

DEPUTY SHERIFFS ACT
(Act No. 21 of 2024)

DEPUTY SHERIFFS (PROCEDURE FOR CIVIL
IMPRISONMENT) REGULATIONS, 2025
(Published on 12th March, 2025)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Writ of execution
3. Failure to pay debt
4. Attachment
5. Imprisonment for debt

SCHEDULE

IN EXERCISE of the powers conferred on the Minister of Justice and Correctional Services by section 64 of the Deputy Sheriffs Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Deputy Sheriffs (Procedure for Civil Imprisonment) Regulations, 2025. Citation

2. (1) Where a Sheriff, his or her deputy has made a return of *nulla bona* or not sufficient goods on a writ of execution, the judgment creditor may cause to be issued a summons commanding the judgment debtor to pay the amount of the judgment, and, unless he or she does so, to show cause at a time and place stated why an order for personal attachment should not be decreed against him or her. Writ of execution

(2) The summons shall be in Form 1 as set out in the Schedule with such variations as circumstances may require.

(3) A copy of the writ of execution as endorsed by the Sheriff, his or her deputy and a copy of the judgment shall be served on the judgment debtor together with the summons.

3. (1) Where the judgment debtor has not paid the amount due, the judgment creditor shall on the return day of the summons, or on any adjournment thereof, produce to the judge the original judgment and the original writ of execution with the return thereon or annexed thereto, and may thereafter move for judgment in terms of the summons; and thereafter the judgment debtor may show cause why a writ of personal attachment shall not issue and may be examined, cross-examined and re-examined. Failure to pay debt

(2) The judge may adjourn the hearing for further evidence or refuse or grant an order for the personal attachment and imprisonment of the judgment debtor, or grant an order and suspend its execution on such terms as he or she deems fit, and may in his or her order limit the term of the imprisonment and make such order as to costs as the justice of the case requires.

(3) Notwithstanding subregulation (2), where the debtor proves to the satisfaction of the court that he or she does not have the means to pay the debt, the court shall not grant civil imprisonment.

Attachment

4. (1) Where an order has been made for personal attachment of a judgment debtor, and its execution suspended, so long as certain installments are paid, the Registrar may, before issuing a writ, require the party applying therefor to satisfy him or her by affidavit that the debtor has failed in due payment of any such installment.

(2) Where there are two or more orders of personal attachment and imprisonment against the same debtor, such orders shall be cumulative with effect according to priority of issue of the respective writs of personal attachment, unless otherwise directed by the judge.

(3) A writ of personal attachment of a judgment debtor shall be signed by the Registrar and addressed to the Sheriff, his or her deputy and to the keeper of a specified prison and shall be in Form 2 as set out in the Schedule.

Imprisonment
for debt

5. (1) Except where immunity is conferred by any law, a writ for the personal attachment of a judgment debtor may be executed at any hour on any day except on a Sunday, and at any place.

(2) The Registrar may order the release of a judgment debtor from prison whenever it is shown to his or her satisfaction that the judgment debtor has paid the judgment debt and all costs which he or she has been ordered to pay, or where the judgment creditor has failed to pay for the judgment debtor's maintenance, or where the judgment creditor consents to his release, or where a provisional or final order of sequestration is made in respect of the estate of the judgment debtor.

(3) The judge may grant the release of a judgment debtor for good cause shown by him or her after notice of motion to the judgment creditor.

SCHEDULE

Form 1
SUMMONS FOR IMPRISONMENT FOR DEBT
(reg. 2(2))

In the High Court of the Republic of Botswana
To: The Sheriff or his or her Deputy,

Command of(hereinafter called "the defendant") that justly and without delay he render and pay to(hereinafter called "the plaintiff") the sum of P of lawful money, with interest thereon at the rate of per cent per annum from the day of , 20 , to the day of payment which he owes to the said plaintiff upon and by virtue of a certain sentence of the High Court of Botswana at bearing date the day of , 20....., together with the sum of P..... and P..... being the taxed costs incurred by the said plaintiff in obtaining the said sentence and execution thereof, which said sentence has been carried into execution and a return since made thereon that no goods or chattels of the said defendant could be found whereof the exigency of the said writ or any part thereof could be made; as it is said. And unless he shall do so, then summon the said defendant that he appear before the High Court of Botswana at in the forenoon, or so soon thereafter as counsel can be heard, to show cause why he has not done it; and also to show cause, if any, why a writ of personal attachment shall not forthwith be decreed to issue against the person of the said defendant, to have effect and hold good until he has paid the said plaintiff the sum of P..... And also summon the said defendant then and there to plead to the claim of the said plaintiff for payment thereof, under security, with costs, and to join issue thereon; and serve on the said defendant a copy of this summons, of the said sentence, writ of execution and return thereon, whereon the said claim is founded; and return you then and there this summons with whatsoever you have done thereupon.

DATED at this day of, 20.....

.....
Registrar of the High Court

Plaintiff's attorney
.....

Form 2

WRIT OF EXECUTION-IMPRISONMENT FOR DEBT

(reg. 4(3))

In the High Court of the Republic of Botswana

To: The Sheriff or his or her Deputy,

You are hereby commanded, in pursuance of an order of the High Court of Botswana, bearing date the..... day of20, to take of and deliver him to the Officer-in-Charge of the prison at together with a certified copy of this writ, there to be safely kept for a period of or until he has paid to of the sum of P of lawful money, with interest thereon at the rate of per cent per annum from the..... day of 20, to the day of payment which the saidby sentence of the said court bearing date the day of..... 20....., recovered against the said, together with the sum of P for the taxed costs and charges of the said together with the further sum of P..... for this writ, by him about this suit in that behalf expended, whereof the saidis convicted, as appears of record, or until the said.....

MADE this 11th day of March, 2025.

RAMAOTWANA N. RAMAOTWANA,
Minister of Justice and Correctional Services.