIL REFINING (LICENSING AND
CONTROL) LAW

SUBSIDIARY LEGISLATION

Vegetable Oil Refining Regulations

E.R.L.N.
212 of 1957.*made under section 10*

1. These regulations may be cited as the Vegetable Oil Refining Regulations. Citation.
2. In these regulations— Interpretation.
- “Inspector” means an Inspector appointed under section 8 of the Law;
- “the Law” means the Vegetable Oil Refining (Licensing and Control) Law;
- “licence” means a licence granted by the Minister under section 3 of the Law;
- “Licensing Authority” means a person authorized by the Minister to sign licences on his behalf;
- “licensed premises” means premises including land on which oil may be refined by the holder of a valid licence.
3. An application for a licence shall be in the form prescribed in the First Schedule. Application for licence. First Schedule.
4. (1) A licence shall be in the form prescribed in the Second Schedule and shall be signed by a Licensing Authority and the licensee whose signature shall be witnessed by an Inspector. Licence. Second Schedule.
- (2) A licence shall be free.
5. The holder of a licence who fails to produce it for inspection at the request of an Inspector at the premises to which it relates or at some other place specified by the Inspector shall be guilty of an offence and liable upon summary conviction to a fine not exceeding twenty-five pounds or to a term of imprisonment not exceeding two months. Licence to be shown to Inspector.

Offences.

6. Any person who—

(a) lends, borrows, transfers, alters, defaces or forges a licence; or

(b) obtains or attempts to obtain a licence by any false pretence or improper means;

shall be guilty of an offence and liable upon summary conviction to a fine not exceeding two hundred pounds or to a term of imprisonment not exceeding twelve months.

Return of licence.

7. (1) A licensee who ceases to refine oil shall return his licence to the Licensing Authority immediately who shall cancel such licence.

(2) Any person contravening the provisions of sub-regulation (1) shall be guilty of an offence and liable upon summary conviction to a fine not exceeding twenty-five pounds or to a term of imprisonment not exceeding two months.

Selling, etc., refined oil, etc. Offence and penalty.

8. Any person (other than the holder of a valid licence, his agents and servants) who—

(a) buys or receives; or

(b) sells, offers for sale or exposes for sale; or

(c) tenders in satisfaction of any claim or demand; or

(d) is in possession of or has under his control or custody whether for sale or for any other purpose and whether for the use or benefit of himself or of any other person any refined oil or the waste products of oil arising out of the refining of oil;

shall be guilty of an offence and liable upon summary conviction to a fine not exceeding two hundred pounds or to a term of imprisonment not exceeding twelve months.

Transport of refined oil, etc. Offence and penalty.

9. Any person other than the holder of a valid licence or his agent or servant who transports or delivers or causes to be delivered for transport any refined oil or waste products of oil arising out of the refining of oil shall be guilty of an offence and liable upon summary conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding six months.

Powers of Inspectors.

10. (1) For the purposes of carrying out his duties an Inspector shall have power—

(a) to stop any person carrying or whom he reasonably believes to be carrying any refined oil or waste products

Regulations

of oil and to stop and search any vehicle, boat, canoe or animal carrying or which he reasonably believes to be carrying such substances and to call upon the person in charge of such vehicle, boat, canoe or animal or, if he cannot be ascertained, the person appearing to be in charge of such vehicle, boat, canoe or animal and the person in charge of such substances to unload any such substances for examination.

- (b) to direct the person in charge of any vehicle, boat, canoe or animal carrying or which he reasonably believes to be carrying any refined oil or products or waste products of oil to proceed in or with the particular vehicle, boat, canoe or animal to the nearest suitable place for the purpose of there depositing any such refined oil or the waste products of oil;
- (c) to seize and detain any oil or waste products of oil or substance or any receptacle, container or article used in connexion with the refining of oil in respect of which he has reasonable grounds to believe that an offence has been committed against the law or these regulations;
- (d) to direct that the person in charge or in possession of any oil, substance or other thing seized and detained under the provisions of paragraph (c) to proceed to the nearest suitable place for the purpose of depositing such oil, substance or other thing.

(2) Any person who seizes and detains any oil, substance or any other thing under sub-regulation (1) shall within twenty-four hours report that fact to the nearest Magistrate.

11. (1) Where any oil, substance or other thing which has been seized and detained is not already packed in suitable receptacles an Inspector may order that it shall be so packed and the owner or person in charge thereof shall be responsible for the provision of suitable receptacles and the labour necessary to carry out the order.

Further
powers of
Inspectors.

(2) Any oil, substance or other thing which has been seized and detained by an Inspector shall be sealed in receptacles to the satisfaction of the Inspector and shall not be moved except with the written permission of an Inspector.

Offences in
respect of
seized oil,
etc.

12. Any person who—

- (a) without lawful excuse removes, cleans, or in any way tampers with any oil, or waste products of oil or any substance, receptacle or article seized or detained by an Inspector;
- (b) without lawful excuse breaks or removes any seal or any twine, wire, or other means of securing such seal placed upon a receptacle containing oil, by- or waste products of oil or substance, or upon any article seized and detained by an Inspector;
- (c) without lawful excuse, substitutes for any oil or waste product of oil or substance or receptacle or article seized and detained by an Inspector any other substance or thing or adds extraneous matter thereto;
- (d) without lawful excuse, being a person in whose custody an Inspector places any oil, substance or article seized and detained by him causes or by neglect or otherwise permits any of the actions set forth in paragraph (a), (b) or (c) of this regulation to occur;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding two hundred pounds or to a term of imprisonment not exceeding twelve months.

Record
books.
(Third
Schedule)

13. (1) Any person to whom a licence is issued under the Law shall provide and maintain, in respect of the premises named in such licence, record books in the forms prescribed in the Third Schedule. Such record books will be kept in the premises to which they relate and must be available for scrutiny on demand by an Inspector at all reasonable times.

(2) The licensee shall cause all of the pages of the record books to be numbered consecutively, by the use of legible markings made with ink.

(3) The licensee shall record or cause to be recorded the appropriate entries for each transaction in each record book upon the day on which such transaction is effected.

(4) A licensee who neglects to make an entry in the record book or neglects to cause an entry to be made as required under the provisions of these regulations or who makes or causes to be made a false entry therein or who renders or causes to be rendered any entry therein illegible or who mutilates or causes to be mutilated the record books or any page thereof shall be guilty of an offence.

(5) Any record book kept by a licensee as required by the provisions of this regulation shall be deemed to be an article used in connexion with the refining of oil for the purposes of regulation 12.

(6) A licensee shall keep and maintain an accurate record of accounts in respect of the refining of oil and such accounts shall be available for inspection by any Inspector appointed by the Minister in this behalf at all reasonable times.

(7) Any person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding one hundred pounds or to a term of imprisonment not exceeding six months.

14. Upon the conviction of any person for an offence against the Law or these regulations the High Court or the Magistrate's Court may, in addition to any sentence which may be imposed, make such order as it thinks fit for the destruction of any oil, waste product, or any substance seized and detained by an Inspector regarding which any offence appears to have been committed or which has been used for the commission of any offence.

Special order of court.

FIRST SCHEDULE

VEGETABLE OIL REFINING REGULATIONS

APPLICATION FOR LICENCE TO REFINE OIL

Regulation 3.

Name of applicant.....

Address of applicant.....

Address at which it is proposed to refine oil.....

Kind of oil to be refined.....

Estimated average monthly quantity of oil to be refined.....

Name of authorized agent if any.....

No. and date of issue of previous licence if any.....

I hereby certify that to the best of my knowledge and belief the foregoing particulars are correct in all respects and that it is my intention that all oil refined by me or by any person acting on my behalf will be totally hydrolysed or saponified and that no residual oil will remain after such refining.

Signature of Applicant

.....19.....

SECOND SCHEDULE
VEGETABLE OIL REFINING REGULATIONS

Regulation 4.

LICENCE TO REFINE OIL

Licence No.....Date of issue.....19.....

Licence is hereby issued to.....
residing at.....to refine oil at.....

This licence expires on the.....day of....., 19.....
and is valid only at the premises mentioned herein.

The person authorized by this licence to refine oil must ensure that all oil refined by him or by any person acting on his behalf is totally hydrolysed or saponified and that no residual oil remains after such refining. Failure to comply with this condition is an offence punishable under section 4 of the Vegetable Oil Refining (Licensing and Control) Law (Chapter 130).

.....
Signature of Licensing Authority

Signature of Licensee.....
or right thumb-print of
Licensee (if illiterate)

Witness to signature or the
thumb-print of Licensee.....

Note.—The witness must be an Inspector appointed under the Vegetable Oil Refining (Licensing and Control) Law (Chapter 130).

THIRD SCHEDULE
VEGETABLE OIL REFINING REGULATIONS

(Regulation 13)

Name of Licensee.....

Name of Premises.....

Licensee's representative if authorized to sign record books.

Page No.....

RECORD BOOK "A"

OIL RECEIVED INTO PREMISES						OIL ISSUED FOR REFINING					STOCK ON HAND		REMARKS
Date	No. of Casks	No. of Drums	Gross Weight	Net Weight	Sign.	Date	No. of Casks	No. of Drums	Net Weight	Sign.	Casks	Drums	

RECORD BOOK "B"

OIL RECEIVED INTO PLANT FOR REFINING		WEIGHT OF WATER AND OTHER	SOAP PRODUCED			SOAP			SIGNATURE	REMARKS
Date	Net Weight	Activities	Date	No. of Cases	Net Weight	Date	No. of Cases Issued	Stock of Cases on hand		

Regulations

[CAP. 130

3275

Waterworks

CHAPTER 131
WATERWORKS LAW
Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Custody and administration of waterworks.
4. Officers of waterworks.
5. Power to lay pipes.
6. Power to construct fountains for public use.
7. Power of entry.
8. Power to suspend supply of water.
9. Power to impose general water rate.
10. Liability for payment of water rate.
11. Recovery of rate.
12. Supply of water to tenements.
13. Power of water authority to refuse to supply otherwise than by meter.
14. Power to make regulations.
15. Control of boating and fishing.
16. Injury, pollution, etc.
17. Waste.
18. Altering service.
19. Fraudulent measurement.
20. Foul accumulation of earth.
21. Bathing, washing.
22. (1) Proof of moneys due.
 (2) Action may be instituted by prescribed authority or water authority.

Repealed by E. d. u.
 No. 17/73

CHAPTER 131

A Law to provide for and regulate the Supply of Water.

L. of N. 1948
 Cap. 227.
 N. 2 of 1949,
 N. 16 of 1950.
 (Schedule)
 N.L.N. 131
 of 1954.

[21st May, 1915] *

1. This Law may be cited as the Waterworks Law.

Short title.

*This Law does not apply to water from such sources as may be declared by Parliament to be sources affecting more than one territory. See item 41 of the exclusive legislative list in the Schedule to the Constitution of the Federation.

Interpreta-
tion.

2. In this Law—

(Cap. 11)

“capital value”, “annual value” or “unimproved value”, means the capital, annual or unimproved value of the tenement as shown in the valuation list for the time being under the Assessment Law;

“domestic supply” means water from the waterworks used in any tenement for drinking, washing, cooking, or for baths or any other purpose of domestic life;

“excess consumption” means—

(a) in the case of a tenement which is exempt from the general water rate, any quantity of water ascertained by meter as having been used in such tenement;

(b) in the case of a tenement in respect of which the general water rate is paid, any quantity of water ascertained by meter as having been used in such tenement in excess of such monthly allowance, as may be prescribed;

“gathering ground” means any surface of land or water which collects the rainfall for the purposes of the waterworks;

“meter” means any appliance used to measure, ascertain or regulate the amount of water taken or used from the waterworks, by means of any service, as well as any orifice or gauge or other appliance used in estimating the flow of water in or from any part of the waterworks;

“non-domestic supply” means any water from the waterworks used for the purpose of, or in carrying on, any trade, business or manufacture, or for watering fields or gardens cultivated or occupied as a means of pecuniary profit, or for private fountains, or for any ornamental purpose, or for the supply of ponds or tanks, or for laundries or public wash-houses or public baths, vessels, ships, boats or machinery; and includes the water used or consumed by any person resident in or occupying any premises where a non-domestic supply is given as well as any water taken or used from the waterworks for the use of any municipal or Government establishment or department;

Waterworks

“owner”, “occupier” and “tenement” have the same meanings as are assigned to those terms in the Assessment Law; (Cap. 11)

“prescribed authority” means the person approved by the Minister to impose and to collect the water rate and to receive payments for water supplied by the water authority;

“public fountain” means any fountain, standpipe, valve tap or appliance used or intended to be used for or in connexion with the supply of water to the public from the waterworks, and erected or hereafter to be erected by the water authority, and which is the property of the water authority or of the Government;

“service” means all pipes, valves, cisterns, cocks, fittings and other appliances (excepting any meter as herein defined) by or through which water flows or is intended to flow from the waterworks or which are or may be used for the purpose of supplying any tenement from the waterworks, and being the property of the owner or occupier of such tenement;

“water authority” includes the Permanent Secretary of the Ministry of Works and any person to whom the powers of the Permanent Secretary have been delegated;

“waterworks” means all reservoirs, dams, weirs, tanks, cisterns, tunnels, filter beds, conduits, aqueducts, mains, pipes, fountains, sluices, valves, pumps, steam engines, and all other structures or appliances used or constructed for the storage, conveyance, supply, measurement or regulation of water, which are used or have been constructed by or on behalf of the Government or local government council and are the property thereof, or which shall hereafter be used or constructed by the Government or local government council.

Custody of Waterworks

3. The water authority shall have the custody and administration of the waterworks for which it is appointed and of the water therein and the management of the supply or distribution of such water, subject to the general authority of the Minister.

Custody and
administra-
tion of
waterworks.

Officers of
waterworks.

4. The powers and duties of the water authority may be exercised and performed by the officers of the water authority, subject to the general authority of the water authority.

Powers of Water Authority

Power to
lay pipes.

5. (1) The water authority may carry any water pipe through, across or under any public thoroughfare or any place laid out or intended as a public thoroughfare, and after giving reasonable notice in writing to the owner or occupier, into, through or under any lands whatsoever, without paying any compensation but making good any damage done.

(2) The water authority may at any time enter upon any land for the purpose of examining, repairing or removing any water pipe, the property of the Government.

Power to
construct
fountains for
public use.

6. It shall be lawful for the water authority to construct public fountains in any public thoroughfare or public place.

Power
of entry.

7. It shall be lawful for the water authority at any time between six in the morning and six in the afternoon, or in the case of urgency at any other time, for the purposes hereinafter mentioned, to enter into or upon any tenement into or upon which any service has been laid or into or upon which water from the waterworks is supplied or flows—

- (a) to inspect any service and to ascertain whether there is any waste, leakage, obstruction or damage to any service or meter therein and anything in connexion therewith; or
- (b) to ascertain the amount of water taken or used; or
- (c) to disconnect the supply of water to any tenement, or to diminish, withhold, or divert the supply of water to any tenement through or by means of any service either wholly or in part.

Power to
suspend
supply of
water.

8. It shall be lawful for the water authority to diminish, withhold or suspend, stop, turn off or divert the supply of water through or by means of any service or public fountain either wholly or in part whenever the water authority shall think necessary or proper, and without prejudice to any water rate, meter rent or other sums due or to become due under this Law.

*Waterworks**General Water Rate*

9. It shall be lawful for the prescribed authority in any defined area, with the approval of the Minister, by order to direct—

Power to impose general water rate.

(a) that there shall be levied and paid a general water rate of an amount and assessed in manner hereinafter described—

(i) the rate shall be levied in respect of tenements in such area, in which case it shall be assessed on the capital, annual or unimproved value of such tenements and shall be such percentage of the capital, annual or unimproved value as the order may prescribe:

Provided that where a tenement is supplied with an internal pipe supply the general water rate may be increased in respect of that tenement; or

(ii) every person or any class of person above the age of sixteen years resident in such area shall pay annually such sum as general water rate as the order may prescribe; or

(iii) there shall be levied annually in respect of every tenement such sum as general water rate as the order may prescribe; or

(iv) persons resident within a defined area may be divided into classes such classes being assessed for general water rate on one or other of the methods of assessment hereinbefore described as the order may prescribe and shall pay general water rate accordingly;

(b) that there shall be exempt from such general water rate any tenement or class of tenement, or any person or class of person;

(c) that where assessment of the general water rate is made as provided in sub-paragraphs (i) and (iv) of paragraph (a) such higher rate as the order may prescribe shall be levied and paid in respect of a non-domestic supply;

(d) whether payments of general water rate are to be made quarterly, half-yearly or yearly and that the first payment of such general water rate shall become due on such date as the order may prescribe:

Provided that in exceptional cases the prescribed authority may provide that the rate shall be paid monthly in advance;

- (e) that such general water rate shall be paid with retrospective effect:

Provided that, subject to the provisions of section 8 water has in fact been supplied in respect of that period

- (f) the officer to whom or the office at which the general water rate shall be paid and the times during which such payment may be made.

Liability for payment of water rate.

10. The owner and occupier of every tenement not exempt from the rate shall be liable to the prescribed authority for payment of the general water rate, if assessed as provided in sub-paragraphs (i) and (ii) of paragraph (a) of section 9 but unless otherwise prescribed in the order imposing such rate the same shall be deemed an owner's rate, and as between the occupier and the owner of any tenement, shall, in the absence of any agreement to the contrary, be borne by the owner; and the amount thereof, if paid by the occupier, may be recovered by him from the owner in an action for money paid to his use or may be deducted from any rent due or to become due in respect of the tenement.

Recovery of rate.

11. If any person fails to pay the general water rate for which he is liable, within one month after the same became payable, the prescribed authority may recover the same with costs in any court of competent jurisdiction.

Service to Tenements

Supply of water to tenements.

12. The water authority may, subject to the regulations supply water through any service to any tenement on application being made by the owner or occupier thereof.

Power of water authority to refuse to supply otherwise than by meter.

13. The water authority may refuse to supply water to any particular tenement otherwise than by a meter installed and kept in repair by the water authority.

Regulations

Power to make regulations.

14. (1) The Minister may make regulations for the better carrying out of the provisions of this Law in respect of all or any of the following matters—

Waterworks

- (b) the amount to be paid in respect of water supplied to any Government or local government council institution or to any institution whether of a public or private nature or to any specified part of any such institution as aforesaid;
- (c) the amount of rent to be paid for meters;
- (d) the method and manner in which water may be taken from public fountains;
- (e) the price to be paid for all services constructed or laid by the water authority, and the time and place for the payment of the same;
- (f) the construction, laying, fitting, alteration or re-adjustment of services, and the nature, quality, size and pattern thereof, and of meters used therewith;
- (g) the prevention of waste of water;
- (h) the forms of all notices required to be given or sent under this Law and the issuing and service thereof;
- (i) in respect of all such other matters not hereinbefore specifically mentioned as may conduce to the better and more effective carrying out of this Law.

(2) Regulations made under this section may be given retrospective effect:

Provided that, subject to the provisions of section 8, water has in fact been supplied in respect of the period for which the regulations are given retrospective effect.

(3) If any person contravenes or fails to comply with the provisions of any regulations made under the provisions of this section the water authority may, without prejudice to his right to take proceedings for a fine in respect of such contravention or non-compliance, cut off the supply and in addition or in the alternative may, after such notice in writing as he may think fit, enter and cause any water fittings belonging to or used by that person which are not in accordance with the requirements of the regulations to be altered, repaired or removed, and may recover the expenses reasonably incurred by him in so doing from the person in default in the manner provided for the recovery of water rates.

Control of
boating and
fishing.

15. The Minister may make regulations and a local government council, owning or being in control of a waterworks, may, with the approval of the Minister, make rules for the control, whether or not by prohibition, of boating on and of fishing in any waterworks.

Offences and Penalties

Injury,
pollution,
etc.

16. Whosoever shall wilfully or negligently injure the waterworks, public fountains, services or meters, or shall unlawfully draw off, divert or take water from the same, or from any streams or waters by which the waterworks are supplied, and whosoever shall pollute any such water or shall allow any foul liquid, gas or other noxious or injurious matter to enter into the waterworks or any services connected therewith, shall for every such offence be liable on summary conviction to a fine of twenty pounds and further to a penalty of one pound for each day whilst the offence continues.

Waste.

17. Any person who shall wilfully or negligently misuse or waste or cause or allow to be misused or wasted any water passing into, through or upon or near any tenement from the waterworks shall be liable to a fine of five pounds.

Altering
service.

18. Every person who shall alter, or cause, or permit to be altered, any service without the consent of the water authority or contrary to any regulations, shall be liable to a fine of ten pounds.

Fraudulent
measure-
ment.

19. Whosoever shall alter, or cause, or permit to be altered, any service, with intent to avoid the accurate measurement or register of water by means of any meter, or to obtain a greater supply of water than he is entitled to, and to avoid payment therefor, or who shall wilfully, or negligently injure any meter, shall be liable to a fine of forty pounds; and any service so altered, or meter so injured, shall be replaced or repaired by the water authority at the expense of the person convicted, and the cost of replacing or repairing any such service or meter may be recovered upon the order of a magistrate in the same manner as any penalty may be recovered upon conviction.

Foul
accumulation
of earth.

20. Whosoever shall put, or allow to be put, or to remain, or to accumulate on any tenement occupied or owned by him or his servants, or who shall not remove or cause to be removed, or take such steps as may be necessary to prevent, upon notice in writing from the water authority, any foul, noisome or

Waterworks

injurious matter, or any earth, deposit or excavated material in such manner or place that it may be washed, fall or be carried into the waterworks or the gathering grounds thereof, shall be liable to a fine of twenty pounds, and for every day during which such matter, earth, deposits, or excavated materials are allowed to remain after notice in writing from the water authority requiring the same to be removed, to a further penalty of two pounds for each day whilst the offence continues.

21. Any person—

- Repealed by Edition No. 17/73*
- (a) who bathes in any part of the waterworks; or
 - (b) who washes, throws or causes to enter therein, any horse, dog, goat, pig or other animal, or any clothes, material or thing; or
 - (c) who wrongfully opens or closes any lock, cock, valve, sluice or manhole belonging to the waterworks,
- shall be liable to a fine of twenty pounds.

Bathing,
washing.

Recovery of Money

22. (1) In any action for the recovery of any rate, or other moneys (other than fines and penalties) payable or recoverable under this Law, a certificate under the hand of the prescribed authority or water authority, or of any person appointed by the prescribed authority or water authority on that behalf, that any sum of money is due, and that the defendant is the person liable to pay the same, shall, in the absence of evidence to the contrary, be conclusive evidence of such debt and of the non-payment thereof, and that the defendant is the person liable to pay the same.

Proof of
moneys due.

(2) Every such action may be instituted by the prescribed authority or water authority or by an officer or person authorized by the prescribed authority or water authority to institute such action on its behalf.

Action may
be instituted
by prescribed
authority
or water
authority.

CHAPTER 131
WATERWORKS LAW
SUBSIDIARY LEGISLATION

Regulations
41 of 1944,
17 of 1946,
43 of 1949,
63 of 1950,
52 of 1962.

Waterworks (Waste Prevention) Regulations

made under section 14

1. These regulations may be cited as the Waterworks (Waste Prevention) Regulations.

Definitions

2. In these regulations—

“Authorized Officer” means and refers to any Engineer, Inspector, Superintendent, or other officer authorized by the Permanent Secretary, Ministry of Works to carry out the duties of the water authority;

“brass” means an alloy of copper and zinc, with or without lead or tin, containing not less than sixty-two *per centum* by weight of copper and not more than four *per centum* by weight of lead, and having a tensile strength of not less than twelve tons per square inch of sectional area;

“capacity” in relation to a storage cistern or flushing cistern means the capacity of the cistern measured from the water line;

“communication pipe” means that part of the supply pipe which extends from a main of the waterworks up to the boundary of the premises which it supplies;

“consumer” means any corporate body, person or persons supplied or applying to be supplied with water from the waterworks or any corporate body, person or persons otherwise liable for the payment of the water rates, rents or charges;

“corrosion-resisting alloy” means an alloy which is highly resistant to corrosion by the water supplied from the waterworks and which has a tensile strength of not less than eleven tons per square inch of sectional area;

Waterworks (Waste Prevention) Regulations

“distributing pipe” means any pipe conveying water supplied from the waterworks from a storage cistern or feed cistern or from a hot water apparatus, and under pressure from such cistern or apparatus;

“feed cistern” means a storage cistern used for supplying cold water to a hot water apparatus;

“gun-metal” means an alloy containing not less than eighty-five *per centum* by weight of copper and not less than five *per centum* by weight of tin, and having a tensile strength of not less than twelve tons per square inch of sectional area;

“storage cistern” means any cistern for containing water supplied from the waterworks other than a flushing cistern or a cistern for containing hot water;

“supply pipe” means that part of a service which is subject to the direct pressure from the mains of the waterworks;

“warning pipe” means an overflow pipe so fixed that its outlet end is in an exposed and conspicuous position where the discharge of any water may be readily seen from the outside of the premises;

“water authority” means the Permanent Secretary of the Ministry of Works;

“water for domestic purposes” means a sufficient supply for drinking, washing, cooking and sanitary purposes, but not for any bath having a capacity in excess of fifty gallons; and includes—

(a) a supply for the purposes of a profession carried on in any premises the greater part of which is used as a dwelling-house; and

(b) where water is drawn from a tap inside a tenement and no hose pipe or similar apparatus is used, a supply for watering a garden and washing any private vehicle;

“water for non-domestic purposes” means any water from the waterworks used for the purpose of, or in carrying on, any trade, business or manufacture, or for watering fields or gardens cultivated or occupied as a means of pecuniary profit, or for private fountains, or any ornamental purpose, or for the supply of ponds or tanks, or for laundries or public wash-houses or public baths, or any public institution, hospital, nursing home, sanatorium,

school, club, hostel, assembly hall, place of public entertainment, hotel, restaurant, licensed premises, or any boarding-house capable of accommodating twelve or more persons including the persons usually resident therein or to vessels, ships, boats or machinery; and includes the water used or consumed by any person resident in or occupying any premises where a non-domestic supply is given, as well as any water taken or used from the waterworks for the use of any Government or local government council establishment or department;

“water line” in a cistern means the top water level at which the cistern is designed to work.

Authorized Officer may act for the Water Authority

3. Where under these regulations any act is required or authorized to be done by the water authority, the same may be done on behalf of the water authority by an authorized officer of the water authority; and where under these regulations any notice is required to be given by the water authority, the same shall be authenticated if it is signed by an authorized officer of the water authority.

Application for Supply

4. Before commencing the laying, removal, alteration, or extension of any service and prior to the supply being required, discontinued, curtailed, altered or extended application shall be made by the consumer in the Form A set out in the Second Schedule, copies of which can be obtained at the offices of the water authority.

Form A.
Second
Schedule.

Contractors

5. (1) The installation, removal, alteration or extension of a water service shall be undertaken only by a person registered with the water authority for the purpose (hereinafter referred to as a contractor).

(2) A certificate of registration shall only be issued to a contractor who has satisfied the water authority of his competence and shall be in Form D set forth in the Second Schedule.

Waterworks (Waste Prevention) Regulations

(3) The water authority may suspend or cancel a certificate of registration where he is satisfied that the contractor to whom the certificate relates has failed to carry out any work on a water service in a competent manner or has failed to comply with any of these regulations relating to workmanship and materials.

(4) A contractor shall display in a prominent position on his premises his certificate of registration and any contractor who fails to do so shall be liable to a fine of five pounds. Penalty.

Consumer's Pipes and Fittings

6. Every connexion to the mains of the water authority shall be made in accordance with the regulations.

7. All services shall be provided, installed, maintained, repaired and renewed at the consumer's expense to the satisfaction of the water authority.

8. No person shall for the purpose of conveying, delivering, receiving or using the water from the waterworks fix, fit or use any pipe, tap, valve, cock, cistern, hot water apparatus, bath, basin, closet, urinal, meter or other fitting, which shall not be of good quality and not in accordance with such of the requirements hereinafter set forth in the First Schedule as shall be applicable to the circumstances of the case. First
Schedule.

9. A consumer shall not be required by these regulations to alter or renew any pipe, fitting, apparatus or thing existing and in use at the date these regulations first apply, or to construct or provide any addition thereto, unless and until such pipe, fitting, apparatus or thing is so defective or in such condition or position as to cause or be likely to cause waste, undue consumption, misuse, or contamination or risk of contamination of the water supplied from the waterworks.

10. No supply pipe shall be laid to any premises until after the point or place at which such supply pipe is proposed to be brought into such premises has been first approved in writing by the water authority.

Any person who shall offend against this regulation shall be liable to a fine of five pounds. Penalty.

Use of the Supply

11. The water supplied by the water authority shall be used only for the purpose specified in the application for the supply. Any fittings and branch pipes of any service to any premises which are no longer necessary shall be removed and the pipes properly sealed by the consumer to the satisfaction of the water authority. Should the consumer neglect to comply with these requirements the water authority may by notice in writing call upon him to comply and, if at the expiry of the time allowed by such notice non-compliance continues, the water authority may enter any house or private premises and execute the necessary work and the expenses incurred in executing such work shall be recoverable by the water authority in the manner prescribed for the recovery of the water rate.

Consumer Removing

12. If and whenever the premises supplied shall cease to be occupied or the use of water supplied by the water authority be discontinued for any purpose, notice thereof in writing shall forthwith be left at or sent by post to the local office of the water authority.

Penalty.

Any person who shall offend against this regulation shall be liable to a fine of two pounds.

Prevention of Waste

13. If a consumer wilfully or negligently causes or suffers any pipe or other fitting which he is liable to maintain—

- (a) to be or remain so out of order, or so in need of repair; or
- (b) to be or remain so constructed or adapted or be so used, that the water supplied to him by the water authority is, or is likely to be wasted, misused or unduly consumed, or contaminated before use, or that foul air or any impure matter is likely to return into any pipe belonging to, or connected with the pipes belonging to, the water authority, he shall be liable to a fine not exceeding five pounds.

14. If the water authority has reason to think that some injury to or defect in a pipe or other water fitting which he is

Waterworks (Waste Prevention) Regulations

not under obligation to maintain is causing or is likely to cause waste of water or injury to persons or property, he may by notice in writing call upon the person concerned to remedy the injury or defect and if, at the expiry of the time allowed by such notice, the person fails to comply with any requisitions of the notice the water authority may execute such work as he thinks necessary or expedient in the circumstances of the case without being requested so to do and if any injury to or defect in the pipe or other fitting is discovered, the expenses reasonably incurred by the water authority in discovering it and in executing repairs shall be recoverable by the water authority in the manner prescribed for the recovery of the water rates.

Testing of Fittings

15. (1) No person shall hereafter fix for the supply of water by the water authority any fitting or other apparatus which has not been examined, tested and stamped by the water authority or other authority whose stamp is recognized by the water authority as sufficient guarantee of quality.

(2) The water authority may charge in advance the reasonable cost of such examination, testing and stamping of such fittings. Such examined, tested and stamped fittings shall alone be deemed to be valves, taps, cisterns, fittings and other apparatus not likely to cause waste, misuse, undue consumption or contamination of the water supplied by the water authority.

Supply Pipes

16. (1) No premises shall without the permission in writing of the water authority, be supplied through more than one supply pipe.

(2) Every premises hereafter supplied with water by the water authority shall, except with the written consent of the water authority, have its own separate supply pipe.

Hose Pipes

17. Water supplied from the waterworks shall not be conveyed or used through any hose or movable pipe except by previous arrangement in writing with the water authority as to the use of such hose or pipe.

Penalty. Any person who shall offend against this regulation shall be liable to a fine of two pounds.

18. The water authority may by public notice or by serving of a notice on any consumer, prescribe the hours during which the water from the waterworks may be used for any specific purpose.

Penalty. Any person who shall after the publication of such public notice or the serving of such notice, continue to use the water from the waterworks except within the hours specified shall be liable to a fine of two pounds.

Watering Troughs

19. Every pipe supplying water from the waterworks to a watering trough for animals shall be provided with a proper ball tap or some other equally suitable waste-preventing appliance, fixed in a separate compartment and protected by a cover which can be locked by a movable key.

Use of Automatic Flushing Apparatus, etc.

20. Except by previous arrangement in writing with the water authority as to the use thereof, no person shall fix, fit or use upon any premises any self-acting or automatic flushing apparatus through which water from the waterworks is intended to pass.

Penalty. Any person who shall offend against this regulation shall be liable to a fine of two pounds.

21. Except by previous arrangement in writing with the water authority as to the use thereof, no person shall use a water-cooled refrigerating apparatus, any apparatus depending while in use upon a supply of continuously running water or any apparatus used for softening or purifying water which requires water from the waterworks for cleaning, regenerating, motive power or similar purpose:

Provided that this regulation shall not apply to an apparatus for softening water if only one such apparatus is used and the water softened thereby can be drawn off into a receptacle at one point only and is used solely for domestic purposes.

Supply and Distributing Pipes

22. Every supply pipe or distributing pipe laid or fixed in connexion with the water of the water authority shall be of

galvanized iron, copper, lead or other approved material required by the water authority and shall conform to the appropriate specification in the First Schedule.

First
Schedule.

Bends in Pipes

23. Bends in pipes shall not in any case diminish or alter the bore of the pipes.

Accessibility of Pipes

24. Every pipe or fitting within a building shall be so placed as to be readily accessible for examination and repair.

Support of Pipes

25. Every pipe used in connexion with the water from the waterworks shall be adequately supported as required and shall be fixed in such a manner as to avoid air locks.

Protection of Pipes

26. (1) Every pipe, laid or fixed in connexion with water supplied by the water authority, shall when laid underground be laid at least one foot six inches below the surface, and shall, in situations where it is exposed to risk of damage, be laid at an increased depth or be properly protected to the satisfaction of the water authority.

(2) Every pipe other than a warning pipe laid or fixed in an exposed situation, whether inside or outside the building, shall be properly protected against risk of injury:

Provided that this requirement shall not apply to any pipe used for a temporary purpose.

27. (1) No supply pipe or distributing pipe shall be laid so as to pass into or through any sewer or drain or any manhole connected therewith, or into or through any ashpit or manure hole. No supply pipe or distributing pipe shall be laid or allowed to remain in contact with any foul soil or injurious material.

(2) Where the laying of such pipe through any drain, sewer, manhole or foul soil cannot be avoided such pipe shall be sufficiently protected either by being carried through an exterior pipe of suitable material or by some other means approved by the water authority.

No connexion with other Water

28. No pipe for the conveyance of, or in connexion with, water supplied from the waterworks shall communicate with any pipe, cistern, butt or other receptacle used or capable of being used for the conveyance or reception of any water other than water supplied from the waterworks, and where storage cisterns or tanks are provided no distributing pipe therefrom shall be connected to any supply pipe, except that a draw tap for drawing water for drinking and cooking must be so connected.

Ferrule on Main

29. The connexion of every supply pipe with any pipe of the waterworks shall be made by means of an approved gun-metal or hard brass screwed ferrule or stop-cock ferrule with union, and shall be made so as to have a clear waterway equal to the bore of a one-half inch pipe or such other larger sized waterway as may be required by the water authority. The connexion of every supply pipe with main of the water authority shall be made by the workmen of the water authority and the water authority shall be paid in advance the reasonable costs and charges of and incidental to the making of such connexion and the supply and fixing of the ferrule.

Provision of Stop-Cocks

30. (1) Every supply pipe shall have, outside the premises and as near as possible to the point of entry thereto, a stop-clock with a waterway not less than the bore of a one-half inch pipe and not greater than that of the supply pipe.

(2) The stop-cock shall, if below the surface of the ground or in an exposed situation, be suitably protected and covered by an iron or concrete surface box and cover. Such stop-clock, surface-box and cover shall be of a pattern chosen by and provided and fixed by the water authority at the consumer's expense.

31. A suitable stop-cock with the valve arranged to lift with the spindle shall be provided on every outlet pipe of a storage cistern, other than a warning pipe, as near to the cistern as practicable.

*Waterworks (Waste Prevention) Regulations**Water Authority may undertake Work*

32. The water authority may at its option undertake the provision of the supply pipe, distributing pipe or pipes and fittings, or any part of them, and carry out the work of laying the communication pipe, supply pipe, distributing pipes complete including the opening up and reinstatement of the roadway and ground adjacent, or any part of such work, at the cost of the consumer. The consumer shall pay in advance to the water authority the estimated cost and shall further be liable for any expenses incurred by the water authority in the work over and above the amount of the estimate. In the event of the work being carried out at less cost than estimated the amount saved will be refunded to the consumer.

33. Applications for estimates for work to be carried out by the water authority shall be made on the form as in the Second Schedule. The water authority may require that applications shall be accompanied by a deposit of one pound which shall be returned to the consumer when the work for which the estimate is prepared has been completed.

Second
Schedule.

Storage Cisterns

34. The water authority may require that any supply pipe hereafter laid or fixed in connexion with water supplied by the water authority shall, by means of a ball-tap or similar approved appliance, discharge the whole of the water supplied through it into a storage cistern or tank; except that where such storage cisterns or tanks are provided the consumer must provide and fix at least one draw-tap on the supply pipe for the purpose of drawing water to be used for drinking, and cooking, the supply for all other purposes being taken from the storage cistern by means of distributing pipes.

35. Every storage cistern used in connexion with the water supplied from the waterworks shall be made and at all times maintained water-tight and shall be provided with a dust-proof, insect-proof and sun-proof cover and with an insect-proof ventilator and be in such a position and so fitted that it may be readily inspected and cleaned.

36. Every storage cistern shall be effectually protected against contamination to the satisfaction of the water authority.

First
Schedule.

37. Every storage cistern shall be provided with a ball-tap of the type hereinafter described in the appropriate specification in the First Schedule or with such other fitting as may be approved by the water authority for the inlet of water.

38. No cistern buried or excavated in the ground shall be used for the reception or storage of the water supplied from the waterworks without the prior approval in writing of the water authority.

Flushing Apparatus for Water Closets and Urinals

39. Every water closet and urinal shall be provided with a proper flushing cistern or with some other equally suitable and efficient apparatus for the proper flushing of the water closet or urinal as shall be approved by the water authority.

40. Every flushing cistern used in connexion with the supply of water from the waterworks shall be made and at all times maintained water-tight and shall be provided with an insect-proof cover.

41. A flushing apparatus provided in connexion with a water closet shall be capable of giving a flush of not less than two gallons nor more than three gallons.

42. A flushing apparatus operated by hand and provided in connexion with a urinal or group of urinals shall be capable of delivering a flush of not less than one gallon nor more than one and a half gallons to such urinal or each urinal in each group.

43. Every flushing cistern shall have an efficient waste-preventing apparatus of the valveless type and shall be fed through a ball-tap or other approved fitting.

44. No pipe by which water is supplied from the waterworks or storage tank to any water closet, slop-hopper, slop-sink or urinal shall communicate with any part of such water closet, slop-hopper, slop-sink or urinal or with any apparatus connected therewith except the flushing cistern thereof.

Warning Pipes

45. Every storage cistern or flushing cistern shall be provided with an overflow pipe so arranged as to act as a warning pipe. The bottom of such warning pipe shall be at least one inch below the bottom of the inlet pipe.

Waterworks (Waste Prevention) Regulations

46. No overflow or waste pipe other than a warning pipe shall be attached to any storage cistern or flushing cistern supplied with water from the waterworks.

47. Every warning pipe shall be placed in such a position as will admit of the discharge of water from such warning pipe being easily ascertained by an officer of the water authority. Such warning pipe shall not be made to discharge directly into any sink or drain in such a manner that the flow from the warning pipe shall not be clearly visible from the outside of the premises and its position shall be subject to the approval of the water authority and such approved position shall not be changed without the approval of the water authority.

Hot Water Apparatus

48. Unless otherwise specially approved by the water authority every boiler, geyser, or other apparatus for heating water and every gas producer, gas engine, steam engine, or oil engine and every refrigerating or air conditioning plant or any other apparatus in or by which water supplied from the waterworks is used shall be supplied only through a storage cistern, of suitable capacity, and shall comply with the appropriate specification in the First Schedule; or the cold water supply shall be controlled by a bib-tap or stop-cock and shall not be connected directly to the water contained in the apparatus but discharge directly into the air above it:

First
Schedule.

Provided that this requirement shall not apply to any electrically heated apparatus properly designed and controlled as regards both water and electricity.

49. If the cold water be supplied from a feed cistern the outlet from the feed cistern shall be at or not more than two inches above the bottom of the cistern, and the connecting pipe shall deliver water to the hot-water apparatus only.

50. If the feed cistern be a storage cistern for other purposes, no other pipe than the connecting pipe to the hot-water apparatus shall draw water from the lowest six inches of that part of the storage cistern which is reckoned in the measurement of its capacity.

51. Every pipe which is used or intended to be used for the conveying of hot water shall be of steel, wrought-iron, lead, copper, brass or some corrosion-resisting alloy:

Provided that this requirement shall not prohibit the use of

cast-iron pipes which are not less than three inches in internal diameter if suitable provision for expansion is made.

First
Schedule.

52. Every hot-water cylinder or tank shall be constructed of galvanized mild steel or copper or other equally suitable material in accordance with the appropriate specification in the First Schedule. The cylinder or tank shall be adequately supported.

53. No tap or other means of drawing off water (other than a screwed plug or tap with a removable key for emptying the system for cleaning or repair) shall be connected to any part of the hot-water system below the top of the hot-water cylinder or tank in such a way that the level of the water in the cylinder or tank can be lowered more than one-fourth of its depth:

Provided that this prohibition shall not apply to an open tank in which water is electrically heated.

Water Fountains

54. (1) No person shall wash or wash any clothes or other articles at any public fountain or affix any hose pipe thereto.

(2) No person shall take or draw water from any public fountain for any purpose whatsoever except for filling small receptacles for domestic use.

Penalties

55. If any person contravenes or fails to comply with the provisions of any of these regulations and where no specific penalty is stated for such contravention or non-compliance he shall be liable to a penalty not exceeding five pounds and the water authority may, without prejudice to his right to take proceedings for a fine in respect of such contravention or non-compliance, turn off the supply or may call upon the person concerned by notice in writing to comply with the requisitions of the notice and, if the person fails so to do within the time allowed by such notice, may cause any water fittings belonging to or used by that person which are not in accordance with these regulations to be altered, repaired or replaced and may recover the expenses reasonably incurred by him in so doing from the person.

Forms

56. Notice of contravention of any of the regulations shall be as in Form B of the Second Schedule and the authorized card to enter and inspect premises shall be as in Form C of the said Schedule.

Second
Schedule.

FIRST SCHEDULE

SPECIFICATION OF PIPES AND FITTINGS

Lead Pipes

1. Every supply pipe, distributing pipe, flushing pipe and warning pipe of lead shall comply with the requirements of British Standard Specification No. 602/1939 for Lead Pipes for other than chemical purposes.

2. Every supply pipe, distributing pipe, flushing pipe and warning pipe of ternary alloy lead shall comply with the requirements of British Standard Specification No. 603/1941 for Lead Pipes (B.N.F. Ternary Alloy No. 2).

3. Every joint in a lead or ternary alloy lead pipe shall be made by means of a water-tight wiped soldered joint of the type known as a plumber's joint or by means of some other efficient and equally suitable water-tight joint as approved by the water authority.

4. Every connexion between an iron, steel, copper, or brass pipe and a lead or ternary alloy lead pipe shall be made by means of a screw-ferrule of corrosion-resisting alloy wiped on to the lead or ternary alloy lead pipe or by means of some other efficient and equally suitable water-tight joint as approved by the water authority.

5. The length of every fitting connected to a lead or ternary alloy lead pipe by means of a wiped joint shall be sufficient to provide that not less than one-and-a-quarter inches of the fitting will be within the wiped joint.

Cast-Iron Pipes

6. Every supply pipe, or distributing pipe of cast-iron, shall comply with the requirements of British Standard Specification No. 78/1938 for Cast-Iron Pipes and Special Castings for Water, Gas and Sewage for a test pressure equal to double the pressure to which the pipe will be subjected under normal working conditions.

Wrought-Iron or Steel Pipes

7. Every supply pipe, distributing pipe, flushing pipe and warning pipe of wrought-iron or steel shall comply with the requirements under "steam quality" of British Standard Specification No. 788/1938 for Wrought-Iron Tubes and British Standard Specification No. 1387/1947 Class C for Steel Tubes, and shall be efficiently protected against corrosion and any malleable cast-iron fitting used in connexion with any such pipe shall also be of "steam" quality.

FIRST SCHEDULE — *continued**Copper Pipes*

8. Every supply pipe or distributing pipe of copper to be connected by means of screw joints shall comply with the requirements of British Standard Specification No. 61 Part I/1947 and 61 Part II/1946 for Copper Tubes and their Screw Threads.

9. Every supply pipe or distributing pipe of copper to be connected by means of compression joints or capillary joints or by bronze welding shall comply with the requirements of British Standard Specification No. 659/1944 for Light Gauge Copper Tubes, on British Standard Specification No. 1386/1947 if the pipes are to be used underground.

Asbestos-Cement Pipes

10. Every supply pipe or distributing pipe of asbestos-cement shall comply with the requirements of British Standard Specification No. 486/1956 for Asbestos-Cement Pressure Pipes for a test pressure equal to double the pressure to which the pipe will be subjected under normal working conditions.

Pipes of other Materials

11. Every supply pipe or distributing pipe of any material other than those hereinbefore mentioned shall be of sufficient strength to withstand a test pressure appropriate to the working conditions to which the pipe will be subjected and shall be approved by the water authority before being fixed.

Taps and Valves

12. Every stop, bib, pillar and globe tap, when fully assembled, shall be capable of resisting a pressure of at least three hundred pounds to the square inch.

13. Every valve, spindle, and other internal part of a tap shall be made of a corrosion-resisting alloy.

14. Every stop, bib, pillar and globe tap shall comply with the requirements of British Standard Specification No. 1010/1945 for water taps—Bib, Pillar, Globe and Stop.

15. Every self-closing tap where permitted to be fixed by the water authority shall be of the non-concussive kind and of a pattern approved by the water authority.

16. Taps of the plug type shall not be used and any such taps submitted to the water authority for testing will be refused.

17. Every ball tap shall comply with the following requirements and with Table I—

- (a) the minimum thickness of the metal in the body of the tap shall be the same as in the table of dimensions for stop, bib, pillar, and globe taps, the internal diameter of the inlet of the tap being taken as the normal size of the tap;
- (b) the valve shall be provided with a washer of good quality rubber or other equally suitable material enclosed in an internally flanged cap screwed to the piston;

*Waterworks (Waste Prevention) Regulations*FIRST SCHEDULE — *continued*

- (c) the float shall either be a ball, which in cases where the internal diameter of the inlet of the ball tap is not more than half-an-inch, shall be of an external diameter not less than four-and-a-half inches, or shall be of some other shape with an equivalent displacement;
- (d) if the float be a copper ball the minimum thickness when finished bright shall be not less than twenty-six Imperial Standard Wire Gauge in cases where the external diameter of the ball does not exceed six-and-a-half inches and not less than twenty-four Imperial Standard Wire Gauge in cases where the external diameter of the ball exceeds six-and-a-half inches. If the float be of copper of some other shape it shall be of equal strength. The jointing of the float shall be made by means of an efficiently burnished, lapped and water-tight seam;
- (e) the material of the lever shall be a corrosion-resisting alloy or copper and of such quality and section that the lever can be bent by hand for purposes of adjustment but shall be of sufficient rigidity not to bend permanently under normal working conditions;
- (f) the size of the orifice, the size of the float and the length of the lever, shall be properly proportioned to one another so that the tap will be water-tight against the test pressure and shall be in accordance with the dimensions in Table I attached hereto;
- (g) every ball tap shall have cast or stamped on the body of the fitting the letters appropriate to its class and the pressure to which it has been tested—

	<i>Stamp</i>	<i>Test Pressure</i>
Extra High Pressure ...	... E.H.P. ...	... 300 lb. per square inch.
High Pressure ...	... H.P. ...	... 200 lb. per square inch.
Low Pressure ...	... L.P. ...	... 50 lb. per square inch.
Full Way ...	... F.W. ...	... 10 lb. per square inch.

18. Every ball tap shall be securely and rigidly fixed above the water line to the cistern in connexion with which it is provided, and shall be supported independently of the inlet pipe (unless such inlet pipe itself be rigidly fixed to the cistern), and in such position that the body of the tap will not be submerged when the cistern is charged to its normal level.

19. Where a ball tap is so arranged as to discharge water by a silencing pipe, or otherwise, into any cistern below the level of the outlet to the overflow pipe, means shall be taken to prevent the syphonage of the water back into the supply pipe.

Cisterns

20. Every cold water cistern shall be water-tight, and shall be constructed of slate, earthenware, stoneware, lead, iron, steel, or copper, or of a corrosion-resisting alloy, or other equally suitable material or of wood lined with lead

FIRST SCHEDULE — *continued*

weighing not less than four pounds per square foot in flushing cisterns and not less than five pounds per square foot in all other cisterns, or of wood lined with copper of not less than twenty-two Imperial Standard Wire Gauge or of concrete or of other equally suitable material. The materials used shall be of sufficient strength and thickness and, if the cistern be constructed of mild steel, it shall comply with the requirements of British Standard Specification No. 417/1936 for Galvanized Mild Steel Cisterns, Tanks and Cylinders, Grade A of Table I.

Flushing Apparatus for Water Closets and Urinals

21. Every flushing cistern shall comply with the requirements of British Standard Specification No. 1125/1945 for W.C. Flushing Cisterns.

22. Every water closet pan shall comply with the requirements of British Standard Specification No. 1213/1945 for Ceramic Washdown W.C. Pans—Dimensions and Workmanship.

23. Every automatic flushing cistern shall be fed by means of a small pet cock, or other fitting approved by the water authority and regulated to fill the cistern at an agreed rate.

Baths and Lavatory Basins

24. Every water inlet to a fixed bath or fixed lavatory basin shall be distinct from, and unconnected with, the outlet thereof, and any outlet for emptying a fixed bath or fixed lavatory basin shall be provided with a well-fitting and easily accessible water-tight plug or other and equally suitable apparatus.

25. The level of the nose or outlet of the cold water inlet to a fixed bath or fixed lavatory basin shall be above the level of the overflow pipe or, if there be no overflow pipe, above the rim of the bath or basin:

Provided that this requirement shall not apply to any bidet, sitz bath, or similar apparatus, if all practical steps are taken in the construction and fixing thereof to prevent waste, undue consumption, misuse or contamination of water.

British Standard Specifications

26. Copies of the British Standard Specifications mentioned in these regulations can be seen at the office of the Controller of Works Services, Enugu, or can be obtained direct from the British Standards Institution, Publications Department, 28 Victoria Street, London, S.W.1.

TABLE I
BALL TAPS
Minimum Dimensions

Bore of Shank	$\frac{1}{2}$ in.	$\frac{3}{4}$ in.	1 in.	$1\frac{1}{4}$ in.	$1\frac{1}{2}$ in.	2 in.
Diameter of Waterway through Seating						
H.P.	$\frac{1}{8}$	$\frac{1}{4}$	$\frac{3}{8}$	$\frac{1}{2}$	$\frac{3}{4}$	1
L.P.	$\frac{3}{8}$	11/16	$\frac{7}{8}$	$1\frac{1}{4}$	$1\frac{1}{2}$	2
Breadth and thickness of Lever	$\frac{1}{4} \times \frac{1}{4}$	$\frac{3}{8} \times \frac{3}{8}$	$\frac{3}{8} \times \frac{3}{8}$	$\frac{3}{8} \times \frac{1}{2}$	$\frac{3}{8} \times \frac{3}{4}$	$\frac{3}{8} \times 1$
Minimum length of leverage (From Fulcrum to centre of Float)... ..	$13\frac{3}{4}$	17	22	26	30	35
Length of leverage (From Fulcrum to centre of Piston)	$\frac{5}{8}$	$\frac{3}{4}$	$\frac{7}{8}$	$1\frac{1}{8}$	$1\frac{1}{4}$	$1\frac{1}{2}$
Diameter of Piston	11/16	$\frac{7}{8}$	$1\frac{1}{8}$	$1\frac{3}{8}$	$1\frac{5}{8}$	2
Diameter of Cotter Pin	3/16	$\frac{1}{4}$	$\frac{1}{4}$	5/16	5/16	$\frac{3}{8}$
*Diameter of Spherical Ball	$4\frac{1}{2}$	6	$6\frac{1}{2}$	8	10	12
Length of Tail Pipe	$2\frac{1}{4}$	$2\frac{1}{2}$	$2\frac{1}{2}$	3	3	$3\frac{1}{2}$

*The float may be made of glass or other material subject to the approval of the water authority.

Waterworks

SECOND SCHEDULE

Reg. 4

FORM A

APPLICATION FOR PERMISSION TO LAY, REMOVE, ALTER OR EXTEND
A WATER SERVICE*Waterworks (Waste Prevention) Regulations*

.....Water Supply

Date....., 19.....

To the Water Authority,
Ministry of Works,
.....

I,of
(address).....request permission to
lay/remove/alter/extend.....
as above described in relation to the water service at the undermentioned
premises—

(Description).....

(Situation).....

of which I am the owner/occupier and at which the supply will be/is being
used for domestic/trade purposes.

I propose to employ.....of
(address).....to carry out
the work and to use material supplied by.....
.....of.....

I undertake not to have the work begun before the consent of the Water
Authority is received and to have the work carried out in accordance with
the Waterworks (Waste Prevention) Regulations to the satisfaction of the
Water Authority. I further undertake to notify the Water Authority as
soon as the work is complete and to give facilities for its inspection by the
Water Authority whose proper charges in connexion therewith I undertake
to pay in advance.

.....Applicant.

FOR OFFICE USE ONLY

Date received.....Approved.....Intd.....
Fittings:—.....Baths.....Lav. Basins.....Sinks
.....W.Cs...../.....in. Outside Taps.
Point of entry approved.....Intd. Size of tapping.....in.
Size of stop-cock.....in. Size of Supply Pipe.....in.
Completed work inspected by.....on.....
Connexion to.....in. main in.....Street
made on....., 19.....
Entered in Records.....Intd.....

Date....., 19.....

.....Water Authority

Waterworks (Waste Prevention) Regulations

SECOND SCHEDULE — *continued*

FORM B

Reg. 56.

Contravention of the Waterworks (Waste Prevention) Regulations

No..... Date....., 19....
To.....
.....

Sir,

Your attention is invited to the contravention of Regulation No..... of the Waterworks (Waste Prevention) Regulations, at the premises occupied by..... at..... due to..... and you are hereby requested that the same shall cease within..... hours of the serving of this notice on you.

Non-compliance with this request will render you liable to a fine not exceeding £..... and any other expense that the Water Authority may incur due to your non-compliance with the regulations.
Ministry of Works,

.....
Water Authority
Eastern Nigeria

FORM C

Reg. 56.

AUTHORIZATION CARD

Waterworks (Waste Prevention) Regulations

The bearer of this card..... is an employee of the Water Authority and is authorized to enter into any premises to which water is supplied by the Water Authority, for the purpose of inspecting, testing, repairing or disconnecting any fitting or pipe of any service.

Date....., 19.....

.....
Water Authority

.....
Signature of Bearer

FORM D

CERTIFICATE OF REGISTRATION OF CONTRACTOR

This is to certify that..... of..... has been registered as a contractor capable of installing, removing, altering or extending a water service.

DATED this..... day of....., 19..... at.....

.....
Water Authority
Eastern Nigeria

Urban Water Supply Regulations*made under section 14*

E.N.L.N.
32 of 1960,
176 of 1961,
12 of 1962,
51 of 1962,
38 of 1963.

Citation and
application.

1. These regulations may be cited as the Urban Water Supply Regulations, and shall apply within the area of the authority of those Local Government Councils the names of which are set out in the first column of the Second Schedule to the regulations.

Definitions.

2. In these regulations—

“the council” means any of the Local Government Councils the name of which is set out in the first column of the Second Schedule;

“maintenance costs” means all costs declared by the water authority to be maintenance costs, but excludes any expenditure upon the undertaking from the Capital Development Fund on account of the Urban Water Supplies (Renewals Fund);

“Ministry of Works” means the Ministry of Works, Eastern Nigeria;

“operating costs” includes the salaries and wages of all persons directly employed in operating the undertaking;

“prescribed authority” means any of those Local Government Councils set out in the first column of the Second Schedule as aforesaid;

“water authority” includes the Permanent Secretary of the Ministry of Works and any person to whom the powers of the Permanent Secretary have been delegated;

“waterworks” means the Waterworks Installation as interpreted in the Waterworks Order constituted in the area of the prescribed authorities set out in the second column of the Second Schedule of these regulations.

Certain
payments
to water
authority by
prescribed
authority.

3. (1) The water authority shall compute a water bill for the waterworks to which these regulations apply as follows—

(a) a sum equal to the operation and maintenance costs of such waterworks in each year; and

(b) an annual contribution to the Eastern Nigeria Renewals Fund (Water Supplies) at the rate of three *per centum* of the capital value of the waterworks on the first day of April, in the financial year preceding payment; and

Urban Water Supply Regulations

- (c) an annual contribution of five *per centum* of all Government moneys expended upon the waterworks since 1st April, 1956 up to the 1st day of April in the financial year preceding the year of payment, excluding expenditure from the Capital Development Fund on account of the Urban Water Supplies Renewals Fund and capital expenditure made or provided by the prescribed authority; and
- (d) less a sum computed in accordance with the provisions of these regulations in respect of all water supplied to buildings, tenements, institutions and ships which are the property of the Government of Eastern Nigeria or the Federal Government of Nigeria; and
- (e) less a sum computed in accordance with the provisions of these regulations in respect of water supplied through meters to non-government buildings, tenements, institutions and ships.

(2) The water bill thus computed shall be paid annually in arrears by the prescribed authorities set out in the first column of the Second Schedule, on the basis of the average cost of production per gallon for all the waterworks to which these regulations apply, multiplied by the number of gallons produced by the waterworks situated in the area for which they are the prescribed authority.

(3) For the purpose of computing the amount of the contribution referred to in sub-paragraphs (b) and (c) of paragraph (1) of this regulation no account shall be taken of any plant or equipment not incorporated into the water installation or of any Government expenditure in relation thereto.

4. Where water is supplied through a meter to a building, tenement, or institution from waterworks situated in the area of a prescribed authority, the charge subject to a minimum charge of £10 per quarter shall be at the rate of 2s 6d per 1,000 gallons.

Metered
supply of
water.

5. (1) Regional or Federal employees occupying Regional or Federal Senior Service Quarters situated in the area of authority of the prescribed authorities shown in the first column of the Second Schedule shall pay 14s *per mensem* from their emoluments.

Non-metered
supply to
Government
Quarters.

(2) Regional or Federal employees occupying Regional or Federal Junior Service Quarters situated in the area of authority of the prescribed authorities shown in the first column of the Second Schedule shall pay from their emoluments 5s where such quarters have private connections or 3s where such quarters have no private connection.

(3) All such payments in accordance with the provisions of this regulation shall be credited to the Revenue of Eastern Nigeria Government.

Metered supply to Government buildings and ships.

6. When water is supplied through a meter to a Regional or Federal Government building, tenement, institution or ship situated within the area of a prescribed authority, payments shall be made half yearly in arrears and credited to the revenue of Eastern Nigeria Government on figures of water consumption supplied by the water authority, at the rate mentioned in regulation 4.

Assessed rate for Government buildings.

7. All Federal and Regional Government buildings, tenements and institutions situated within the area of prescribed authorities shown in the first column of the Second Schedule not covered by regulations 5 and 6 shall be assessed in respect of water supplies at 10 per cent. of the assessed annual value of the property in accordance with column 3 of the Second Schedule.

8. The metered rate for water supplied to the Nigerian Ports Authority for use by non-Government ships at Calabar and Port Harcourt shall be 6s per 1,000 gallons and shall be paid quarterly in arrears by the Nigerian Ports Authority to the water authority. The same rate shall apply to any water supplied direct by the water authority to any non-Government ships in Calabar and Port Harcourt.

Revocation of E.R.L.N. 159 of 1957 and E.R.L.N. 192 of 1957.
*

9. The Urban Water Supply Regulations, 1957, published as E.R.L.N. No. 159 of 1957, and the Waterworks (non-metered supply) Regulations, published as E.R.L.N. No. 192 of 1957, shall operate only in respect of the period commencing from 1st April, 1958 and ending on the date of commencement of these new regulations, and not otherwise.

Revival.

10. Notwithstanding anything herein contained, the regulations set out in the first and second columns of the First Schedule to these regulations are hereby revived and are

*"These new regulations" commenced on 1st April, 1960 (E.N.L.N. 32 of 1960).

Urban Water Supply Regulations

deemed to have been in operation during the periods set out in the third column of the said Schedule.

11. Any act done or any proceedings taken to collect or enforce payment or collection of water rate in purported exercise of any power conferred by any order or regulations made under the Waterworks Law shall remain valid and effectual and be deemed to have been lawfully done or taken, and no action, suit or other legal proceedings whether civil, criminal, or by way of any prerogative writ, shall be instituted or brought in any court against any person or corporate body for doing any such act or taking any such proceedings as aforesaid.

FIRST SCHEDULE

1	2	3
		Effective date
Regulations No. 5 of 1939	The Waterworks (Aba) Regulations 1939	1-4-57 until commencement of these Regulations.
Regulations E.R. No. 2 of 1953	The Waterworks (Calabar Urban District Council Area) Regulations 1952	1-4-57 until 31-3-58.
E.R.L.N. No. 102 of 1957	The Waterworks (Calabar Urban District Council) Amendment Regulations 1957	1-4-57 until 31-3-58.
Regulations No. 16 of 1933	The Waterworks (Enugu) Regulations 1933	1-4-57 until commencement of these Regulations.
Regulations E.R. No. 3 of 1952	The Waterworks (Onitsha) Regulations 1952	1-4-57 until 31-3-58.
Regulations No. 23 of 1948	The Waterworks (Onitsha—suspension of payment of Rate) Regulations 1948	1-4-57 until 31-3-58.
E.R.L.N. No. 52 of 1957	The Waterworks (Abakaliki) Regulations 1957	1-4-57 until 31-3-58.
E.R.L.N. No. 142 of 1953	The Waterworks (Port Harcourt) Regulations 1953	1-4-57 until commencement of these Regulations.
E.R.L.N. No. 69 of 1957	The Waterworks (Abakaliki) Regulations 1957	1-4-57 until 31-3-58.

SECOND SCHEDULE
PRESCRIBED AUTHORITIES

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Aba Urban County Council ...	Aba	10 per cent., i.e. 2s in the £.
Abakaliki Urban County Council	Abakaliki	10 per cent., i.e. 2s in the £.
Calabar Urban County Council	Calabar	10 per cent., i.e. 2s in the £.
Enugu Urban County Council	Enugu	10 per cent., i.e. 2s in the £.
Igbo-Etiti County Council ...	Nsukka	10 per cent., i.e. 2s in the £.
Ikom Urban County Council ...	Ikom	10 per cent., i.e. 2s in the £.
Ikot Ekpene County Council ...	Ikot Ekpene	10 per cent., i.e. 2s in the £.
Oguta Urban County Council	Oguta	10 per cent., i.e. 2s in the £.
Omitsha Urban County Council	Omitsha	10 per cent., i.e. 2s in the £.
Oron Urban County Council	Oron	10 per cent., i.e. 2s in the £.
Owerri Urban County Council	Owerri (including the village of Orji)	10 per cent., i.e. 2s in the £.
Port Harcourt Municipality ...	Port Harcourt	10 per cent., i.e. 2s in the £.
Ugep Urban County Council ...	Ugep	10 per cent., i.e. 2s in the £.
Umuahia-Ibeku Urban County Council	Umuahia-Ibeku	10 per cent., i.e. 2s in the £.
Uyo Federated County Council	Uyo	10 per cent., i.e. 2s in the £.

CHAPTER 132**WIDOWS' AND ORPHANS' PENSIONS LAW***Arrangement of Sections**Section*

1. Short title and commencement.
2. Obligation on European officers transferred or appointed in Eastern Nigeria to be contributors under Fed. Cap. 220.
3. Application of Fed. Cap. 220.
4. Information to be supplied to Federal Government and Crown Agents.
5. Contributions to be deducted by appropriate authority.
6. Adoption and adaptation of Fed. Cap. 220.

CHAPTER 132

A Law to make Provision for Pensions to be granted to Widows and Children of deceased European Public Officers transferred or appointed to the Public Service of Eastern Nigeria. 5 of 1959.
L.N. 79 of
1961.

[1st October, 1954]

1. This Law may be cited as the Widows' and Orphans' Pensions (Eastern Nigeria) Law, and shall be deemed to have come into operation on the 1st day of October, 1954. Short title
and com-
mencement.

2. Subject to the exceptions contained in sections 4 and 5 of the Widows' and Orphans' Pensions Act (hereinafter referred to as "the Act")— Obligation
on European
officers
transferred
or appointed
in Eastern
Nigeria to be
contributors
under Fed.
Cap. 220.

- (a) every European officer transferred to the public service of Eastern Nigeria under the provisions of section 185 of the Nigeria (Constitution) Order in Council, 1954, shall continue a contributor under and subject to the provisions of the Ordinance;

*This Order in Council was S.I. 1954 No. 1146, published as N.L.N. 102 of 1954. Its section 185 contained the provisions under which officers could be transferred from the Federal public service to that of a Region. The section was repealed by an amendment to the 1954 Constitution, which was S.I. 1958 No. 429, published as E.R.L.N. 125 of 1958.

(b) every European officer appointed permanently or temporarily to a post in the public service of Eastern Nigeria on or after the 1st day of October, 1954, shall become or continue a contributor under and subject to the provisions of the Act from the date on which he commences to draw any of the salary of such post.

Application
of Fed. Cap.
220.

3. Provisions similar to those contained in the Act shall apply in relation to every officer to whom section 2 of this Law refers and to his dependants.

Information
to be
supplied to
Federal
Government
and Crown
Agents.

4. The Government of Eastern Nigeria shall from time to time as and when required supply to the Government of the Federation and to the Crown Agents for Oversea Governments and Administrations (hereinafter referred to as "the Crown Agents") in relation to every officer to whom section 2 of this Law applies such information and assistance as may be necessary for the administration of the Act.

Contribu-
tions to be
deducted by
appropriate
authority.

5. When the salary or pension of a contributor to whom section 2 applies is not wholly paid through the Crown Agents his contributions shall be deducted from his salary or pension as the case may be by the appropriate authority in Nigeria.

Adoption and
adaptation of
Fed. Cap.
220.
*

6. Eastern Nigeria shall be deemed to be a Region which has adopted the Act within the meaning of the Adaptation of Pensions Laws Order, 1955, and the Act shall apply to the Region as adapted by that Order.

SUBSIDIARY LEGISLATION

(No subsidiary legislation)

*This Adaptation Order was N.L.N. 91 of 1955. The adaptations made thereby to the Act, which at that date was Cap. 231 of the 1948 Laws of Nigeria, have been made and incorporated with the Act as printed as Fed. Cap. 220, in the 1958 revision of the Laws of the Federation.

CHAPTER 133**WILD ANIMALS PRESERVATION LAW***Arrangement of Sections**Section*

1. Short title.
2. Power to suspend application.
3. Interpretation.
4. Appointment of Chief Warden and other officers.
5. Advisory Committee for Eastern Nigeria.
6. Animals not to be hunted, etc., without special licence.
7. Animals not to be hunted without a licence.
8. Game birds not to be hunted without a licence.
9. Eggs of protected birds not to be taken.
10. Power to vary Schedule.
11. Prohibition on having trophies without permission.
12. Trophies exported to be marked.
13. Exception to provisions of section 11.
14. Prohibition of sale, etc., of powdered rhinoceros horn.
15. Certificate in respect of ivory or rhinoceros horn lawfully obtained.
16. (1) Animal killed in self defence.
(2) Remains of animals found.
17. Onus of proof.
18. Restriction on killing fish.
19. Use of motor vehicle or aircraft for hunting prohibited.
20. Power to prohibit destructive methods of capture.
21. Power to declare a close season.
22. (1) Power to declare game reserve.
(2) Prohibition of hunting, etc., within reserve.
(3) Meaning of "animal" in the section.
23. (1) Licences and by whom issued.
(2) Fees for licences.
(3) Duration of licences.
(6) Licence not transferable.
(7) To be produced when called for.
24. Animals which may be killed,

Section

25. To whom resident non-Nigerian's licence may be granted.
26. Bird licence.
27. Special licences.
28. Power to authorize destruction of animals injuring food supplies or crops, or endangering life.
29. Special licence to kill elephant or rhinoceros.
30. Original licence to be endorsed.
31. When licence is not used.
32. Holder of an elephant or rhinoceros licence may obtain certificate of free disposal.
33. (1) Register to be kept by licence holders.
(3) Failure to keep or produce an offence.
34. Revocation and refusal of licence.
35. Licence does not authorize trespass.
36. (1) Where servants may assist.
(2) Licence may be forfeited.
37. Bird licence not required by citizen of Nigeria.
38. Authority to kill protected animals and birds.
39. Power to search and seize.
40. (1) Penalties.
(2) Forfeiture on conviction.
41. Payment of informers.
42. Summary trial.
43. Power to make regulations.

FIRST AND SECOND SCHEDULES

ANIMALS NOT TO BE HUNTED, ETC., WITHOUT SPECIAL LICENCE

THIRD SCHEDULE

GAME BIRDS NOT TO BE HUNTED WITHOUT A LICENCE

CHAPTER 133

L. of N. 1948
Cap. 232.
N.L.N. 131
of 1954.
E.R.N. 15
of 1956.

**A Law to provide for the Preservation of Wild Animals,
Birds and Fish.**

[30th May, 1916]

Short title.

1. This Law may be cited as the Wild Animals Preservation Law.

Wild Animals Preservation

2. The Governor may by order suspend the operation of this Law or of any of the provisions thereof, either as to the whole of Eastern Nigeria or as to any part thereof.

Power to suspend application.

3. In this Law—

Interpretation.

“animal” or “species” means all vertebrates and invertebrates (including non-edible fish), their nests, eggs, egg-shells, skins and plumage;

“game bird” means any bird mentioned in the Third Schedule;

Third Schedule.

“Government” means the Government of Eastern Nigeria;

“hunt” includes an attempt to kill or capture, and also an intentional causing of injury, or an attempt to cause injury, to an animal or bird;

“protected animal” means any of the animals mentioned in the First or Second Schedules;

First and Second Schedules.

“protected bird” means any of the birds mentioned in the First or Second Schedules;

“resident non-Nigerian” means a person other than a citizen of Nigeria who has satisfied the Provincial Secretary of the Province in which he resides that he is a *bona fide* resident in Nigeria;

“trophy” means any protected animal dead or alive or anything part of or produced from any such animal when dead or any protected bird, or the eggs, egg-shells, nests or plumage of any such bird, but does not include any trophy or part of a trophy which by a process of *bona fide* manufacture has lost its original identity;

“visitor” means a person who visits Eastern Nigeria wholly or partly for sporting purposes not being a public officer or a resident non-Nigerian or a citizen of Nigeria.

4. (1) For the purpose of this Law the Public Service Commission may appoint a Chief Warden, Wardens and such other officers and employees as may be considered necessary.

Appointment of Chief Warden and other officers.

(2) There shall be paid to any person appointed under this section such remuneration and allowances (if any) as the Public Service Commission shall determine.

*These appointments vary from time to time and are not printed in the subsidiary legislation of this Law; that current on the 1st July, 1962, being that published in E.R.L.N. 143 of 1960.

Advisory
Committee
for Eastern
Nigeria.

5. (1) So soon as may be there shall be established an advisory committee for Eastern Nigeria which shall be known as the Wild Animals Preservation Advisory Committee.

(2) It shall be the duty of the Committee to advise and to make recommendations to the Minister on all matters and questions relating to the animals of Eastern Nigeria.

(3) The Committee shall consist of a Chairman, who shall be the Chief Warden and such number of other members not exceeding eight in number as may be determined by the Minister.

(4) There shall be paid to the members of the Advisory Committee such remuneration and allowances (if any) as the Minister shall determine.

Animals not
to be hunted,
etc, without
special
licence.
First and
Second
Schedules.

6. No person shall hunt, kill or capture—

(a) any of the animals or birds mentioned in the First Schedule;

(b) any of the animals mentioned in the First or Second Schedules if the animal be (a) immature or (b) a female accompanied by her young; or

(c) any female antelope,
unless he is authorized by a special licence or other authority under this Law.

Penalty: a fine of one hundred pounds, or, if the offence relates to more animals than two, a fine of fifty pounds in respect of each animal, or in default, in either case, imprisonment for six months:

Provided that in the case of an offence under paragraph (c) if the offender shall satisfy the court that he committed the offence unintentionally, he shall be liable to a fine of one pound for a first offence, and of five pounds for any subsequent offence.

Animals not
to be hunted
without a
licence.
Second
Schedule.

7. No person, unless he is authorized under this Law, shall hunt, kill or capture any animal or bird mentioned in the Second Schedule.

Penalty: a fine of fifty pounds, or, if the offence relates to more animals than two, a fine of twenty-five pounds in respect of each animal, or in default, in either case, imprisonment for three months.

Wild Animals Preservation

8. No person, unless he is authorized under this Law, shall hunt, kill or capture any of the birds mentioned in the Third Schedule:

Game birds not to be hunted without a licence. Third Schedule. Fed. No. 7 of 1958.

Provided that any person who is granted a licence to use a shot gun under the provisions of the Firearms Act, 1958, may hunt and kill such birds with such shot gun without further authorization under the provisions of this Law.

Penalty: a fine of five pounds.

9. No person, unless he is authorized under this Law, shall take the egg of a protected bird except the bird is kept in a domesticated state.

Eggs of protected birds not to be taken.

10. The Minister may, either in respect of the whole Region or any province, district or other area thereof, by regulations—

Power to vary Schedule.

- (a) remove any animal or bird from any of the Schedules;
- (b) declare that the name of any species, variety or sex of animal or bird not mentioned in any Schedule, shall be added to a particular Schedule.
- (c) declare that the name of any species, variety or sex of animal or bird in one Schedule shall be transferred to another Schedule;
- (d) prescribe or alter the number of the animals or birds of any species for the time being included in the Second Schedule, which may be hunted, killed or captured under a licence;
- (e) prescribe, add to or alter the areas in which any of the animals or birds mentioned in the Schedules may not be hunted, killed or captured unless authorized under this Law.

11. (1) Save with the permission in writing of an administrative officer no person shall possess, purchase, sell or transfer any trophy or manufacture anything from any trophy, and such permission shall not be given unless the administrative officer is satisfied that the trophy has been lawfully obtained.

Prohibition on having trophies without permission.

*There exists also a similar prohibition against the import or export of trophies and things manufactured therefrom. See Fed. Cap. 221; section 9 thereof.

(2) Any person who commits a breach of the provisions of this section shall be liable to a fine of twenty-five pounds or in default to imprisonment with or without hard labour for three months and in addition to the forfeiture of the trophy in respect of which he has been convicted.

Trophies
exported to
be marked.

12. (1) Every trophy, consisting of ivory or rhinoceros horn, exported in accordance with the provisions of section 11 of this Law shall be identified by marks which shall be recorded in the export certificate, together with the weight of the trophy.

(2) Every other trophy exported shall, if possible, be similarly marked and such marks shall be recorded in the export certificate.

(3) In case it shall not be possible to mark any such trophy it shall be described in the export certificate so as to identify it with as much certainty as possible.

Exception to
provisions of
section 11.
*

13. Nothing in section 11 shall be deemed to prohibit—

- (a) the possession, sale or purchase of any animal, bird or thing which has been forfeited to or is the property of the Government, and which has been sold by the order of the Minister; or
- (b) the sale of any animal, bird or thing, other than an animal, bird or thing liable to forfeiture under this Law, forming part of the estate of a deceased person, if sold by the personal representative of the deceased person;
- (c) the sale or purchase by a citizen of Nigeria of the flesh of any protected animal or bird which has been killed under a licence or permit.

Prohibition
of sale, etc.,
of powdered
rhinoceros
horn.
**

14. No person shall possess, sell, purchase or transfer any powdered rhinoceros horn.

Certificate
in respect
of ivory or
rhinoceros
horn lawfully
obtained.

15. (1) Any person in possession of ivory or rhinoceros horn lawfully obtained may obtain from a person authorized to grant licences under section 23 a permit to dispose freely of such ivory or horn.

*There is a corresponding exception as to the export of these animals, birds or things. See Fed. Cap. 221, section 9.

**The export is likewise prohibited. See Fed. Cap. 221, section 12.

Wild Animals Preservation

(2) Such permit shall be known as a Free Disposal Permit and shall be in such form as may be prescribed.

(3) Any ivory or rhinoceros horn in respect of which such permit has not been obtained shall be deemed to have been obtained in contravention of this Law.

16. (1) Notwithstanding anything in this Law contained, no person shall be deemed to have committed an offence against this Law by reason of his having killed or injured any animal or bird in defence of himself or any other person, but he shall report such occurrence without delay to an administrative officer, and when the animal killed is an elephant or rhinoceros shall cause the tusks or horn to be taken to a Government station and handed over to an administrative officer.

Animal
killed in self
defence.

(2) When the carcass or remains of any protected animal or any protected bird shall be found, the head, horns, tusks, and feathers of such animal or bird shall be the property of the Government:

Remains of
animals
found.

Provided that the Minister may—

- (a) waive this right in any case as he may deem fit;
- (b) direct the payment to any person of such compensation as shall cover the cost of the transport of any ivory or rhinoceros horn to the nearest Government station;
- (c) direct the payment of rewards for the finding of ivory or rhinoceros horn.

17. Whenever a person shall be charged with the offence of being in possession of or selling or transferring or exporting or attempting to export any ivory or rhinoceros horn obtained in contravention of this Law or of any Ordinance repealed by this Law it shall be sufficient if the summons or charge shall allege that the ivory or horn was obtained in contravention of the law, without specifying the law, and the onus shall then be on the person accused to produce satisfactory proof that the ivory or horn was lawfully obtained:

Onus of
proof.

Provided that if the person accused shall fail to produce such proof but there shall not be sufficient evidence to prove that such person knew or ought to have known that the ivory or horn was obtained in contravention of the law, the ivory or horn shall be forfeited, but the person accused shall not be liable to either a fine or imprisonment.

Restriction
on killing
fish.

18. No person shall use any poison or, without a licence from the Minister, any dynamite or other explosive for the killing or taking of any fish.

Use of motor
vehicle or
aircraft for
hunting
prohibited.

19. No person shall use any motor vehicle or aircraft (which term shall include aircraft lighter than air) either for the purpose of hunting, killing or capturing any animal or bird or for the purpose of driving, stampeding or disturbing any such animal or bird for any purpose whatsoever including that of filming or photographing:

Provided that nothing in this section shall affect the right of occupiers in respect of land occupied by them, or of the Government or the Government of the Federation in respect of land utilized for public purposes, to use motor vehicles or aircraft for the purpose of driving away, capturing or destroying any animal or bird found on such land where such ejection, capture or destruction is not otherwise contrary to law.

Power to
prohibit
destructive
methods of
capture.

20. Where it appears to the Minister that any method used for killing or capturing animals, birds or fish is unduly destructive, he may by regulations prohibit such method, or prescribe the conditions under which any method may be used; and if any person uses any method so prohibited or uses any method otherwise than according to the conditions so prescribed, he shall be liable to the same penalties as for a breach of this Law.

Power to
declare a
close season.

21. (1) The Minister may by regulations declare any area to be closed for any specified period in respect of the killing or capturing of all or any species of protected animals or protected birds or game birds.

(2) Any person who shall hunt, kill or capture or attempt to kill or capture, or who shall have in his possession any animal or bird killed or captured in contravention of any such regulations shall be liable to a fine of fifty pounds.

Game Reserves

Power to
declare game
reserves.

22. (1) The Minister may by regulations declare any area to be a game reserve, and may define or alter the limits of any game reserve.

Prohibition
of hunting
etc., within
reserve.

(2) Save as provided in this Law, any person who hunts, kills or captures any animal in a game reserve, or is found within a game reserve in circumstances showing that he was unlawfully in pursuit of any animal shall be guilty of a breach of this Law.

Wild Animals Preservation

(3) For the purpose of this section and of the provisions of this Law relating to reserves the term "animal" means mammals and birds, but does not include any animal kept in a domesticated state.

Meaning of "animal" in the section.

23. (1) The following licences may be granted by the Minister or by such person as may be authorized by him—

Licences and by whom issued.

- (a) a resident non-Nigerian's licence;
- (b) a visitor's licence;
- (c) a fortnightly licence;
- (d) a bird licence.

(2) The following fees shall be payable for licences, that is to say, for a resident non-Nigerian's licence, two pounds; for a visitor's licence, ten pounds; for a fortnightly licence, ten shillings; for a bird licence, five shillings.

Fees for licences.

(3) A resident non-Nigerian's licence and a visitor's licence shall be in force for one year from the date of issue, but, subject to the regulations may be renewed from month to month on payment of the prescribed fee.

Duration of licences.

(4) A fortnightly licence shall be in force for fourteen days from the date of issue of such licence but not more than one such licence shall be issued to the same person within a period of twelve months.

(5) A bird licence shall be in force for one year from the date of issue.

(6) No licence granted under this Law can be transferred.

Licence not transferable.

(7) Every licence must be produced when called for by any administrative, police or forest officer, and any licence holder who fails, without reasonable cause, to produce it when called for shall be guilty of an offence against this Law.

To be produced when called for.

24. (1) A resident non-Nigerian's licence and a visitor's licence respectively authorize the holder to hunt, kill or capture animals and birds of any of the species mentioned in the Second or Third Schedules but, unless the licence otherwise provides, not more than the number of each species mentioned in the Second Schedule fixed by the second column of that Schedule.

Animals which may be killed.

Second and Third Schedules.

(2) A fortnightly licence authorizes the holder to hunt, kill or capture animals and birds of any of the species included

in the Second or Third Schedules, provided that the total number of protected animals and protected birds killed or captured under such licence does not exceed ten, and that the number of any species mentioned in the Second Schedule does not exceed the number fixed in the second column of that Schedule.

(3) The holder of a resident non-Nigerian's licence or of a visitor's licence may by the licence be authorized to kill or capture additional animals or birds of any species included in the Second Schedule on payment of such additional fees as may be prescribed by the Minister.

To whom
resident non-
Nigerian's
licence may
be granted.

25. A resident non-Nigerian's licence shall not be granted except to a public officer of Nigeria or to a resident non-Nigerian, or, with the consent of the Minister, to any Nigerian who is able to keep the register required by section 33.

Bird licence
Third
Schedule.

26. A bird licence authorizes the holder thereof to hunt, kill and capture birds of the species mentioned in the Third Schedule.

Special
licences.

27. (1) The Minister may for scientific or administrative purposes in exceptional circumstances grant a special licence to any person authorizing him to hunt, kill or capture—

- (a) any specified species of animal or bird in any area declared to be a game reserve;
- (b) any specified species of protected animals (other than elephant or rhinoceros) mentioned in the First Schedule, in any area other than an area declared to be a game reserve.

(2) Such special licences shall be subject to such conditions as the Minister may by endorsement on the licence impose.

Power to
authorize
destruction
of animals
injuring food
supplies or
crops, or
endangering
life.

28. It shall be shown to the satisfaction of a Provincial Secretary of a province, or any other officer appointed by the Minister in this behalf, that it is necessary, in order to protect the lives of any persons or to prevent the destruction of crops or of domestic stock or in time of famine or for any requirement relating to public health or public order, that any protected animal or protected bird shall be destroyed, the Provincial Secretary or other officer as aforesaid may authorize any person to kill such animals or birds for such period and by such methods (even though prohibited by the provisions of

Wild Animals Preservation

this Law or the regulations made thereunder) and subject to such condition as he may direct with due regard to the prevention of any unnecessary destruction of protected animals or birds:

Provided that such authority shall not be granted in the case of animals or birds in a game reserve.

29. (1) Any person authorized to grant licences under section 23 may, on the application of the holder of a resident non-Nigerian's licence or a visitor's licence, grant a special licence authorizing such person to hunt, kill or capture either one or two elephants or rhinoceros as the applicant shall require and as shall be specified therein. Such special licence shall not authorize the holder to hunt, kill or capture any elephant having tusks weighing less than twenty-two pounds each.

Special
licence to kill
elephant or
rhinoceros.

(2) There shall be paid for such special licence the fees following—

For a licence to hunt, kill or capture one elephant or rhinoceros, ten pounds.

For a licence to hunt, kill or capture two elephants or rhinoceros, thirty pounds.

(3) Every licence granted under this section shall expire on the same date as the resident non-Nigerian's or visitor's licence held at the time of the granting of such special licence by the person to whom the same shall be granted and only one such special licence shall be granted to such person during the period of any such resident non-Nigerian's or visitor's licence:

Provided, however, if such person shall have taken out a special licence authorizing him to hunt, kill or capture one elephant or rhinoceros only, he may, on payment of a further fee of twenty pounds, be granted a licence authorizing him to hunt, kill or capture a second elephant or rhinoceros.

30. Every person who shall obtain a special licence under the last preceding section shall produce to the officer granting the same his resident non-Nigerian's or visitor's licence and such officer shall endorse thereon the fact of such special licence having been granted and the nature of the licence.

Original
licence to be
endorsed.

When licence is not used.

31. When the holder of a resident non-Nigerian's or visitor's licence or a special elephant or rhinoceros licence has been prevented by circumstances beyond his own control from making any use of such licence, he shall be granted on application a similar licence free of charge at any time within five years from the date of his unused licence.

Holder of an elephant or rhinoceros licence may obtain certificate of free disposal.

32. The holder of a special elephant or rhinoceros licence shall, on presentation to any person authorized to issue licences under section 23 of the tusk or horn of any elephant or rhinoceros killed by him under the authority of his licence, be entitled to receive a Free Disposal Permit in respect of each such tusk or horn, and every tusk or horn disposed of by him shall be accompanied by the said permit.

Register to be kept by licence holders.

33. (1) Every holder of a licence, other than a bird licence, shall keep a register in the prescribed form and shall enter therein, as soon as conveniently may be after killing or capturing any protected animal or protected bird, the species and number of the animals and birds killed or captured, and shall, whenever required by an administrative officer, produce such register for inspection, and shall, if required by the administrative officer certify in writing over his signature that the register is a complete record of all protected animals and protected birds killed or captured during the currency of his licence.

(2) Every holder of a licence shall, within fifteen days after his licence has expired, send the register to the Minister and shall therein certify as in the preceding subsection provided.

Failure to keep or produce an offence.

(3) If any holder of a licence fails to keep his register truly, or to produce, send or certify it as required, he shall be liable to a fine of fifty pounds.

Revocation and refusal of licences.

34. The Minister may—

- (a) revoke any licence when he is satisfied that the holder has been guilty of a breach of any of the provisions of this Law or of the conditions of his licence, or has connived with any other person in any such breach, or that in any matters in relation thereto he has acted otherwise than in good faith;
- (b) refuse a licence or direct that a licence shall be refused to any applicant; or

Wild Animals Preservation

- (c) require any applicant for a licence to give security, by bond or by deposit, for such sum, not exceeding one hundred and fifty pounds, as the Minister may determine, for his compliance with this Law and the condition of his licence.

35. No licence under this Law shall be deemed to authorize the holder thereof to enter upon private land for the purpose of hunting without the consent of the owner or occupier.

Licence does not authorize trespass.

36. (1) Persons in the employment of holders of licences may, without licence, assist such holders of licences in hunting animals, but shall not use firearms, bows or arrows.

Where servants may assist.

(2) In any case of a breach of the provisions of this section the licence holder shall be liable to a fine of fifty pounds and his licence may be forfeited.

Licence may be forfeited.

Permits to hunt and kill Animals and Birds

37. Subject to the provisions of any regulations under section 21 any citizen of Nigeria may hunt, kill or capture without a licence any game birds, provided that he does not use for such purpose any firearm other than a flint-lock gun.

Bird licence not required by citizen of Nigeria.

38. (1) A Provincial Secretary or any other officer appointed by the Minister in this behalf may grant a permit to any citizen of Nigeria, or group of them, to hunt, kill or capture any animal or bird mentioned in the Second Schedule or, with the sanction of the Minister, any animal or bird mentioned in the First Schedule. Such permit shall specify the species and the number of each species which may be killed or captured and may specify the mode of hunting and the area over which and the seasons during which the citizen of Nigeria or group of them may hunt in pursuance of such permit.

Authority to kill protected animals and birds. First and Second Schedules.

(2) No permit shall authorize the killing of—

(a) a female antelope; or

(b) any protected animal, if the animal be—

(i) immature; or

(ii) a female accompanied by its young.

(3) Whenever a permit shall authorize the hunting, killing and capturing of an elephant or rhinoceros the following conditions shall apply—

(a) no female elephant or rhinoceros, or elephant having

tusks weighing less than twenty-two pounds each shall be hunted, killed or captured;

- (b) the citizen of Nigeria or the head of the group, to whom the permit is granted, shall report without delay the killing of any elephant or rhinoceros to the administrative officer in charge of the district and shall deposit the tusks or horn with that officer;
- (c) the officer with whom any tusks are deposited under the last preceding paragraph shall cause the same to be weighed, and if each tusk weighs not less than twenty-two pounds and the person depositing the same shall pay, by way of royalty to the Government, two shillings for every pound weight of ivory, the officer shall permit such person to retain the tusks, but otherwise the tusks shall be the property of the Government and shall be dealt with as the Minister may direct;
- (d) any rhinoceros horn deposited under the provisions of paragraph (b) shall be returned to the person depositing the same.

(4) Any person authorized to grant a permit under this section may at any time cancel the same if he is satisfied that any person to whom the same has been granted has hunted, killed or captured any protected animal or bird which he was not authorized by the permit to hunt, kill and capture, or has committed a breach of any of the conditions of the permit.

Legal Procedure

Power to
search and
seize

39. Where any administrative, police or forest officer thinks it expedient for the purposes of verifying the register of a licence holder, or suspects that any person has been guilty of a breach of any of the provisions of this Law or of the conditions of his licence or permit, he may inspect and search, or authorize any subordinate officer to inspect and search, any baggage, package, wagon, tent, building, or caravan belonging to or under the control of such person, or his agent, and if the officer finds any head, horn, tusk, skin, feather or other remains of any animal or bird appearing to have been killed, or any live animal or bird appearing to have been captured, in contravention of this Law, he shall seize and take the same before the magistrate to be dealt with according to law.

Wild Animals Preservation

40. (1) Any person who commits any breach of the provisions of this Law, or of the conditions of his licence or permit for which breach no special penalty is prescribed, shall on conviction be liable to a fine of fifty pounds. Penalties.

(2) In all cases of conviction for any offence under this Law the heads, horns, tusks, skins or other remains of animals or birds found in the possession of the offender or his agent, shall be liable to forfeiture, unless it is proved to the satisfaction of the court that they were not obtained in contravention of this Law, and all live animals or birds captured in contravention of this Law shall be liable to forfeiture. Forfeiture on conviction.

(3) If the person convicted is the holder of a licence his licence may be revoked by the court. Revocation of licences by court.

41. Where in any proceeding under this Law any fine is imposed, the court may award any sum not exceeding half the total fine recovered to any informer. Payment of informers.

42. All offences under this Law may be tried summarily. Summary trial.

General Provisions

43. The Minister may make regulations in respect of the following matters— Power to make regulations.

- (a) the application for, issue and form of licences;
- (b) requiring the holder of any special licence granted under section 27 or section 29 before hunting under such licence in any province to submit the licence for endorsement by the Provincial Secretary of the province;
- (c) the issue of a duplicate licence in the case of a licence being lost or destroyed and prescribing the fee to be paid;
- (d) providing for the issue of licences to ostrich farmers, authorizing the collection of the eggs of wild ostriches and the capture of young ostriches, and prescribing the conditions to be attached to such licences and the fees to be paid therefor;

*In addition to the regulations made under the provisions of this section, there are also regulations about the export and import of protected animals, their skins, ivory and trophies, and protected birds, eggs and feathers (and so on). These are matters of subsidiary legislation made under the provisions of section 42 (2) of the Wild Animals Preservation Act (Fed. Cap. 221).

-
- (e) prohibiting or regulating the capture or killing of fish or of any specified kind of fish either generally or in respect of any specified waters;
 - (f) prohibiting the use of any specified kind of net or instrument for the killing or capture of fish;
 - (g) for the protection of spawning beds;
 - (h) prohibiting the firing at animals or birds from any steamship on Regional waters;
 - (i) prohibiting the use of poison for the purpose of killing any animal or bird;
 - (j) prohibiting the making or use of any game pits, nets or traps for the purpose of killing or capturing any animal or bird;
 - (k) prohibiting the use of fire for the purpose of hunting, killing or capturing any animal or bird;
 - (l) providing for the marking with identifying marks of elephant tusks and rhinoceros horns;
 - (m) prohibiting the possession of any specified kind of arms, lamp or any other article used or likely to be used or capable of being used in hunting;
 - (n) prohibiting the carrying of any specified kinds of arms, lamps, or any other articles while hunting; and
 - (o) generally for the carrying out of the purposes of this Law.

FIRST SCHEDULE

Animals and birds which may not be hunted, killed or captured (except under a special licence)—

Aard Vaak.
Aard Wolf.
Abyssinian Ibex or Wali.
Abyssinian Wolf.
Banded Duiker.
Barbary Stag.
Bongo.
Chimpanzee.
Crested Bush Rat.
Eland.
Elephant.
Fossa.

*Wild Animals Preservation*FIRST SCHEDULE — *continued*

Giant Sable Antelope.
Giraffe.
Gorilla.
Hippopotamus—when found in or on the banks of—
 (a) the Cross River between Obubra and Ikom;
 (b) the rivers and creeks within a radius of fifteen miles of Aboh
 and within Eastern Nigeria.
Madagascar Lemur.
Manatee.
Mountain Nyala or Buxton's Bush Buck.
Mountain Zebra.
Northern Hartebeest or Bubal.
Nubian Ibex or Bedin.
Nyala.
Okapi.
Otter Shrew.
Pangolin.
Rhinoceros.
Water Shevrotain.
Wild Ass.
Yellow-backed Duiker.
Abyssinian Ground Chough.
African Broadbill.
African Peacock.
African Yellow-billed Swallow.
Bald-headed Ibis or Waldrapp.
Buff-racked Heron.
Egret.
European White Stork.
Flightless Rail of Inaccessible Island.
Marabou Stork.
Northern Secretary Bird.
Ostrich.
Owl.
Rhinoceros Bird.
Secretary Bird.
Vulture.
Whale-headed Stork or Shoe-bill.
White-breasted Guinea Fowl.
Fishes of the Grottoes of Thysville.

SECOND SCHEDULE

Animals and birds which may be hunted, killed or captured under a visitor's or resident non-Nigerian's licence—

Species	Number which may be killed or captured
Addra Gazelle (<i>Rufi collis</i>)	2
Beira	1
Bontebok	1
Buffalo	4
*Buffon's Kob (<i>Cobus cob</i>)	8
*Bush Buck or Harnessed Antelope	4
Colobus Monkey	2
Dama Gazelle	2
Dibatag or Clarke's Gazelle	1
Dorcas	2
Duiker (all species except the Yellow-backed and Banded Duiker)	20
*Hartebeest	4
Hippopotamus (except where included in the First Schedule)	2
Impala	1
Klipspringer	3
*Oribi	8
Oryx (white)	2
*Reed Buck	4
*Roan Antelope	4
*Senegal Hartebeest	4
Senegal or Red-fronted Gazelle (<i>Rufi frons</i>)	4
Situtunga	4
Wart Hog	4
*Water Buck	4
White-tailed Gnu	1

In the case of the animals marked with a * above the Minister may allow a larger number, not exceeding double that stated, to be killed in certain special districts where the particular species is abundant, and the licence will be endorsed accordingly.

Abyssinian Ground Hornbill	1
Crowned Crane	2
Greater Bustard	2
Greater Kudu	1

THIRD SCHEDULE

· GAME BIRDS

Duck, Widgeon, Mallard.

Floricans.

Francolins.

Geese.

Guinea Fowl.

Lesser Bustards.

Partridges.

Quail.

Red-eyed and Green Pigeons.

Rock Fowl.

Sand Grouse.

Snipe.

Teal.

CHAPTER 133
WILD ANIMALS PRESERVATION LAW
SUBSIDIARY LEGISLATION

Regulation
6 of 1934.

**Wild Animals Preservation (Prohibition of Dazzle)
Regulations**

made under section 18

1. These regulations may be called the Wild Animals Preservation (Prohibition of Dazzle) Regulations.

2. The killing or capturing of animals or birds by using a bright lamp or other portable light for the purpose of dazzling them or otherwise rendering them more easy prey, is hereby prohibited.

Penalty.—A fine of fifty pounds.

Regulations
12 of 1916,
47 of 1918,
34 of 1919,
8 of 1925,
35 of 1928,
7 of 1931.

Wild Animals Preservation (Licences) Regulations

made under section 43

Citation.

1. These regulations may be cited as the Wild Animals (Licences) Regulations.

Licences

Grant of
licences.

2. Licences under section 23 of the Law may be issued by any administrative officer, magistrate or officer of the Forestry Division of the Ministry of Agriculture and shall be in the forms set out in the First Schedule.

First
Schedule.

Renewal
of licence.

3. (1) A resident non-Nigerian's licence or a visitor's licence may be renewed on the payment of the fees following—

Form A.

A resident non-Nigerian's licence—
Monthly renewal, five shillings.

Form B.

A visitor's licence—
Monthly renewal, one pound five shillings.

(2) Such renewal may be made on application to any officer mentioned in the preceding regulation who, on the receipt of the fee prescribed, shall endorse the fact of such renewal on the original licence.

Licences Regulations

(3) A renewal licence does not entitle the holder to kill or capture animals or birds in excess of the number authorized by the original licence.

4. Any person whose licence has been lost or destroyed may, on application to any officer authorized to issue the licence, and on satisfying such officer that the licence has been lost or destroyed, be granted a duplicate licence for the remainder of the term of the original licence on payment of a fee of five shillings.

Lost licence.

5. A licence authorizing the holder thereof to hunt, kill or capture elephant shall be in the form set out in the First Schedule.

Elephant licence. Form E.

6. (1) Any administrative officer may, on the application of the holder of a resident non-Nigerian's licence or a visitor's licence, grant a special licence authorizing such person to kill or capture one rhinoceros and one eland. Such special licence shall not authorize the holder to hunt, kill or capture an immature rhinoceros or eland, or a female rhinoceros or eland accompanied by her young.

Special licence to kill rhinoceros or eland.

(2) Every such licence shall be in the form set out in the First Schedule, and there shall be paid therefor a fee of two pounds, or, if granted in respect of both rhinoceros and eland, four pounds.

Form F.

(3) The person who obtains a special licence under this regulation shall produce to the officer granting the same his resident non-Nigerian's or visitor's licence and such officer shall endorse thereon the fact of such special licence having been granted.

(4) Every licence granted under this regulation shall expire on the same date as the resident non-Nigerian's or visitor's licence held at the time of the granting of such special licence by the person to whom such special licence is granted, and only one licence to kill a rhinoceros and one licence to kill an eland shall be granted to such person during the period of such resident non-Nigerian's or visitor's licence.

7. The holder of any special licence granted under sections 27 or 29 of the Law shall before hunting under such licence in any province submit the licence for endorsement by the Provincial Secretary.

Endorsement of special licence by Provincial Secretary in which holder proposes to hunt.

Game Register

Form of
register to
be kept.
Second
Schedule.

8. The register to be kept by licence holders as required by section 33 of the Law shall be in the form set out in the Second Schedule.

Marking of Ivory

Marking of
Government
ivory.

9. (1) The administrative officer when permitting any citizen of Nigeria to retain a tusk deposited with him in pursuance of the provisions of section 38 (3) of the Law, and any officer or person selling any tusk on behalf of the Government shall cause the tusk to be marked with the letters N.G., and the date, and the name of the person retaining or purchasing the tusk, and of the station or place at which the tusk has been so marked.

Penalty.

(2) Any person who shall, without proper authority, mark or cause to be marked any tusk or part of a tusk with such mark as aforesaid shall be liable to a fine of fifty pounds and the tusk or part of a tusk in respect of which the offence has been committed shall be forfeited to the Government.

Acts prohibited

10. Any person who shall—

- (a) use any poison for the purpose of killing any protected animal;
- (b) fire at any protected animal or protected bird or game bird from any steamer in motion;
- (c) make or use any game pit, net or trap for the purpose of killing or capturing any protected animal or protected bird; or

(d) hunt any protected animal with dogs;
shall be liable to a fine of fifty pounds.

Free disposal
permit.
Third
Schedule.

11. A free disposal permit under section 15 of the Law shall be in the form in the Third Schedule.

Licences Regulations

FIRST SCHEDULE

EASTERN NIGERIA

THE WILD ANIMALS PRESERVATION LAW

FORM A

Reg. 2.

Resident non-Nigerian's Licence

Date....., 19..... Licence No.....

Issued at.....

Issued by.....

Fee paid: £2.

Licence is hereby granted to.....of.....
to hunt, kill or capture animals and birds of any of the species mentioned in
the Second or Third Schedules to the Wild Animals Preservation Law
for twelve months from this date, subject to the provisions of the above Law.

.....
(Signature of Officer issuing the Licence)

This licence is renewed for.....months for which renewal a fee
of.....has been paid.

.....
(Signature of Officer receiving the renewal fee)

Note.—The Second and Third Schedules and sections 23 (7) and 33 of
the Law to be printed on the back of the licence.

EASTERN NIGERIA

THE WILD ANIMALS PRESERVATION LAW

FORM B

Reg. 2.

Visitor's Licence

Date....., 19..... Licence No.....

Issued at.....

Issued by.....

Fee paid: £10.

Licence is hereby granted to.....of.....
to hunt, kill or capture animals and birds of any of the species mentioned
in the Second or Third Schedules to the Wild Animals Preservation
Law for twelve months from this date, subject to the provisions of the above
Law.

.....
(Signature of Officer issuing the Licence)

Wild Animals Preservation

FIRST SCHEDULE—continued

FORM B—continued

This licence is renewed for.....months for which renewal a fee of.....has been paid.

(Signature of Officer receiving the renewal fee)

Note.—The Second and Third Schedules and sections 23 (7) and 33 of the Law to be printed on the back of the licence.

EASTERN NIGERIA

THE WILD ANIMALS PRESERVATION LAW

FORM C

Fortnightly Licence

Reg. 2.

Date....., 19..... Licence No.....
Issued at.....
Issued by.....
Fee paid: 10s.

Licence is hereby granted to.....of.....
to hunt, kill and capture, subject to the provisions of the Wild Animals
Preservation Law for a period of fourteen days from this date, animals
or birds of any of the species mentioned in the Second or Third Schedules
to the said Law provided that the total number of animals and birds
of the species mentioned in the said Second Schedule killed or captured
under this licence shall not exceed ten and the number of any species
mentioned in the said Schedule shall not exceed the number fixed by the
second column of that Schedule.

(Signature of Officer issuing the Licence)

Note.—The Second and Third Schedules and sections 23 (7) and 33 of the
Law to be printed on the back of the licence.

EASTERN NIGERIA

THE WILD ANIMALS PRESERVATION LAW

FORM D

Bird Licence

Reg. 2.

Date....., 19..... Licence No.....
Issued at.....
Issued by.....
Fee paid: 5s.

Licence is hereby granted to.....of.....
to hunt, kill and capture, subject to the provisions of the Wild Animals

*Licences Regulations*FIRST SCHEDULE — *continued*FORM D — *continued*

Preservation Law for a period of one year from this date, birds of any of the species mentioned in the Third Schedule to the said Law.

.....
(Signature of Officer issuing the Licence)

Note.—The Third Schedule and section 23 (7) of the Law to be printed on the back of the licence.

EASTERN NIGERIA

THE WILD ANIMALS PRESERVATION LAW

FORM E

Reg. 5.

Special Licence to kill Elephant

Date....., 19..... No.....

Issued at.....

Issued by.....

Fee paid: £10 (£20 or £30 as the case may be).

Licence is hereby granted to..... of.....
who is the holder of a (*state whether the licence is a resident non-Nigerian's or visitor's licence*) licence issued at..... on the.....
day of....., 19....., to hunt, kill or capture one (*or two*)
elephant subject to the provisions of the Wild Animals Preservation Law.

This licence will expire on the date of the expiration of the (*state nature of licence*) licence above mentioned.

.....
(Signature of Officer)

Note.—Section 29 of the Law to be printed on the back of the licence.

EASTERN NIGERIA

THE WILD ANIMALS PRESERVATION LAW

FORM F

Reg. 7.

Special Licence to kill a Rhinoceros or Eland

Date....., 19..... No.....

Issued at.....

Fee paid: £2 (*or* £4).

FIRST SCHEDULE—*continued*

FORM F—*continued*

Licence is hereby granted to.....of.....
 who is the holder of a (*state whether the licence is a resident non-Nigerian's
 or visitor's licence*) licence issued at.....on the.....
 day of....., 19....., to hunt and kill one rhinoceros (and/or
 one eland) subject to the provisions of the Wild Animals Preservation Law.

This licence will expire on the date of the expiration of the (*state nature
 of licence*) licence above mentioned.

.....
 (*Signature of Officer*)

This licence does not authorize the hunting, killing or capturing of an
 immature rhinoceros or eland or a female rhinoceros or eland accompanied
 by her young.

Reg. 7.

SECOND SCHEDULE

GAME REGISTER

List of protected Animals and Birds killed or captured

Name of holder.....

Description and number of licence.....

Date of issue

Where issued.....

Date when obtained	Place where obtained	Species	Sex	Remarks

I hereby certify that the above is a complete and correct record of all
 protected animals and protected birds killed or captured by me during the
 currency of the above-mentioned licence.

.....
 (*Signed*)

Licences Regulations

THIRD SCHEDULE

EASTERN NIGERIA

THE WILD ANIMALS PRESERVATION LAW

Free Disposal Permit

Reg. 11.

Permission is hereby granted to.....

of.....

to dispose freely of the following ivory
rhinoceros horn,

viz.:—
(describe the ivory/rhinoceros horn)

DATED this.....day of....., 19.....

.....
(Signature of person granting the permit)

Declaration of Game Reserve Regulations

Regulations
12 of 1916,
28 of 1922.

made under section 22

The area described in the Schedule hereto is declared to be game reserve.

SCHEDULE

All the tract of land which lies within the boundaries formed by the River Niger, the Anambra River and a demarcated boundary running east and west from the junction of the Anan Creek with the Niger River to the Anambra River.

Wild Animals Preservation (Traps) Regulations

Regulations
78 of 1944,
19 of 1946.

made under section 43

1. These regulations may be cited as the Wild Animals Preservation (Traps) Regulations. Citation.

Definition.

2. In these regulations—

“trap” means any mechanical contrivance having jaws, such jaws having a space between them of more than four inches and such contrivance being designed, calculated or intended to be used or capable of being used to capture, injure or destroy any animal or bird.

Making or
use of trap
prohibited.

3. Any person who shall make, or shall expose or offer for sale, or shall have in his control or possession or shall use any trap shall be guilty of an offence.

Penalty.

4. Any person guilty of an offence against these regulations shall on conviction thereof be liable to a fine not exceeding twenty-five pounds or to imprisonment for a period not exceeding two months or to both such fine and imprisonment.

CHAPTER 134

YELLOW FEVER AND INFECTIOUS DISEASES
(IMMUNIZATION) LAW

Arrangement of Sections

Section

1. Short title.
2. Interpretation.
3. Liability to be inoculated.
4. Inoculation of adults.
5. Inoculation of children.
6. Power to make rules.
7. Health officers to keep records of examinations and inoculations.
8. Certificate to be given.
9. Examination and inoculation to be free.
10. Penalty.
11. Power to make rules.
12. Provision for application of Law to any infectious disease.

CHAPTER 134

A Law to make Provision for the compulsory Immunization of persons against Yellow Fever and other Infectious Diseases.

L. of N. 1948
Cap. 236.
N. 16 of
1950.
(Schedule)
N.L.N. 131
of 1954.

[19th April, 1945]

1. This Law may be cited as the Yellow Fever and Infectious Diseases (Immunization) Law. Short title.

2. In this Law—

Interpreta-
tion.

“adult” means a person who is or who appears to be of the age of fourteen years or over;

“child” means a person who is or who appears to be under the age of fourteen years;

“health officer” includes a medical officer of health, a medical officer, a sanitary inspector or other person acting under

the authority, whether general or special, of a medical officer of health whether any of such persons or officers is serving in the medical or health services of the Government or in the service of a local government council, and, when so authorized in writing by the Chief Medical Adviser, medical officers of the Nigerian military or naval forces and members of the Rockefeller Yellow Fever Research Institute;

“inoculation” includes reinoculation;

“parent” includes the guardian or any person having the care or custody of a child;

“prescribed area” means an area prescribed under the provisions of section 3 of this Law;

“temporary visit” means a stay of seven days or less.

Liability
to be
inoculated.

3. (1) The Minister may by order direct that all persons or any specified class or classes of persons being or coming within such area in Eastern Nigeria as may be prescribed in the order shall be liable to be inoculated against yellow fever.

(2) When any order is made under the foregoing provisions of this section, the provisions of this Law shall thereupon apply in relation to all persons, or the class or classes of persons, specified in the order.

Inoculation
of adults.

4. Every adult to whom an order made under the provisions of section 3 applies shall within seven days of the coming into force of such order or within seven days of entering into a prescribed area, save on a temporary visit, present himself to a health officer for examination and, if necessary, inoculation against yellow fever and shall subsequently attend at such time and at such place as the health officer may direct for the purposes of such examination and inoculation.

Inoculation
of children.

5. The parent of a child to whom an order made under the provisions of section 3 applies shall, if such child is of the age of eighteen months or over at the date on which the order comes into force or on which such child enters into a prescribed area, save on a temporary visit, within seven days of the happening of either event bring such child to a health officer for examination and, if necessary, inoculation against yellow fever and shall subsequently bring such child to such place and at such time as the health officer may direct for the purposes of such examination and inoculation.

Yellow Fever and Infectious Diseases (Immunization)

6. Without prejudice to the generality of section 4 or 5 the Minister may make rules to regulate the procedure whereby adults or children to whom an order under subsection (1) of section 3 applies shall present themselves or be brought for examination and, if necessary, inoculation.

Power to make rules.

7. Every health officer shall for the purposes of this Law keep such records as may be required by the Chief Medical Officer.

Health officers to keep records of examinations and inoculations.

8. A health officer shall on request by any person inoculated under the provisions of this Law issue to such person a certificate of inoculation showing the date and place of inoculation.

Certificate to be given.

9. No fee shall be payable in respect of any examinations or inoculation made or performed under the provisions of this Law.

Examination and inoculation to be free.

10. Any person who, without reasonable cause the burden of proving which shall be upon him, contravenes or fails to comply with the provisions of this Law or of any rule made thereunder shall be liable, on conviction, for a first offence to a fine of fifty pounds or to imprisonment for six months or to both such fine and imprisonment and on conviction for a second or subsequent offence to a fine of one hundred pounds or to imprisonment for one year or to both such fine and imprisonment.

Penalty.

11. The Minister may make rules generally for the carrying out of the provisions of this Law and in particular for—

Power to make rules.

- (a) prescribing the forms to be used for any purpose under this Law;
- (b) the duties and powers of any person engaged or employed in the administration of this Law;
- (c) the duties to be performed and the procedure to be adopted by a local government council either generally or in respect of any prescribed area;
- (d) the keeping and examination of books and other records in connexion with the administration of this Law;
- (e) exempting from the provisions of this Law any person or class or classes of persons;

CAP. 134]
Yellow Fever and Infectious Diseases (Immunization)

- (f) prescribing the standard of any serum or virus to be used for the purposes of inoculation;
- (g) prescribing the period on the expiration of which reinoculation may be required.

Provision for
application
of Law to any
infectious
disease.
(Cap. 103)

12. (1) If the Minister shall by order so declare, the provisions of this Law shall apply, *mutatis mutandis*, in relation to any disease specified in the order, being an infectious disease as defined in the Public Health Law, as they apply in relation to yellow fever.

(2) An order made under subsection (1) of this section shall be laid before the Legislative Houses of the Region at the next meeting thereof after the making of the order, and, if a resolution disapproving it is passed by any House before which the order has been laid, the order shall thereupon cease to have effect, but without prejudice to the validity of anything previously done by virtue of the order or to the making of a new order.



Application to Cholera Order

CHAPTER 134

YELLOW FEVER AND INFECTIOUS DISEASES
(IMMUNIZATION) LAWSUBSIDIARY LEGISLATION

Application to Cholera Order*made under section 12*Order in
Council 36
of 1947.

1. This Order in Council may be cited as the Yellow Fever and Infectious Diseases (Cholera) (Immunization) Order in Council. Citation.

2. The provisions of the Yellow Fever and Infectious Diseases (Immunization) Law shall apply to cholera. Application of Law to cholera.
