

Enforcing Arbitral Awards in Nigeria under the Arbitration and Mediation Act 2023



Introduction

The finality of an arbitral award is often heralded as a cornerstone of its efficacy in dispute resolution. However, the true measure of arbitration's success lies not merely in the issuance of an award, but in its effective enforcement. In Nigeria, the landscape for arbitral award enforcement has undergone a significant transformation with the enactment of the Arbitration and Mediation Act ("AMA") 2023¹ which aims to modernise Nigeria's arbitration framework, align it with international best practices, and enhance its attractiveness as a hub for commercial dispute resolution.²

While the AMA 2023 introduces progressive provisions to streamline enforcement, practitioners must navigate a complex interplay among legal frameworks, strategic challenges, and the nuances of comparative jurisprudence. A critical, yet often overlooked, component of this process is the role of the Sheriffs and Civil Process Act ("SCPA"),³ which governs the actual execution of awards once they have been recognised by the courts.

This article delves into the legal framework for enforcing arbitral awards under the AMA 2023, explores the strategic challenges that often arise, and offers comparative perspectives from leading arbitration jurisdictions, while providing a detailed analysis of the SCPA's role in the enforcement journey.

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The Legal Framework for Enforcement under the AMA 2023

The AMA 2023 significantly strengthens the legal basis for the recognition and enforcement of both domestic and international arbitral awards in Nigeria. At its core, the Act reinforces the principle that an arbitral award is binding and subject to certain conditions, shall be enforced in the same manner as a judgment or order of the court.

1. Recognition and Enforcement (Sections 57 & 58):

Section 57 of the AMA 2023 outlines the procedure for applying to the High Court or Federal High Court⁴ for the recognition and enforcement of an arbitral award. The application must be supported by the authenticated original award (or a certified copy) and the arbitration agreement (or a certified copy).⁵ Crucially, Section 58 meticulously enumerates the grounds upon which recognition or enforcement may be refused.⁶ These grounds closely mirror Article V of the New York Convention and Article 36 of the UNCITRAL Model Law, reflecting Nigeria's commitment to international harmonisation and a pro-enforcement stance.

2. Enforcement of Interim Measures (Sections 19 & 28):

A notable innovation of the AMA 2023 is the explicit provision for the enforcement of interim measures issued by the Court, an arbitral tribunal or an emergency arbitrator. Section 20 empowers a tribunal to grant various interim measures, including orders for preserving assets or evidence, provided the creditor can show the risk of irreparable harm and a reasonable chance of success on the merits.⁷ Section 28 further stipulates that an interim measure, irrespective of the country in which it was issued, shall be recognised as binding and enforced upon application to the court, unless specific grounds for refusal are established.⁸ This provision is a significant step forward, providing teeth to interim relief and preventing parties from dissipating assets before a final award can be enforced.

3. The Award Review Tribunal ("ART") (Section 56):

Perhaps the most distinctive feature of the AMA 2023 is the introduction of the Award Review Tribunal (ART) under Section 56. This optional mechanism allows parties, by agreement in their arbitration agreement, to submit an arbitral award for review by a second arbitral tribunal. The ART can confirm, vary, or set aside the award based on grounds similar to those available for court-led challenges.⁹ If the ART upholds the award, a court can only set it aside on limited grounds, primarily non-arbitrability or public policy. Conversely, if the ART sets aside an award, the court retains the power to reinstate it if the ART's decision is deemed "unsupportable".¹⁰ The ART is a novel concept that aims to provide an internal arbitral review mechanism, potentially reducing the burden on national courts and fostering greater confidence in the arbitral process.

The Interplay with the Sheriffs and Civil Process Act (SCPA)

While the AMA 2023 provides the legal basis for recognising an award, the actual "realisation" of the award, the physical attachment of assets or the recovery of funds is governed by the Sheriffs and Civil Process Act (SCPA). This is where the legal victory in the arbitral room meets the practical reality of the Nigerian judicial enforcement system.

1. Garnishee Proceedings (Section 83 SCPA):

One of the most potent tools for enforcing a recognised arbitral award is garnishee proceedings under Section 83 of the SCPA. This process allows an award creditor (now a judgment creditor) to attach debts owed by a third party to the award debtor, typically a bank. The court first issues a garnishee order nisi, which freezes the funds in the debtor's account. If the garnishee (the bank) cannot show cause why the funds should not be paid to the creditor, the court makes the order absolute, directing the bank to release the funds. This is often the most effective way to achieve recovery in a multi-banking system like Nigeria's.

2. Execution against Movable and Immovable Property:

Beyond garnishee proceedings, the SCPA provides for the attachment and sale of the debtor's movable property (chattels)¹¹ and, if those are insufficient, their immovable property (land and buildings).¹² This process involves the issuance of a writ of fieri facias (fi.fa), which authorises the sheriff to seize and sell the debtor's goods. For immovable property, the process is more complex; the Judgment Creditor may apply to the Court for a writ of execution against the immovable property of the judgment debtor.

3. Enforcement Across State Lines (Section 105):

In a federal system like Nigeria, a debtor's assets may be located in a different state from where the award was recognised. Section 105 of the SCPA provides a mechanism for the "registration of judgments" (including recognised awards) across states. Once a recognised award is registered in the High Court of another state, it can be enforced in that state as if it were a judgment of that court. This is crucial for creditors dealing with debtors who have a nationwide footprint.

Comparative Perspectives on Enforcement

Examining the enforcement regimes in other leading arbitration jurisdictions will provide valuable insights and benchmarks for Nigeria.

1. United Kingdom (Arbitration Act 1996):

The UK Arbitration Act 1996, as well as the UK Arbitration Act 2025, provides a robust framework for the enforcement of arbitral awards. Section 66 allows an award to be enforced in the same manner as a judgment of the court, with the court's leave. Challenges to awards are primarily limited to jurisdictional issues,¹³ and serious procedural irregularity.¹⁴ The UK courts generally adopt a pro-enforcement stance, upholding the principle of minimal judicial intervention.

2. Singapore (International Arbitration Act):

Singapore is a signatory to the New York Convention and recognises and enforces foreign arbitral awards on the basis of reciprocity. The recognition and enforcement of arbitral awards in Singapore are principally governed by the International Arbitration Act 1994 (IAA) and the Arbitration Act 2021 (AA). The IAA applies to awards arising from international arbitrations seated in Singapore (s 19 IAA), as well as to awards made pursuant to arbitration agreements in the territory of another New York Convention contracting state (s 29 IAA). Section 5 of the IAA sets out the criteria for determining whether an arbitration is international in nature. The AA, on the other hand, governs domestic arbitrations. It applies to the enforcement of awards made in domestic arbitration proceedings (s 46(1) AA) and to awards made in states that are not parties to the New York Convention (s 46(3) AA).

Under sections 19 and 29 of the IAA and section 46(1) of the AA, an arbitral award may, with the leave of the High Court of Singapore, be enforced in the same manner as a judgment or order of the Court. Once leave is granted, judgment may be entered in terms of the award. Procedural matters relating to recognition and enforcement are governed by the Rules of Court 2021, particularly Order 48 (for matters under the IAA) and Order 34 (for matters under the AA).

Strategic Challenges in Enforcement

Despite the progressive provisions of the AMA 2023 and the established mechanisms of the SCPA, the enforcement of arbitral awards in Nigeria is not without its strategic challenges.

1. The Enduring "Public Policy" Defence:

Historically, the public policy defence has been a frequent and often misused ground for resisting enforcement in Nigeria. Award debtors have routinely invoked this defence, sometimes without substantive merit, leading to protracted litigation. However, recent judicial trends, particularly in the wake of high-profile cases such as *Agro-Allied Development Enterprises Ltd v. United Shipping Trading Co. Inc.*¹⁵ indicate a more stringent and disciplined approach by Nigerian courts.

Courts are increasingly emphasising that public policy is not a catch-all defence and must be interpreted narrowly, aligning with international standards. Courts have drawn a distinction between awards that are merely unfavourable and those that fundamentally violate Nigeria's legal or moral framework. Where arbitration proceedings complied with due process, and the award does not mandate illegality, courts have shown greater willingness to enforce.¹⁶ Mere allegations of error or procedural dissatisfaction are insufficient; the defence must demonstrate a fundamental violation of Nigeria's legal or moral framework.

2. Administrative Bottlenecks and Execution Logistics:

One of the most significant practical challenges under the SCPA is navigating the execution process through court sheriffs. Whether the judgment creditor is pursuing attachment of property or garnishee proceedings, enforcement is rarely automatic. Delays often stem from administrative bottlenecks, logistical constraints, or deliberate resistance from judgment debtors. As such, successful enforcement demands a proactive and hands-on approach. Counsel must issue precise execution instructions, provide accurate and detailed descriptions of assets, and ensure that all required fees and supporting documents are promptly supplied. Where resistance or obstruction is anticipated, advance coordination with law enforcement agencies may be necessary to ensure order and prevent disruption during execution. In practice, diligent supervision and strategic planning are essential to converting a judgment on paper into actual recovery.

3. The Award Review Tribunal ("ART"): A Double-Edged Sword?

While the ART is designed to enhance the efficiency and finality of arbitration, its optional nature and the potential for further review introduce a new layer of complexity. If parties opt for an ART, it could, in some instances, prolong the overall dispute resolution timeline, especially if the ART's decision is subsequently challenged in court. Arbitrators and counsel must carefully consider the strategic implications of including an ART clause in arbitration agreements, weighing the benefits of internal review against the potential for additional delay.

Key Lessons and Recommended Best Practices for Nigeria

Nigeria's AMA 2023 draws meaningfully from various jurisdictions, but translating legislative intent into consistent enforcement practice requires deliberate institutional effort. Some priorities stand out such as:

- First, Nigerian courts must entrench a culture of minimal judicial intervention, treating the public policy defence as a narrow, last-resort safeguard confined to fundamental violations of Nigeria's legal order and not as a mechanism for re-examining the merits of an award. Consistent judicial training and, in time, a dedicated commercial arbitration bench would anchor this culture institutionally.
- The Federal High Court and State High Courts should issue consolidated practice directions prescribing strict timelines for enforcement applications, limiting interlocutory challenges, and mandating expedited treatment of recognition proceedings thereby closing the gap between the AMA 2023's progressive provisions and the procedural delays that frustrate recovery in practice.
- Nigeria must strengthen the practical infrastructure of execution under the SCPA including mandatory asset disclosure by judgment debtors, greater coordination between courts and financial regulators in tracing assets, and clearer operational guidelines for sheriffs. Practitioners, for their part, should conduct pre-enforcement asset tracing exercises before or immediately upon filing recognition applications, rather than waiting until after judgment to locate recoverable assets.
- The public register maintained by the Corporate Affairs Commission constitutes a freely accessible and frequently underutilised source of enforcement intelligence. Throughout the recognition and enforcement process, counsel should conduct and periodically refresh searches on the judgment debtor to identify: related corporate entities to which assets may have been transferred; recent changes in directorship or shareholding that may indicate asset-stripping or corporate restructuring; changes in registered address that may affect service or jurisdictional considerations; and filed financial statements that disclose the debtor's asset position. Where searches reveal suspicious transfers of assets to connected parties effected after the date of the arbitral award, counsel may have grounds to join those parties to enforcement proceedings or to apply to set aside such transfers as fraudulent or at an undervalue.
- The most effective enforcement strategy is one that is embedded in the arbitration agreement at the contracting stage, well before any dispute arises. Practitioners advising clients on transactional matters should ensure that arbitration clauses contain: a clearly designated institutional seat with an established set of rules, such as the Lagos Court of Arbitration; an unambiguous choice of governing law; and an express agreement by both parties that any award rendered pursuant to the clause may be enforced as a judgment of a court of competent jurisdiction without further substantive review. A deficiently drafted arbitration clause is among the most common sources of jurisdictional challenges that delay enforcement proceedings, in some cases, by several years.

Comparative Perspectives on Enforcement

The Arbitration and Mediation Act 2023, coupled with the procedural mechanisms of the Sheriffs and Civil Process Act, marks a pivotal moment for arbitration in Nigeria. The Act's alignment with international best practices, particularly its narrow grounds for challenging awards and the enhanced enforceability of interim measures, positions Nigeria as a more attractive jurisdiction for dispute resolution.

However, the journey from award to recovery is rarely straightforward. Strategic challenges, including the persistent public policy defence, the novel complexities introduced by the Award Review Tribunal, and the practicalities of asset tracing and execution under the SCPA, demand a sophisticated and proactive approach from practitioners. The true promise of arbitration, efficient and final dispute resolution, can only be fully realised when awards are not just rendered, but robustly enforced, ensuring that the fall of the gavel truly signifies the end of the dispute and the beginning of recovery.

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1. The Arbitration and Mediation Act, 2023, s.92
2. International Bar Association, 'The Nigerian Arbitration and Mediation Act 2023: A Comparison with the Arbitration Conciliation Act 2004 and Global Practices' (IBA, 20 December 2023) <<https://www.ibanet.org/the-nigerian-arbitration-and-mediation-act-2023>> accessed 2 March 2026
3. Sheriffs and Civil Process Act, Cap S6, LFN 2004
4. The Arbitration and Mediation Act, 2023, s.91
5. The Arbitration and Mediation Act, 2023, s.57(2)
6. The Arbitration and Mediation Act, 2023, s.58(2)(a), The Court may only refuse enforcement of the award on the ground that the party to the arbitration agreement was under some capacity; the arbitration agreement is not valid under the law of the country where the award was made; proper notice of the appointment of an arbitrator was not given, the award deals with a dispute that does not fall within the terms of the submission to arbitration etc.
7. The Arbitration and Mediation Act, 2023, s.21(1)
8. The Arbitration and Mediation Act, 2023, s.29(1)
9. The Arbitration and Mediation Act, 2023, s.55(3)
10. The Arbitration and Mediation Act, 2023, s.56(8)
11. Sheriffs and Civil Process Act, 2004, s.20
12. Sheriffs and Civil Process Act, 2004, s.44
13. The UK Arbitration Act, 1996, s.67; The UK Arbitration Act 2025, s.10
14. The UK Arbitration Act, 1996, s.68
15. See the case of *Agro-Allied Development Enterprises Ltd v. United Shipping Trading Co. Inc (2011) 9 NWLR (Pt. 1252) 258*, the Court of Appeal rejected a public policy challenge to the enforcement of an arbitral award, holding that public policy must be construed narrowly and cannot be invoked as a catch-all objection. The Court emphasised that mere disagreement with the tribunal's reasoning or dissatisfaction with its findings does not suffice to establish a violation of Nigerian public policy under section 52(2)(b) of the ACA.
16. See *Mekwunye v. Imoukhuede (2019) 13 NWLR (Pt. 1690) 439* where the Court held that "it defeats the purpose of an agreement to refer a dispute to arbitration, if, after fully participating therein, a party is allowed to raise technical objections to defeat the award. This is what the respondent tried to do at the court below, it must be discouraged"

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