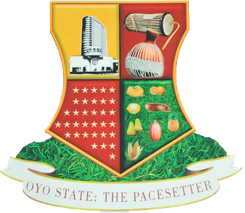
Assented to by me this……….....day..............................................20........................

………………………………....................

Senator Abiola Ajimobi

His Excellency, The Executive Governor

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OYO STATE OF NIGERIA

No.11

**A LAW TO PROVIDE FOR THE SPEEDY AND EFFICIENT ADMINISTRATION OF CRIMINAL JUSTICE AND OTHER MATTERS RELATED THERETO**

Date of

Commencement**:** ( )

Enactment: **ENACTED** by the House of Assembly of Oyo State of

Nigeria as follows:

**PART I-PRELIMINARY**

Short title. **1**. This Law is cited as the Administration of Criminal Justice Law, 2016.

Interpretation. **2.** In this Law-

**“adult”** means a person who has attained the age of eighteen years or above;

**“agency”** means body authorised by law;

**“asylum”** includes a lunatic asylum, a mental or other hospital, a prison and any other suitable place of safe custody of person of unsound mind for medical observation;

**“Attorney-General”** means Attorney-General and Commissioner for Justice of the State or any person charged with the responsibility of the Ministry of Justice;

**“charge”** means the statement of offence or offences with which a defendant is charged in a trial whether by way of summary trial or by way of information before a court;

**“Chief Judge”** means the Chief Judge of the State;

**“child”** means a person who has attained the age of seven years and is under the age of fourteen years.

**“Commissioner of Police”** has the same meaning as in the Police Act;

**“Committee”** means the Administration of Criminal Justice Monitoring Committee established under **section 457 of this Law**;

**“complainant”** includes the victim, any informant or prosecutor in any case relating to criminal trial;

**“complaint”** means the allegation that any named person has committed an offence made before a court or police officer for the purpose of moving him to issue process under this Law;

**“court”** means the High Court, the Magistrates’ Court and any other Court or tribunal established by a law of the State;

**“defendant”** means any person against whom a complaint, charge or information is made;

**“district”** means a district into which the State is divided for the purposes of any law under which a Magistrate’s court is established;

**“division”** means a judicial division of the High Court;

**“Federation”** means the Federal Republic of Nigeria;

**“Federal law”** means any Act enacted by the National Assembly having effect with respect to the Federation or any part thereof and any Act enacted prior to 1st October, 1960, which under the Constitution of the Federal Republic of Nigeria has effect with respect to the Federation or any part thereof;

**“felony”** means an offence on conviction for which a person can, without proof of his having been previously convicted of an offence, be sentenced to death or to imprisonment for three

years or more, or which is declared by law to be a felony;

**“fine”** includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under this Law;

**“functions”** include powers and duties;

**“future enactment”** means any enactment relating to this Law;

**“Governor”** means the Governor of the State;

**“guardian”** in relation to a child or young person means the parent or other person having lawful custody of such a child or young person, and includes any person who, in the opinion of the court, having cognizance of any case in which such a child or young person is concerned, has for the time being the custody, control over, or charge of such a child or young person;

**“High Court”** means the High Court of the State**;**

**“House”** means House of Assembly of the State**;**

**“indictable offence**” means an offence which on conviction may be punished by-

(a) a term of imprisonment exceeding two years; or

1. imposition of a fine exceeding forty thousand naira not being an offence declared by the law creating it to be punishable on summary conviction;

**“indictment”** means the filing of an information or complaint against a person in the High Court;

**“infant”** means a person under the age of seven years;

**“Judge”** means a Judge of a High Court;

**“Justice of the Peace”** means a person appointed to be a Justice of the Peace under any enactment in the State;

**“law officer”** means the Attorney-General and the Solicitor-General of the State and includes the Director of Public Prosecutions and such other qualified officers, by whatever names designated, to whom any of the powers of a law officer are delegated by law and a private legal practitioner authorised by the Attorney-General to appear for and on behalf of the Attorney-General;

**“legal guardian”** in relation to an infant, child, young person, or juvenile offender, means a person appointed, according to law, to be his guardian by deed or will, or by an order of a court of competent jurisdiction;

**“Magistrate”** means a Magistrate appointed in accordance with the law of the State;

**“Magistrates’ Court”** means Magistrates’ Court established under the law of the State;

**“medical officer”** includes the medical personnel attached to an asylum or a medical officer from whom a court requires an opinion;

**“misdemeanour”** means an offence punishable by imprisonment for not less than six months, but less than three years or which is declared by law to be a misdemeanour;

**“member”** means a member of the Committee and includes the Chairman;

**“offence”** means an act or omission which renders the person doing the act or making the omission liable to punishment under any Act or Law;

**“officer-in-charge”** includes, the officer in charge of a police station or the officer in charge of a unit in any other law enforcement agency or other officer who acts in the absence of the officer in charge;

**“open court”** means a room or place in which a court sits to hear and determine a matter within its jurisdiction and to which room or place the

public may have access so far as the room or place can conveniently contain them;

“**order”** includes any conviction in respect of a summary conviction offence;

**“penalty”** includes any pecuniary fine, forfeiture, costs, or compensation recoverable or payable under an order;

**“place of safety”** includes a suitable place, the occupier of which is willing temporarily to receive an infant, child, or young person;

**“Plea bargain”** means the process in criminal proceedings whereby the defendant and the prosecution work out a mutually acceptable disposition of the case; including the plea of the defendant to a lesser offence than that charged in the complaint or information and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the offence charge subject to the approval of the Court;

**“Police”** means the Nigeria Police Force established by the Constitution;

**“police officer”** includes any member of the Nigeria Police Force established by the Police Act or where the context so admits, shall include any officer of any law enforcement agency established by a law of the State;

**“prescribed”** means as provided by rules made under the authority of this Law;

**“private prosecutor”** does not include a person prosecuting on behalf of the State or a public officer prosecuting in his official capacity;

**“registrar”** includes the Chief Registrar and a registrar of a court;

**“rules’’ or “the rules”** means rules of court relating to the practice and procedure of the High Court or of the Magistrate courts in the execution of their criminal jurisdiction;

**“sentenced to imprisonment”** shall include cases where imprisonments is imposed by a court on any person either with or without the option of a fine, or in respect of the non-payment of any sum of money, or for failing to do or abstaining from doing any act or thing required to be done or left undone, and the expression “sentence of imprisonment” shall be construed accordingly;

**“sheriff”** means a sheriff within the meaning of the Sheriffs and Civil Process Law and includes a deputy sheriff and any person authorised by the sheriff or a deputy sheriff to execute process of a court;

**“State”** means Oyo State of Nigeria;

**“summary conviction offence”** means an offence punishable by a High court or a Magistrates’ court on summary conviction and includes any matter in respect of which a High Court or a Magistrate’s Court can make an order in the exercise of its summary jurisdiction;

**“summary court”** means unless the same is expressly or by necessary implication qualified-

(a) a Judge of the High Court when sitting in court and presiding over a summary trial; and

(b) a Magistrate when sitting in court to hear and determine any matters within his power and jurisdiction either under this Law or any other law,

And the Judge when so sitting and presiding, and the Magistrate when so sitting, shall be deemed to be a “court” or ‘’summary court” within the meaning of this Law;

**“summary trial”** means any trial by a Magistrate or a trial by a High Court commenced without filing an information or complaint;

**“Superintendent of Prison”** has the same meaning as in the Prisons Act;

**“superior police officer”** has the same meaning as in the Police Act***;***

**“suspect”** means a person who has been arrested on the suspicion of committing any offence, and who is yet to be formally charged for that offence;

**“victim”** means a person who has suffered physical or emotional harm, property damage or economic loss as a result of an offence committed by another;

**“young person”** means a person who has attained the age of fourteen years and is under the age of eighteen years;

**(2)** Unless the context otherwise requires, words and expressions used in this Law and defined in the Criminal Code Law shall have the meanings attributed to them by these laws.

**Purpose of** **3.** (1)The purpose of this Law is to ensure that the

**this Law.** system of administration of criminal justice in the State, promotes speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the defendant and the victim.

(2).The courts, law enforcement agencies and other authorities or persons involved in criminal justice administration shall ensure compliance with this Law for the realisation of its purposes.

**Application. 4.** This Law shall apply to criminal trials and other

criminal proceedings in courts and tribunals established by a law of the House or the Constitution of the Federal Republic of Nigeria.

PART 2-ARREST, BAIL AND PREVENTIVE JUSTICE

Arrest generally. 5. A person suspected of committing an offence under the Criminal Code or any other enactment creating an offence shall be arrested, investigated, inquired into, tried and otherwise dealt with according to this Law, except where there are specific provisions in the enactment in relation to the manner or place of arrest, inquiry or trial.

Mode of arrest. 6. In making an arrest, the police officer or other person making the arrest shall actually touch or confine the person to be arrested, unless there is a submission to the custody by word or action.

No unnecessary 7. A person may not be handcuffed, bound or be restraint. subjected to restraint except-

(a). there is reasonable apprehension of violence or an attempt to escape; or

(b). the restraint is considered necessary for the safety of the person arrested; or

(c). by order of a court.

**Notification of cause** **8**.(1)Except when the person arrested is in the

**of** **arrest and rights** actual course of the commission of an

**of arrested person.** offence or is pursued immediately after the commission of an offence or has

escaped from lawful custody, the police officer or other persons making the arrest shall inform the person arrested immediately of thereason for the arrest.

(2) The police officer or other persons making the arrest or the police officer in charge of a police station shall inform the person arrested of his rights to-

(a)remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;

(b)consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and

(c)free legal representation by the Legal Aid Council or any other agency providing such services where applicable:

Provided the authority having custody of the person arrested shall have the responsibility of notifying the next-of-kin or relative of the person, of the arrest at no cost to the person.

**Arrest in lieu 9.** A person shall not be arrested in place of another

**Prohibited.** person suspected to have committed an offence.

**Humane treatment 10.** (1) A person arrested shall-

**of arrested person.**

1. be accorded humane treatment, having regard to his right to the dignity of his person; and
2. not be subjected to any form of torture, cruel, inhuman or degrading treatment.

(2) A person shall not be arrested merely on civil wrong or breach of contract

(3) A person shall be brought before the court as prescribed by this Law or any other law or otherwise released conditionally or unconditionally.

(4) An arrested person shall be brought to the court for arraignment and trial as prescribed by this Law or any other law.

**Search of arrested 11**.(1) Where a person is arrested by a police officer

**person.** or a private person, the officer making the arrest or to whom the private person hands over the person-

(a). may search the person, using such force as may be reasonably necessary for the purpose; and

(b). shall place in safe custody all articles other than necessary wearing apparel found on the person.

(2) Where an arrested person is admitted to bail and bail is furnished, he shall not, subject to section 13 of this Law be searched unless there are reasonable grounds for believing that he has on his person, any-

(a) stolen article; or

(b) instrument of violence or poisonous substance; or

(c) tools connected with the kind of offence which he is alleged to have committed; or

(d) other articles which may furnish evidence against him in regard to the offence, which he is alleged to have committed.

(3) Where it is necessary to search a person alleged to have committed an offence, the search shall be made decently and by a person of the same sex unless the urgency of the situation or the interest of due administration of justice makes it impracticable for the search to be carried out by a person of same sex.

(4) Notwithstanding this section, a police

officer or any other person making an arrest may in any case take from the person arrested any instrument of violence or poisonous substance which he has on his person.

**Inventory of** **property12.**(1) A police officer making an arrest or to

**of arrested person.** whom a private person hands over the person arrested, shall immediately record information about the person arrested and an inventory of all items or property recovered from the person arrested.

(2) An inventory recorded under subsection (1) of this section shall be duly signed by the police officer and the person arrested but the failure of the person arrested to sign the inventory shall not invalidate it.

(3) The arrested person, his legal practitioner or such other person as the arrested person may direct, shall be given a copy of the inventory.

(4) Where any property has been taken under this section from an arrested person, a police officer may, upon request by either the owner of the property or parties having interest in the property, release such property on bond pending the arraignment of the arrested person before a court.

(5)Where a police officer refuses to release the property to the owner or any person having interest in the property under subsection (4) of this section, the police shall make a report to the court of the fact of the property taken from the arrested person and the particulars of the property.

(6) The court to which a report is made under sub-section (5) of this section may, if it is of the opinion that the property or any portion of it can be returned in the interest of justice to the safe custody of the owner or person having interest in the property, direct that the property or any portion of it be returned to the owner or to such person having interest in the property.

(7). Where any property has been taken from a person under this section and the person is not charged before a court but he is released on the ground that there is no sufficient reason to believe that he has committed an offence, any property so taken from the person shall be returned to him, provided the property is neither connected to nor a proceed of crime.

**Examination** **13.** Where a person is in lawful custody on a charge of **of arrested** committing offence of such a nature and alleged to **person.** have been committed in such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, a qualified medical practitioner or any certified professional with relevant skills, acting at the request of a police officer, may

make such an examination of the person in custody as is reasonably necessary in order to ascertain the facts which may afford the evidence, and to use such force as is reasonably necessary for that purpose.

**Search of place 14**. (1)Where a police officer or person acting **entered by person** under a warrant of arrest or otherwise

**sought to be arrested.** having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any house or place, the person residing in or being in charge of the house or place shall, on demand by the police officer or person acting for the police officer, allow him free access to the house or place and afford all reasonable facilities to search the house or place for the person sought to be arrested.

(2). Where access to a house or place cannot be obtained under subsection (1) of this section, the person or police officer may enter the house or place and search it for the person to be arrested, and in order to effect an entrance into the house or place, may break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person or otherwise effect entry into such house or place, if after notification of his authority and purpose, and demand of admittance duly made, he cannot obtain admittance.

(3). Where the person to be arrested enters a house or place in the actual occupancy of another person being a woman who by custom or religious practice does not appear in public, the person making the arrest shall-

1. before entering the house or place, give notice to the woman that she is at liberty to withdraw; and
2. afford her every reasonable opportunity and facility for withdrawing, and may then enter the house or place, but the notice shall not be necessary where the person making the arrest is a woman.

**Power to break 15.** A police officer or any other person

**out of a house** authorised to make an arrest may break out **or place for** of a house or place in order to liberate

**the purpose** himself or any other person who, having

**of liberation.** lawfully entered for the purpose of making an arrest, is detained in the house or place.

**Arrested person 16.** (1) A person who is arrested, whether with **to be taken** or without a warrant, shall be taken **immediately to** immediately to a police station, or other **police station.** place for the reception of person, and shall be promptly informed of the allegation against him in the language he understands.

(2) A person who has the custody of an arrested person shall give the person reasonable facilities for obtaining legal advice, access to communication for taking steps to furnish bail, and otherwise making arrangements for his defence or release.

(3) Notwithstanding the provision of subsection (2) of this section, any such communication or legal advice shall be done in the presence of an officer who has custody of the arrested person.

**Recording of** 17. (1) Where a person is arrested, whether **arrests.**  with or without warrant, and taken to a police station or any other agency effecting the arrest, the police officer making the arrest or the officer-in- charge shall cause to be taken immediately, in the prescribed form, the following record of the person arrested-

1. the alleged offence;
2. the date and circumstances of his arrest;

1. his full name, occupation and residential address; and
2. for the purpose of identification-

(i)his physical measurement,

(ii) his photograph,

(iii) his full fingerprint impressions; and

(iv) such other means of his identification including but not limited to DNA samples.

(2) The process of recording in subsection (1) of this section shall be concluded within a reasonable time of the arrest of the person, but not exceeding 24 hours.

(3) Such records shall be transmitted to the State Police Command for the purpose of this Law.

(4) The Commissioner of Police shall transmit to the office of the Attorney-General duplicate case file and such other records in relation to offences under the law of the State immediately after the conclusion of the investigation but not later than 2 weeks and the office of the Attorney-General shall within 4 weeks of the receipt of the records of arrest provide the Commissioner of Police with

legal opinion on the appropriate actions to be taken in respect of the state offences.

(5) Any further action in respect of the person arrested pursuant to subsection (1) of this section shall be entered in the record of arrests.

**Recording of 18.**  (1) Where a person is arrested on allegation

**statement and** of havingcommittedan offence, volunteers

**confession of** to make a statement it shall be taken, in the

**person.** presence of a legal practitioner of his choice: or where he has no legal practitioner of his choice any other person of his choice: Provided that the legal practitioner or any other person mentioned in this subsection shall not interfere while the person is making his statement, except for the purpose of discharging his role as a legal practitioner.

(2)Where any person who is arrested with or without a warrant volunteers to make a confessional statement, the Police shall ensure that the making and taking of such statement is recorded on video and the said recording and copies of it may be produced at the trial provided that in the absence of video facility, the said statement shall be in writing in the presence of a legal practitioner of his choice.

(3)Notwithstanding subsection (2) of this section, an oral confession of arrested person shall be admissible in evidence.

(4) Where a person does not understand or speak or write in the english language, an interpreter shall record and read over the statement to the person to his understanding and the person shall then endorse the statement as having been made by him and the interpreter shall attest to the making of the statement.

(5) The interpreter shall endorse his name, address, occupation, designation or other particulars on the statement.

(6) The legal practitioner or person referred to in subsection (1) of this section shall also endorse the statement with his full particulars as having witnessed the recording of the statement.

**Arrest by police 19.** (1)A police officer may, without an order

**officer without** of a court andwithout a warrant, arrest a

**warrant.** person-

1. whom he suspects on reasonable grounds of having committed an offence against a law in Nigeria or against the law of any other country, unless the law creating the offence

provides that the person cannot be arrested without a warrant; or

1. who commits any offence in his presence; or
2. who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody; or
3. in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to the thing; or
4. whom he suspects on reasonable grounds of being a deserter from any of the armed forces of Nigeria; or
5. whom he suspects on reasonable grounds of having been involved in an act committed at a place outside the State which, if committed in the State, would have been punished as an offence, and for which he is, under a law in force in the State, liable to be apprehended and detained in the State; or
6. having in his possession without lawful excuse, the burden of proving which excuse shall lie on the person suspected, any implement of housebreaking, car theft, firearm or any offensive or dangerous weapon; or
7. whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in Nigeria; or
8. found in the State taking precautions to conceal his presence in circumstances, which afford reason to believe that he is taking such precautions with a view to committing an offence; or
9. whom he is directed to arrest by a judge, Magistrate, Justice of the Peace or superior police officer; or
10. whom he reasonably suspects to be designing to commit an offence for which the police may arrest without a warrant, if it appears to him that the commission of the offence cannot be otherwise; or
11. who is required to appear by a summons issued under this Law or any other law.

(2)The authority given to a police officer to arrest a person who commits an offence in his presence shall be exercisable in respect of offences committed in the presence of the officer notwithstanding that the law creating the offence provides that the person cannot be arrested without a warrant.

**Refusal to give 20.**  (1)Where a person who, in the presence of **name and** a police officer, has been accused of **residence.** committing an offence triable summarily,

refuses on demand of the officer to give his name and the address, or gives a name or residential address which the officer has reason to believe to be false, he may be arrested by the officer in order that his name or residential address may be ascertained.

(2)Where the true name and residential address of the person arrested have been ascertained, he shall be released on his executing a recognizance, with or without sureties, to appear before a Magistrate if so required, but if the person is not resident in Nigeria, a surety or sureties resident in Nigeria shall secure the recognizance.

(3) Where the true name and address of the person arrested cannot be ascertained within 24hours from the time of arrest, or if he fails to execute recognizance, or, where so required, to furnish sufficient sureties, he

shall forthwith be brought before the nearest Magistrate having jurisdiction.

(4) Where the person arrested on being brought before the court still refuses, the court may deal with him as it will deal with an uncooperative witness under this Law.

**Arrest by 21**. A private person may arrest a person who in **private person.** his presencecommits an offence, or whom he reasonably suspects of having committed an offence for which the police is entitled to arrest without a warrant.

**Arrest by** 22. A person found committing an offence

**owner of** involving injury to property may be arrested

**property.** without a warrant by the owner of the

property or his servants, agents or persons authorised by him.

**Arrest of 23.**  A private person may arrest any person

**person doing** found damaging public property.

**damage to**

**Public property.**

**Handing over 24.** (1)A private person who arrests a person

**of an arrested** without a warrant shall immediately hand

**person by** over theperson so arrested to a police officer,

**private person.** or, in the absence of a police officer, shall take the person to the nearest station, and the police officer shall make a note of the name, address and other particulars of the private person making the arrest.

(2)Where there is reason to believe that the arrested person comes under section 19 (1) of this Law, a police officer shall re-arrest him.

(3) Where there is reason to believe that the person has committed an offence, and he refuses on the demand of a police officer to give his name and address, or gives a name or address which the officer reasonably believes to be false he shall be dealt with under section 20 of this Law.

(4) Where a person so arrested by a private person is handed over to a police officer or to an official of an agency authorized by law to make arrests, the police officer or official shall take note of the name, residential address and other particulars of the private person making the arrest, and the date, time and other circumstances of the arrest, and where the arrested person is taken to the police station or to the agency, the charge room officer shall make the entries in the crime diary.

(5) The police officer to whom the arrested person is handed over by the private person shall obtain from the private person who made the arrest a formal witness statement setting out the facts and circumstances of the arrest.

(6) where there is sufficient reason to believe that the person handed over has committed an offence, he shall immediately be re-arrested but if there is no sufficient reason to believe that the person has committed an offence, he shall be released immediately.

(7) Section 17 of this Law do not apply to this section unless the person arrested and handed over has been re-arrested in accordance with subsection (2) of this section.

**Offence committed** 25. Where an offence is committed in the

**in the presence** presence of a Judge orMagistrate within the **of Judge or** division or district in which the Judge is

**Magistrate.** sitting or to which the Magistrate is assigned, the Judge or Magistrate may himself arrest or order a person to arrest

and may thereupon, subject to this Law as to bail, commit the person to custody.

**Arrest by Magistrate. 26.**(1)A magistrate may arrest or direct the arrest in his presence of a person whose arrest on a warrant he could have

lawfully ordered if the facts known to him at the time of making or directing the arrest had been stated before him on oath by some other person.

(2) Where a person is arrested in accordance with either section 24 or 25 of this Law, the Judge or Magistrate making or directing the making of such arrest may deal with the person so arrested in the same manner as if the person had been brought before him by or under the directions of any other person.

**Arrest for offence 27.** A Judge, Magistrate or Justice of the

**committed in** Peace may arrest or direct the arrest of a

**presence of Judge,** person committing an offence in his

**Magistrate or** presence and shall thereupon hand him over

**Justice of Peace** to a policeofficer or to take security for his

**Peace.** attendance before a court at a specified time.

**When public is 28.** A person is bound to assist a Judge,

**bound to assist** Magistrate, Justice of the peace, police

**in arrest.** officer or other person reasonably demanding

his aid in arresting or preventing the escape of a person whom the Judge, Magistrate, Justice of the Peace, police officer or other person is authorised to arrest.

**Pursuit of person 29.** A person authorised to effect the arrest

**into other** of any person mayfor the purpose of

**jurisdictions.** effecting the arrest , pursue him into any

part of Nigeria.

**Quarterly report 30.** (1) The Commissioner of Police in the

**of arrests to the** State and head of every agency authorised

**Attorney-General.** by law to effect arrests within the State

shall remit quarterly to the Attorney-General a record of all arrest made with or

without warrant in relation to offences under the law of the State or arrest made within the State.

(2) The report shall contain the full particulars of arrested person as prescribed by section 17 of this Law.

(3) A register of arrests containing the particulars prescribed in section 17 of this Law shall be kept in the prescribed form at every police station or agency authorised by law to make arrest and every arrest, whether made with or without warrant within the local limits of the police station or agency, or within the State, shall be entered accordingly by the officer in charge of the police station or official in charge of the agency as soon as the arrested person is brought to the station or agency.

(4) The Attorney-General shall establish an electronic and manual database of all records of arrests in the State.

**Release on bail 31**. (1)Where a person has been taken into

**of a person** police custody withouta warrant for an

**arrested** offence other than an offence punishable

**without** with death, an officer in charge of a police

**warrant.** station shall inquire intothe case and release the person arrested on bail subject to

subsection (2) of this section, and where it will not be practicable to bring the person before a court having jurisdiction, with

respect to the offence alleged within 24hours of arrest.

(2) The officer in charge of a police station shall release the person on bail on his entering into a recognizance with or without sureties for a reasonable amount of money to appear before the court or at the police station at the time and place named in the recognizance.

(3) Where a person is taken into custody and it appears to the police officer in charge of the station that the offence is of a capital nature, the arrested person shall be detained in custody, and the police officer may refer the matter to the Attorney General for legal advice and cause the arrested person to be taken before a court having jurisdiction with respect to the offence within a reasonable time.

**Power to release 32**. (1)Where a person is taken into custody, and

**on bail before** it appears to the officer that the inquiry into **charge is accepted.** the case cannot be completedforthwith, he may discharge the person on his entering into a recognizance, with or without sureties for a reasonable amount, to appear at the police station and at such times as are named in the recognizance, unless he previously receives notice in writing from the police officer in charge of that police station that his attendance is not required.

(2) A recognizance under subsection (1) of this section may be enforced as if it were a recognizance conditional for the appearance of the said person before a Magistrate’s court or the place in which the police station named in the recognizance is situate.

**Remedy of 33**. (1)Where a person taken into custody in

**person** respect of a non-capital offence is not

**detained in** released on bail after 24hours, a court having **custody.** jurisdiction with respect to the offence may be notified by application on behalf of the arrested person.

(2) The court shall order the production of the person detained and inquire into the circumstances constituting the grounds of the detention and where it deems fit, admit the person detained to bail.

(3) An application for bail under this section may be made orally or in writing.

**Police to 34**. (1) An officer in charge of a police

**report to**  station or an official in chargeof an agency **supervising** authorised to make arrest shall, on the last **magistrates.** workingday of every month, report to the nearest Magistrate the cases of all persons arrested without warrant within the limits of their respective stations or agency whether the person have been admitted to bail or not.

(2) The report shall contain the particulars of the person arrested as prescribed in section 17 of this Law.

(3) The Magistrate shall on receipt of the reports, forward them to the Committee which shall forward the reports with appropriate recommendations to the Attorney-General

(4) The Attorney-General shall upon the request by the National Human Right Commission, Legal Aid Council of Nigeria or a Non- Governmental Organization make the report available to them

(5) Where no report is made in accordance with subsection (1) of this section, the Magistrate shall forward a report to the Chief Judge and the Attorney-General for appropriate remedial action.

**Judge 35**. (1) The Chief Magistrate, or where there is no **or Chief** Chief Magistrate within the police division, **Magistrate to** any Magistrate designated by the Chief Judge **visit places of** for that purpose, shall, at least every month, **detention.** conduct aninspection of police stations or other places of detention within his territorial jurisdiction other than the prison.

(2)During a visit, the Judge or Magistrate may-

1. call for and inspect the record of arrests;
2. direct the arraignment of a person arrested; and
3. where bail has been refused, grant bail to any person where appropriate if the offence for which the person is held is within the jurisdiction of the Magistrate.

(3) An officer in charge of a police station or official in charge of an agency authorised to make an arrest shall make available to the visiting Chief Magistrate or designated Magistrate exercising his powers under subsection (1) of this section-

1. the full record of arrest and record of bail;
2. applications and decisions on bail made within the period; and

1. any other facility the Magistrate requires to exercise his powers under this subsection.

(4) With respect to other Federal Government agencies authorised to make arrests the High Court having jurisdiction shall visit such detention facilities for the purpose provided in this section.

(5) Where there is default by an officer in charge of a police station or official incharge of an agency authorised to make arrest to comply with subsection (3) of this section, the default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of the officer or official of the agency.

**PART 3 – WARRANTS**

**General 36**. Where under a law, there is power to

**authority** arrest a person withoutwarrant, a warrant for **to issue** his arrest may be issued.

**warrant.**

**Form and 37**.(1) A warrant of arrest issued under this **requisites of** Law, unless thecontrary is expressly **warrant of** provided under any other law, shall-

**arrest.**

1. bear the date of the day of issue;
2. contain all necessary particulars; and
3. be signed by the Judge or Magistrate by whom it is issued.

(2) A warrant shall state concisely the offence or matter for which it is issued and shall name or otherwise describe the person to be arrested, and it shall order the police officer or officers to whom it is directed to arrest the person and bring him before the court to answer the complaint or statement, or to testify or be dealt with according to the circumstances of the case, and to be further dealt with according to law.

**Warrant to 38.** A warrant of arrest shall not be issued

**be issued on** in the first instance in respect of any

**complaint** complaint or statement unless the complaint **only if on** or statement is on oath either by the

**oath.** complainant himself or by amaterial witness.

**Warrant may 39**. A warrant of arrest may be issued on

**be issued on** any day, including a Sunday or public

**any day.** holiday.

**Warrant, to 40**. (1) A warrant of arrest shall be directed

**whom directed** to a police officer byname or to all police **and duration.** officers.

(2) It is not necessary to make a warrant of arrest returnable at any particular time and a warrant shall remain in force until it is executed or until a Judge or a Magistrate cancels it.

(3) Where a warrant of arrest has been executed and the person arrested has been released, the warrant shall no longer be valid authority for re-arresting the person.

**Warrant of 41**. (1) A court issuing a warrant of arrest may, **arrest may** where its immediate execution is necessary

**in exceptional** and no police officer isimmediately

**cases be** available, direct it to some other person or **directed to** persons and the person or persons shall

**other persons.** execute same.

(2) A person, when executing a warrant of arrest directed to him, shall have the powers, rights, privileges and protection given to or afforded by law to a police officer executing a warrant of arrest and shall conform with the requirement placed by law on a police officer.

**Summons 42**. Where a court has reason to believe, whether after **for person** evidence orthat a person, against whom a warrant **absconding.** of arrest has been issued by itself or by any

court or Justice of the Peace, has absconded

oris concealing himself so that the warrant

cannot be executed, the court may publish the

summons in writing requiring that person to

appear at a specific place and time not less than

30days from the date of publishing the summons.

**Publication 43**. (1) A summons shall be published-

**of**

**summons.**

1. in a newspaper that enjoys wide circulation or circulated in any other medium as may be appropriate ; or
2. by affixing it to some conspicuous part of the house or premises or to some conspicuous place in the town or village, in which the person ordinarily resides; or
3. by affixing a copy to some conspicuous part of the High Court or Magistrate’s court building.

(2) A statement in writing from the Judge of the High Court or a Magistrate to the effect that the summons was duly published on a specified day, shall be conclusive evidence that requirements of this section have been complied with and that the summons was published on such a day.

**Execution 44**.(1) A warrant of arrest may be executed on any **of warrant** day, including Sunday or a public holiday

**and**

**procedure.**

(2) A warrant of arrest may be executed by any officer at any time and in any place in any State other than within the actual court room in which a court is sitting.

(3) The police officer executing a warrant of arrest shall, before making the arrest, inform the person to be arrested that there is a warrant for his arrest unless there is reasonable cause for abstaining from giving the information on the ground that it is likely to occasion escape, resistance or rescue.

(4) A person arrested on a warrant of arrest shall, subject to the Constitution of the Federal Republic of Nigeria and sections 45 and 46 of this Law, be brought before the court that issued the warrant of arrest.

**Power to 45**. A warrant of arrest may be executed

**arrest on** notwithstanding that it isnot in the possession **but without**  at the time of the person executing the

**the warrant.** warrant but the warrant shall, on the demand of the person, be shown to him as soon as practicable after his arrest.

**Court may 46** . (1) A court, on issuing a warrant for the

**direct** arrest of a person in respect of a matter other **particulars** than an offence punishable with death, may, **of security to** if it thinks fit by endorsement on the warrant, **be taken on** direct that the person named in the warrant be **execution** **of** released on bail on his entering into such a  **warrant.** recognizance for his appearance as may be required inthe endorsement.

(2) The endorsement shall specify-

1. the number of sureties, if any;

1. the amount in which they and the person named in the warrant are, respectively, to be bound; or are to provide as cash security on the request of the surety or person to be arrested;
2. the court before which the arrested person is to attend; and

1. the time at which the person is to attend, including an undertaking to appear at a subsequent time as

may be directed by any court before which he may appear.

(3) Where an endorsement is made, the officer in charge of a police station to which on arrest the person named in the warrant is brought, shall discharge him on his entering into a recognizance, with or without sureties approved by that officer, in accordance with the endorsement, conditioned for his appearance before the court and at the time and place named in the recognizance.

(4) Where security is taken under this section the officer who takes the recognizance shall cause it to be forwarded to the court before which the person named in the recognizance is bound to appear.

(5) Subject to section 47 of this Law, subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside the State.

**Procedure on 47**. (1) Where a warrant of arrest is executed in the **arrest of person** State outside the division or district of the **outside division** court by which it was issued, the person shall, **or district** unless security is taken under section 46 of

**of court issuing.** this Law, be taken before the court within the division or district in which the arrest was made.

(2) The court shall, if the person, on such inquiry as the court considers necessary, appears to be the person intended to be arrested by the court which issued the warrant, direct his removal in custody to that court, but if the person has been arrested in person of any matter other than an offence punishable with death and-

1. is ready and willing to give bail to the satisfaction of the court within the division or district of which he was arrested; or
2. where a direction had been endorsed under section 46 of this Law on the warrant and the suspect is ready and willing to give the security required by the direction, the court shall take bail or security, as the case may be, and shall forward the recognizance, if such be entered

into, to the court which issued the warrant.

**Police officer 48**. Nothing in section 49 of this Law is deemed **may take** to prevent a police officer from taking

**security.** security under section 31 of this Law.

**Re-arrest of 49.** Where a person in lawful custody

**person esc-** escapes or is rescued, theperson form

**aping.** whose custody he escapes or is rescued or any other person may pursue and re-arrest him in any place in Nigeria.

**Provisions of 50.** Sections 14 and 15 of this Law shall apply

**sections 14**  to arrests under section 49 of this Law,

**and 15 to** although the person making such arrest is

**apply to arrests**  not acting under a warrant and is not a

**under section49.**  police officerhaving authority to arrest.

**PART 4 – PREVENTION OF OFFENCES AND SECURITY FOR GOOD BEHAVIOUR**

**Police to 51**. (1) A police officer may intervene for the **prevent** purpose of preventing and shall, to the best **offences** of his ability, prevent thecommission of an **and injury** offence.

**to public** (2) A police officer may of his authority

**property.** intervene to prevent an injury attempted to be committed in his presence to any public property whether movable or immovable, or the removal of or injury to any public landmark or buoy or other mark used for navigation.

**Information of 52**. A police officer receiving information of a **design to commit** design to commit any offence shall

**offence.** communicate the information to the police

officer to whom he is subordinate, and to

any other officer whose duty it is to prevent

or take cognizance of the commission of the

offence.

**Arrest by 53**. Notwithstanding the provisions of this

**police to pre-** Law or any other law relating to arrest, a **vent offences.** police officer upon a reasonable suspicion

of a design to commit an offence may arrest, without orders from a Magistrate and

without warrant, the person where it

appears to the officer that the commission of

the offence cannot otherwise be prevented.

**Prevention 54**.(1) A Judge, Magistrate, or any other public

**by other public** officer charged withresponsibility for **officers of offences** maintaining law and order may intervene for **and injury** the purpose of preventing and shall, to the

**to public property.** best of his ability, prevent the commission

of an offence, for which he is authorised

to arrest without a warrant or any damage to

any public property movable or immovable.

(2) A person is bound to assist a Judge or

Magistrate or police officer or any other

public officer reasonably demanding his

aid-

1. in preventing, and shall to the best of his ability, prevent the commission of an offence for which he is authourised to arrest without a warrant or any damage to any public property, movable or immovable; or
2. in the suppression of a breach of the peace or in the prevention of any damage to any property, movable or immovable or to any railway, canal, water supply, telecommunication system, oil pipeline or oil installation, or electrical installation; or

1. in the prevention of the removal of any public landmark, buoy or other mark used for navigation.

**Power of 55**. (1) Where a Magistrate is informed on **Magistrate to** oath that a person islikely to-

**require**

**execution of** (a)commit a breach of the peace or **recognizance** disturb the public tranquillity: or

**for keeping** (b) do any wrongful act that may

**peace.** probably occasion a breachthe

peace or disturb the public

tranquillity,

the Magistrate may, in the manner provided in

this Part, require the person to show cause why

he should not be ordered to enter into a

recognizance, with or without sureties, for

keeping the peace for such period, not exceeding

one year, as the Magistrate deems fit.

(2) Proceeding shall not be taken under this section unless the person is-

1. in the State; and

(b) subject of the information under subsection (1) of this section within the jurisdiction of the Magistrate, or the place where the breach of the peace or disturbance has occurred or where the suspect is, within the jurisdiction of the Magistrate.

**Security for 56.** Where a Magistrate is informed on oath **good behaviour** that-

**for suspected persons.**

**(**a) a personis taking precautions to conceal his presence within the local limit of the Magistrate’s jurisdiction; and

(b)there is reason to believe that the person is taking the precautions with a view to committing an offence,

the Magistrate may, in the manner provided in this Part, require the person to show cause why he should not be ordered to enter into a recognizance, with sureties, for his good behaviour for such period not exceeding 1 year, as the Magistrate deems fit.

**Security for good 57**. Where a Magistrate is informed on oath **behaviour for** that a person within the local limits of his **habitual offenders.** jurisdiction-

1. is by habit an armed robber, a housebreaker, or a thief; or
2. is by habit a receiver of stolen property, knowing the same to have been stolen; or
3. habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; or
4. habitually commits or attempts to commit, or aids or abets the commission of any offence relating to property; or
5. habitually commits or attempts to commit, or aids or abets in the commission of, offence involving a breach of the peace; or
6. is so desperate or dangerous as to render his being at large without security hazardous to the community, such Magistrate may, in the manner provided in this Law, require such person to show cause why he should not be ordered to enter into a recognizance with sureties for his good behaviour for

such period, not exceeding 3 years, as the Magistrate deems fit.

**Order to** **58**. Where a Magistrate acting under section 55 **be made.** or56 or 57 of thisLawconsiders it

necessary to require a person to show cause

under the section, he shall make an order in

writing setting out the-

1. substance of the information received;
2. amount of the recognizance to be executed;
3. term for which it is to be in force; and
4. number, character and class of sureties, if any, required.

**Procedure in**  **59**.Where the person in respect of whom an **respect of person** order is made is present in court, it shall be **present in** read over to him or, if he so desires, the **court.** substance of the information shall be

explained to him.

**Summons or**  **60**.(1) Where the person is not present in court, the **warrant in case** Magistrate shall issue a summons requiring **of person not** him to appear, or, where theperson is in **present.** custody a warrant directing the officer in

whose custody he is to bring him before the

court.

(2) Where it appears to the Magistrate, on the report of a police officer or on other information, the substance of which report or information shall be recorded by the Magistrate, that there is reason to fear the commission of a breach of the peace, and that the breach of the peace cannot be prevented otherwise than by the immediate arrest of the person, the Magistrate may at any time issue a warrant for his arrest.

**Copy of order 61**. A summons or warrant of arrest issued

**under section 60** under section 60 of this Law shall be

**to accompany** accompanied by a copy of the order made **summons or** under section 58 of this Law, and the copy **warrant.** shall be delivered by the officer serving or

executing the summons or warrant to the

person served with or arrested under it.

**Power to 62**. The Magistrate may, where he sees

**dispense** sufficient cause, dispensewith the personal **with personal** attendance of a person called on to show **attendance.** cause whyhe should not be ordered to enter

into recognizance forkeeping the peace, and

may permit him to appear by a legal

practitioner.

**Inquiry as 63**. (1) where an order under section 58 of

**to truth of** this Law has been read or explained under **information.** section 59 of this Law to a person in court, or

where the person appears or is brought before

a Magistrate in compliance with or in

execution of a summon or warrant issued

under section 60 of this Law, the Magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

(2) The inquiry shall be made, as nearly as may be practicable, in the manner prescribed in this section for conducting trials, and recording evidence, except that the standard of proof shall be that of preponderance of evidence.

(3) Pending the completion of the inquiry under subsection (1) of this section, the Magistrate, if he considers that immediate measures are necessary for the prevention of-

1. a breach of the peace or disturbance of the public tranquillity; or
2. the commission of any offence or for the public safety,

may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 58 of this Law has been made, to enter into a recognizance, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain

the person in custody until the recognizance is entered into or, in default of execution, until the inquiry is concluded.

(4) For the purpose of subsection 3 of this

section-

1. a person against whom proceedings are not being taken under section 55 of this Law shall not be directed to enter into a recognizance for maintaining good behaviour;
2. the conditions of the recognizance, whether as to the amount or as to the provisions of sureties or the number of sureties or the pecuniary extent of their liability shall not be more onerous than those specified in the order under section 59 of this Law; and
3. a person shall not be remanded in custody under the powers conferred by this section for a period exceeding 15 days at a time.

(5) For the purpose of this section, the fact that a person comes within the provisions of section 56 of this Law may be proved by evidence of general repute or otherwise.

(6) Where two or more persons have been associated together in the matter under inquiry, they may be dealt with in the same or separate inquiries as the Magistrate deems fit

**Order to** **64**. (1) Where on an inquiry it is proved thatit is

**give** necessary for keeping the peace or

**security.** maintaining good behaviour, as the case may

be that the person in respect of whom the

inquiry is made should enter into a

recognizance, with or without sureties, the

Magistrate shall make an order accordingly,

but-

1. a person shall not be ordered to give security of a nature different from or of an amount larger than or for a period longer than that specified in the order made under section 58 of this Law;
2. the amount of a recognizance shall be fixed with due regard to the circumstances of the case and shall not be excessive; and
3. where the person in respect of whom inquiry is made is a child, the recognizance shall

be entered into as provided in section 163

of this Law.

(2) A person ordered to give security for good behaviour under this section may appeal to the High Court.

**Discharge of 65**. Where on an inquiry under section 60 of **person** this Law it is not proved that it is necessary **informed** for keeping the peace or maintaining

**against.** behaviour, as the case may be, the person in

respect of whom the inquiry is made should

enter into a recognizance, the magistrate

shall make an entry on the record to that

effect, and shall, if the person is-

1. in custody only for the purpose of the inquiry, release him; or
2. not in custody, discharge him.

**PART 5 – PROCEEDING IN ALL CASES SUBSEQUENT TO ORDER TO**

**FURNISH SECURITY**

**Commencement 66**. (1) Where a person in respect of whom **of period for** an order requiring security is made under **which security is** section 58 of this Law is, at the time the **required.** order is made, sentenced to or

undergoing a sentence ofimprisonment,

the period for which the security is

required shall commence on the

expiration of the sentence.

(2) In other cases, the period shall

commence on the date of the order

unless the Court, for sufficient reason,

fixes a later date.

**Conditions of 67**. The recognizance to be entered into by a **recognizance.** person under section 58 ofthis Law shall

bind him to keep the peace or be of good

behaviour, as the case may be, and in the

latter case the commission or attempt to

commit or the aiding, abetting, counselling,

or procuring the commission, anywhere

within the State, of an offence punishable

with imprisonment, wherever it may be

committed, any time during the continuance

of the recognizance, shall be a breach of the

recognizance.

**Power to reject 68**. A court may refuse to accept a surety

**Sureties.** offered under any of the preceding sections

on the ground that, for reasons to be

recorded by the Court, the surety is an unfit

person.

**Procedure on 69**. Where a person ordered to give security

**failure of person** does not give the security on or before the

**to give** date on which the period for which

**security.** the security is to be given commences, he

shall, except in the casementioned in this

section, be committed to prison until the

period expires or until within the period he

gives the security to the court that made the

order requiring it.

**Power to release 70**. Where a court is of the opinion that a

**a person** person imprisoned for failing to give **imprisoned** security may be released without hazard to

**for failure to** thecommunity, the Court may, if it deems **give security.** fit, order the person to bedischarged.

**Power of High 71**. The High Court may at any time, for

**Court to cancel** sufficient reasons to be recorded in writing, **recognizance.** cancel any recognizance for keeping the

peace or for good behaviour executed under

any of the preceding sections by order of any

lower court.

**Discharge of 72**. (1) A surety for the peaceable conduct or

**Sureties.** good behaviour of another person may at any

time apply to a court to discharge a recognizance

executed under any of the preceding section,

within the district or division to which the Court

is assigned.

(2) On an application being made, the Magistrate

shall, if he is satisfied that there is good reason

for the application, issue such summons or

warrant, as he thinks fit, requiring the person

for whom the surety is bound to appear or to

be brought before him.

(3) Where the person appears or is brought before

a Magistrate, the Magistrate after hearing the

person may discharge the recognizance and

order the person to give, for the unexpired

portion of term of the recognizance, fresh

security for the unexpired portion of the same

description as the original security.

(4) An order made under subsection (3) of this section shall, for the purposes of sections 66, 67, 68, and 69 of this Law, be deemed to be an order under section 58 of this Law.

**PART 6 – PUBLIC NUISANCE**

**Conditional 73**. Where a court considers, on receiving a

**order for** police report or other information and on **removal of** taking such evidence, if any, as it deems fit, **nuisance.** that anoffence relating to public nuisance is

being committed, the court may make a

conditional order requiring the persons-

1. within a time fixed in the order to cease committing the offence and to amend or remove the cause of the nuisance in such manner as is specified in the order; or
2. to appear before the court at a time and place to be fixed by the order and apply to have the order set aside or modified in the manner provided in this Law.

**Service of**  **74**. (1) An order made under section 73 of

**order.** this Law shall, ifpracticable, be served on

the person against whom it is made in the

manner provided for the service of a

summons.

(2) Where an order referred to in subsection (1)

of this section cannot be served in the

manner laid down in that subsection, it may

be served by registered letter through the

post, addressed to the person against whom

it is made at his last known address or,

where his last address is not known, then by

affixing a notice in some conspicuous place

in the town or village or near which the

nuisance or offence is being committed.

**Person to 75**. A person against whom an order under section **whom order**  73 of this Law is made shall-

**is addressed**

**to obey or appear**

**before court.**

1. perform, within the time and in the manner specified

in the order, the act directed by

the order; or

1. appear in accordance with the order and apply to have the order set aside or modified.

**Consequences 76**. Where a person against whom an order under **of failure to** section 73 of the Law is made does not

**obey order** perform the act specified in the order or appear **or to appear.** and apply to have the order set aside or

modified, he is liable, where the act-

1. offends public safety, to a fine of not less than N100,000.00 for individual and not less than N1,000,000.00 in case of a corporate body or imprisonment for a term of six months; or
2. threatens human life, to a fine of not less than N200,000.00 for individual and not less than N2,000,000.00 in case of a corporate body or imprisonment for a term of 12 months.

**Procedure** 77. (1) Where a person against whom an

**where person** order under section 73 of this Law is made to **appears.** appear applies to have the order set aside or

modified, the court shall take evidence in the

matter in the same manner as in a summary

trial.

(2) Where the court is-

1. satisfied that the order, with or without modification, is reasonable and proper, the court shall make it absolute with such modification, if any, as the court thinks fit; and

1. not satisfied, it shall cancel the order.

**Consequences** **of** 78. Where the acts directed by an order **disobedience to** under section 73 of thisLaw which is made **order made** absolute under section 76 or 77 (2) (a) of  **absolute.** this Law is not performed within the time fixed and in the manner specified in the order, the court may cause it to be performed and may recover the cost of performing it either by-

1. the sale of any building, goods or other property removed by its order; or
2. seizure and sale of any other movable property of the person against whom the order under section 73 of this Law was made in the manner prescribed in this Law for the recovery of a fine.

**Order pending 79**. (1) Where the court making an order

**inquiry.** under section 73 of this Law considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further order to the person against whom the order was made as is required to obviate or prevent danger or injury pending the determination of the matter.

(2) In default of the person referred to in subsection (1) of this section immediately obeying the further order referred to in that subsection or if notice of order cannot, by the exercise of due diligence, be served on him immediately, the court may use or cause to be used such means as it thinks fit to obviate the danger or to prevent the injury.

**Prohibition of 80**. A court may, in any proceeding under this Part **repetition or** or in anycriminal proceeding in respect of a **continuance of** public nuisance, order anyperson not to repeat **nuisance.**  or continue the public nuisance.

**PART 7 – ATTACHMENT WHERE A PERSON DISOBEYS SUMMONS OR WARRANT**

**Attachment of 81**. A Judge or Magistrate may, at any time **property of** after action has been taken under section 42 **person** of this Law or on an application made in  **absconding.** that regard after summons or warrant has been issued but disobeyed, order the attachment of any property, movable or immovable or both, belonging to a person the subject of the summons or warrant.

**Order to attach 82.** (1) An order under section81 of this Law **property.** shall authorise a public officer named in the

order as the owner of the property within the

area of jurisdiction of the Judge or Magistrate

by seizure or in any other manner by which

for the time being the property may be

attached by way of civil process.

(2) Where, a person who is the subject of an order does not appear within the time specified in the summons, the property under attachment shall be at the disposal of the court

(3) Any property under attachment shall not be sold until the expiration of three months from the date of the attachment unless it is subject to speedy decay or the Judge or Magistrate considers that the sale would be for the benefit of the owner, in either of which cases the Judge or Magistrate may cause it to be sold whenever he thinks fit.

**Restoration of**  **83**. (1) Where within one year from the date **attached** of the attachment, a person, whose property is **property.** or has been at the disposal of the courtunder

section 81 of this Law, appears voluntarily or

being arrested is brought before the court and

proves to its satisfaction that he-

1. did not abscond or conceal himself for the purpose of avoiding execution of the warrant; and
2. had no notice of the summons or warrant as to enable him to attend within the time specified therein, that property, so far as it has not been sold, and the net proceeds of any part of it which has been sold shall, after satisfying from the proceeds all costs incurred in consequence of the attachment, be delivered to him.

(2) Where, after one year from the date of attachment, the person whose property is attached or has been at the disposal of the court does not appear voluntarily, the property or the net proceed of its sale shall be forfeited to the State.

**Issue of 84**. (1) A court or Justice of the Peace empowered **warrant in** by this Law to issue a summons for the

**lieu of or** appearance of a person may, after recording **in addition to** reasons in writing, issue a warrant for his  **summons.** arrest inaddition to or instead of the

summons where-

1. whether before or after the issuance of the summons, the Court or Justice of the Peace sees reason to believe that the person has absconded or will not obey the summons; or
2. at the time fixed for his appearance, the person fails to appear and the summons is proved to have been duly served in time to allow for his appearance and no reasonable excuse is offered for his failure to appear.

(2) A court or Justice of the Peace empowered by this Law to issue a warrant for the arrest of a person may issue a summons in place of a warrant where he thinks fit.

**Power to**  **85.** Where a person for whose appearance or

**take bond** arrest a summons or warrant may be issued is **for** present before a court or Justice of the Peace, **appearance.** the court or Justice of the Peace may require

him to execute a bond, with or without

sureties, for his appearance before a court.

**Provisions of**  **86.** The provisions in this Part relating to

**this Part** summonses and warrantsand their issuance, **generally** service and execution shall, so far as may be, **applicable to** apply to every summons and every warrant **summons and** issued under this Law.

**warrant.**

**PART 8 – PROVISIONS RELATING TO CRIMINAL TRIALS AND INQUIRIES IN GENERAL**

**Application 87**. The provisions of this Part and Parts 9 to 29 of **of Part 8.** this Law shall apply to all criminal trials and

proceedings unless express provisions is made

in respect of any particular court or form of

trial or proceeding.

**General authority 88.** A court has authority to compel the

**to bring** attendance before it of a person who is within **person before** the jurisdiction and is charged with an offence **a court.** committed within the State, or which

according to law may be dealt with as if the

offence had been committed within the

jurisdiction and to deal with the person

according to law.

**Right of making 89**. (1) A person may make a complaint against **complaint.** any other personalleged to have committed

or to be committing an offence.

(2) Notwithstanding anything to the contrary contained in any other law, a police officer may make a complaint in a case of assault even though the party aggrieved declines or refuses to make a complaint.

**Form of 90**. (1) It is not necessary that a complaint shall be in **complaint.** writing unless it is required to be so by the law on which it is founded, or

by some other law, and where a complaint is not made in writing, the court or registrar shall reduce it into writing.

(2) Subject to section 55 of this Law, a complaint may, unless some law otherwise requires, be made without oath.

(3) A complaint may be made by the complainant in person, or by a legal practitioner representing him, or by any person authorised in writing in that behalf.

(4) A complaint shall be for one offence only, but the complaint shall not be avoided by describing the offence, or any material act relating to it in alternative words according to the language of the law constituting such offence.

(5) All complaints made to the court directly under this section may first be referred to the police for investigation before any action is taken by the court.

**Form of 91**. A complaint, information, charge, summons

**documents** warrant or any other document laid, issued or

**in criminal** made for the purpose of or in connection with

**proceedings.** any proceedings before a court for an offence,

shall be sufficient if it contains a statement of

the specific offence with which the suspect is

charged, together with such particulars as may

be necessary for giving reasonable information

as to the nature of the charge.

**Rule as to 92**. Any exception, exemption, proviso, condition, **statement**  excuse, or qualification, whether it does or does **of**  not in any enactment creating an offence **exception.** accompany in the same section, the description

of the offence, may be proved by the defendant,

even if it is not specified or refuted in the

complaint but if so specified or refuted no proof

shall be required on the part of the complainant.

**Limitation 93.** In every case where no time is specifically

**of period for** limited for makinga complaint for a summary **making a** conviction of an offence in the law relating to **private** such offence, such complaint, if made other than **complaint.** by a person in his official capacity, shall be

made within six years from the time when the

matter of such complaint arose, and not after.

**PART 9 – PLACE OF TRIAL OR INQUIRY**

**Venue generally. 94**. (1) Subject to the powers of transfer

contained in the enactment or law

establishing any court, the place for the

trial of an offence shall be in the division

or districts where the-

1. offence was committed; or
2. act was done or where consequence ensues or to be done; or

1. act is an offence by reason of its relation to any other act which is also an offence.

(2) An offence may be tried by a court having jurisdiction in any division or district in any of the following circumstances when-

1. it is uncertain in which of several divisions or districts an offence was committed; or

(ii) an offence is committed

partly in one division or

district and partly in another;

or

(iii) an offence is a continuing one, and continues to be committed in more divisions or districts than one; or

(iv) it consists of several acts committed divisions or districts.

(3) An offence committed while the offender is in the course of performing a journey, may be tried by a court in the division or district through which the defendant passed or in which the thing in respect of which the offence was committed is situated.

(4) where any cause is commenced in any division or district other than that in which it ought to have been commenced, it may, notwithstanding, be tried in that division or district unless the defendant shall object at or before the time when he is called upon to plead or to state his answer in such cause.

(5) The Commissioner of Police shall ensure that one or more armed policemen are posted to provide security during every criminal trial.

**Offence at 95**. An offence committed at sea or elsewhere

**sea or outside** outside the Statemay be tried or inquired into at **of Nigeria.** any place in the State to which the defendant is

first brought, or to which he may be taken

thereafter.

**Offence 96**. An offence committed while the person

**committed** is in the course of performinga journey or

**on a journey.** voyage may be tried or inquired into by acourt in

the State or division or district or whose

jurisdiction the person or the person against

whom or the thing in respect of which the offence

was committed resides, is or passed in the

course of that journey or voyage.

**offence 97.** Where an offence is-

**commenced**

**and** (a) commenced in the State and

**completed in** completed inanother State, or

**different States.**

(b)completed in the State after

being commenced in another

state,

the person suspected may be dealt with, tried

and punished as if the offence had been

actually or wholly committed in the State.

**Chief Judge to 98**. where a question arises as to which of the **decide question as** two or more courts of the State ought to **to court of inquiry** inquire into or try any offence, it shall be

**or place of trial.** decided by the Chief Judge.

**Chief Judge 99**. (1) The Chief Judge may, where it

**may transfer** appears to him that the transfer of a case

**a case.** will promote the ends of justice or will be in the interest of the public peace, transfer any case from one court to another.

(2) The power of the Chief Judge referred to in subsection (1) of this section shall not be exercised where the prosecution has called witnesses.

(3) Where the Chief Judge is to exercise this power subsequent to a petition, the Chief Judge shall cause the petition to be investigated by an independent body of not more than three reputable legal practitioners within one week of receipt of such petition.

(4) The investigation body shall submit its report within two weeks of appointment except otherwise specified.

**When cases**  **100**. A court before which a person charged with **may be** having committed an offence is brought shall, **remitted to** where-

**another court**

1. the offence ought to be properly inquired into

or tried by another court; or

1. in the opinion of the court, the offence ought

to be conveniently inquired into or tried by another court, within a reasonable period not exceeding 7 days, send the case and all processes relating to the case to the head of court for re-assignment to that other court, and where appropriate, remand the person charged in custody or require him to give security for his attendance before that other court to answer the charges and to be dealt with accordingly.

**Removal**  **101**. (1) Where a person is to be remandedin

**under** custody, a warrant shall be issued by the

**warrant.** remitting court and that warrant shall be

sufficient authority to any person to whom it

is directed to-

1. receive and detain the person named in the warrant; and
2. produce him to the court to which the person charged is remitted.

(2) The person to whom the warrant is directed shall execute it according to its terms without any delay.

**Transfer of case 102.** Where a person is-

**where cause of** (a) in custody and the courtdirecting a transfer

**complaint has** thinksit expedient that the custody should

**risen out of** be continued; or

**jurisdiction** (b) not in custody, that he should be placed in

**of court.** custody,

the court shall, by its warrant, commit the

person to prison subjectto such security, as

it may deem appropriate in the

circumstances, until he can be taken before

court wherein the cause of complaint arose.

**Court may 103**. (1) Notwithstanding sections94 and 99 of this **assume**  Law, a Judge or Magistrate of a division

**Jurisdiction**  or district in which a person-

**under certain**

**conditions.**

1. is arrested and charged with an offence, alleged to have been committed in another division or district; or
2. is in custody on the charge; or
3. has appeared in answer to summons lawfully issued charging the offence, may, where he considers that justice would be better served and having regards to the accessibility and convenience of the witnesses, proceed to hear the charge, try and punish the person as if the offence had been

committed in the division or

district.

(2) The offence referred to in subsection (1) of this section shall, for all purposes, be deemed to have been committed in the division or district.

**Assumption 104**. Where a case is commenced in any other

**of jurisdiction** division or districtthan that in which it ought **after** to have been commenced, the courtmay **commencement** assume jurisdiction in accordance with

**of proceedings.** section 102 of this Law and all

acts performed and all decisions given by the

court during the trial or any other proceeding

shall bedeemedto be valid in all respect as if

the jurisdiction had been assumed prior to

the performance of the acts and the giving of the decision.

**PART 10 – POWERS OF THE ATTORNEY–GENERAL**

**Initiation of 105**. (1) The Attorney-General may initiate criminal **criminal** proceedings in any court in respect of an **proceedings** offence created by a law of the House.

**by the Attorney-**

**General.**

(2) The Attorney-General may authorise any other person to exercise any or all the powers conferred on him under this section.

**Issuance of 106**. (1) The Attorney-General may issue

**legal advice** legal advice or such other directive to the **and other** Police or any other law enforcement **directives** agency inrespect of an offence created by **to police.** a law of the House.

(2) Where any proceeding is pending in respect of the offence for which legal advice or other direction referred to in subsection (1) of this section is given, a copy of the legal advice or direction shall be forwarded by the Attorney General or Director of Public Prosecutions to the court before whom the proceeding is pending.

(3) The Attorney General may request from the Police or any other agency for the case file in any matter in respect of an offence created by a law of the House and the Police or other agency shall immediately send the case file as requested.

**Prosecution**  **107**. Subject to the provisions of the 1999

**of offences.** Constitution, relating to the powers of

prosecution by the Attorney-General,

prosecution of all offences in any court shall

be undertaken by-

1. the Attorney-General or a Law Officer in his chamber; or
2. a legal practitioner authorised by the Attorney-General; or
3. a legal practitioner authorised to prosecute by this law or any other law of the House; or
4. a police officer who is a legal practitioner.

**PART 11 – CONTROL OF CRIMINAL PROCEEDINGS BY THE ATTORNEY-GENERAL**

**Discontinuance 108.**(1) In any criminal proceeding for an

**of criminal** offence created by anylaw of the House, **cases.**  and at any stage of the proceeding before

judgement, the Attorney-General may

discontinue the proceedings either by stating

in court or informing the court in writing

that the Attorney-General intends that the

proceeding shall not continue and based on

the notice, the defendant shall immediately

be discharged in respect of the charge or

information for which the discontinuance is

entered.

(2) Where the defendant-

1. has been committed to prison, he shall be released; or
2. is on bail, the recognizance shall be discharged.

(3) Where the defendant is not-

1. before the court when the discontinuance is entered, the registrar or other proper officer of the court shall immediately cause notice in writing of the entry of the discontinuance to be given to the officer in charge of the prison or other place in which the defendant may be detained and the notice shall be sufficient authority to discharge the defendant; or
2. in custody, the court shall immediately cause notice in writing to be given to the defendant and his sureties and shall in either case cause a similar notice in writing to be given to any witness bound over to prosecute.

(4) Where discontinuance is entered in accordance with this section, the discharge of a person shall not operate as a bar to any subsequent proceeding against him on account of the same facts.

**Withdrawals** 109. (1) In any trial or proceeding before a court,

**from prosecution** a prosecutor mayor on the instruction of

**in trials** the Attorney-General, in case of offences

**and inquiries** against any law of the State, at any stage

**before a** before judgement is pronounced, withdraw

**court.** the charge against any defendant either

generally or in respect of one or more of the

offences with which the defendant is

charged.

(2) On the withdrawal, where it is made-

1. before the defendant is called upon to make his defence, he shall be discharged of the offence; and
2. after the defendant is called upon to make his defence, he shall be acquitted of the offence.

(3) In any trial before a court in which the prosecutor withdraws in respects of the prosecution of an offence before the defendant is called upon to make his defence, the court may, in its discretion, order the defendant to be acquitted if it is satisfied, on the merits of the case, that the order is a proper one, and when an order of acquittal is made, the court shall endorse its reasons for making the order on the record.

(4) Where a private prosecutor withdraws from a prosecution for an offence under this section, the court may, in its discretion, award costs against the prosecutor.

A discharge of a defendant under this section does not operate as a bar to subsequent proceedings against him on account of the same facts, except as otherwise provided under this section.

**PART 12 – INSTITUTION OF PROCEEDINGS**

**Different** 110. Subject to any other law, criminal proceedings

**methods of** may, in accordance with ,this Lawbe instituted-

**instituting**

**criminal** (a)in a Magistrate court, by a **proceedings.** charge or a complaint

whether or noton oath;

(b) in the High Court, by complaint, information, or charge of the Attorney-General, subject to section 105 of this Law;

(c ) by complaint, information or charge filed in the court after the defendant has been summarily committed for perjury by a court under this Law;

(d)by information, complaint or charge filed in the court by any other prosecuting authority; and

(e)by complaint, information or charge filed by a private prosecutor subject to this Law.

**Mode of 111**. (1) Criminal proceedings instituted in a **instituting** Magistrate court may be-

**criminal** (a)by bringing a person **proceedings** arrested without a warrant  **in a Magistrate court.** before the court ona charge

contained in a charge sheet

specifying the name, address,

sex and occupation of the

person charged, the charge

against him at the time and

place the offence is alleged to

have beencommitted, and the charge sheet shall be signed by any of the persons mentioned in section 107.

(b)subject to the provision of section 90 of this Law, by complaint to the court, whether or not on oath, that an offence has been committed by a person whose presence the Magistrate has power to compel, and an application to the Magistrate, in the manner

set out in this section for the issue of either a summons

directed to, or a warrant to arrest, the person.

(2) The charge sheet filed by the prosecution shall be served on the defendant within seven days of its being filed or such time as the court may allow.

(3) The trial of a charge preferred under paragraph (a) of subsection (1) of this section shall commence not later than thirty days from the date of filing the charge, and the trial of the person brought under the charge shall be completed within a reasonable time.

(4) Where a charge preferred under paragraphs (a) subsection (1) of this section and the trial does not commence within thirty days of bringing the charge, or trial has commence but has not been completed after one hundred and eighty days of arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.

(5) A court seised of criminal proceedings shall in every quarter forward returns of the particulars of all cases, including charges, remand and other proceedings commenced and dealt with in his court within the quarter, to the Chief Judge.

(6) In reviewing the returns made by a court under subsections (4) and (5) of this section, the Chief Judge shall have regard to the need to ensure that –

1. criminal matters are speedily dealt with;
2. congestion of cases in courts is drastically reduced;
3. congestion of prisons is reduced to the barest minimum ; and
4. persons awaiting trial are, as far as possible, not detained in prison custody for unreasonable length of time.

(7) The Committee, shall have power to consider all returns made to the Chief Judge under subsections (4) and (5) of this section for the purpose of ensuring expeditious disposal of cases.

**Returns by** 112.(1)The Comptroller-General of Prisons or **Comptroller-** any officer authorised by him shall make **General of** return every ninety days to the Chief Judge **Prisons.** and the Attorney-General of all persons

awaiting trial held in custody withinthe State

for a period beyond one hundred and

eighty days before the date of arraignment.

(2) The returns referred to in subsection (1) of this section shall be in a prescribed form and shall include-

1. the names of the person held in custody or Awaiting Trial Persons (ATPs);
2. passport photograph of the person;
3. the date of his arraignment or remand;
4. the date of his admission to custody;
5. the particulars of the offence with which he was charged;
6. the court before which he was arraigned;
7. name of the prosecuting agency; and
8. any other relevant information.

(3) Upon receipt of such returns the recipient shall take such steps

as are necessary to address the issues raise

in the returns in furtherance of the objectives

of this Law.

PART 13 – ENFORCING APPEARANCE OF PERSON

**Compelling** 113. A court may issue a summons or warrant as **appearance** provided in this Law to compel the appearance **of a person.** before it of a person accused of having

committed an offence in any place, whether

within or outside the State.

**Summons and** 114. In every case, the court may proceed either by **Warrants.** way ofsummons to the defendant or by way of

warrant for his arrest in the first instance

according to the nature and circumstances of

the case.

**Making of**  115. Subject to section 90 of this Law who believes

**complaint**  from a reasonable or probable cause that

**and issue** an offence has been committed by another

**of process.**  person whose appearance a Magistrate

has power to compel, may make a complaint of

the commission of the offence to a Magistrate

who shall consider the allegation of the

complaint and may-

1. in his discretion, refuse to issue process and shall record his reasons for such refusal; or

1. issue a summons or warrant as he shall deem fit to compel the attendance of the

defendant before a Magistrate Court in the district.

(2) The Magistrate shall not refuse to issue a summons or warrant only because the alleged offence is one for which a person may be arrested without warrant.

PART 14 – ISSUE, FORM AND SERVICE OF SUMMONS

**Issue and 116.** A summons may be issued or served on

**Service.** any day, including a Sunday or public

holiday.

**Issue of**  **117**. Where a complaint is made before

a **summons** Magistrate as providedinsection 115 of this **and its** Law and the Magistrate decides to issue a

**contents.** summons, the summons shall be directed to

the suspect, statingconcisely the substance of

the complaint and requiring him to appear at

a certain time and place not less than 48 hours

after the service of the summons before the

court to answer to the complaint and to be

further dealt with according to law.

**Hearing by 118**. The court may, if it deems fit and with the

**consent** consent of theparties,hear and determine a **before** complaint notwithstanding that the time within

**return date** which the defendant was required to appear

**of summons.**  may not have elapsed.

**Summons 119**. Where, on a complaint being made before a **with** Magistrate asprovided in section 115 of this **immediate** Law, the Magistrate decides to issue a

**returns date** summons, the defendant may be directed to

**in special** appearimmediately in case where an affidavit **circumstances** is made by the complainant either at the time **circumstances.** of making the complaint or subsequently that

the defendant is likely to leave the district

within 48 hours.

**Discretion in**  **120**. Nothing contained in section 117or118 or 119 **ex parte** of this Lawshall oblige a Magistrate to issue a **application.** summons in any case wherethe application

for an order may by law be made ex parte.

**Summons to 121**. A summons issued by a court under this

**be in duplicate.** Law shall be in writing, made in duplicate,

signed by the presiding officer of the court or

by such other officer as the Chief Judge may

specify, from time to time.

**Service of 122** . A summons shall be served by a police officer **Summons**. or by an officer of the court issuing it or other

public officer, or through a courier service

company duly registered with the Chief Judge

as a process service agent of the court under

this Law.

**Normal 123.** The person effecting service of a summons

**methods**  shall effect it by delivering it on-

**of effecting**

**service.**

1. an individual, to him personally; or
2. a firm or corporation-

(i). to one of the partners,or

(ii). to a director, or

(iii). to the secretary, or

(iv) to the chief agent

within the jurisdiction,

or

(v) by leaving it at the principal place of business in Nigeria of the firm or corporation, or

(vi) to anyone having, at the time of service, control of the business of the firm or corporation; or

(c). a Local Government Council, then in accordance with the Local Government Law; or

(d). the Nigeria Police Force, or the office of the Inspector –General of Police, to the Commissioner of Police of the State;or

(e). any Federal Government Ministry, Department or Agency to the Attorney-General of Federation or to the Legal

Department of such Ministry, Department or Agency; or

(f). any state Government Ministry, Department or Agency to the Attorney-General of the State or to the Legal Department of such Ministry, Department or Agency; or

(g)any arm of the armed forces, to the Director of Legal Services of the service or command concerned.

**Service** 124. Where service in the manner provided by

**where** section 123 (a) of thisLaw cannot, by the **person** exercise of due diligence, be effected, the **summoned** servingofficer may, with leave of the court, **cannot** affix one of the duplicates of thesummons to

**be found.** some conspicuous part of the premises or place

in which the individual to be served ordinarily

resides or works, and on doing so the summons

shall be deemed to have been duly served.

**Service on** 125.(1) Where a public officer is to be served with a **public** summons, thecourt issuing the summons may **officers.** send it in duplicate to the officer in chargeof

the department in which the person is

employed for the purpose of being served on

the person, if it appears to the court that it may

be most conveniently so served.

(2) The officer in charge of the department shall, on receiving the summons, cause it to be served in the manner provided by section

123 (a) of this Law and shall return the duplicate to the court under his name, designation and signature with the endorsement required by section 115 of this Law, which shall be evidence of the service.

**Service outside** 126. Where a court issues a summons to a person **jurisdiction of** outside its jurisdiction, the summons shall be **court.** sent in duplicate to a court in whose

jurisdiction the person resides or works.

**Proof of**  127. Where the officer who served a summons is **service when** not present at the hearing of the case, proof of **serving officer** service may be done by endorsement on a

**not present,** duplicate of the summons and by an affidavit

showing whenand how the service was

effected.

**Receipt of** 128.(1) Where a summons has been served

**service of** on the person to whomitis addressed or is **summons.** delivered to any person, the person to whom

itisaddressed or the person to whom it is

delivered, as the case may be, shall

acknowledge receipt at the back of the

duplicate.

(2) Where service is not effected by delivering the summons to an individual but by some other method approved by this Law, the person effecting service shall endorse on the duplicate particulars of the method by which he effected service.

**Person refusing** 129. A person who is required to sign a receipt on **to sign receipt** the back of a duplicate summons to the effect **may be arrested.** that he received the summons and fails to sign

the receipt may be-

1. arrested by the person serving the summons or any other person with powers of arrest under this Law and taken before the court which issued the summons; and

1. detained in custody or committed to prison for such time not exceeding 14days as the court may deem fit.

**Proof of**  130. An affidavit or declaration made before a court **service.** by the serving officer or by a witness to the

service or return slip of a registered courier

service company that a summons has been

served and a duplicate of the summons

endorsed, by the person to whom it was

delivered or tendered or with whom it was left

is admissible in evidence and the statements

made in it is deemed to be correct unless the

contrary is proved.

**Summons** 131. Where the court is satisfied that the person has **disobeyed,** been served with a summons and the person **warrant** does not appear at the time and place

**may be** appointed in and by the summons the court **issued.** may issue a warrant for his arrest and

production before the court.

**Issue of**  132. Where a complaint is before a Magistrate as **warrant** provided in this Law, and the Magistrate

**for person** decides to issue a warrant, he shall issue

**in the first** a warrant to arrest the person and bring him **instance.** before the court toanswer thecomplaint and

be dealt with according to law.

**Applications** 133. Where a warrant of arrest is issued in

**of sections 36** consequence of a complaint on oath as provided **to 48 to such** under section 132 of this Law, the provisions of **warrant.** sections 36 to 48 of this Law shall apply to such

warrant.

**Warrant may** 134. Notwithstanding the issue of a summons

**be issued before** as in section 116 of this Law, a warrant may be **or after** issued at any time before or after the time

**return date** appointed for the appearance of the person.

**of summons.**

PART 15 – M ISCELLANEOUS PROVISIONS REGARDING PROCESS

**Irregularities** 135.Where a defendant is before a court, whether

**in summons,** voluntarily, or onsummons, or after being **warrant,** arrested with or without warrant, or while

**service, or** in custody for the same or any other offence, **arrest.** the trial may be heldnotwithstanding-

1. any irregularity, defect or error in the summons or warrant, or the issuance, service, or execution of the summons or warrant; or
2. the want of any complaint on oath; or
3. any defect in the complaint, or any irregularity in the arrest or custody of the defendant.

**Irregularities** 136. Where a court or Justice of the Peace, who is **which vitiate** not empowered by law does any of the **proceedings.** following-

1. attaches and sells property under section 81 of this Law;
2. demands security to keep the peace;
3. demands security for good behaviour;
4. discharges a person lawfully bound to be of good behaviour;
5. cancels a bond to keep the peace;
6. makes an order under section 73 of this Law as to a public nuisance;
7. prohibits, under section 80 of this Law, the repetition or continuance of a public nuisance;
8. tries an offender; and

1. decides an appeal;

the proceedings shall be void.

**Variance** 137. A variance between the charge in the summons **between** or warrant and the offence alleged in the

**charge and** complaint, or between any of them and

**complaint.** theevidence adduced on the part of the

prosecution, shall not affect the validity of any

proceeding.

**Process** 138. A summons, warrant of any description or other

**valid** process issuedunder a law shall not be

**notwithstanding** invalidated by reason of the person who signed

**death or vacation** the summons or warrant being dead, ceasing

**of office of**  to hold office or have jurisdiction.

**person issuing.**

PART 16 – SAVING OF VALIDITY OF PROCESS

**Validity of** 139. (1) A warrant of commitment shall not be held **process:** void by reason ofany defect in it, where it is **warrant of** alleged that the defendant has been

**commitment** convicted or ordered to do or abstain from

**and warrant** doing an act or a thing required to be done or

**of distress.** left undone and there is a good and valid

order to sustain the warrant.

(2) A warrant of distress shall not be held void by

reason of any defect, where it is alleged that an

order has been made and there is a good and

valid ground to sustain the order, and a person

acting under a warrant of distress is not deemed

a trespasser from the beginning by reason of any

defect in the warrant or of any irregularity in the

execution of the warrant.

(3) This Law shall not prejudice the right of a

person to compensation for any special damage

caused by defect or irregularity in the execution

of a warrant of distress.

**General** 140. (1) In addition to sections 37 and

**addressee** 41 of this Law in respect of warrants of arrest,

**of process** all summonses, warrant of every description and **for issue** process of whatever description shall be

**and execution.**  sufficiently addressed for service or execution

by being directed to the Sheriff.

(2) Notwithstanding subsection (1) of this section, a

warrant or summons may be addressed to a person

by name or to an officer by his official

designation.

(3) Where a warrant of arrest is addressed to the

Sheriff the warrant may be executed by a police

officer or officer of a court.

**Certain** 141.The provisions contained in this Law in

**provision** respect of warrants ofarrests, and the provisions **applicable to** contained in this Part relating tosummonses,

**all summonses** warrants of any description and other process **and warrants** and their issuance, services, enforcement and

**in criminal** execution shall, so far as may be, applyto every **matters.** summons, warrant of any description and other

processissued in respect of matters within the

criminal jurisdiction of the court.

PART 17 – SEARCH WARRANTS

**Application** 142. Where an investigation under this Law is being **for search** made by a police officer, he may apply to a **warrant.** court or Justice of the Peace within the local

limits of whose jurisdiction he is for the

issuance of a search warrant.

**Cases in**  143.(1) Where a court or Justice of the

**which** Peace is satisfied by information on oath and in **search** writing that there is reasonable ground

**warrants** for believing that there is in any building, ship **may be** carriage, receptacle,motor vehicle, aircraft or **issued.** place-

1. anything upon or in respect of which any offence has been or is suspected to have been committed; or
2. anything which there is reasonable ground for believing will provide evidence as to the commission of an offence; or
3. anything which there is reasonable ground for believing is intended to be used for the purpose of committing an offence.

the court or Justice of the Peace may at any time issue a warrant authorising an officer of the court, member of the police force, or other person named to act in accordance with subsection (2) of this section.

(2) A search warrant issued under subsection (1) of this section shall authorise the officer of the court, a police officer, or other person named to-

1. search such building, ship, carriage, receptacle, motor vehicle, aircraft or place for any such thing, and to seize any such thing until further trial proceeding before the court issuing the search warrant or some other court to be dealt with according to law; and
2. arrest the occupier of the house or place where the thing was found where the court deems fit to direct on the warrant.

**Discharge** 144. Where the occupier of any building or the

**of suspected** person in whose possession a thing named in a **person.** search warrant is found and is brought before a

court or Justice of the Peace and a complaint

is not made that he has committed an offence,

the court or Justice of the Peace shall

immediately discharge him.

**Search** 145. (1) A search warrant shall be under the hand of the **warrant** Judge, Magistrate or Justice of the Peace issuing **to be signed** it.

**by Judge,** (2) A warrant shall remain in force until it is **Magistrate or** executed or cancelled by the court or Justice of **Justice of the** the Peace who issued it.

**Peace.**

**Search warrant** 146. A search warrant may be directed to one or **to whom directed.** more persons and, where directed to more than

one, it may be executed by allor by any one or

more of them.

**Time when** 147. A search warrant may be issued and executed at **search war-** any time on anyday, including a Sunday or **rant may be** public holiday.

**issued and**

**executed.**

**Person in** 148. (1) Where any building or other thing or place **charge of** liable to search is closed, a person residing in **closed place** or being in charge of the building, thing or

**to allow** place shall, on demand of the police officer or **access.** otherperson executing the search warrant,

allow him free and unhindered accessto it and

afford all reasonable facilities for its search.

(2) Where access into the building, thing or place cannot be so obtained, the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 11, 12, 14, and 15 of this Law.

(3) Where a person in or about the building, thing or place is reasonably suspected of concealing on his person an article for which search should be made, the person may be searched and where the person to be searched is a woman she shall be searched by another woman and may be taken to a police station for that purpose.

(4) A search under this Part shall, except the court or Justice of the Peace owing to the nature of the case otherwise directs, be made in the presence of two witnesses and the person to whom the search warrant is addressed may also provide a witness within the neighbourhood.

(5) A list of all things found on his person and seized shall be drawn up by the person carrying out the search and shall be signed or sealed by the person to whom the search warrant is addressed, the person executing the search warrant, the witnesses and a witnessed copy of the list shall be delivered to the person searched.

(6) Where a place to be searched is a building physically occupied by a woman who, according to custom or religion does not appear in public, the person making the search shall, before entering the building, give notice to the woman that she may withdraw and shall afford her every reasonable facility for withdrawing and may then enter the building.

**Occupant of**  149. The occupant of a place searched or some

**place searched** person on his behalfshall be permitted to be **may attend.** present at the search and shall, if he requires,

receive a copy of the list of things seized there,

signed or sealed by the witnesses, if any.

**Execution of** 150. A person executing a search warrant beyond **search warrant** the jurisdiction of the court or Justice of the **outside** Peace issuing it shall, before doing so, apply to **jurisdiction.** the court within whose jurisdiction search is to

bemade and shall act under its directions.

**Magistrate** 151. A Magistrate or Justice of the Peace

**may direct** may direct a search to be conducted in his **search in** presence of any place for the search of which **his presence.** he is competent to issue a search warrant.

**Detention of**  152. (1) Where upon the execution of a search

**articles re-** warrant anything referred to in section 143 **covered.** of this Law is recovered, it may bedetained

by the police, taking reasonable care that it

is preserved until the trial or any further

proceeding .

**First**  (2) A list of all things recovered in the

**Schedule**  course of search and of theplaces in

which they are found shall be drawn up

by the person carrying out the search in

accordance with section 148 (5)

of this Law and a copy of the list forwarded to the Judge, Magistrate or Justice of the Peace who issued the warrant for his information with indication as in the prescribed form set out in the First Schedule to this Law on the search warrant of the things-

1. seized that are detained or caused to be detained; and
2. that were seized but have been released to the owners.

(3) Where no person is charged to court with an offence or no appeal or further proceedings is pending in relation to an item recovered during a search, the police shall-

1. restore to the person who appears to be entitled to them; and

(b) where he is the defendant, cause to be restored to him or to his legal practitioner or to such other person as the defendant may direct.

(4) The police or any other agency carrying out the search is authorised or required by law to dispose of the items seized in accordance with this section, the police or agency shall release the proceeds of the disposal of the seized items to the person entitled to it.

(5) Any property or a part of the property may be applied to the payment of any cost or compensation directed by the court to be paid by the defendant, or person entitled to the property.

**Perishable article** 153. Where a thing seized under a search

**may be disposed** warrant is of a perishable or noxious nature, **of by court.** it may be disposed of in such manner as the

court may direct.

**Search for and** 154. Where the thing to be searched for under a **disposal of** search warrant is gunpowder, arms, **gunpowder.** ammunition or any other explosive,

dangerous or noxious substance or thing, the

person making the search has powers and

protection as are given by a law for the

time being in force to a person lawfully authorised to search for the thing, the thing shall be disposed of in the same manner as directed by the law, or in the absence of the direction, as the court may either generally or in any particular instance order.

**Disposal of** 155. Where, in consequence of the execution of a **counterfeit** search warrant, thereis brought before a court **currency** any forged bank note, bank note paper,

**and certain** counterfeit currency, instrument, or other thing **other thing.** for forgery or counterfeiting, the possession of

which, in the absence of lawfulexcuse, is an

offence, the court may cause the thing to be

defaced or destroyed.

**Transmission** 156. Where a search warrant is issued in respect of **to court of** an offenceagainst the law of any state of

**other state.** Nigeria and a summons has been issued for

that offence by, or any person has been

charged with that offence before a court of

that state, the court issuing the search warrant

may, except he has disposed of the thing in

accordance with section 152 of this Law,

transmit anything seized and brought before

him to that court and in relation to anything so

transmitted, the functions conferred on a

Magistrate by this Law shall be exercised and

performed by that court instead of the

Magistrate who issued the search warrant.

PART 18 - BAIL AND RECOGNIZANCE: GENERALLY

**General** 157. When a person who is suspected to have **entitlement** committed an offenceor is accused of an

**to bail.** offence is arrested or detained, or appears or is

brought before a court, he shall, subject to

this Part be entitled to bail.

**Power of** 158. (1) Where a person or defendant is detained in a **court to** prison, police station or any other place of **order per-** detention, the court may issue an order to

**son in**  the officer in charge of the prison, police

**custody to** station or other place to produce the person

**be brought**  or defendant at the time and date specified

**before it.**  in the order before the court.

(2) The court may, on production of the person or defendant subsequently, make such order or give such directives, as it considers appropriate in the circumstances in accordance with this Law.

**Recognizance** 159. (1) Where a child is arrested with or without

**by parent** warrant and cannot be brought forthwith

**or guardian** before a court, the police officer in

**of a child.** immediate charge for the time being of the

police station to which the child is brought,

shall in the interest of the child remove him

from association with any reputed criminal or prostitute, and release the child on a recognizance entered into by his parent or

guardian, with or without sureties except-

(a). the charge is one of

homicide; or

1. the offence charged is punishable with imprisonment for a term exceeding three years.

(2) The parents or guardian of the child shall execute a bond for such an amount as will in the opinion of the officer secure the attendance of the child for the hearing of the charge.

**Bail where** 160. (1) A person arrested, detained or charged with

**a person is** an offence punishable with death shall only **charged with** be admitted to bail by a Judge of the High **capital offence.** Court, under exceptional circumstances.

(2) For the purpose of exercise of discretion in subsection (1) of this section, “exceptional circumstances” include-

1. ill health of the applicant which shall be confirmed and certified by a qualified medical practitioner employed in a Government hospital, provided that the person is able to prove that there are no medical facilities to take care of his illness by the authority detaining him; or
2. extraordinary delay in the investigation, arraignment and prosecution for a period exceeding one year; or

1. any other circumstances that the Judge may, in the

particular facts of the case, considered exceptional.

**Bail where a**  161. A defendant charged with an offence **defendant is** punishable withimprisonment for a term **charged with** exceeding three years shall, onapplication **offence** to the court, be released on bail except in **exceeding** any of the followingcircumstances-

**three years**

**imprisonment.**

1. where there is reasonable ground to believe that the defendant will, if released on bail, commit another offence;
2. attempt to evade his trial;
3. attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case;
4. attempt to conceal or destroy evidence;
5. prejudice the proper investigation of the offence; and

1. undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.

**Bail where a** 162. In any other circumstance other than

**defendant is** those referred to in sections 160 and 161 of **charged with** this Law, the defendant shall be entitled to

**offence not** bail,unless the court sees reasons to the **exceeding three** contrary.

**years imprisonment.**

**Bail in respect** 163. Where a defendant is brought before a court **of matters in** on any process in respect of any matter not **other offences.** included within sections 157 to 162 of this

Law, the person may, at the discretion of

the court, be released on his entering into

recognizance, in the manner provided in this

Law, for his appearance before the court or

any other court at the time and place

mentioned in the recognizance.

**Conditions for** 164.The conditions for bail in any case shall be at **bail.** the discretion of the court with due regard to

the circumstances of the case and shall not be

excessive.

**Recognizance**  165. Where in any case the defendant in

**in respect of** respect of whom the courtmakes an order

**a child.**  requiring that a recognizance be entered into is

a child, the child shall not execute the

recognizance but the court shall require a

parent, legal guardian or other fit person, with

or without sureties, to enter into a recognizance

that the child shall do what is required under the

court’s order.

**Sureties.** 166. (1) A defendant admitted to bail may be

required to produce surety or sureties as, in

the opinion of the court, will be sufficient to

ensure his appearance as and when required.

(2) The defendant or his surety may be required

to enter into recognizance, accordingly.

(3) A person shall not be denied, prevented or

restricted to entering into a recognizance or

standing as surety for any defendant or

applicant on the ground only that the person

is a woman.

**Judge may vary** 167. A Judge of may direct that the-

**bail fixed by**

**Magistrate or police.**

(a)bail conditions required by a Magistrate or police officer be reviewed; or

(b)defendant in custody in the State be admitted to bail.

**Reconsideration** 168. Where a defendant has been admitted to bail **of bail.** and circumstances arise which, in the

opinion of the Attorney-General would

justify the court in cancelling the bail or

requiring a greater amount, a court may, on

application being made by the Attorney-

General, issue a warrant for the arrest of the

defendant and, after giving the defendant an

opportunity of being heard, may commit

him to prison to await trial, or admit him

to bail for the same or an increased

amount.

**Before whom** 169.(1) The terms of recognizance fixed by the **recognizance** court in respect to any surety or sureties **may be executed.** shall be processed in that court.

(2) The recognizance as mentioned in

subsection (1) of this section may be

entered into by the parties before any other

court, any registrar, superior police officer,

officer in charge of a police station or any

official in charge of a prison.

(3) Recognizance entered into as prescribed in

subsection (2) of this section shall have the

same effect as if they have been entered

into before that court.

**Release on** 170. (1) As soon as recognizance has been entered **execution** into in accordancewith section 163 of this

**of recognizance.** Law ormoney or other security deposited

in the registry of the court-

1. the defendant for whose appearance it has been executed shall be released; and
2. where he is in prison or police station or other place of detention, the court admitting him to bail shall immediately issue a written order of release to

the official in charge of the prison or such other place of detention and the official on receipt of the order shall immediately release him.

(2) The release order or any process in relation to it may be served in accordance with the relevant law regulating service of processes in the court, or by such person or courier company as the Chief Judge may authorise to serve criminal processes of the court.

(3) Nothing in this section or in any other section relating to bail is deemed to require the release of a defendant liable to be detained for some matter other than that in respect of which the recognizance was entered into or to which the bail relates.

**Mode of** 171.Where as a condition for the release of

**entering into** any defendant, he is required to enter into a **recognizance.** recognizance with sureties, the recognizance of the

sureties may be taken separately and either before

or after the recognizance of the defendant and if so

taken, the recognizance of the defendant and

sureties shall be as binding as if they had been

taken together and at the same time.

**Continuous**172. (1) Where a defendant is released on bail, the

**bail.** recognizancemay be conditioned for his

appearance at every time and place to which,

during the course of the proceedings, the

hearing may from time to time be adjourned.

(2) The court may, where the circumstances appear

just-

1. vary the order of release on bail of

the defendant at any subsequent hearing; and

(b) at any subsequent stage of any proceeding, cause a defendant who has been released on bail to be arrested and be committed to custody:

Provided that the Judge shall state in his record the reason for the variation of the order or committal of the defendant

(3) Nothing in this section or in any other

section relating to bail is deemed to

require the release of a defendant liable

to be detained for some matter other than

that in respect of which the recognizance

was entered into or to which the bail

relates.

**Defendant bound** 173.Where an application is made before the

**by recognizance** court by informationon oath by a

**to appear before** complainant, surety or other person that a

**a court or police d**efendantbound by recognizance to appear **officer** **may be** before a court or police officer-

**committed to prison.**

(a). is about to leave Nigeria; or

(b). for the purpose of evading justice, is about to leave or has left the division or district of the court before which he

is to appear or in which he normally resides, the court may cause him to be

arrested and may commit him to prison until the trial, unless the court considers it fit to admit him to bail on further recognizance.

**Reconsideration of** 174. Where a defendant has been admitted to **amount of bail on** bail and circumstances arise which, if the **application by law** defendant had not been admitted to bail

**officer or police** would, in the opinion of a law officer or

**officer.** police officer,justifythe court in refusing

bail or in requiring bail of greater amount,

a court, may-

1. on the circumstances being brought to its notice by a law officer or police officer, issue a warrant for the arrest of the defendant; and

1. after giving him an opportunity of being heard, commit him to prison to await trial or admit him to bail for the same or an increased amount as the court may deem just.

**Variation of a 175**. Where at any time after a recognizance has **recognizance if** been entered into, itappears to the court that **surety unsuitable.** for any reason the surety or sureties are

unsuitable, the court may-

1. issue a summons or warrant for the appearance of the defendant ; and
2. on his coming to the court, order him to execute a fresh recognizance with other sureties, as the case may be.

**Discharge of 176**. (1) All or any of the sureties to a recognizance **sureties.** may at anytime apply to the court which

caused the recognizance to be taken to

discharge the bond either wholly or so

far as it relates to the applicant.

(2) On an application under subsection (1) of

this section, the court shall issue a warrant

for the arrest of the defendant on whose

behalf the recognizance was executed and

on his appearance shall discharge the

recognizance either wholly or so far as

relates to the applicant and shall require the

defendant to find other sufficient sureties or

meet some other conditions and if he fails to

do so, may make such order as it considers

fit.

**Order of fresh** 177. When a surety to a recognizance becomes **security upon** insolvent or dies or when a recognizance is **original order.** forfeited, the court may order the

defendant from whom the recognizance was

demanded to furnish fresh security in

accordance with the directions of the original

order and, if the security is not furnished, the

court may proceed as if there had been default

in complying with the original order.

**Forfeiture of** 178.(1)Whenever it is proved to the satisfaction of **recognizance.** the court by which arecognizance has been

taken or, when the recognizance bond is for

appearance before a court and it is proved to

the satisfaction of the court that a

recognizance has been forfeited, the court

shall record the grounds of proof and may

call on any person bound by the bond to pay

the penalty thereof or to show cause why it

should not be paid.

(2) if sufficient cause is not shown and the penalty

is not paid, the court may proceed to recover

the penalty from a person bound, or from his

estate if he is dead, in the manner laid down in

this Law for the recovery of fines.

**Mitigation of**  179. The court may at any time cancel or mitigate **forfeiture.** the forfeiture, onthe person liable under the

recognizance applying and giving security to the

satisfaction of the court, for the future

performance of the condition of the

recognizance and paying, or giving security for

the payment of the costs incurred in respect of

the forfeiture or on such other conditions as the

court may consider just.

**Where defendant**180. Where a defendant required by a court to find **fails to find** sufficientsureties fails to do so, the court, **surety.** shall, unless it is just and proper in the

circumstances, make some other order in the

case of a defendant-

1. charged with an offence and released on bail, an order committing him to prison until he is brought to trial, discharged or finds sufficient sureties, or meets such other conditions as the court may direct in the circumstances; or
2. ordered to give security for good behaviour, an order committing him to prison for the remainder of the period for which he was originally ordered to give security or until he finds sufficient sureties.

**Forefeiture** 181.(1) Where a recognizance to keep the peace and **on conviction.** be of good behaviour or not to do or commit

some act or thing, has been entered into by a

defendant or surety before a court, a court, on

proof that the person bound by the

recognizance as defendant has been convicted

of an offence which is by law a breach of the

condition of the recognizance, may order that

the-

1. recognizance be forfeited; and
2. person bound by it, whether as defendant or as sureties or any of those persons, shall pay the sums for which they are respectively bound.

(2) A certified copy of the judgment of the court by which the defendant was convicted of the offence may be used as evidence in

proceedings under this section and, where the certified copy is so used, the court shall presume the defendant committed the offence until the contrary is proved.

**Where**  182. Where a recognizance is ordered to be forfeited, **recognizance** the court having jurisdiction over the matter, **forfeited,** may, immediately or at any time afterthe order, **warrant** issue a warrant of commitment against a

**may be** person liable whether as defendant or surety under  **issued.** the recognizance, for any term notexceeding the

term prescribed in respect of a like sum in the

scale of imprisonment set out in this Law except

the amount due under the recognizance is paid.

**Arrest on** 183. Where a defendant who is bound by a

**failure to** recognizance or boundto appear before a court or **appear.** police station does not so appear, the court may

issue a warrant for his arrest.

**Payment** 184. All sums paid or recovered in respect of a

**on** recognizance order bycourt in pursuance of section **recognizance.** 177 of this Law to be forfeited shall bepaid to the

Treasury and a receipt issued which shall be

produced in court as evidence of payment.

**Appeal.** 185. An order of forfeiture made under this Law shall

be subject to appeal.

**Registration** 186. (1) The Chief Judge may make regulation for

**of bonds** the registration and licensing of corporate **persons.** bodies or persons to act as bonds persons

within the jurisdiction of the court in which

they are registered.

(2) A person shall not engage in the business of

bail bond services without being duly

registered and licensed in accordance with

subsection (1) of this section.

(3) A person who engages in bail bond services

without registration and licence or in

contravention of the regulation or terms of his

licence is liable to a fine of Five Hundred

Thousand Naira or imprisonment for a term

not exceeding 12 months or to both fine and

imprisonment.

(4) On conviction under this section, the court

shall forward a report to the Chief Judge and

in instances of gross violation of the terms of

the licence revoke the licence.

(5) A bonds person registered under subsection

(1) of this section may undertake

recognizance, act as surety, or guarantee the

deposit of money as required by the bail

condition of a defendant granted bail by the

court within the division or district in which

the bonds person is registered.

(6) A person or organisation shall not be

registered as a bonds person unless the

person is, or the organisation is

composed of persons of unquestionable

character and integrity and deposits with

the Chief Judge sufficient bank

guarantee in such amount as may be

determined by the Chief Judge in the

regulation, having regard to the

registered class or limit of the

bondsperson’s recognizance.

(7) A registered bonds person shall maintain

with a bank or insurance company

designated in his licence, such fully paid

deposit to the limit of the amount of

bond or recognizance to which his

licence permits him to undertake.

(8) The Chief Judge may withdraw the

registration of a bonds person who

contravenes the terms of his licence.

**Bondsperson** 187. Where a bonds person arrests a defendant or **may arrest** person who is absconding or who he believes is **absconding** trying to evade or avoid appearance in court-

**defendant or**

**person.**

1. he shall immediately hand him over to the nearest police station; and
2. the defendant arrested shall be taken to the appropriate court within 12 hours.

**PART 19 – PROPERTY AND PERSONS**

**Methods of 188**. Where in a complaint, summons, warrant of any **stating** description, charge sheet, information or any **multiple** document issued by a court in theexercise of its **ownership** criminal jurisdiction it is necessary to refer to the

**of property.** ownership of any property, whether movable or

immovable, which belongs to or is in the

possession of more than one person, may if-

1. the property belongs to, or is in the possession of more than one person whether as partners in trade or otherwise joint tenants, tenants in common or other joint owners or possessors, be described in the name of any one of those persons and another or others; or
2. the property belongs to a company, association, club or society, be described, subject to the provisions of any other law, as the property of the official of the company, association, club or society, or as belonging to the company, association, club or society by its legal or registered title; or
3. the property belongs to, or is provided for the use of a public establishment, service or department, be described as the property of the State; or
4. it is necessary to state the ownership of a church, chapel, mosque or building or place set apart for religious worship or of anything belonging to or being in the place, be stated as the property of a person in charge of or officiating in the church, chapel, mosque, or building or place, or thing, without naming him or them; or
5. it is necessary to state the ownership of any money or other property in the charge, custody, or under the control of a public officer, be stated to be the money or property of the Federation or of the State, as the case may be; or
6. where it is necessary to state the ownership of-

(i) any work or building made, erected or maintained, either wholly or in part, at the expense

of the public revenue or of any part of it; or

(ii) any township, town, or village or any Local Government, or of anything belonging to or being in or used in relation to the same; or

(iii) anything provided for the use of any part or of any public institution or establishment, or of any materials or tools provided or used for repairing any work or building or any public road or highways; or

(iv) any other property whatsoever, whether movable or immovable, as aforesaid, be sufficient to state as the property of the Federation or of the State or of the town, or village, or of any Local Government, as the case may be, without naming any of the inhabitants of the area or jurisdiction; or

(v) a property belonging to a woman who has contracted a marriage under the Marriage Act or a marriage recognised as a valid marriage under any law in force in Nigeria, be stated as belonging to the married woman.

**Description of** 189.(1)Where in a complaint, summons, warrant **persons in** of any description, charge sheet,

**criminal process**  information or any document issued by

a court in the exercise of its criminal

jurisdiction, it is necessary to refer to a

person, the description or designation of

that person shall be such as is reasonably

sufficient to identify him except as

provided under section 231 of this Law.

(2) It shall not be necessary to state the

person’s correct name, or his residence,

degree, or occupation, so far as the person

has been reasonably described to identify

him.

(3) Where it is impracticable to give the

person’s correct and exact description or

designation because the name or the

description or designation of the person is

not known or for any other reason, the

description or designation shall be given as

is reasonably practicable in the

circumstances, or the person may, subject to subsection (4) of this section, be described as “Person Unknown”.

(4) A defendant who is accused of an offence

shall not be described as “a person unknown”

except in the case of a verdict found on a

coroner’s inquisition.

**Remedies of** 190. A woman who has contracted a valid marriage **married woman** shall have in her own name against all persons, **against her** including the husband of the marriage, the **husband and** same remedies and redress by way of criminal

**others in respect** proceeding for the protection and security of

**of her person** her person or her own separate property as if

**or property.** such property belonged to her as an unmarried

woman.

**Husband and** 191. In any proceedings taken under

**wife competent** section 190of this Law, the husband and

**as witnesses.** wife shall be competent and compellable

witnesses in accordance with the Evidence

Act.

**PART 20 – THE CHARGE**

**Forms of charges** 192.A charge may be as in the forms set out in the **in Second Schedule** Second Scheduleto this Law, with such

**to be used and** modification as may be necessary in the **adapted.** circumstances of each case.

**Offence to be** 193.(1) A charge shall state the offence with which **stated in** the defendant is charged.

**charge.** (2) Where the law creating the offence-

1. gives it a specific name, the offence shall be described in the charge by that name only; and
2. does not give it a specific name, so much of the definition of the offence shall be stated as to give the defendant notice of the facts of the offence with which he is charged.

(3) The law, the section of the law and the punishment section of the law against which the offence is said to have been committed, shall be set out in the charge.

**Legal** 194. The fact that a charge is made is equivalent to a **presumption** statement that every legal condition required by

**of charge.** law to constitute the offence charged was fulfilled

in the particular case.

**Particulars in** 195.(1) The charge shall contain such

**charge.** particulars as to the time and place of the

alleged offence and the defendant, if any,

against whom or the thing, if any, in respect

of which it was committed as are reasonably

sufficient to give the defendant notice of the

offence with which he is charged.

(2) A charge sheet shall be filed with the photograph of the defendant and his finger print impression, provided that where the photograph and finger print impression are not available, it shall not invalidate the charge.

**Charge of**  196. When a defendant is charged with

**fraudulent**  appropriationofproperty, it is sufficient to **appropriation** specify the gross sum in respect of which the

**of property.** offence is alleged to have been committed and

the dates between which the offence is alleged

to have been committed without specifying

particular items or exact dates,and the charge so

framed shall be deemed to be a charge of a

single offence.

**Charge of** 197. When a defendant is charged with falsification **criminal** of accounts, fraudulent falsification of accounts **falsification** or fraudulent conversion, itshall be sufficient to **of accounts.** allege a general intent to defraud without

naming any particular person intended to be

defrauded or specifying any particular sum of

money intended to be the subject of the fraud or

any particular day on which the offence was

committed.

**Charge may** 198. Where the nature of the offence is such that the **contain the** particulars required by sections 193 and 195 of **manner in** this Law do not give thedefendant sufficient **which the** notice of the matter with which he is charged,

**offence was** the chargeshall also contain such particulars of **committed.** the manner in which the offence was committed

as will be sufficient for that purpose.

**Sense of** 199. (1) In a charge, words used in describing an

**words used** offence are deemed tohave been used in the

**in charge.** sense attached to them, in the lawcreating

the offence.

(2) Figures, expressions and abbreviation may be

used for expressing anything which is

commonly expressed by those figures,

expression or abbreviation.

**Description of** 200. (1) The description of property in a charge shall **property and** be inordinary language indicating with

**joint owners.** reasonable clearness the property referred

to and where the property is so described it

is not necessary, except when required for

the purpose of describing an offence

depending on any special ownership of

property or special value of property, to

name the person to whom the property

belongs or the value of the property.

(2) Where property is vested in more than one

person and the owners of that property are

referred to in the charge, the property may

be described as being owned in accordance

with the appropriate provision set out in

section 188 of this Law.

(3) Where the owner of any property is a

company, association, club or society,

proof of the registration of the company,

association, club or society shall not be

required unless the court decides that

proof shall be given, in which case, the

further hearing may be adjourned for the

purpose or the court may, in its

discretion, amend the proceedings by

substituting the name of some person or

persons for the registered title.

**Description of** 201. (1) Any bank or currency note may be

**bank or currency** described as money, and any averment as **notes.** tomoney, regarding the description of

the property, shall be sustained by proof

of any amount of any bank or currency

note, although the particular species of

currency of which the amount was

composed or the particular nature of the

bank or currency note need not be

proved.

(2) In a case of stealing and defrauding by false pretences, the bank or currency note may be described by proof that the defendant dishonestly appropriated or obtained any bank or currency note, or any portion of its value, although the bank or currency note may have been delivered to him in order that some part of its value should be returned to the party delivering it or to any other person, and that part should have been returned accordingly.

**Provision as** 202.(1)Where a law constituting an offence states the **to statutory** offence to be the omission to do any act in **offences.** any one of the different capacities, orwith

any one of the different intentions, or states

any part of the offence in the alternative, the

act, omission, capacities, or intentions, or

other matter stated in the alternative in the

law, may be stated in the alternative in the

charge.

(2) It shall not be necessary in any charge where

the offence is one constituted by a law to

negate any exception or exemption from or

qualification to the operation of the law

creating the offence.

**Description of** 203.The description or designation of the defendant **persons.** in a charge or of any other person to whom

reference is made therein may be in the

manner set out in section 189 of this Law.

**Description of** 204.Where it is necessary to refer to a document or **document.** an instrument in a charge, it is sufficient to

describe it by any name or designation by which

it is commonly known, or by the purport of the

document without setting out the content or

attaching a copy of such documents to the

charge.

**General rule** 205. Subject to any other provision of this Law, it is **as to**  sufficient to describe any place, time, thing,

**description.** matter, act, or omission to which it is necessary

to refer in a charge in ordinary language in such

a manner as to indicate with reasonable clarity

the place, time, thing, matter, act, or omission

referred to.

**Statement** 206.It is not necessary in stating an intent to defraud, **of intent.** deceive or injure to state an intent to defraud,

deceive or injure any particular person, where the

law creating the offence does not make an intent

to defraud, deceive or injure a particular person

an essential ingredient of the offence.

**Defendants** 207.The following defendants may be charged and **who may be** tried together, defendant accused of-

**charged jointly.**

1. the same offence committed in the course of the same transaction;
2. an offence and another of abetting or being accessory to or attempting to commit the same offence;
3. more than one offence of the same or similar character, committed by them jointly;
4. different offences committed in the course of the same transaction;
5. offences which include theft, extortion or criminal misappropriation and another accused of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named defendants, or of abetment of or attempt to commit any of the last named offences; and

1. dishonestly receiving stolen property or assisting in concealment of stolen property, or in respect of stolen property the possession of which has been transferred by one offender and another accused of offences committed during a fight or series of fights arising out of another fight and defendants accused of abetting any of these offences.

**Separate** 208. For every distinct offence with which a defendant **charges for** is accused, there shall be a separate charge and **distinct** every charge shall be tried separatelyexcept in the **offences.** following circumstances-

1. any three offences committed by a defendant within 12 months whether or not they are of the same or similar character or whether or not they are in respect of the same person or persons; or
2. any number of the same type of offence committed by a defendant; or
3. any number of offence committed by a defendant in the course of the same transaction having regard to the proximity of the time and place, continuity of action and community of purpose; or
4. cases mentioned in sections 209 to 214 of this Law.

**Attempt,** 209. An offence is deemed to be an offence of the

**same as** same kind as an attempt to commit that offence **substantive** where the attempt is itself anoffence.

**offences.**

**Trial for** 210. Where in one series of acts or omissions so

**more than** connected together as toform the same

**one offence.** transaction or which form or are part

of a series of offences of the same or a similar

character, more offences than one are committed

by the same defendant, charges for the offences

may be joined and the defendant accused tried for

the offences at one trial.

**Offences** 211. Where the acts or omissions alleged constitute an **falling** offence fallingwithin two or more separate

**within two** definitions in any law for the time beingin force **definitions.** under which offences are defined or punished,

the defendant accused of them may be charged

with and tried at one trial for each of those

offences.

**Acts constituting** 212. Where several acts or omissions, of which

**one offence** one or more than one would by itself or **but constituting** themselves constitute an offence, constituted **a different** when combined with a different offence, the **offence** defendant accused of them may be charged **when combined.** with and tried at one trial for the offence

constituted by those acts or omissions when

combined or for any offence constituted by

one or more of those acts.

**Where it is** 213. Where a single act or omission or series of **doubtful which** acts or omissions isof such a nature that it is **offence has** doubtful which of several offences, the facts **been committed.** of which can be proved, will constitute the

offence withwhich the defendant may be

charged with having committed all or any of

those offences and any number of those

charges may be tried at once or he may be

charged in the alternative with having

committed any of those offences.

**Incidental**  214.Where a single act or omission, the fact or **offences in** combination of facts, constitutes more than one **the same** offence, the defendant may be chargedand tried **transaction.** at one trial for one or more of those offences.

**PART 21 – ALTERATION OR AMENDMENT OF CHARGES**

**Alteration** 215. (1)A court may permit an alteration or

**and amendment** amendment to acharge or framing of a new

**of charge by** charge at any time before judgment is

**permission** pronounced

**of court.**

(2) An alteration or amendment or a new charge

shall be read and explained to the defendant

and his plea to the amended or newcharge shall

be taken.

(3) Where a defendant is arraigned for trial on an

imperfect or erroneous charge, the court may

permit or direct the framing of a new charge, or

an amendment to, or the alteration of the

original charge.

(4) Where any defendant is committed for trial

without a charge or with an imperfect or

erroneous charge, the court may frame a charge

or add or alter the charge as the case may be

having regard to this Law.

**Procedure on** 216.(1) Where a new charge is framed or alteration **alteration of** made to a charge under section 215 of this **charge.** Law, the courtshall call on the defendant to

plead to the new or altered charge as if he

has been arraigned for the first time.

(2) The court shall proceed with the trial as if

the new or altered charge had been the

original charge.

**When court** 217.(1) Where the charge as revised under section **may proceed** 215 or 216 of this Law is such that

**with trial** proceedingimmediately with the trial is not **immediately after** likelyin the opinion of the court to

**altering** prejudice the defendant in his defenceor the **adding to or** prosecutor, as the case may be, in the

**framing charge.** conduct of thecasethe court may in its

discretion forthwith proceed with the trial as

if the charge so revised had been the original

charge.

(2) Where a charge is so amended, a note of

the order for amendment shall be endorsed

on the charge, and the charge shall be

treated, for the purpose of all proceedings

in connection therewith, as having been

filed in the amended form.

**Recall of** 218.Where a charge is altered, amended or **witnesses** substituted after the commencement of the **when charge** trial, the prosecutor and the defendant shall

**is revised.** beallowed to recall or re-summon and

examine any witness whomayhavebeen

examined and to call any further witness,

provided that such examination shall be

limited to the alteration, amendment or

substitution made.

**Effect of** 219. An error in stating the offence or the particulars **error.** required to be stated in a charge or an omission

to state the offence or those particulars, or any

duplicity, mis-joinder or non-joinder of the

particulars of the offence shall not be regarded at

any stage of the case as material unless the

defendant was in fact misled by the error or

omission.

**Objection** 220 Objections shall not be taken or entertained **to a charge.** duringproceedings or trial on the ground of an

imperfect or erroneous charge.

**Effect of** 221(1) Where an appellate court is of the opinion that a **material error** defendant convicted of an offence was misled in

his defence by the absence of a charge, or by an

error in the charge, which has occasioned a

miscarriage of justice, it may direct that the trial

be recommenced on another charge.

(2) Where the appellate court is of the opinion that

the facts of the case are such that no valid charge

could have been preferred against the defendant

in respect of the facts proved, it shall quash the

conviction.

**PART 22 – CONVICTION WHEN CHARGED WITH ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE**

**Where defendant** 222. Where a defendant is charged with one **charged with** offence and it appears in evidence that he

**one offence may** committed a similar offence withwhich he **be convicted** might have been charged under the this

**of another.** Law, he may be convicted of the offence,

which he is shown tohave committed

although he was not charged with it.

**Full offence** 223.Where a defendant is charged with an offence, **charged,** but the evidence establishes an attempt to **attempt** commit the offence, he may beconvictedof **proved.** having attempted to commit that offence

although theattempt wasnot separately

charged.

**Attempt** 224. Where a defendant is charged with an attempt **charged,** to commit an offence, but the evidence

**full offence** establishes the commission of the full

**proved.** offence, he shall not be entitled to an

acquittal but he may beconvicted of the

attempt and punished accordingly.

**Liability as** 225. Where a defendant has been convicted of an **to further** attempt under either section 223 or 224 of **prosecution.** this Law, he shall not subsequently be liable

to be prosecuted for the offence for which he

was convicted of attempting to commit.

**On charge of** 226. Where a defendant is charged with an offence **an offence,** and theevidenceestablishes that he is an **conviction as** accessory after the fact to that offence, or to **accessory after** some other offence of which a defendant

**the fact to** charged with the first-mentioned offence,

**that, or connected** may be convicted by virtue of any of the **offence** provisions of this Law, he may be convicted **may follow.** as an accessory after the fact to that offence or

that other offence, as the case may be and be

punished accordingly.

**Defendant** 227. (1) Where on trial of a defendant for a lesser

**tried for** offence it appears thatthe facts proved in **lesser offence** evidence amount in law to ahigher offence **but a** notcharged, the defendant shall not by this **higher offence.** reasonbe acquitted of the lesser offence.

**is proved.**

(2) The defendant referred to in subsection (1) of

this section is not liable afterwards to be prosecuted for the higher offence proved, but the court may in its discretion stop the trial of the lesser offence or direct that the defendant be charged and tried for the higher offence, in which case, the defendant may be dealt with in all respects as if he had not been put to trial for the lesser offence.

(3) Where a charge is brought for the higher offence pursuant to this section, the defendant shall be tried before another court.

**Conviction of** 228.Where a defendant is charged with an offence **kindred offences** relating to property and the evidence

**relating to** establishes the commission by him with **property.** respect to the same property of another

offence, he may be convicted of that other

offence although he was not charged with

it.

**Defendant** 229.Where on trial for burglary, housebreaking or **charged with** related offence, the facts proved in evidence **burglary may** justify a conviction for some other offences **be convicted** and not the offence with which the defendant **be convicted** is charged,he may be convicted of the other **of kindred** offence and be punished as he had been **offence.** convicted on a charge or an information

charging him with the offence.

**On charge of** 230.Where on trial of rape, defilement, incest,

**rape, conviction** unnatural or indecentoffences against a person

**under defilement,** the facts proved in evidence canground

**incest, unnatural** conviction for an indecent assault and not the **or indecent assault** offencewith which the defendant is charged, **may follow.** he may be convicted of the offence of

indecent assault, and be punished as if he had

been convicted on a charge or an information

charging him with the offence of indecent

assault.

**Procedure for** 231. (1) A trial for the offences referred to in

**trial on charge** subsection (4) of thissection may not, where **for certain** the court so determines, be held in an open **offences.** court.

(2) The names, addresses, telephone numbers

and identity of the victims of such offences

or witnesses shall not be disclosed in any

record or report of the proceedings and it

shall be sufficient to designate the names

of the victims or witnesses with a

combination of alphabets.

(3) Where in any proceeding the court deems it

necessary to protect the identity of the

victim or a witness, the court may take any

or all of the following measures:

1. receive evidence by video link;
2. permit the witness to be screened or masked;
3. receive written deposition of expert evidence; and
4. any other measure that the court considers appropriate in the circumstance.

(4) This section shall apply to-

1. offences under section 230 of this Law;
2. offences relating to Economic and Financial Crimes;
3. Trafficking in Persons and related offences; and
4. any other offence in respect of which any law permits the use of such protective measures or as the Judge may consider appropriate in the circumstances.

(5) Any contravention of the provisions of subsection (2) of this section shall be an offence and liable on conviction to a minimum term of one year imprisonment.

**On charge of** 232.Where on trial for an offence of defilement, the **defilment,** facts proved in evidence warrant a conviction **conviction of** for an indecent assault and not the offence **indecent assault** with which the defendant is charged, the

**may follow.** defendantmaybe convicted of indecent

assault although he was not charged with that

offence.

**Where murder** 233.Where a defendant is charged and tried for the **or infanticide** murder of a child or for infanticide and it

**is charged and** appears on the evidence that thedefendant was **concealment of** not guilty of murder or infanticide, as the

**birth is** case may be, but was guilty of the offence of **proved.** concealment of birth, the defendant may be

convicted of that offence.

**Where murder** 234.(1) Where a defendant is charged and tried for **is charged and** the murder of a newly-born child and it **infanticide** appears on the evidence that the defendant **proved.** was not guilty of murder but was guilty of

infanticide, the defendant may be

convicted of infanticide.

(2) Nothing in subsection (1) of this section prevents a defendant who is tried for the murder of a newly-born child from being-

1. convicted of manslaughter; or
2. found guilty of concealment of birth; or

( c) acquitted on the ground that by virtue of an applicable law he was not criminally responsible, and dealt with accordingly or in accordance with this Law or any other law.

**Where offence** 235.(1) Where a defendant is charged with an

**proved is not** offence consisting of several particulars, a **included in** combination of some of which constitutes

**offence charged.** a lesser offence in itself and the

combination is proved butthe remaining

particulars are not proved, he may be

convicted of, or plead guilty to the lesser

offence although he was not charged with

it.

(2) Where a defendant is charged with an

offence and facts are proved which reduce it

to a lesser offence, he may be convicted of

the lesser offence although he was not

charged with it.

**Withdrawal of** 236.(1) Where more than one charge is made **remaining charges** against a defendant and a conviction has

**on conviction** been had on one or more of them, the

**on one of** prosecutor may, with the consent of the **several charges.** court, withdraw the remaining charge or

charges or the court, of its own motion, may

stay trial of the charge or charges.

(2) A withdrawal has the effect of an acquittal

on the charge or charges unless the

conviction which has been had is set aside,

in which case, subject to any order of the

court setting aside such conviction, the court

before which the withdrawal was made may,

on the request of the prosecutor, proceed on

the charge or charges withdrawn.

PART 23 – PREVIOUS ACQUITTALS OR CONVICTION

**Defendant** **convicted** 237.(1) Without prejudice to section 225 of

**or acquitted not to be** this Law, a defendant charged with **tried again for same** an offence is not liable to be tried for **or kindred offence.** that offence whereit is shown that he

has previously been-

1. convicted or acquitted of the same offence by a competent court; or
2. convicted or acquitted by a competent court on a charge on which he might have been convicted of the offence charged; or
3. convicted for or acquitted of an offence by a competent court other than the offence charged, being an offence for which, apart from this section, he might be convicted by virtue of being charged with the offence charged.

(2) Nothing in subsection (1) of this section shall prejudice the operation of a law giving power to a court, on an appeal, to set aside a verdict or finding of another court and order a re-trial.

**A defendant may** 238. A defendant acquitted or convicted of an

**be tried again on** offence may afterwards be tried for a distinct **separate charge** offence for which a separate charge might

**in certain cases.** have been made against him on the previous

trial under section 210 of

this Law.

**Consequences** 239. A defendant acquitted or convicted of an **supervening or** offence constituted by an act or omission

**not known at** causing consequences which together with

**previous trial.** that act or omission constitute a different

offence from that for which he was acquitted

or convicted, may afterwards be tried

for the last- mentioned offence if the

consequences had not happened or were not

known to the court to have happened at the

time when he was acquitted or convicted

when the consequences create the offence of

murder or manslaughter.

PART 24 – WITNESSES: COMPELLING ATTENDANCE AND TAKING OF OATH OR MAKING OF AFFIRMATION

**Issue of** 240.(1) The court may, on an application of the **summons** prosecution or the defence,issue a summon or **for witness.** writ of subpoena on a witnessrequiring him to

court to give evidence in respect of the case,

and to bring with him any specified documents

or things and any other document or document

relating to them which may be in his

possession or power or under his control.

(2) Where the prosecutor is not a public officer the person to whom the summons is addressed is not bound to attend unless his traveling expenses are paid to him.

**Service of** 241.(1)A court with criminal jurisdiction shall have a **summons and** process server specifically assigned to it.

**other processes**

**on witnesses.**

(2) The process server has the responsibility to effect due efficient service of witness summons, defendant’s production orders, writs and all other processes issued in the court in respect of all criminal matters.

(3) A summons shall be served on the person to whom it is directed in the same manner as is set out in section 122 or 123 of this Law or, with leave of the court, section 124 and sections 126 to 130 of this Law shall apply to the summons.

(4) Service of processes may be effected by registered reputable courier companies, recognised and authorised by the Chief Judge in accordance with this Law, and the registered courier companies may be assigned to a court with criminal jurisdiction as a process server in accordance with subsection (1) of this section.

(5) The Attorney-General or a person so authorised by him or the police, may serve

on a person whom the prosecutor wishes to call as witness, a witness summons or writ of subpoena.

(6) Proof of service of a process or document shall be endorsed by the process server effecting the service, and shall be filed in the court’s file.

**Warrant for** 242.Where a witness summoned to give evidence **witness after** does not-

**summons.**

1. attend court at the time and place indicated on the summons, and
2. provide any reasonable excuse for his non-attendance,

then after proof that the summons was duly served on him, or that the person to be served wilfully avoids service, the court may issue a warrant to arrest and bring him before the court.

**Issue of warrant** 243.Where the court is satisfied in the first

**for witness.** instance, by proof on oath, that a person likely

to give material evidence, either or the

prosecution or the defence, will not attend to

give evidence without being compelled to do

so, then, instead of issuing a summons, it may

issue a warrant for the arrest of the person.

**Mode of dealing** 244.(1)A witness arrested under a warrant shall, if **with witness** practicable and where the hearing of the **arrested under** case for which his evidence is required is **warrant.** fixed for a time which is more than 24

hours after the arrest, be taken before a

Magistrate and the Magistrate-

1. may, on the witness furnishing security by recognizance to the satisfaction of the Magistrate for his appearance at the hearing, order him to be released from custody; or
2. shall, on the witness failing to furnish the security, order him to be detained for production at the hearing.

(2) The provisions of this Law relating to bail, summons and warrants in respects of the defendant shall apply to witnesses.

(3) A witness arrested or detained under this section shall not be kept in the same room or place as the defendant where the defendant is in custody and the defendant shall not be allowed to make any contact with the witness.

**Penalty on** 245.(1) A witness who-

**witnesses**

**refusing to attend.** (a) refuses or neglects, without reasonable cause, to attend court in compliance with the requirements of a summons duly served in the manner prescribed by law; or

(b). departs from the premises of the Court without the leave of the Judge or Magistrate hearing the case, is liable on summary conviction, to a fine not exceeding N10,000.00 or to imprisonment for a term not exceeding two months or to community service as may be determined by the court.

(2) A complaint shall not be made for an offence under this section, except by the order of the court made during the hearing of the case for which the evidence of the witness is required.

**Non-attendance** 246.A witness who is present when the hearing or **of witness on** further hearingof a case is adjourned, or who **adjourned** has been duly notified of the time and place to **hearing.** which the hearing or further hearing is so

adjourned, shall attend any subsequent hearing

and if he defaults, he may be dealt with in the

same manner as if he had refused or neglected

to attend the court in obedience to a witness

summons.

**Persons in**  247.A person present in court and compellable as a **court may** witness, whether a party or not in a cause, may be **be required** compelled by a court to give evidence and

**to give evidence,**  produce any document in his possession,

**though** or in his power, in the same manner and subject **not** to the same rules as if he had beensummoned to

**summoned.** attend and give evidence, or to produce the

document and may be punished in like manner for

any refusal to obey the order of the court.

**Manner of** 248.A witness shall take an oath or make a solemn **taking oath** affirmation in sucha manner as the court considers **or affirmation.** binding on his conscience.

**Witness** 249.(1) When a person attending court and who is **to be refusing sworn,** required to giveevidence, without any **or produce** sufficient excuse or reason-

**documents.** (a) refuses to be sworn or

to affirm as a witness;

or

(b)having been sworn or

having taken affirmation

refuses to answer any

question put to him; or

(c ) refuses or neglects to produce any document or anything which he is required by the court to produce.

the court may adjourn the hearing of the case and may in the meantime by warrant, commit the person to prison or other place of safe custody for a period not exceeding 30 days.

(2) Nothing in this section shall-

1. affect the liability of the person to any other punishment for refusing or neglecting to do what is so required of him; or

(b)prevent the court from disposing of the case in the meantime according to any other sufficient evidence taken by it.

PART 25 – WITNESSES: EXPENSES

**Expenses of** 250. Where a person attends court as a state witness, **witnesses for** the witness shall be entitled to payment of such **the prosecution.** reasonable expenses as maybe prescribed.

**Expenses of** 251. Where a person attends court as a witness to give **witnesses for** evidence for the defence, the court may in its **defence.** discretion on application, orderpayment by the

Registrar to such witness of court such sums of

money, as it may deem reasonable and sufficient

to compensate the witness for the expenses he

reasonably incurred in attending the court.

**Adjournment** 252. The court may permit on application of a party

**may be granted** for an adjournment of the proceedings and in so **subject to** doing, may order the partyseeking the

**witnesses’ costs.** adjournment to pay to a witness present in court

and whose evidence it has not been possible to

take owing to the adjournment, such sum in the

amount payable to a witness in accordance with

sections 250 and 251 of this Law, or such sum

as the court may fix.

**Ascertainment** 253. The amount of the expenses payable to a

**of witnesses’** witness pursuant to sections 250 and 251 of this **expenses.** Law shall be processed and paidby the

Registrar of the Court to the witness out of the

relevant vote as appropriated by the Judiciary.

PART 26 – EXAMINATION OF WITNESSES

**Application** 254. Subject to the provisions of any other law, the **of the Evidence** examination of witnesses shall be in accordance **Act.** with the Evidence Act.

**Power to call**  255. The court may, at any stage of a trial, inquiry

**or recall** or other proceedings under this Law, either of

**witnesses.** its own motion or on application of either

party to the proceeding, call a person as a

witness or recall and re-examine a person

already examined where his evidence appears

to the court to be essential to the just decision

of the case.

**Certificates** 256. A certificate signed by any of the

**of certain** officers named in section 55 of Evidence  **government** Act, shall be admissible in evidence in

**technical** accordance with that Act.

**officers.**

**Right of** 257. In a case where the right of reply depends on **reply.** the question whether evidence has been called

for the defence, the fact that the defendant

charged has been called as a witness shall not

of itself confer on the prosecution the right of

reply, but a law officer for the prosecution

shall in all cases have the right of reply.

**Public to** 258.(1) Subject to sections 231 and 259 to 261 of

**have access** thisLaw and of any other law specifically

**to hearing.** relating thereto, the room or place in which a

trial is to take place under this Law shall be

an open court to which the public generally

may have access as far as it can conveniently

contain them.

(2) Notwithstanding subsection (1) of this section, the Judge or Magistrate presiding over a trial may, in his discretion and subject to section 259 of this Law, exclude

the public at any stage of the hearing on the grounds of public policy, decency or expedience.

(3) Where the court is sitting in a place other than in a building, the authority given in subsection (2) of this section to exclude the public shall be construed as being authority to prevent the public approaching so near to where the court is sitting, as in the opinion of the Judge or Magistrate, to be able to hear what is taking place at the trial or be able to communicate with a person allowed to be present.

**Court may** 259. Where a person who, in the opinion of the **exclude certain** court has not attained the age of 18 is called **persons** as witness in any proceeding in relation to an **while taking** offence against or any conduct contrary to **evidence of a** decencyor morality, the court may direct that **child or young** all or any person not being-

**person.**

**(**a) members or officers of the court; or

(b)parties to the case, their legal

representatives or persons otherwise

directly concerned in the case be

excluded from the court during the

taking of the evidence of such a

person.

**Order under** 260.(1) An order made under section 258 or 259 of **section 258 or** this Law excludingthe public from a court **259 not to apply** shall not unless specificallystated-

**to press and**

**certain others.**

1. authorise the exclusion of *bona fide* representatives of a newspaper or news agency; or
2. apply to messengers, clerks and other persons required to attend the court for purpose connected with their employment.

(2) Where an order is made, the court shall record the grounds on which the order is taken.

**Prohibition on** 261. An infant, other than an infant in the arms of **children being** parent or guardian, or child shall not be

**present in court** permitted to be present in court during the trial **during the trial.** of a defendant charged with an offence or

duringany proceeding preliminary to the trial

except-

1. he is the defendant charged with the alleged offence; or
2. his presence is required as a witness or otherwise for the purposes of justice in which event he may remain for so long as his presence is necessary.

**Visit by court** 262.(1) Where it appears to the court that in the

**to locus.** interest of justice, the court should have a

view of any place, person or thing

connected with the case, the court may,

where the view relates to a place, either

adjourn the court to that place and there

continue the proceedings or adjourn the

case and proceed to view the place,

person or thing concerned.

(2) The defendant shall be present at the viewing of the place, person or thing concerned.

(3) At the locus, the court shall give directions as it may deem fit for the purpose of preventing communication between the witnesses and the defendant.

(4) A breach of a direction given under subsection (3) of this section shall not affect the validity of the proceedings unless the court otherwise directs.

**Determination** 263.(1) Where the age of a person is in issue in any **of age.** criminal proceedings, the court may

determine the question by taking into

account one or both of the following-

1. the apparent physical appearance of the person concerned; and
2. any evidence, in relation to the age of the person concerned, received by the court in accordance with the provisions of the Evidence Act, or any other law in force.

(2)The evidence of a witness, who is not an expert within the meaning of section 68 of the Evidence Act, shall be admissible for the purpose of this section.

(3) An order or judgment of the court shall not be invalidated by any subsequent proof that the age of the person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of that person shall, for the purpose of this Law, be deemed to be the true age of that person.

**Age in relation** 264. Where in a charge for an offence, it is

**to offences.** alleged that the person by or in respect of

whom the offence was committed, was a

child under or above a specified age, and he

appears to the court to have been at the date

of the commission of the alleged offence a

child under or above the specified age, as the

case may be, he shall, for the purposes of this

Law, be presumed at that date to have been a

child or to have been under or above that

age, as the case may be, unless the contrary

is proved.

**Presence of** 265.A defendant shall be present in court during the **defendant** whole of his trial unless-

**at trial.**

1. he misconducts himself in such a manner as to render his continuing presence impracticable or undesirable; or
2. at the hearing of an interlocutory application.

**Conduct of** 266.(1)The complainant and defendant shall be

**cases by legal** entitled to conduct their cases by a legal **practitioner** practitioner or in person, except that in a trial **for complainant** for a capital offence or an offence punishable

**or for** with life imprisonment, conduct of their cases **defendant.** in person shall not be allowed.

(2) Where the defendant is in custody or on remand, he shall be allowed access to his legal practitioner at all reasonable times.

(3) Where the defendant elects to defend himself in person, the court shall inform him of his rights within the trial and the consequences of his election.

(4) The Court shall ensure that the defendant is represented by a counsel in capital offences provided that a defendant who refuses to be represented by counsel shall, after being informed under section 350 (6) of this Law of the risks of defending himself in person, be deemed to have elected to defend himself in person and this shall not be a ground to void the trial.

**General control** 267.(1) Where a private legal practitioner

**of prosecution** prosecutes on behalf ofthe Attorney-

**by the Attorney-** General or a public officer prosecuting in **General.** his officialcapacity in any criminal

proceedings, the private legal practitioner

or public officer shall prosecute subject to

such direction as may be given by the

Attorney-General.

(2) Where proceedings in respect of an offence are instituted by a police officer, it shall be in the name of the Inspector-General of Police or Commissioner of Police, as the case may be.

(3) Where a proceedings in respect of an offence is instituted on behalf of the Attorney-General, it shall be in the name of the State.

(4) The powers conferred on the Attorney- General under this section may be exercised directly by him or any officer in his chamber.

**Position in** 268.Where a defendant appears before a court on a **court of** summons, he shallbe required to enter the dock, **summoned.** to stand or sit in it, except where circumstances

do not permit, as may be directed by the court.

PART 27 – PLEA BARGAIN AND PLEA GENERALLY

**Plea bargain** 269. (1) Notwithstanding anything in this Law or in **guidelines.** any other law, the prosecution may-

1. receive and consider a plea bargain from a defendant charged with an offence either directly from that defendant or on his behalf; or
2. offer a plea bargain to a defendant charged with an offence.

(2) The prosecution may enter into plea bargaining with the defendant, with the consent of the victim or his representative during or after the presentation of the evidence of the prosecution, but before the presentation of the evidence of the defence, provided that any of the following conditions are present-

1. the evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt;
2. where the defendant has agreed to return the proceeds of the crime or make restitution to the victim or his representative; and

(c) where the defendant in a case of conspiracy, has fully cooperated with the investigation and prosecution of the crime by providing relevant information for the successful prosecution of other offenders.

(3.) Where the prosecution is of the view that the offer or acceptance of a plea bargain is in the interest of justice, public interest, public policy and the need to prevent abuse of legal process, he may offer or accept the plea bargain.

(4)The prosecution and the defendant or his legal practitioner may, before the plea to the charge, enter into an agreement in respect of-

1. the term of plea bargain which may include the sentence recommended within the appropriate range of punishment stipulated for the offence or a plea of guilty by the defendant to the offence charged or a lesser offence of which he may be convicted on the charge; and
2. an appropriate sentence to be imposed by the court where the defendant is convicted of the offence to which he intends to plead guilty.

(5) The prosecution may only enter into an agreement contemplated in subsection (3) of this section-

1. after consultation with the police responsible for the investigation of the case and the victim or his representative; and
2. with due regard to the nature of and circumstances relating to the offence, the defendant and public interest:

Provided that in determining whether it is in the public interest to enter into a plea bargain, the prosecution shall weigh all relevant factors, including-

(i)the defendant’s willingness to cooperate in the investigation or prosecution of others;

(ii) the defendant’s history with respect to criminal activity;

(iii) the defendant’s remorse or contrition and his willingness to assume responsibility for his conduct;

(iv) the desirability of prompt and certain disposition of the case;

(v) the likelihood of obtaining a conviction at trial and the probable effect on witnesses;

(vi) the probable sentence or other consequences if the defendant is convicted;

(vii) the need to avoid delay in the disposition of other pending cases;

(viii) the expense of trial and appeal; and

(ix) the defendant’s willingness to make restitution or pay compensation to the victim where appropriate.

(6) The prosecution shall afford the victim or his representative the opportunity to make representations to the prosecution regarding-

(a) the content of the agreement; and

(b) the inclusion in the agreement of a compensation or restitution order.

(7) An agreement between the parties contemplated in subsection(3) of this section shall be reduced to writing and shall-

1. state that, before conclusion of the agreement, the defendant has been informed-

(i)that he has a right to remain silent;

(ii) of the consequences of not remaining silent; and

(iii) that he is not obliged to make any confession or admission that could be used in evidence against him;

1. state fully, the terms of the agreement and any admission made;
2. be signed by the prosecutor, the defendant, the legal practitioner and the interpreter, as the case may be; and
3. a copy of the agreement forwarded to the Attorney- General.

(8) The presiding Judge or Magistrate before whom the criminal proceedings are pending shall not participate in the discussion contemplated in subsection (3) of this section.

(9) Where a plea agreement is reached by the prosecution and the defence, the prosecutor shall inform the court that the parties have reached an agreement and the presiding judge or magistrate shall inquire from the defendant to confirm the terms of the agreement.

(10) The presiding Judge or Magistrate shall ascertain whether the defendant admits the allegation in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence and may where-

1. he is satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant on his plea of guilty to that offence, and shall award the compensation to the victim in accordance with the term of the agreement which shall be delivered by the court in accordance with section 306 of this Law; or
2. he is for any reason of the opinion that the defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the defendant has pleaded guilty or that the agreement is in conflict with the defendant’s right referred to in subsection (6) of this section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.

(11) Where a defendant has been convicted under subsection (10)(a), the presiding Judge or Magistrate shall consider the sentence as agreed upon and where he is-

1. satisfied that such sentence is an appropriate sentence, impose the sentence; or
2. of the view that he would have imposed a lesser sentence than the sentence agreed, impose the lesser sentence; or
3. of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he considers to be appropriate.

(12) Where the defendant has been informed of the heavier sentence as contemplated in subsection (11) ( c) of this section, the defendant may-

1. abide by his plea of guilty as agreed upon and agree that, subject to the defendant’s right to lead evidence and to present argument relevant to sentencing, the presiding Judge or Magistrate proceed with the sentencing; or
2. withdraw from his plea agreement, in which event the trial shall proceed *de novo* before another presiding Judge or Magistrate, as the case may be.

(13) Where a trial proceeds as contemplated under subsection (13)(a) or *de novo* before another presiding Judge or Magistrate as contemplated in subsection (13) (b)-

1. no references shall be made to the agreement;
2. no admission contained therein or statements relating thereto shall be admissible against the defendant; and
3. the prosecution and the defendant may not enter into a similar plea and sentence agreement.

(14) Where a person is convicted and sentenced under subsection (1) of this section, he shall not be charged or tried again on the same facts for the greater offence earlier charged to which he had pleaded to a lesser offence

(15) The presiding Judge or Magistrate shall make an order that any money, asset or property agreed to be forfeited under the plea bargain shall be transferred to and vest in the victim or his representative or any other person as may be appropriate or reasonably feasible.

(16) Notwithstanding the Sheriffs and Civil Process Law, the prosecution shall take reasonable steps to ensure that any money, asset or property agreed to be forfeited or returned by the defendant under a plea bargain are transferred to or vested in the victim, his representative or other person lawfully entitled to it.

(17) Any person who, wilfully and without just cause, obstructs or impedes the vesting or transfer of any money, asset or property under this Law, commits an offence and is liable on conviction to imprisonment for 7years without an option of fine.

(18) The judgment of the court contemplated in subsection 10 (a) of this section shall be final and no appeal shall lie in any court against such judgment, except where fraud is alleged.

**Plea to** 270.(1) Before a defendant takes his plea, the court **information** shall inform him of his rights under

**or charge.** section 268 of this Law.

(2) The defendant to be tried on a charge, a

complaint or an information shall be-

1. brought before the court unfettered unless the court sees cause otherwise to order, and the charge, complaint or information shall be read over and explained to him to the satisfaction of the court by

the registrar or other officer of the court; and

1. called upon to plead instantly unless, where the person is entitled to service of the information, he objects to the non-service and where the court finds that he has not been duly served.

(3) The court shall record the fact that it is satisfied that the defendant understands the charge, complaint or information read over and explained to him in the language he understands, and shall record the plea of the defendant to the charge, complaint or information as nearly as possible in the word used by him.

**Proof of** 271. Where the fact of a previous conviction of a **previous** defendant is a fact inissue, the prosecution **conviction.** shall prove the same in accordance with the

Evidence Act.

**Effect of plea** 272. A defendant who pleads not guilty shall be

**of not guilty.** deemed to have put himself to trial.

**Effect of** 273.(1)Where a defendant pleads guilty to an

**plea of** offence with which he ischarged, the court

**guilty.** shall-

1. record his plea as nearly as possible;
2. invite the prosecution to state the fact of the case; and
3. enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution;

(2) Where the court is satisfied that the defendant intends to admit the truth of all the essential elements of the offence for which he has pleaded guilty, the court shall convict and sentence him or make such order as may be necessary, unless there shall appear sufficient reason to the contrary.

(3) Where the defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.

**Amending charge** 274.Without prejudice to other provisions of this **where defendant** Law, where the defendant pleads guilty to **pleads guilty to** an offence not contained in the charge

**offence not** complaint or information on which he was

**charged.** arraigned, court shall direct the prosecution

to amend the charge complaint or

information accordingly to include the

admitted offence, in which case, a fresh plea

of the defendant shall be taken on the

amended charge, complaint or information.

**Failure to** 275. (1)Where the defendant, when called upon to

**plead due** plead remains silent or refuses to answer, the

**to malice** court shall enter a plea of not guilty on his **or otherwise.** behalf.

(2) A plea entered under subsection (1) of this

section shall have the same effect as if the

defendant actually pleaded to the charge.

(3) The court may inquire into the mental state of

the defendant, and if the court is satisfied that

the defendant is of sound mind, the court shall

proceed with his trial.

(4) Where the court finds that the defendant is of

unsound mind, the provisions of this Law in

relation to persons of unsound mind shall

apply.

**Pleas:** 276.(1) A defendant against whom a charge,

**autrefois** complaint or information is filed may **acquit or** plead that-

**convict,**

**pardon.**

1. by virtue of section 237 of this Law he is not liable to be tried for the offence with which he is charged; or
2. he has obtained a pardon for his offence.

(2) Where either of the pleas under subsection (1) of this section is raised in any case and denied to be true in fact, the court

shall determine whether such plea is true in fact or not.

(3) Where the court holds that the facts alleged by the defendant do not prove the plea, or if it finds that it is false in fact, the defendant shall be required to plead to the charge, complaint or information.

(4) Nothing in this section shall prevent a defendant from pleading that, by virtue of some other provision of law, he is not liable to be prosecuted or tried for an offence with which he is charged.

PART 28 – PERSONS OF UNSOUND MIND

**Procedure when** 277.(1) Where in the course of a criminal trial, the **defendant is** court has reason to suspect the mental **suspected to be** capacity or soundness of mind of a

**of unsound mind.** defendant, by virtue of which he is unable to stand trial or defend himself, the court

shall order the medical examination of the

defendant’s mental state or soundness of

mind.

(2) An investigation under subsection (1) of this section may be held in the absence of the defendant where the court is satisfied that owing to the state of the defendant’s mind it would be in the interest of the defendant or of other persons or in the interest of public decency that he should be absent.

(3) Where the court is not satisfied that the defendant is capable of making his defence, the court shall adjourn the trial or proceedings and shall remand the person for a period not exceeding (1) month to be detained for observation in some suitable place.

(4) A defendant detained in accordance with subsection (3) of this section shall be kept under observation by a medical officer during the period of his remand and before the expiration of that period, the medical officer shall-

1. give to the court his opinion in writing as to the state of mind of that person; and
2. where he is unable within the period to form any definite opinion, he shall so certify to the court and ask for a further remand and such further remand may extend to a period of 3 months.

(5) Where further period of remand is granted under subsection(4) of this section, the case shall be fixed returnable by the court at the expiration of the period granted under subsection 4 (b) of this section.

( 6) A court, before which a defendant suspected to be of unsound mind is accused of any offence may, on the application of the Attorney-General or a law officer made at any stage of the proceedings prior to the trial, order that the person be sent to an asylum or such other suitable place for observation.

(7) The medical officer in charge of the asylum or such other suitable place shall, within a period not exceeding (1) month in the first instance or on application to the court for a further period of 3 months, submit to the court a report in writing containing his opinion on the soundness of mind of the defendant.

**Report from** 278. Where the medical officer or such officer in **medical officer.** charge of the asylum or other suitable place to

which the defendant is referred for observation

under this section fails to submit a report as

provided in section 277(4) and (7) of this Law

within the period stipulated in those

subsections, the court may discharge the

person, or shall release him on bail in

accordance with this Law relating to bail.

**Certificate of** 279.(1) Where the medical officer certifies that the **medical officer.** defendant is of-

1. sound mind and capable of making his defence, the court shall, unless it is satisfied by

the defence that the defendant is

of unsound mind, proceed with

the trial; or

1. unsound mind and incapable of making his defence, the court shall, where it is satisfied of the fact, postpone the proceeding.

(2) The trial of the issue as to whether or not the defendant is of sound mind and incapable of making his defence shall, where the finding is that he is of sound mind and capable of making his defence, be deemed to be part of his trial before the court.

(3) The certificate of the medical officer who issued the certificate shall be admissible under this section even in the absence from court of the medical officer provided there is sufficient explanation for his absence.

(4) Where the defendant is certified to be of unsound mind and incapable of making his defence, it shall not be necessary for him to be present in court during proceedings under this section.

**Release of** 280. (1) Where a defendant is found to be of unsound **defendant** mind and isincapable of making his defence, **of unsound** if the offence charged is bailableby the court, **mind pending** it may in its discretion, release him on **investigation** sufficientsecurity being given-

**or trial.**

1. that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person; and
2. for his appearance when required before the court or such officer as the court appoints in that behalf.

(2) Where a defendant is before a Magistrate charged with an offence which is bailable by a Judge but not by a Magistrate or where the offence is bailable by a Magistrate but the Magistrate refused to grant bail, the Magistrate shall inform the defendant of his right to apply to a Judge for bail.

(3) Where the offence charged is not bailable by the High Court or where a Judge has refused bail under subsection (1) of this section or after an application made under subsection (2) of this section or where sufficient security is not given or where no application is made for bail, the Judge shall order the defendant to be confined in a

lunatic asylum or other suitable place of safe custody.

**Resumption** 281. Where a proceeding or trial is postponed

**of proceedings** under section 277 or 278 of this Law, the

**or trial.** court may at any time re-open the proceeding

or re-commence the trial and require the

defendant to appear or be brought before the

court.

**Resumption** 282. Where the defendant has been released under **of proceedings** section 280 of this Law, the court may at any **after release** time require the defendant to appear or be

**under** brought before it and may again proceed **section 280.** with the proceeding or trial.

**Where defendant** 283. Where the defendant appears to be of

**appears** unsound mind at the time of any remand or **to** similar pre-trial proceedings before a court,

**have been** andthe issue of the state of soundness of

**of unsound** mind of the defendant is inissue, being a **mind.** defence to the main offence for which he is

arrested relating to insanity or intoxication,

the court shall proceed to deal with the

defendant in accordance with sections 277

to 290 of this Law and shall not make any

finding of fact in relation to such defence

that the defendant is open to plead at his trial

for the offence.

**Safe custody** 284.Where the finding states that the defendant

**of defendant** committed the act alleged, the court before **discharged.** which the trial has been held shall, where

the act would have but for the finding of

incapacity constituted anoffence, order the

person to be kept in safe custody in such place

and manner as the court thinks fit and shall

within 31 days of the order, report the case for

an order of the Governor.

**Order of** 285.(1) The Governor may at his discretion order the **the Governor** defendant tobe confined pursuant to section

**in** 284 in a mental health asylum, prison or other **pursuance** suitable place of safe custody.

**to section 284** (2) In exercising this discretion, the Governor

shall ensure that the defendant is placed in

such facility as to afford him adequate

care at the expense of the State.

**Observation** 286. Where a defendant is confined under section

**of prisoners** 280(3), 284 or 285 of this Law the medical

**of unsound** officer of the prison, where such defendant is

**mind.** confined in a prison or the medical officer

attached to the asylum or other facility,

where he is confined in any asylum or such

facilities shall keep him under observation in

order to ascertain his state of mind and such

medical officer shall make a special report for

the information of the Governor or the Judge as

the case may be as to the state of mind of such

defendant at the time or times as the Governor

or the Judge shall require.

**Procedure** 287. Where a defendant is under section 278 of this

**when** Law, confined in a prison, asylum or other

**defendant** facility and is certified by the medical officer

**of** **unsound** to whom the case is referred for his report to be

**mind is** capable of making his defence, the defendant

**reported** shall be taken before the court at such time

**to be able** as the court appoints, and the court shall

**to make** proceed with the trial or proceeding as the case

**his defence.** may be and the certificate shall be admissible in

as evidence.

**Procedure** 288. (1) Where the medical officer of a prison or the **where** medicalofficer attached to an asylum or other **defendant of** facility in which a defendant is confined under **unsound** section 284 or 285 of this Law certifies that **mind is** the defendant in his judgment may be

**reported fit** discharged without the dangerof him causing **for discharge.** injury to himself or to any other person, the

Governor may, on receipt of that report, order

the defendant to be discharged or

detained in custody or in prison or to be in

custody or transferred to asylum where

he has not already been sent to an asylum.

(2) Where the Governor orders a defendant to be

transferred to an asylum, he may appoint two

medical officers to report on the state of mind

of the defendant and on any other facts the

court may require, and on receipt of the report,

the court may order his discharge or detention

as it thinks fit.

**Transfer**  289. Where a defendant is confined in a prison or an **from one** asylum, the Governor may direct his transfer from **place of** one prison or asylum to any other prison or

**custody to** asylum as often as may be necessary or may at

**another.** any time order for his release from detention as he

may considernecessary.

**Delivery of** 290.(1) Where a relative or friend of a defendant **defendant of** confined undersection 285 of this Law desires **unsound mind** that the defendant be delivered over to his

**to care of** care and custody, the court may, on the

**relative**. application ofthe relative or friend and on his

giving security to the satisfactionof the court

that the defendant delivered shall be-

1. properly taken care of; and
2. prevented from doing injury to himself or to any other person;

In its discretion, order the defendant to be delivered to the relative or friend on condition that the defendant shall be produced for the inspection of such officer and at such times as the court may direct.

(2) Where a defendant delivered to a relative or friend under subsection (1) of this section is confined under section 284 of this Law, the court may further require the relative or friend to give satisfactory security that if at any time it appears to the court that the defendant is capable of making his defence, the relative or friend shall produce the defendant for trial.

(3) Sections 280 and 286 of this Law shall apply, with necessary modifications, to a defendant delivered to the care and custody of a relative or friend under this section.

**Removal to** 291. Where it is necessary to remove a prisoner to a **another prison** prison or asylum under this part, an order for the **or asylum.** removal given under this part shall be sufficient

authority or the removal and the detention of the

prisoner in any prison or such other place of

detention within the State.

**PART 29 – DETENTION TIME LIMITS**

**Application** 292.(1) A person arrested for an offence which a

**for remand** magistrate court has nojurisdiction to try shall, **or other** within a reasonable time of arrest, bebrought **interlocutory** before a magistrate court for remand.

**proceedings.**

(2) An application for remand under this section

shall be made *ex parte* and shall-

**First Schedule** (a) be made in the prescribed “Report and Request for Remand Form” as contained in Form 13, in the First Schedule to this Law; and

(b) be verified on oath and contain reasons for the remand request.

**A court may** 293.(1) Where the court, after examining the reason **remand in** for the arrest and for the request for remand **prison custody.** in accordance with section 292 of this Law,

is satisfied that there is probable cause to

remand the person pending the receipt of a

copy of the legal advice from the Attorney-

General and arraignment of the person

before the appropriate court, as the case may

be, may remand the person in custody.

(2) In considering whether “probable cause” has been established for the remand of a person pursuant to subsection (1) of this section, the court may take into consideration the following-

1. the nature and seriousness of the alleged offence;
2. reasonable grounds to suspect that the person has been involved in the commission of the alleged offence;
3. reasonable grounds for believing that the person may abscond or commit further offence where he is not committed to custody; and

1. any other circumstance of the case that justifies the request for remand.

**Court may** 294. The court may, in considering an application for **grant bail** remand brought under section 292 of this Law,

**in remand** grant bail to the person brought before it, taking **proceedings.** into consideration sections 157 to 187 of this

Law relating to bail.

**Time and** 295.(1) Where an order of remand of the person is **protocol** made pursuant to section 292 of this Law, the **for remand** order shall be for a period not exceeding 14 **orders.** days in the first instance, and the case shall be

returnable within the same period.

(2) Where, on application in writing, good cause

is shown why there should be an extension

of the remand period, the court may make an

order for further remand of the person for a

period not exceeding 14 days and make the

proceedings returnable within the same

period.

(3) Where the person is still in custody on

remand at the expiration of the period

provided for under subsection (1) or (2) of

this section, the court may, on application of

the person grant bail in accordance with

sections 157 to 187 of this Law.

(4) At the expiration of the remand order made

pursuant to subsection (1) or (2) of this

section, and where the person is still

remanded with his trial having not

commenced, or charge having not been

filed at the relevant court having

jurisdiction, the court shall issue a hearing

notice on-

1. the Commissioner of Police of the State and the Attorney-General; or
2. any relevant authority in whose custody the person is or at whose instance the person is remanded, and adjourn the matter within a period not exceeding 14 days of the expiration of

the period of the remand order made under subsection (1) or (2) of this section, to inquire as to the position of the case

and for the Commissioner of Police and the Attorney-General to show cause why the person remanded should not be unconditionally released.

(5) Where the Commissioner of Police and

the Attorney-General show good cause

pursuant to subsection (4) of this section

and make a request to that effect, the

court-

1. may extend the remand of the person for a final period not exceeding 14 days for the person to be arraigned for trial before an appropriate court; and
2. shall make the case returnable within the said period of 14 days from the date the hearing notice was issued pursuant to subsection (4) of this section.

(6) Where a good cause is not shown for the

continued remand of the person

pursuant to subsection (4) of this

section, or where the person is still on

remand custody after the expiration of

the extended period under subsection

(5), the court shall, with or without an

application to that effect, discharge the

person and the person shall be

immediately released from custody.

(7) No further application for remand shall

be entertained by any court after the

proceeding in subsection (6) of this

section.

**When court**  296.(1) The powers conferred on the court under this **may exercise** Part may beexercised by the court-

**power of rem-**

**and.**

1. whether the suspect remanded is present in court or not; and
2. on its own motion or on application, including an application by a person in charge of the prison or

other place of custody where the person remanded is detained.

(2) A copy of the legal advice of the Attorney-General shall in all cases be forwarded to the court, and the court may act solely on the copy of the advice to make

any order that may be necessary in the circumstances.

(3) Where the legal advice of the Attorney- General indicates that the person remanded has no case to answer, the court shall release the person immediately.

**Court may** 297.(1) During remand, the court may nevertheless **bring up** order thepersonremanded to be brought **person** before it.

**remanded or**

**make any** (2) The court may order that the person

**order during** remanded be transferredto ahospital, **remand.** asylum or any suitable place for the purpose

of giving him medical treatment, or may

make any order that it considers necessary to

make at any time during the remand period.

**Place of** 298. A person committed to prison underthis Law **remand.** shallbe remanded in prison or other place of

safe custody.

**PART 30 – PRESENTATION OF CASE BY PROSECUTION AND DEFENCE**

**Presentation** 299.(1)After a plea of not guilty has been taken or no **of case for** plea hasbeen made, the prosecution may **prosecution.** open the case against the defendant stating

shortly by what evidence he expects to prove

the guilt of the defendant.

(2) The prosecutor shall then examine the

witnesses for the prosecution who may be

cross-examined by the defendant or his legal

practitioner and thereafter re-examined by the

prosecutor, where necessary.

**Defendant’s** 300. After the case of the prosecution is concluded, **case.** the defendant or the legal practitioner

representing him, if any, is entitled to address

the court to present his case and to adduce

evidence where so required.

**No case** 301.The court may, application by the defendant, on

**submission** after hearing the evidence for the prosecution,

**at the instance** where it considersthat the evidence against the

**of court.** defendant or any of several defendants is not

sufficient to justify the continuation of the trial,

recorda finding of not guilty in respect of the

defendant without calling on him or them to enter

his or their defence and the defendant shall

accordingly be discharged and the court shall then

call on the remaining defendant, if any, to enter

his defence.

**No case** 302.(1) Where the defendant or his legal practitioner **submission** makes a no casesubmission in accordance with **by the defence** this Law, the court shall call onthe prosecution **and** toreply.

**replies.** (2) The defendant or his legal practitioner has the

right to reply to any new point of law raised by

the prosecution, after which, the court shall give

its ruling.

(3) In considering the application of the defendant

under section 301, the court shall, in the exercise

of its discretion, have regard to whether-

1. an essential element of the offence has been proved;
2. there is evidence linking the defendant with the commission of the offence with which he is charged;
3. on the face of the record, the evidence of the prosecution has been so discredited and rendered unreliable by cross-examination that it would be unsafe to convict on such evidence;
4. the evidence so far led is such that no reasonable court or tribunal would convict on it; and
5. any other ground on which the court may find that prima facie case has not been made out against the defendant for him to be called upon to answer.

**Defendant** 303(1) If the defendant or any one of several

**calling witness** defendants says that heintends to call any

**other than to** witness other than a witness to character, the

**character.** court shall call on the defendant to enter upon

the defence.

(2) Notwithstanding the provisions of subsection

(1) of this section, the court may, before calling

on the defendant to enter upon the defence, call

on the prosecution to sum up his case against

any one or more of the defendants against

whom it considers that the evidence is not

sufficient to justify the continuation of the

trial and, after hearing the summing up, if

any, may in its discretion record a finding of

not guilty in respect of any such defendant or

call on any of them to enter upon his or their

defence.

**Defence and** 304.(1) When the court calls upon the defendant to **prosecutor’s** enter upon the defence, the defendant or his **right of reply.** legal practitioner may open his case stating

the facts or law on which he intends to rely

and making such comments as he thinks

necessary on the evidence for the

prosecution, and the defendant may then

give evidence on his own behalf, examine his

witnesses, if any, and after their cross-

examination and re-examination, if any, may

sum up his case.

(2) If the defendant or any of the defendants calls a witness other than to character, or a document other than a document relating to character is put in evidence for the defence, the prosecution shall be entitled to reply.

(3) If the defendant has called only evidence to character, the prosecution may at the close of the case for the defence adduce

evidence of previous convictions of the defendant.

(4) Notwithstanding subsection (2) of this section, the prosecution may be heard in reply on a point of law or, where none of the defendant has called evidence other than to character but any of them has introduced new matter in his statement to the court, on the new matter.

**Reference to** 305.(1) Where a question as to the interpretation of

**the Court** the Constitutionof the Federal Republic of

**of Appeal.** Nigeria arises in the course of a trial and is

referred to the Court of Appeal under the

Constitution, the court before which the

question arose may inits discretion-

1. adjorn the trial until the question has been considered and decided; or
2. conclude the trial and postpone the verdict until such time as the question has been considered and decided; or
3. conclude the trial and pass sentence but suspend execution until such time as the question has been considered and decided, and in any such case the court in its discretion shall commit the defendant or convict to prison or admit him to bail in accordance with the provisions of Part 18 of this Law.

(2) When the question referred to in subsection (1) (a) of this section has been decided by the Court of Appeal, the court shall-

1. continue the trial or discharge the defendant; or
2. acquit or convict the defendant; or
3. order the execution of the sentence as the circumstance may require.

**Order of** 306. Written addresses shall be filed and adopted at **addresses.** the end of thecase inthe following order-

1. if the defence led evidence, it would address the court first, the prosecution responds and the defence has the final right of reply on point of law; and
2. if the defence did not lead any evidence but rests its case on the prosecution’s case, the prosecution would address the court first, the defence responds and the prosecution has the final right of reply on point of law.

**Stay of** 307. An application for stay of proceedings in respect of **proceedings.** a criminal matter before the court shall not be

entertained.

**Consideration** 308.(1) When the case for both sides is closed, the

**of case by court** court shall consider its verdict and for this **and** purpose may retire or adjourn the trial.

**announcement**

**of finding.**  (2) After the court has made its finding, the

court shall pronounce that finding in the

open court.

**Judgment to** 309. (1)The Judge or Magistrate shall record his

**be in writing.** judgment in writing and every judgment

shall contain the point or points for

determination, the decision and the reasons

for the decision and shall be dated and

signed by the Judge or Magistrate at the time

of pronouncing it.

(2) There shall be established at the High Court

a Central Criminal Records Registry where

all judgements in criminal cases shall be

registered.

(3) In the case of a conviction, the bio-data and

any other details of identification about the

convict shall be obtained and kept.

**Defendant to**  310. Where the court finds the defendant not guilty, **be discharged** it shall immediately discharge him and record **where found** an order of discharge and acquittal

**not guilty.** accordingly.

**Procedure on** 311.(1) Where the finding is guilty**,** the defendant **finding of** shall, where he has not previously called any **guilty.** witness to character, be asked whether

he wishes to call any witness and, after the

witness, if any, has been heard, he shall be

asked whether he desires to make any

statement or produce any necessary evidence

or information in mitigation of punishment in

accordance with section 312 (3) of this Law.

(2) After the defendant has made his statement,

if any, in mitigation of punishment the

prosecution shall, unless such evidence has

already been given, produce evidence of any

previous convictions of the defendant.

**Sentence and** 312.(1) Where section 311 of this Law has been

**sentencing** complied with, the court may pass sentence **hearing.** on the convict or adjourn to consider and

determine the sentence and shall then

announce the sentence in open court.

(2) The court shall, in pronouncing sentence,

consider the following factors in addition to

section 238 and 239 of this Law-

1. the objectives of sentencing, including the principles of reformation and deterrence;
2. the interest of the victim, the convict and the community;
3. appropriateness of non-custodial sentence or treatment in lieu of imprisonment; and
4. previous conviction of the convict.

(3) A court, after conviction, shall take all necessary aggravating and mitigating evidence or information in respect of each convict that may guide it in deciding the nature and extent of sentence to pass on the convict in each particular case, even though

the convicts were charged and tried together.

(4) The Chief Judge shall from time to time make provisions for sentencing guideline on a particular offence in order to promote consistency in sentencing.

**Recommen-** 313. The court may, in any case in recording

**dation for** sentence, make a recommendation for mercy **mercy.** and shall give the reasons for its

recommendation.

**Conviction on** 314.(1) Where a defendant is found guilty of an

**other charges** offence, the courtmay, in passing sentence, **pending.** take into consideration any other charge

then pending against him, where the

defendant admits the other charge and

desires that it be taken into consideration

and if the prosecution of the other charge

consents.

(2) Where a desire is expressed under

subsection (1) of this section and consent

given, the court shall-

1. make an entry to that effect on the record book; and
2. the prosecution shall state the facts of the case in accordance with section 299 of this Law.

(3) Where the other charge pending against the defendant is considered in accordance with subsections (1) and (2) of this section and sentence passed on the defendant with

consideration or in respect of the other pending charge, the defendant shall not, subject to sections 235 and 236 of this Law, or unless the conviction has been set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

**Compensation** 315.(1) Notwithstanding the limit of its civil or

**to victim in** criminal jurisdiction a court has power, in **judgment.** delivering its judgment, to award to avictim

commensurate compensation by the

defendant or any other person or the State.

(2) The Court in considering the award of

compensation to the victim may call for

additional evidence to enable it determine

the quantum of compensation to award in

subsection (1) of this section.

**Delivery of** 316. Where a Judge or Magistrate having tried a case **judgment when** is preventedby illness or other unavoidable **Judge or Magistrate** cause from delivering his judgment or

**is unavoidably** sentence, if it has been reduced into writing **absent.** and signed bythe Judge or Magistrate, it may

be delivered and pronounced in open court by

any other Judge or Magistrate in the presence

of the defendant.

**Warrant of** 317. Where sentence or conviction does not order the **commitment.** payment ofmoney but orders the convict to be

imprisoned, the court shall issue a warrant of

commitment accordingly.

**Authority for** 318. A warrant under the hand of the Judge or

**carrying out** Magistrate by whom a convict has been

**sentence other** sentenced or committed to prison for

**than of death.** non-payment of a penalty or fine grants full

authority to the officer in charge of any prison

and to all other persons for carrying into effect

the sentence described in the warrant not being

a sentence of death.

**Error or** 319. The court may, at any time, amend any defect in **omission** an order or warrant of commitment and no-

**not to affect**

**legality of act.**

(a) omission or error as to

time and place; or

(b).defect in form in any order or

warrant of commitment given

under this Law, shall be held to

render void or unlawful an act

done or intended to be done by

virtue of the order or warrant

if it is mentioned, or may be

inferred, that it is founded on a

conviction or judgment

sufficient to sustain it.

**PART 31 – COSTS, COMPENSATION, DAMAGES AND RESTITUTION**

**Power of court to** 320.(1) A court may, within the proceedings or **order payment of** while passingjudgmentorder the

**expenses or** defendant or convict to pay a sum of **compensation.** money-

1. as compensation to any person injured by the

offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit;

1. in compensating a bona fide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and

1. in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

(2) Where the fine referred to in subsection (1) of this section is imposed in a case which is subject to appeal, no payment additional to the fine shall be made before the period allowed for presenting the appeal has elapsed or, where an appeal is presented, before the decision on the appeal.

(3) Order for cost or compensation may be made under this section irrespective of the fact that no fine has been imposed on the defendant in the judgment.

**Payment to** 321.(1) At the time of awarding compensation in any **be taken** subsequent civilsuit relating to the same

**into** matter, the court shall take into consideration **consideration in** any sum paid or recovered as compensation  **subsequent** under this section.

**civil suit.**

(2) The pendency of criminal proceedings shall

not be a bar to a civil action in respect of the

same subject matter.

**Power of** 322.A court after conviction may adjourn

**court to** proceedings to consider anddetermine sentence **order** appropriate for each convict-

**restitution.**

1. in addition to or in lieu of any other penalty authorised by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim’s estate; or
2. order for the restitution or compensation for the loss or destruction of the victim’s property and in so

doing the court may direct the convict-

(i)to return the property to the owner or to a person

designated by the owner; or

(ii)where the return of the property is impossible or impracticable, to pay an amount equal to the value of the property; or

(iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.

**Cost against** 323.(1)The court may, in a proceeding instituted by a **private** private prosecutor or on a summons or **prosecutor.** complaint of a private person, on acquittal of

the defendant, order the private prosecutor or

person, to pay to the defendant such

reasonable costs as the court may deem fit.

(2) In this section, “private prosecutor” does not

include a person prosecuting on behalf of the

State, a public officer prosecuting in his

official capacity and a police officer.

**Compensation**324.(1)Where a person causes the arrest, or arrest

**in cases of false** and charge of adefendant or defendants and **and vexatious** it appears to the court that there was no **accusation.** sufficient ground for causing the arrest, or

that the accusation is false, vexatious or

frivolous, it may for reason recorded, order

the person to pay reasonable compensation to

the defendant or defendants arrested and

charged.

(2) The court may, in default of payment of such

compensation or any part of it, award a term

of imprisonment against the person whom the

order was made, for any term not exceeding

the term prescribed in respect of a like sum in

the scale of imprisonment set out in this Law

or the court may sentence the person to

community service in accordance with

section 450 of this Law.

(3) Subject to the provisions of the Constitution

relating to appeals, a person against whom an

order for payment of compensation is made

under this section may appeal against the

order as if he had been convicted after trial by

the court that issued the order.

**Injured person** 325.(1) A person to whom compensation is

**may**  **refuse to** awarded may refuse to accept the

**accept** compensation.

**compensation,** (2) Where the person receives the

**but payment of** compensation or where the

**compensation** convict, having been ordered to pay

**is bar to further** compensation, suffers imprisonment

**liability.**  for non-payment, the receipt of the

compensation,or the undergoing of the

imprisonment, as the case may be, shall

act as a bar to any further action for the

same injury.

(3) Before making an order for compensation

under this Law, the court shall explain the

full effect of this section to the person to

whom compensation is payable.

**Monies paid** 326. Any compensation ordered to be paid under this **as** law, or any other law, relating to any criminal

**compensation,** proceeding, may be enforced asif it were a

**recoverable** fine.

**as fines.**

**Warrant for**327.(1) Where a convict is ordered to pay a fine, or a **levy of fine.** defendant is ordered to pay compensation to

another person under section 320 of this Law,

or a person is subject to recovery of penalty

for forfeiture of a bond under this Law, the

court passing the sentence or making the order

may, notwithstanding that, in default of the

payment of the fine or compensation or

penalty, the convict or defendant may be

imprisoned, issue a warrant for the levy of the

amount by any means permitted by law,

including-

1. the seizure and sale of any movable property belonging to the defendant or convict;
2. the attachment of any debt due to the defendant or convict; and
3. subject to the provisions of the Land Use Act, the attachment and sale of any immovable property of the convict situated within the jurisdiction of the court.

(2) A warrant for seizure and sale of the movable property of defendant or convict under this section shall be addressed to the court within whose jurisdiction it is to be executed.

(3) Where execution of a warrant is to be enforced by attachment of debts or sale of immovable property, the warrant shall be sent for execution to any court competent to execute orders for the payment of money in civil suits and the court shall follow the procedure for the time being in force for the execution of such orders.

**Powers of** 328.(1) Where a convict has been ordered by the court **court when** to pay a finewith or without a sentence of **convict is** imprisonment in default of paymentof the **sentenced to** fine, the court authorised by section 327 of **only fine.** this Law to issuea warrant may, exercise any

of the following powers-

1. allow time for payment of the fine;
2. direct that the fine be paid by instalments;
3. postpone the issue of a warrant under section 327 of this Law;
4. without postponing the issue of a warrant under section 327 of this Law, postpone the sale of any property seized under the warrant; and
5. postpone the execution of the sentence of imprisonment in default of payment of the fine.

(2) An order made in the exercise of the powers referred to in subsection(1) of this section may be made subject to the convict giving such security as the court may consider fit, by means of a bond with or without sureties, in which case, the bond may be conditioned either for the payment of the fine in accordance with the order or

for the appearance of the convict as required in the bond or both.

(3) The Court may also, in the exercise of the powers referred to in subsection (1) of this section, order that the execution of the sentence of imprisonment on a convict who has been committed to prison in default of payment of fine, be suspended and, that he be released but only subject to the convict giving security as specified in subsection (2) of this section.

(4) Where the fine or any instalment of the fine is not paid in accordance with an order under this section, the authority making the order may enforce payment of the fine or of the balance outstanding, by any means authorised in this Law and may cause the offender to be arrested and may commit or recommit him to prison under the sentence of imprisonment in default of payment of the fine.

**Wrongful** 329.(1) Where in a charge of an offence relating to **conversion** property and thecourt is of the opinion that the **or detention** evidence is insufficient tosupport thecharge,

**of property** but that it establishes wrongful conversion or

**and award** detention ofproperty, the court may order that **of damages.** such property be restored andmay also award

reasonable damages to the person entitled to the

property.

(2) The damages awarded under this section, shall be recovered in like manner, as prescribed in section 326 of this Law.

**PART 32 – CUSTODY, DISPOSAL, RESTORATION OF PROPERTY**

**Meaning of** 330. In this Part, “property” in the case of property **“property”.** regarding whichan offence appears to have been

committed, includes not only the property as has

been originally in the possession or under the

control of a party, but also any property into or for

which that same has been converted or exchanged

and anything acquired by the conversion or

exchange, whether immediately or otherwise.

**Order for** 331. Where any property regarding which an offence **custody and** appears tohave been committed or which appears **disposal of** to have been used forthe commission of an offence **property** is produced before a court during an inquiry or a **pending trial.** trial, the court-

1. may make such order as it thinks fit for the proper custody of that property pending the conclusion of the proceedings or trial; and
2. where the property is subjected to speedy decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of, and the proceeds dealt with as the court may direct.

**Order for** 332.(1) Where any proceedings or trial in a criminal **disposal of** case is concluded,the court may make such **property** order as it thinks fit, for the disposal by

**after trial.** destruction,confiscation or delivery to a person

appearing to beentitled to the possession or

otherwise, of any movable property or

document produced before it or in its custody

or regarding which an offence appears to have

been committed or which has been used for the

commission of an offence.

(2) Notwithstanding that the trial, proceedings or

an appeal is pending in respect of the case, the

court may, in any case, make an order under

subsection (1) of this section for the delivery

of any property, to a person appearing to be

entitled to the possession of the property, on his

executing a bond, with or without sureties, to

the satisfaction of the court, undertaking to

restore the property to the court.

(3) An order made under this section may be

appealed against as if it is a decision in the final

judgment of the court giving the direction.

**Custody or** 333.(1) Where the court orders the forfeiture or

**sale of** confiscation of anyproperty but does not **property.** make an order for its destruction or for its

delivery to any person, the court may direct

that the property shall be kept or sold and that

the property, if sold, the proceeds of the sale

be held as it directs until some person

establishes to the court’s satisfaction, a right

to the property.

(2) Where no person establishes a right within

six months from the date of forfeiture or

confiscation of the property, the proceeds of

the sale shall be paid into the Consolidated

Revenue Fund of the State or any other

appropriate account, as the case may be.

(3) Where an order is made under this section

in a case which an appeal lies, the order

shall not, except when the property is

livestock or is subject to speedy and natural

decay, be carried out until the period

allowed for presenting the appeal has

passed or when the appeal is entered, until

the disposal of the appeal.

PART 33 – SEIZURE, FORFEITURE, CONFISCATION AND DESTRUCTION OF INSTRUMENTALITY OF CRIME

**Seizure of things** 334. The court may-

**intended to be used**

**in commission of crime.**

(a) order the seizure of any instrument, material or thing which there is reason to believe is provided or prepared, or being prepared, with a view to the commission of an offence triable by the court; and

(b) direct the instrument, material or thing to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 337 of this Law.

**Destruction of** 335.(1)Upon a conviction for an offence relating to **seditious, prohibited** obscene publications, the court may order **or obscene** the confiscation and destruction of allthe **publications and of** copies of the publication or thing, including **obscene objects** those that remainin the possession or

**and etc**. power of the convict.

(2) Upon arrest for an offence relating to adulterated or unfit food, drink or drug, the court may order the confiscation and destruction of the food, drink or drug,

including such other adulterated or unfit items in the possession or power of the defendant.

**Search warrant** 336. Where a court is satisfied, by information on **may be used to** oath, that thereis reasonable ground for

**may be used to** believing that there is in the State in

**search for things** any building, ship, carriage, receptacle or **subject to section** place, anything in respect of which an order **334 or 335.** may be made under section 334 or 335

ofthis Law, the court may issue a search

warrant to search for the thing and where the

thing is found, it shall be brought before a

court and dealt with as the court may deem

proper.

**Restoration of** 337.(1)Where a defendant is convicted of an offence **possession of** carried outby criminal force, and it appears **immovable** to the court that by that force a victimhas **property.** been dispossessed of any immovable

property, the courtmay, where it deems fit,

order the possession of the property to be

restored to the victim.

(2) An order under this section shall not prejudice any right or interest to or in the immovable property which a victim, including the convict, may be able to establish in a civil suit.

**Procedure on** 338. (1) The seizure by the police of property taken **seizure of** during arrest or investigation under this Law, **property** or alleged or suspected to have been stolen or **taken during arrest** found in circumstances which create a

**or investigation** suspicionof the commission of an offence,

**or stolen.** shall within a period not exceeding48 hours

of the taking of the property or thing, be

reportedto a court, and the court shall make

an order in respect of the property or its

delivery to the person entitled to its

possession or such other orders as it may

deem fit in the circumstances.

(2) Where the person entitled to the possession

of property referred to in subsection (1) of

this section is unknown, the court may detain

it and shall issue a public notice specifying

the articles of which the property consists and

requiring any person who may have a claim

to it, to appear before the court and establish

his claim within six months from the date of

the notice.

**Procedure** 339.(1)Where no person within the period referred to **where owner** in section 338 of this Law establishes his

**of property** claim to property referred to in that section **seized is** and where the person in whose possession the

**unknown.** property was found is unable to show that it

was lawfully acquired byhim, the property

shall be at the disposal of the court and may

be sold in accordance with the order of the

court and proceed forfeited to the State.

(2) At any time within six years from the date of property coming into the possession of the police, the court may direct the property or the proceeds of the sale of the

property to be delivered to any person proving his title to it, on payment by him, of any expenses incurred by the court in the matter.

**Power to sell** 340.Where the person entitled to the possession of **perishable** propertyreferredto in section 338 of this Law **property.** is unknown or absent and the property is subject

to speedy decay or, for the benefit of the owner,

the court may, at any time, direct it to be sold

and sections 338 and 339 of this Law shall, as

nearly as may be practicable, apply to the net

proceeds of the sale.

**Payment to** 341. Where a defendant is convicted of an offence **innocent** relating to property and it is proved that a person **person of** has bought the stolen propertyfrom him without **money** knowing or having reason to believe that the **found on** property was stolen, and that money has, on the **defendant.** arrest of theconvict been taken out of his

possession, the court may on the-

1. application of the purchaser; and
2. on the restitution of the stolen property to the person entitled to the possession.
3. order that out of the money a sum not exceeding the price paid by the purchaser, shall be delivered to him.

**Restitution** 342. Where, on the arrest of a defendant charged with **and disposition** an offence,anyproperty, other than that used in **of property found** the commission of the offence, istaken from

**on defendant.** him, the court before which he is charged

may order thatthe property or any part of it be-

1. restored to the person who appears to the court to be entitled to it, and, where he is the person charged, that it be restored either to him or to such other person as he may direct; or
2. applied to the payment of any costs or compensation directed to be paid by the defendant charged.

**Restitution** 343.(1) Where a defendant is convicted of an offence **of stolen** relating to property, the court convicting him **property.** may order that the property or any part of it

be restored to the person who appears to it to

be the owner of it, either on payment or

without payment by the owner, to the person

in whose possession the property or any part

of it then is, of any sum named in the order.

(2) This section does not apply to-

1. a valuable security which has been paid or discharged in good faith by a person liable to pay or discharge the instrument; or
2. a negotiable instrument which has been received in good faith by transfer or delivery by a person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen.

**Destruction** 344. Where a defendant is charged with an offence

**of article** relating to counterfeit currency or thing

**relating to** intended to be used for the purpose

**counterfeiting** of making counterfeit currency, then, whether **where charge** the charge proceeds toconviction or not, the

**is laid.** currency or thing shall not be returned to

thedefendant charged or to the person from

whom it was taken butshall be destroyed in

such a manner as the court may order.

**Destruction** 345.(1) Where a person comes into possession of a

**of articles** currency, whichhe believes to be counterfeit **relating to** or which, in his opinion, is tobe usedfor the **counterfeiting** purpose of making counterfeit currency, he **where no** mayhand thecurrency or thing to any officer **charge is laid.** of the Central Bank of Nigeriadesignated by

the bank to receive it, or to any police

officer notbelow the rank of an Inspector, and

the officer of the Central Bank of Nigeria, or

police officer if satisfied that the currency is-

1. is not counterfeit, or is not intended to be used for the purpose of making counterfeit currency shall return

the currency or thing, as the case may be, to the person purporting

to be the owner of it, if known, and

1. counterfeit or is intended to be used for the purpose of making counterfeit currencies

and if no charge is to be preferred against a person in connection with the currency or thing, may destroy, or cause to be destroyed the currency or thing in such manner and by such person as may be approved by the

Central Bank of Nigeria.

(2) Notice of an action to be taken under subsection (1) (a) of this section shall have been given to the person who appears to be the owner of a currency, matter or thing, where the person is known and can easily be found, that the currency or thing will be destroyed at the end of a specified number of days unless the owner shows that the currency is not counterfeit or that the thing is not intended to be used for the purpose of making counterfeit currency.

(3) A reasonable time shall be allowed for the person to provide proof that the currency is not counterfeit or that the thing is not

intended to be used for the purpose of making counterfeit currency and the person who alleges that he is the owner of or otherwise entitled to the currency or thing shall have no claim against the officer of the Central Bank of Nigeria, police officer or the Federal Government in respect of the currency or thing so destroyed.

**Detention** 346.(1) Subject to the provision of this section,

**and destruction** sections 344 and 345of this Law shall apply **of** in relation to notes purporting to be

**counterfeit** legaltender in Nigeria as those sections apply **currency, etc.** in relation tocurrency.

(2) Any currency, matter or thing shall not be destroyed by virtue of the provisions of this part except-

1. a court orders its destruction, in connection with a

conviction for an offence; or

1. it appears to a Magistrate court having jurisdiction in the place where the currency, matter or thing is for the time being situated, on an application made in

accordance with rules of court, that the existence of the currency, matter or thing involves a breach

of the law and the court makes an order for its forfeiture and destruction accordingly; or

1. in the absence of a conviction for an offence in respect of

the currency, matter or thing and any pending prosecution for the offence, and of an order or pending application for an order for its forfeiture, the currency, matter or thing-

1. has been voluntarily surrendered by the person having possession of it, to the proper official of the Central Bank of Nigeria or a superior police officer; or

(ii) is discovered in a lodgement

made with the Central Bank

by a commercial bank.

**Mode of dealing** 347. Subject to the express provisions of any law, **with forfeiture** an article, notpecuniary, forfeited in respect **not pecuniary.** of a summary conviction offence or the

seizure, forfeiture or disposition of which

may be enforced by the court may be sold or

disposed of in such manner as the court may

direct, and the proceeds of the sale shall be

applied in the like manner as if the proceeds

were a penalty imposed under the law on

which the proceedings for the forfeiture is

founded.

PART 34 – SUMMARY PROCEDURE IN PERJURY

**Summary** 348.(1) Where it appears to a court that a person has **procedure** committed perjuryin any proceeding before it, **in perjury.** the court, subject to subsection (2) of this

section and in addition, in the case of a

Magistrate, to subsection (3) of this section

may-

1. commit him to trial on information for perjury and bind any person by

recognizance to give evidence at his trial; or

Fourth Schedule. (b) try him summarily for

contempt of court and where he is guilty, commit him to prison for a period not exceeding 6 months or fine him such sum in accordance with the scale of fine in the Fourth Schedule to this Law.

(2) Where a court decides to try a person summarily, under subsection (1) of this section, for contempt of court, the court shall-

(a) specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies on

which the charge is based; and

(b) require him to give his explanation to the inconsistencies and record the explanation.

(3)Where a court orders a person to be imprisoned or to pay a fine under subsection (1) of this section, it shall-

1. not issue a warrant of commitment or make an order for imprisonment for non-payment of the fine but shall either remand the person

or release him on a recognizance with or without sureties, to come up before the court when called upon; and

1. immediately forward to the Chief Judge as the Chief Judge may direct, a certified copy of the proceedings.

(4) The Chief Judge or Judge to whom a certified copy of the proceedings is forwarded pursuant to subsection (3) of this section-

1. may, without hearing argument and in the absence of the person concerned, set aside or confirm the order or reduce the sentence of

imprisonment or the amount of the fine; and

1. shall inform the court immediately of his decision.

(5) Where the Chief Judge or Judge does not wholly set aside the court’s order, the court shall immediately issue its warrant of commitment or make the necessary order for payment of the fine in accordance with the terms of the Chief Judge or Judge’s order.

(6) An imprisonment or a fine ordered or imposed under this section is a bar to any other proceeding for the same offence except where the order of the court has been wholly set aside.

PART 35 – TRIALS AND SUMMARY TRIALS GENERALLY

**Trials.** 349.(1) Trials shall be held in the High Court on

information or complaint filed-

1. by the Attorney General or a law officer in his office; or
2. by a Legal Officer of any prosecuting agency; or
3. by a private prosecutor; or
4. summarily, in accordance with this Law.

(2) Trials shall be held in the Magistrate Court or any other court or tribunal

exercising criminal jurisdiction in accordance with the provisions of this Law relating to summary trials.

**Non-appearance** 350.(1) Where a defendant charged before the

**and** court is notrepresented by a legal

**non-representation** practitioner, the court shall-

**of legal practitioner.**

1. inform him of his rights to a legal practitioner of his choice; and
2. enquire from him, whether he wishes to engage his own legal practitioner, or a legal practitioner engaged for him by way of legal aid.

(2) Where the legal practitioner who had appeared on behalf of the defendant ceases to appear in court in two consecutive sessions of the court, the court shall enquire from the defendant if he wishes to engage on his own another legal practitioner or a legal practitioner engaged for him by way of legal aid.

(3) Where the defendant wishes to engage another legal practitioner of his choice, the court shall allow him reasonable time but not exceeding 30 days to do so.

(4) Where the defendant fails, or is unable to secure a legal practitioner arranged by him after a reasonable time, the court may

direct that a legal practitioner arranged by way of legal aid to represent the defendant.

(5) The court may assign to any legal practitioner whose place of practice is within the jurisdiction of the court, any case of a defendant who has no legal representation, and the legal practitioner shall undertake the defence of the defendant with all due diligence, in which case, the legal practitioner shall not pay any filing fee or service fee in respect of the case so assigned.

(6) Where the defendant choose to represent himself, the court shall-

(a) inform him of all his rights under the Constitution of the Federal Republic of Nigeria, 1999 and under this Law; and

(b)indicate the fact of having so informed the defendant on the record.

(7) A legal practitioner, other than a law officer, engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant until final judgement, unless allowed for any special reason to cease from acting by the court of its own motion or upon application by the legal practitioner.

(8) Where a legal practitioner intends to disengage from a matter, he shall notify the court, not less than 3 days before the date

fixed for hearing and such notice shall be served on the court and all parties.

**When summary** 351.(1) Trial shall be held summarily-

**trials shall be**

**held.**

1. the High Court in respect of perjury;
2. in respect of an offence which by a law of the House is triable summarily; and
3. in respect of a trial for an offence punishable with less than 3 years imprisonment in the Magistrate Court or Tribunal.

(2) In a trial in the Magistrate Court or Tribunal, the prosecution shall, provide the defendant all materials that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

**Non- appearance** 352.(1) When the case is called, where the

**of complaint.** defendant appears voluntarily in obedience

to the summons or is brought before the

court under a warrant, and the complainant

having, to the satisfaction of the court,

had due notice of the time and place of

hearing, does not appear in person or in

the manner authorised by a written law,

the court may dismiss the complaint.

(2) Where the court receives a reasonable excuse for the non-appearance of the complainant or his representative or other sufficient reason, it shall adjourn the hearing of the complaint to some future day on such terms as the court may deem fit.

**Non- appearance** 353.(1) Where a case is called in which summons **of defendant.** has been issued and the defendant does

not appear and no sufficient excuse is

offered for his absence, then the court

where it is-

1. satisfied that the summons, if any, has been duly served, may issue a warrant, called bench warrant for his arrest; or
2. not satisfied that the summons has been duly served or where a warrant had been issued, in the first instance, for the arrest of the defendant, shall

adjourn the hearing of the case to some future day, in order that proper service may be effected or, until the

defendant is arrested, as the case may be.

(2) Where the defendant is afterward arrested on a bench warrant, he shall be brought before the court immediately which may then commit him by warrant to prison or to such other place of safe custody as it deems fit, and order him to be brought before the court at a certain time and place

(3) The complainant shall, by direction of the court, be served due notice of the time and place ordered under subsection (2) of this section.

**Non- appearance** 354.(1) Where the case is called and neither the

**of both parties.** complainant nor the defendant appears, or

the defendant appears, and the

complainant does not appear, the court

shall make such order as the justice of the

case requires.

(2) The court may, in the order, include such direction as to the payment of costs as the court considers fit, and the payment of the costs may be as if it were a fine.

**Appearance of** 355. When the case is called and both the

**both parties.** complainant and thedefendant appear, the

court shall proceed to hear and determine the

case.

**Withdrawal of** 356. Where a complainant, at any time before a **complaint.** final order is made in a case, satisfies the

court that there are sufficient grounds for

permitting him to withdraw his complaint, the

court may permit him to withdraw his

complaint and shall thereupon acquit the

defendant.

Provided that any offence declared to be a

felony shall not be compoundable.

**Manner of** 357.(1)At the commencement of the hearing, the court **hearing.** shall state, orcause to be stated to the

defendant, the substance of the complaint,

and shall ask him whether he is guilty or not

guilty.

(2) Where the defendant pleads guilty and the court is satisfied that he intends to admit the offence and shows no cause or no sufficient cause why sentence should not be passed, the court shall proceed to sentence.

(3) Where the defendant pleads not guilty, the court shall direct all witnesses to leave the court and upon the direction, section 212 of the Evidence Act, shall apply, but failure

to comply with this subsection shall not invalidate the proceedings but would affect the weight of evidence given by that witness who fails to leave the court on the direction being given.

(4) Notwithstanding subsections (1), (2) and (3) of this section, in capital offences, the court shall proceed with the trial irrespective of the plea by the defendant.

(5) The court shall then proceed-

1. to hear the prosecutor and such witnesses as he may call and such other evidence as he may adduce in support of the charge;
2. also to hear the defendant and such witnesses as he may call and such other evidence as he may adduce in his defence; and
3. also, where the court deems fit, to hear such witnesses as the prosecutor may call in reply if the defendant has called any witness or given any evidence.

(6 ) The prosecutor and the defendant may put questions to each witness called by the other side and where the defendant gives evidence he may be cross-examined.

(7) Where the defendant is not represented by a legal practitioner, the court shall, at the close of the examination of each witness for the prosecution, ask the defendant whether he wishes to put any question to that witness, and shall record the defendant’s answer.

(8) The defendant shall take his plea in the dock, except the Judge directs otherwise.

**Discharge of** 358.Where at the close of the evidence in support of **defendant** the charge, it appears to the court that a case is **when no case** not made out against thedefendant sufficiently **to answer.** to require him to make a defence, the court

shall as to that particular charge, discharge him

being guided by section 301 of this Law.

**Defence.** 359.(1) At the close of the evidence in support of the

charge, where it appears to the court that a

prima facie case is made out against the

defendant sufficiently to require him to make a

defence, the court shall call on him for his

defence and where the defendant is not

represented by a legal practitioner, the court

shall inform him of the alternatives open to him

that he may-

1. make a statement, without being sworn, from the place where he then is, in which case he will not be liable to cross-examination; or
2. give evidence in the witness box, after being sworn as a witness, in which case he will be liable to cross-examination; or
3. call any witness or adduce any other evidence in his defence.

(2) Where the defendant is represented by a legal practitioner, the court shall call on the legal practitioner to proceed with the defence.

**Process for**  360.(1) The defendant may apply to the court to issue **compelling** a process forcompelling the attendance of a **production** witness for the purpose of examination or the **of evidence** production of a document or any other thing.

**at instance**

**of defendant.**

(2) On an application by the defendant under

subsection (1) of this section, the court shall

issue the process unless for reasons to be

recorded by it in writing it considers that the

application is made for the purpose of

vexation or delay or of defeating the aims

of justice.

**Saving as to** 361. Failure to comply with the requirements of **section 359.(1)** section359 (1) of this Law shall not of itself

vitiate the trial where the court-

1. called on the defendant for his defence;
2. asked the defendant if he had any witness; and
3. heard the defendant and his witnesses and other evidence, if any.

**Evidence** 362. Where the defendant adduces in his defence a new **in reply.** matter, whichthe prosecution could not foresee,

the prosecution may, with the leave of the court,

adduce evidence to rebut the new matter or

evidence.

**Power to** 363.(1) In certain exceptional circumstances, where the **take de-** evidence of atechnical, professional or expert **position in** witness would not ordinarily be contentious as to **certain** require cross-examination, the court may, grant

**cases.** leave for the evidence to be taken in writing or by

electronic recording device, on oath or

affirmation of the witness, and the deposition

shall form part of the record of the court.

(2) Where it appears to the court that a person who is seriously ill or hurt may not recover, but is able and willing to give material evidence relating to an offence and it is not practicable to take the evidence in

accordance with this Law, the Judge or Magistrate shall-

1. take in writing the statement on oath or affirmation of the person and subscribe the statement and certify that it contains accurately the whole of the statement made by the person; and
2. add a statement of his reason for taking the statement, the date and place when and where the statement was taken, and shall preserve the statement and file it for record.

(3) The court shall cause reasonable notice of the application to take the deposition in accordance with subsections (1) and (2) of this section and of the time and place where it is to be taken to be served on the prosecutor and defendant and if the defendant, is in custody and his presence is required for the deposition, he shall be brought by the person in whose custody he is, to the place where the statement is to be taken, under an order in writing of the court.

**When statement** 364.(1)A statement taken under section 363 of this **may be used in**  Law may afterwards be used in evidence

**evidence.** on the trial of a defendant accused

of an offence to which the statement relates

in accordance with section 46 of the

Evidence Act.

(2) The signature and attestation of the Judge

or Magistrate shall be sufficient *prima*

*facie* proof of the content of the statement,

and that the statement was taken in all

respects according to law and the

attestation and signature shall be admitted

without further proof unless the court sees

reason to doubt the genuineness.

**Notes of** 365.(1)Without prejudice to section 349 (2) of this Law, **evidence** court proceedings may be recorded

**to be recorded** electronically and verbatim such that at the end **electronically** of each day’s proceeding a transcript of such

**or** recording shall be printed to enable certification **in writing.** or authenticationby the Judge orMagistrate

who conducted the proceedings.

(2) Where court proceedings are not recorded as

stated in sub-section (1) of this section the court

shall in every case take notes in writing of the

oral evidence it considers material, in a book to

be kept for that purpose and the book shall be

signed by the court at the conclusion of each

day’s proceedings.

(3) The transcript of the recordings of the court

shall be signed or otherwise authenticated by

the presiding Judge at an adjournment of the

case or at the conclusion in a manner

authorised from time to time by Chief Judge in

accordance with such condition as may be

imposed by rules of court, and the signed

transcript shall be taken as part of the record of

the proceedings.

(4) A person is not entitled, as of right, to

inspection of or to a copy of the record so kept

except as may be expressly provided for by the

rules of the court or by any other law.

(5) The record so kept or a copy of it purporting

to be signed and certified as a true copy by

the court shall, at all times, without further

proof, be admitted as evidence of the

proceedings as statement made by the

witnesses.

**Local** 366. A court trying a case summarily shall make or cause **inspection.** to be made suchlocal inspection as the circumstances

of the case may require.

**Cross** 367. Where a complaint is made by one or more parties **complaints.** against anotherparty or parties and there is a cross-

complaint by the defendant or defendants in the first

named case, the court may, where it deems fit, hear

and determine the complaints in the same

proceedings.

**Joinder of** 368.Where two or more complaints are made by one or **complaints.** more partiesagainst another party or parties and

the complaints refer to the same matter, the court

may, where it deems fit, hear and determine the

complaints in the same proceedings.

**Giving of** 369. On the conclusion of the hearing, the court shall **decision upon** either at thesameor at an adjourned sitting give its **conclusion of** decision on the case eitherby dismissing or

**hearing.** convicting the defendant and may make such

other orders as may deem just.

**Power to bind** 370.(1) In a summary trial, the court may, whether **parties to be of** the complaint is dismissed or not, by order **good behaviour.** bind over either the complainant or

defendant, or both, with or without a surety

or sureties, to be of good behaviour.

(2) A person who breaches an order made,

pursuant to subsection (1) of this section,

may be imprisoned for a term not exceeding

three months in addition to any other

punishment to which the person is liable.

(3) Before a binding over order pursuant to

subsection (1) of this section or an order for

imprisonment or any other punishment under

subsection (2) of this section is made, the

person to be affected by the order shall be

given an opportunity to be heard.

**Effect of** 371.(1) Where a charge is dismissed on merits, the **judgment** dismissal has the sameeffect as an acquittal.

**of dismissal**

**on merits,** (2) Where acharge is dismissed but not on merits, or **not on merits** stated to be dismissal without prejudice, the

**and without** dismissal does not have the sameeffect as an **prejudice.** acquittal

**Summary trial** 372. Where a child is proceeded against before a

**of child by** court for anoffence,the court shall have **Magistrate.** regard to the provisions of the ChildRights

Law.

**Power to** 373. Without prejudice to any other power which a **remand.** Magistrate may possess, he may, for the purpose

of ascertaining whether it is expedient to deal

with a case summarily, either before or during

the hearing of the case, adjourn the case and

remand the person charged for a period not

exceeding 48 hours or release him on bail.

**Law officer may**374.(1) A law officer, in a case where a charge of **require case to be** an indictableoffence is being proceeded **adjourned or dealt** with summarily by a Magistrate, may,

**with specially.** at any time before judgment, request the

Magistrate to deal withthe case as one for

trial on information, complaint or charge.

(2) On receipt of the request, the Magistrate

shall adjourn the proceeding until such a

time as information, complaint or charge is

filed in the High court, provided that the

information, complaint or charge shall be

filed within a period of 30 days of the date

the order granting the request.

(3) The Magistrate shall make the case

returnable for a period not exceeding 32

days from the date of the grant of the

request.

(4) Where at the end of the period of 30

days provided in subsection (2) of this

section, the information, complaint or

charge against the defendant has not

been filed at the High Court, the

Magistrate shall proceed on the return

date to try the charge summarily where

he has jurisdiction, or may make an

order releasing the defendant on bail

pending his arraignment on the

information, complaint or charge as

requested by the law officer.

**Adjournment** 375.(1) Where a charge for an offence is being tried **for law officer’s** summarily by a Magistrate, he shall, at the **decision.** request of a person in charge of the

prosecution made at any time before

judgment, adjourn the hearing of the charge

for consultation with a law officer with a

view to obtaining a request to proceed in

accordance with section 374 of this Law.

(2)The request of the law officer so consulted

shall be filed within 14 days of the days of

the date the Magistrate grants the request

of the person prosecuting, failing which

the Magistrate may grant the defendant

bail.

**Security for** 376.(1) A defendant convicted of an offence tried

**peace in cases** summarily may,instead of, or in addition to **tried summarily.** any prescribed punishment, be ordered to

enter into his own recognizance, with or

without sureties, in such amount as the court

thinks fit that he shall keep the peace and be

of good behaviour for a reasonable period

fixed by the court.

(2) The convict may be ordered to be imprisoned

until the recognizance is entered into, but the

imprisonment shall not-

1. extend for a term longer than 1 year; and
2. together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine for the offence which he was convicted.

**Case files,** 377.(1)Where an offence for which the Magistrate

**legal advice** court has no jurisdiction to try is preferred

**and related** against a defendant, the police shall at theend **proceedings.**  of investigation submit the original case file to

the office of the Attorney-General.

(2) The Attorney-General shall, within 28 days of

receipt of the police case file, issue and serve

his legal advice indicating whether or not there

is a prima facie case against the defendant for

which he can be prosecuted.

(3) Where the Attorney-General is of the opinion, as contained in the legal advice, that the defendant has no prima facie case to answer, he shall serve a copy of the legal advice on the-

1. Police or the head of the Police legal unit through whom the Police case file was sent to the Attorney- General;
2. Registrar who shall ensure service on the court before whom the defendant was remanded in prison, where he is in remand custody, or before whom the person was granted bail, where he is on bail; and

1. defendant in respect of whom legal advice is preferred through the prison authority, where the defendant is remanded in custody, or through his legal representative, if any

(4) Where the offence is one for which a Magistrate court has jurisdiction to try, the prosecutor shall file the charge at the Magistrate court, accompanied with-

1. the list of witnesses;
2. the list of exhibits;
3. statements of the witnesses and of the defendant; and
4. any report, document or material that the prosecution intends to rely on at the trial of the offence, but the prosecution may, with leave of the court, file and serve any additional document.

(5) The police or the officer in charge of the prison in which the defendant is remanded in custody shall on receipt of the legal advice, release the defendant immediately from detention where there is no case to answer.

(6) The court referred to in subsection (3) (b) of this section, shall, on receipt of the legal advice, dismiss the charge against the defendant and accordingly discharge the defendant.

(7) The Attorney-General shall may send a Law Officer in his office to the court where the order of remand was made and ensure the discharge of the remand order and of the defendant

(8) Where the Attorney-General is of the opinion, as contained in the legal advice, that the defendant has a prima facie case to answer, he shall file and serve the charge, complaint or information in accordance with this Law.

First Schedule (9) A form as prescribed in the First Form17. Schedule to this Law, indicating a desire to

be represented by legal practitioner of his

choice or by a legal practitioner from the

Legal Aid Council or any other organisation

providing free legal representation to

defendants shall be attached to each legal

advice for the purpose of endorsement by

the person in respect of whom legal advice

is preferred and against whom the

information is filed.

(10) Where the defendant indicates in the form referred to in subsection (9) of this section that, he wishes to be represented by a legal practitioner of the Legal Aid Council or any other organisation providing free legal representation, he shall forward the form to the Chief Registrar of the court before whom the information complaint or

charge for his trial has been filed and the Chief Registrar shall, within 14days of

receipt of the form, ensure that a legal practitioner of the Legal Aid Council as stipulated under this subsection or any other organisation providing free legal representation for the defendant, and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.

(11) The Chief Registrar shall, upon getting the form, forward same to the Director-General of the Legal Aid Council or to the nearest Legal Aid Council office where the court is located.

PART 36 – TRIALS BY WAY OF INFORMATION

**First** 378. An information shall be in the form set out in Form **Schedule** 18 in theFirst Schedule to this Law with such

**Form of** modifications as may be necessaryto adapt it to the **Information.** circumstances of each case.

**Contents of** 379.(1) A charge, complaint or information shall **Information.** contain-

1. a description of the offence charged in the charge, complaint or information, where more than one offence is so charged, of each offence so

charged, and each offence charged shall be set out in

a separate paragraph

known as count;

1. a count of a charge, complaint or information shall commence with a statement of offence charged.
2. the statement of offence which shall, briefly describe the offence charged in ordinary language, avoiding where possible the use of technical terms and all the essential elements of the offence, and where the offence charged is one created by a law, shall contain a reference to that law;
3. the particulars of offence, which shall be set out in ordinary language;
4. the law and section of the law against which the offence is alleged to have been committed; and

1. where the law that creates the offence does not give it any specific name, such

definition of the offence may be made to give the defendant notice of the offence with which he is charged.

(2) A charge is presumed to have fulfilled every condition required by law to constitute an offence but where a law limits the particulars of an offence which are required to be given in an charge, complaint or information, nothing in this subsection shall require any more particulars to be given than those so required.

(3) Where an charge, complaint or information contains more than one count, the counts shall be numbered consecutively.

(4) The forms set out in the Third Schedule to this Law or forms conforming to them as nearly as possible may be used in the cases to which they are applicable.

(5) In other cases, forms to the like effect or conforming to them as nearly as may be used, where applicable.

(6) A statement of offence and the particulars of the offence may be varied according to the circumstances of each case.

**Charge,** 380.(1) A charge, complaint or information shall be **complaint** filed in the registry of theHighCourt before

**or** **Information** which the prosecution seeks to prosecute the

**to include** offence, and shall include- **Proof of**

**proof of**

**evidence, etc.**

1. the proof of evidence, consisting of-

(i)the list of

Witnesses;

(ii) the list of

exhibits to be

tendered;

(iii)summary of

statements of the

witnesses;

(iv) copies of

statement of the

defendant;

(v) any other document, report, or material that the prosecution intends to use in support of its case at the trial;

(vi) particulars of bail or any recognizance, bond or cash deposit, if defendant is on bail;

(vii)particulars of place of custody, where the defendant is in custody;

(viii) particulars of any plea bargain arranged with the defendant;

(ix) particulars of any previous interlocutory proceedings, including remand proceedings, in respect of the charge, and

(x) any other relevant document as may be directed by the court; and

(b) a copy of the form for information on legal representation as provided under section 377(9) of this Law.

(2) The prosecution may, at any time before judgment, file and serve notice of additional evidence.

(3) The charge, complaint or information and all accompanying processes shall be served on the defendant or his legal representative, if any.

**Application of rules** 381. The provisions relating to charges in **relating to charges.** this Law shall apply to the counts of a

charge, complaint or information.

**Filing of charge,** 382. A charge, complainant or information **complaint on** may be filed by-

**information.**

1. the Attorney-General or officers in his office; or
2. a public officer acting in his official capacity; or
3. a private legal practitioner authorised by the Attorney-General; or
4. a private person, provided the charge, complaint or information is endorsed by a law officer that he has seen such information and declined to prosecute at the public instance and the private person enters into a bond to prosecute diligently and to a logical conclusion.

**Assignment of** 383.(1) Where a charge, complaint or information

**of charge complaint** has been filed in thecourt, the ChiefJudge

**or information** shall take appropriate steps to ensure

**and** **issuance of** that the chargecomplaint or information

**notice of trial.** filed is assigned to a court for trial within 15

working days of itsfiling.

(2) On assigning the charge, complaint or

information the court to which the information

is assigned shall within 10 working days of

the assignment issue notice of trial to the

witnesses and defendants and a production

warrant properly endorsed by the Judge in

respect of the defendant charged, where he is

in custody, for the purpose of ensuring his

appearance on the date of arraignment, and the

Chief Registrar shall ensure the prompt

service of the notice and information not more

than 3days from the date they are issued.

(3) Where the defendant named in the charge,

complaint or information is in custody, the

notice of trial and the charge, complaint or

information shall be delivered to him through

the officer in charge of the prison in which he

is detained, and the warrant for his production

shall be served on the officer of the prison.

(4) Where the defendant is not in custody, the

notice of trial and the charge, complaint or

information shall be served on him

personally.

(5) Where it is impossible or impracticable to effect personal service of the notice of trial and charge, complaint or information on the defendant, they may be served on him, with leave of court, through his legal practitioner, if any, or on his surety or sureties, or on an adult in his household or in such other manner as the court shall deem fit and the service shall be deemed to be duly served on the defendant.

(6) Nothing in this section shall prevent the defendant from being tried by reason only that the notice of trial and the charge, complaint or information served on him less than 3 days before the date of trial, where he consents to being so tried.

**Charge, complaint** 384.(1) The registrar shall receive a charge,

**or information by** complaint or information from a

**private person.** private legal practitioner where the-

1. charge, complaint or information is endorsed by the Attorney-General or a law officer acting on his behalf stating that he has seen the charge, complaint or information and has declined to prosecute the offence set out in the charge, complaint or information; and
2. private legal practitioner shall enter into a recognizance in-

(i)such sum as may be fixed by the court, with a surety,

to prosecute the charge, complaint or information to conclusion from the time the defendant shall be required to appear;

(ii) pay such costs as may be ordered by the court, or

(iii) deposit in the registry of the court, such sum of money as the court may fix.

(2) Where an application for consent to prosecute is made to the Attorney-General by a private legal practitioner and the Attorney-General declines to grant such consent, he shall give his reasons for doing so in writing within 15 working days from the date of the receipt of the application.

**Conditions for** 385.Where a private legal practitioner has complied **private** with section 384 of this Law, the charge,

**prosecutors.**  complaint or information shall besigned

by such private legal practitioner who

shall be entitled to prosecute the charge,

complaint or information.

**Venue** 386. The place of trial shall be determined in

accordance with this Law.

**Change of** 387.(1) Notwithstanding section 386 of this Law-

**venue.**

1. where a cause is commenced in any other division than that in which it ought to have been commenced, it may, notwithstanding, be tried in that division in which it was commenced, but where the defendant objects, the court may, where it considers the objection reasonable, transfer the case to the proper division in which it ought to have been commenced; and
2. the prosecutor or the defendant may, whenever he considers that the ends of justice so require in any case,

apply to the court either to transfer the hearing from one division to another or from one part of the division to another part of the same division.

(2)No appeal shall lie from any order of transfer made under this section.

**Effect of** 388.Where a case is transferred from one place in a **change of** division toanotherplace in the same division or to **venue.** another division, the case shall betried and

determined at the place or in the division to which it

has been transferred, and all recognizance,

subpoenas and proceedings in or relating to the

case are deemed to be returnable at the latter place

or division and all witnesses who are or summoned

to attend the trial shall be informed accordingly and

shall attend at such latter place or division.

**Form of** 389. Theregistrar or any other person directed by the **notice of** court, shallendorseon, or annex to, every

**trial.** Charge, complaintor informationdelivered to the

Sheriffor proper officer, for service, a notice of

trial and such notice shall specify the particular

sessions at which the party is to be tried on the

charge, complaint or information and shall be in

the following form or as near to it as may be-

“A.B. Take notice that you will be tried on the charge, complaint or

information whereof this is a true copy, at the sessions to be held at -----

-------- on the----------- day of --------- 20 --------

Also find attached is the “information on Legal Representations” Form

which you must complete and return to the Registry of this court

within 14 days of service on you of this notice of trial.

**Copy of 390.**The registrar or other proper officer shall

**charge,** deliver, or cause to be delivered to the Sheriff **complaint**  or proper officer serving the charge, complaint or

**or**  information, a copy with the notice of trial **information**  endorsed on or annexed to it, and where there

**and** are more parties charged than one, then as many **notice of** copies as there are parties together with a

**trial to be** similar notice for service on each witness bound **delivered**  to attend the trial.

**to sheriff.**

**Time and 391.** The Sheriff or other proper officer shall, on

**mode of** receipt of the charge, complaint or information **summoning** and notice of trial, serve the person named in the **parties** notice at least 7 working days before the date **charge,** specified on the notice.

**complaint**

**or information.**

**Service of** 392. Notice of trial at the same time shall be served **notice of** on all the witnesses,and the service of the

**trial on** notice on the witnesses shall be in the like **witnesses.** manner as service on a defendant who is not in

custody.

**Registered** 393. The Chief Judge may engage the service of a

**courier** reputable couriercompany for the purpose

**may serve.** of undertaking service ofcriminal processes,

and such company shall serve processes in

accordance withthis Law.

**Return of** 394. The officer of such courier company serving the **Service.** copy of charge, complaint or information and

notices shall immediately make to the registrar

or other proper officer a return of the mode of

service with the necessary endorsement of

service on the person named for service on the

notice or charge, complaint or information.

**Warrant** 395. Where a defendant against whom an

**where**  charge complaint or information has beenduly **defendant** preferred, and on whom the charge, complaint

**does not**  or information and notice oftrial have

**appear.** been duly served,does not appear to plead to

the charge, complaint or information whether

he is under recognizance to appear or not, the

court may issue warrant for his arrest.

**Law officer 396.** Where a defendant is accused of a capital

**or legal** offence or offence punishable by life **practitioner** imprisonment, the State shall be represented **for** by a law officer, or legal practitioner, and

**State and** where the defendant is not defended by a legal **defence in** practitioner, the court shall assign a legal **capital cases.** practitioner for his defence.

**Time for** **raising** 397.(1) The defendant to be tried on an

**certain objections,**  charge, complaint or informationshall be **day-to-day trial** arraigned in accordance with the provision

**and adjournments.** ofthis Law relating to the taking of plea

and the procedure on it.

(2) After the plea has been taken, the

defendant may raise any objection to the

validity of charge, complaint or

information at any time before judgement

provided that such objection shall only be

considered along with the substantive

issues and a ruling thereon made at the

time of delivery of judgement.

(3) Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

(4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournment from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 working days.

(5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven 7 days inclusive of weekends

(6) In all circumstances, the court may award reasonable costs in order to discourage frivolous adjournments.

(7) Notwithstanding the provision of any other law to the contrary, a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part-heard criminal matter pending before him at

the time of his elevation and shall conclude the same within a reasonable time:

Provided that this subsection shall not prevent him from assuming duty as a Justice of the Court of Appeal.

**Attendance of** 398. A person who is summoned as a witness for **witness bound** the prosecution or for the defence, shall be

**by recognizance** bound to attend the court on the day fixed for **to attend.** the trial of the case and on subsequent dates

until the conclusion of the case or until he has

been discharged by the court from further

attendance.

**Warrant for** 399. Where a person who has been summoned to **arrest of** attend as a witness, whether for the prosecution **witness not** or for the defence, does notattend thecourt on **attending on** the day fixed for the trial of the case or on any

**recognizance.**  further adjourned date, and he offers no

reasonable excuse for his absence despite the

fact that he was duly served with the notice of

the trial, the court may issue a bench warrant

that the person be arrest and brought before

the court, at a time to be mentioned in the

warrant, in order to give evidence on behalf of

the prosecution or of the defence, as the case

may be.

**Warrant for** 400. Where a person named on a summons or writ of **arrest of** subpoenawilfully refused to accept service of **witness dis-** the summons or writ of subpoena, the court **obeying** shall issue a warrant for the person to be **summons.** arrestedand be brought before the court at a

time to be mentioned in the warrant in

accordance with the summons or writ of

subpoena.

**Fine for non-** 401. A person who fails to attend as witness in **attendance of** either of the casesmentioned in sections 398 **witness.** and 399 of this Law is liable, on the summary

order of the court, to a fine in a reasonable

sum to be fixed by the court, but not less than

N5,000.00 or community service and in

default of payment, to imprisonment for a

term corresponding to the fixed sum but the

period of imprisonment shall not exceed a

period of one month.

**PART 37 – PROVISIONS RELATING TO SENTENCE OF DEATH**

**Construction** 402.(1) Subject to the provisions of a law relating to **of provisions** a specificoffence or class of offence and to **relating to** the jurisdiction conferred onany court or on a **punishments.** person presiding over the court, this part

shall apply to sentences of death,

imprisonment, fine, and non-custodial

sentences.

(2) In determining a sentence, the court shall have the following objectives in mind, and may decide in each case the objectives that are more appropriate or even possible-

1. prevention, that is, the objective of persuading the convict to give up committing offence in the future, because the consequences of crime is unpleasant;
2. restraint, that is, the objective of keeping the convict from committing more offence by isolating him from society;
3. rehabilitation, that is, the objective of providing the convict with treatment or training that will make him into a reformed citizen;
4. deterrence, that is, the objective of warning others not to commit offence by making an example of the convict;
5. education of the public, that is, the objective of making a clear distinction

between good and bad conduct by punishing bad conduct;

1. retribution, that is, the objective of giving the convict the punishment he deserves, and giving the society or the victim revenge; and
2. restitution, that is, the objective of compensating the victim or family of the victim of the offence.

**Death .** 403.(1) Punishment of death is inflicted by hanging the

convict by the neck till he is dead or by lethal

injection.

(2) Sentence of death shall be pronounced by the court in the following form-

“The sentence of the court upon you is that you be hanged by the neck until you are dead or by lethal injection.”

**How death** 404. Where sentence of death has been passed, the **sentence is** sentence shall onlybe carried out in

**to be carried** accordance with this part.

**out.**

**Death sentences** 405. Where a woman found guilty of a capital

**in the case** offence is pregnant, the sentence of death shall **of pregnancy.** be passed on her, but execution shall

be suspended until the baby is delivered and

weaned.

**Death Sentences** 406. Where a convict who, in the opinion of the

**in the case** court, had notattained the age of 18 years at **of a child** the time the offence was committed

**offender.** isfound guilty of a capital offence, sentence

of death shall not bepronounced or recorded

but in lieu of it, the court shall sentence the

child to life imprisonment or to such other

term as the court may deem appropriate in

consideration of the principles in section 402

of this Law.

**Authority for** 407. A certificate under the hand of the registrar, or **detention of** other officer of the court, that a sentence has **convict.** been passed, and naming the convict against

whom it has been passed, shall be sufficient

authority for the detention of the convict.

**Judge’s certificate** 408.A Judge who pronounced a sentence of death **of death** shall issue, under his hand and the seal of the **sentence to be** court, a certificate to the effectthat sentence **sufficient and** of death has been pronounced upon the

**full authority** convictnamed in the certificate, and the

**for execution** certificate shall be sufficientand full

**of convict,** authority in law for the detention of the

**unless he is** convict in safecustody until the sentence of **pardoned or** death pronounce upon him can becarried **reprieved.** into effect and for carrying the sentence of

death into effect in accordance with and

subject to thisPart.

**Steps to be** 409. The Registrar of the court by which the

**taken by** convict is sentenced to death shall, as soon as **the registrar** practicable after the sentence has been

pronounced-

1. hand two copies of the certificate issued by the Judge under section 408 of this Law to the Commissioner of Police, one copy of which shall be retained by the Commissioner of Police and the other handed to the Superintendent or other officer in charge of the prison in which the convict is to be confined;
2. transmit to the Sheriff one copy of the certificate; and
3. file one copy of the certificate with the record of the proceedings in the case.

**Convict may** 410.(1) Where a convict-

**send request**

**to Committee** (a) has been sentenced to

**on Prerogative** death and has

**of Mercy.** exercised his legal rights of appeal against the conviction and sentence, and the conviction and sentence have not been quashed or the sentence, has not been reduced, or has failed to exercise his legal rights of appeal or having filed an application for leave to appeal, or an

appellant has failed to perfect or prosecute the application or appeal within the time prescribed by law; and

(b)desires to have his case considered by the Committee on Prerogative of Mercy;

he shall forward his request through his legal

practitioner or officer in charge of the prison

in which he is confined to the Committee on

Prerogative of Mercy.

(2) The Committee on Prerogative of Mercy shall consider the request and make their report to the Governor.

**Consideration** 411. The Governor shall, after considering the

**of the report by** report made under section 410 of this Law,

**the Governor.** decide whether or not to commute the

sentence to imprisonment for life, or that the

sentence should be commuted to any specific

period, or that convict should be otherwise

pardoned or reprieved.

**Where a pardon** 412.(1) Where the Governor decides that the

**or reprieve is** sentence should be commuted or that the **granted.** convict should be otherwise pardoned

or reprieved, he shall issue a warrant

order, one copy of which shall be sent to

the superintendent or other officer in

charge of the prison in which the convict

is confined, and another copy of which

shall be sent to the Sheriff, directing that

the execution shall not be carried out.

(2) The recommendation may be that the convict shall be imprisoned or be released, subject in either case to such conditions, if any, as may be specified.

(3) The Sheriff and the superintendent or other officer in charge of the prison in which the convict is confined shall comply with, and give effect to every warrant issued under subsections (1) and (2) of this section.

**Copy of order** 413. The Attorney-General shall communicate the

**to be sent to** decision referred to in section 412 (1) and (2) of **Judge.** this Law to the Judge whopresided over the

trial or to his successor in office sending to

such Judge a copy of his warrant and such

Judge shall cause the warrant to be entered in

the record of the court.

**Where pardon** 414.(1) Where the Governor decides that the

**or reprieve is** sentence should not be commuted or that the **not granted.** convict should not be pardoned or reprieved,

the order of the Governor shall be duly

signed by himandsealed as in one of the

forms set out in the Fourth Schedule

**Fourth Schedule.** to this Law or as near to it as circumstances **Form G**. permit.

(2) The warrant of the Governor-

1. shall state the place and time, where and when the execution is to be and give directions as to the place of burial of the body; or
2. may direct that the execution shall take place at such time and such place and the body of the convict executed shall be buried at such place as shall be appointed by some officer specified in the warrant.

(3) When the place or time of execution or

the place of burial is appointed by some

person and is not stated in the warrant

of the Governor, the specified officer

shall endorse on the warrant over his

signature the place and time of

execution and place of burial.

**Copy of order** 415. A copy of the warrant issued by the Governor **to be sent to** shall be forwarded to the official in charge of **prison official.** the prison in which the personsentenced is

confined, and the official in charge of the

prison shall give effect to the warrant of

execution.

PART 38 - PROCEDURE WHERE WOMAN CONVICTED OF CAPITAL OFFENCE IS ALLEGED TO BE PREGNANT

**Procedure where** 416.(1) Where a woman convicted of an offence **woman convicted** punishable with death alleges that she is **of capital offence** pregnant, the court shall, beforesentence **is alleged to be** is passed on her, determine the question **pregnant or who** whether or not she is pregnant.

**becomes pregnant.**

(2) The question whether the woman is pregnant or not shall be determined by the court on such evidence as may be presented to the court by the woman or on her behalf or by the prosecutor.

(3) Where in the proceedings under this section the court finds that the woman in question is not pregnant, the court shall pronounce sentence of death upon her.

(4) Where in the proceedings under this section, the court finds the woman in question to be pregnant, the court shall sentence her to death subject to section 405 of this Law.

PART 39 – SENTENCING GENERALLY OTHER THAN CAPITAL SENTENCE

**Court to** 417.(1)On conviction, a court may sentence the convict **determine** to a term of imprisonment as prescribed by the **term of** law.

**imprisonment.**

(2) In exercising its discretion of sentencing or

review of sentence, the court shall take into

consideration the following factors, in addition

to section 402 of this Law-

1. each case shall be treated on its own merit;
2. the objectives of sentencing, including the principles of reformation, shall be borne in mind in sentencing a convict;
3. an appeal court may, in a proper case, reduce the sentence imposed by the trial court, especially where it is excessive or based on wrong principles, or an appeal court may increase the sentence imposed by the trial court especially where it is inadequate;
4. a trial court shall not pass the maximum sentence on a first offender;
5. the period spent in prison custody awaiting or undergoing trial shall be considered and computed in sentencing a convict;
6. trial court shall conduct an inquiry into the convict’s antecedents before sentencing;
7. it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with section 312 of this Law;
8. where there is doubt as to whether the defendant or convict has attained the age of 18, the court should resolve the doubt in his favour;

(i)a defendant may not be given consecutive sentences for two or more offences committed in the same transaction;

(ii)an appeal court may not increase the sentence of a lower court beyond the maximum number of years the lower court has power to impose; and

(iii)sentencing to a term of imprisonment shall apply only to those offenders who should be isolated from society and with whom other forms of punishment have failed or is likely to fail.

**Power to order** 418.(1) Where the court has power to pass a **detention for** sentence of imprisonment, it may, in lieu of **one day in** passing sentence of imprisonment, order  **precincts of** the convict to be detained within the

**the court.** precincts of thecourt or ata police station

till such hour not later than eight in the

eveningon the day on which he is

convicted, as the court may direct.

(2) The court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the convict’s abode, where his abode is known or ascertained by the court, the court shall not make an order of detention under this section as will deprive the convict of a reasonable opportunity of returning to his abode on the day on which the order of detention is made.

**Consecutive** 419.(1) Where a sentence of imprisonment is passed **sentence of** on a convictbya court, it may order that the **imprisonment.** sentence shall commence at the expiration of

any term of imprisonment to which that

convict has been previously sentenced by a

competent court in Nigeria.

(2) Where two or more sentences passed by a magistrate court are ordered to run consecutively, the aggregate term of imprisonment shall not exceed 4 years of the limit of jurisdiction of the adjudicating Magistrate.

**Date from** 420. A sentence of imprisonment takes effect from and **which** includes the whole of the day of the date on which

**sentence** it was pronounced.

**commences.**

**Default in** 421.(1) In the case of a conviction in the High Court, **payment** where noamountof fine is stipulated, the

**of fine.** amount of the fine shall be at the

discretionof the court, and any term of

imprisonment imposed in default of payment of

the fine shall not exceed 2years.

(2) In the case of a conviction in a Magistrate court-

1. the amount of the fine shall be at the discretion of the court but shall not exceed the maximum fine authorised to be imposed by the Magistrate or under the law by virtue of which he was appointed a Magistrate; and
2. a term of imprisonment imposed in default of payment of the fine shall not exceed the maximum fixed in relation to the amount of the fine by the scale specified in the Fourth Schedule of this Law.

Fourth Schedule (3 ) In no case shall any term of

Form H imprisonment imposed in default of

payment of a fine which has been

imposed by virtue of the power in that

behalf contained in subsection (1) of

this section, exceed the maximum term

authorised as a punishment for the

offence by the law.

(4) This section do not apply in a case where a law provides a minimum period of imprisonment to be imposed for the commission of an offence.

**Execution of** 422.Where sentence of imprisonment is passed on an **sentence on** escape convict, the sentence shall take effect **escape convict.** after he has served imprisonment for a further

period equal to that which at the time of his

escape remained unexpired of his former

sentence.

**Fine in** 423. A defendant convicted of an offence

**default of** punishable by-

**imprisonment.**

1. imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment, or
2. imprisonment or fine, and sentenced to pay a fine.

may be ordered to serve imprisonment, in

default of payment of the fine, for a certain

term, which imprisonment shall be in addition

to any other imprisonment to which he may

have been sentenced.

**General provision** 424.(1) The Chief Judge shall review, from time **on review** to time, the provisions for the amount of **of sums of amount** fines, compensation or othersums of

money prescribed under this Law.

(2) Such provisions as may be reviewed and effective date shall be published in the Gazette.

**General power** 425. Where by any law, the court is empowered to

**of awarding** impose a penalty for a summary conviction **imprisonment** offence, it may, in the absence ofexpress

**in default of** provisions to the contrary in the same or any **payment of** other law,order a defendant who is convicted **penalty.** of such offences, in defaultof payment of the

sum of money adjudged to be paid under the Fourth order, either immediately or at the time

Schedule. specified in the order, as the case may be, to be

Form H imprisoned, in accordance with the scale set out

in the Fourth Schedule to this Law.

**Scale of** 426. Subject, in every case, to the provisions of the law **imprisonment** on whichthe order is founded, the period of

**for non-payment** imprisonment, which is imposed bythe court in **of money ordered** respect of the non-payment of a sum of

**be paid.** money orderedto be paid by an order, shall be

such period as, in the opinion of thecourt, will

**Fourth**  satisfy the justice of the case but shall not

Schedule. exceed themaximum fixed in the scale set out in

Form H the Fourth Schedule to this Law.

**Limitation of** 427. A commitment for non-payment of a fine shall **imprisonment** not be for a longer period than two years, except **in default of** where the law under whichthe conviction has **payment of** taken place prescribes or allows a longerperiod.

**fine.**

**Payment and** 428.(1) A court, in fixing the amount of a fine to be **allocation of** imposed on aconvict, shall take into

**fines and fees.** consideration, amongst other things, the

means of the convict.

(2) Where a fine is imposed, the payment of the

court fees and other legal expenses payable

in the case, up to and including conviction,

shall not be taken into consideration in fixing

the amount of the fine or be imposed in

addition to the fine, but the amount of the

fine or of such part as may be paid or

recovered, shall be applied as follows-

1. in the first instance, the payment to the informant or complainant of any court or other fees paid by him and ordered by the court to be repaid to him;
2. in the second instance, the payment of any outstanding court fee not already paid by the informant or complainant which may be payable under rules of court; and
3. the balance, if any, remaining after the payments have been made shall be paid into general revenue of the State.

**Power to** 429. In a case where an order is made against a

**commit** defendant for the payment of a sum of money

**defendant** and the defendant is in default ofpayment and

**in certain** liable to be imprisoned, the court may-

**cases.**

1. issue a warrant of commitment; or
2. allow time for the payment of the said sum; or
3. direct payment of the said sum to be made by instalment; and
4. direct that the defendant liable to pay the said sum shall be at liberty to give, to the satisfaction of the court, security, either with or without a surety or sureties, for the payment of the said sum or any instalment.

**Allowance of** 430.(1) Where time has been allowed for the

**further time** payment of a sumadjudged to be paid upon **and payment** conviction or order, further time may,on an **by instalments.** application by or on behalf of the defendant

liable to pay thesum, be allowed by a court

having jurisdiction to issue a warrantof

commitment in respect of the non-payment

of that sum, the court may, subject as

aforesaid, direct payment by instalment of

the sum so adjudged to be paid.

(2) Where a sum of money is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default has been made in the payment of all the instalments then remaining unpaid.

(3) Where before the expiration of the time allowed, the defendant surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of the sum and states that he prefers immediate committal awaiting the expiration of the time allowed, the court may, if it thinks fit, issue a warrant committing him to prison.

(4) A warrant of commitment issued under this section may be executed on any day, including a Sunday or a public holiday.

**Payment of**  431. In all cases where a defendant, against whom a **penalty to** warrant ofcommitment for non-payment of a **person** sum of money adjudged to be paid byan order is **executing** issued, pays or tenders to the person having the

**warrant.** executionof the warrant sum or sums mentioned

in the warrant together with the amount of the

expenses of the warrant up to the time of the

payment or tender, the person having the

execution of the warrant shall not execute the

warrant.

**Commencement** 432. Where a convict is brought to a prison to be

**of imprisonment** imprisoned by virtue of a warrant of

**pursuant to a** commitment, there shall be endorsed on

**warrant** the warrant the day on which the convict was

arrested by virtue of it and the imprisonment

shall be computed from that day and

that day inclusive.

**Varying or** 433.Where a person has been committed to prison **discharging** by the court for default in finding a surety or **order for** sureties, the court may, on applicationmade to **sureties.** it by the person or by some person acting on

his behalf,inquire into the case of the person,

and if on new evidence produced to the court or

proof of a change of circumstances the court

deems fit, having regard to all the circumstances

of the case that it is just to do so, the court may-

1. reduce the amount for which it was ordered that the surety or sureties should be bound;
2. dispense with the surety or sureties; or
3. otherwise deal with the case as the court may think just

**Right of person** 434.(1) Where a person has been committed to **imprisoned in** prison by the courtfor non-payment of a **default to be** sum of money adjudged to be paid by an

**released on** order, the person may pay or cause to be **paying sum** paid to the officer in charge of the prison **and effect of** the sum mentioned in the warrant of

**part payment.** commitment together with the amount of

the cost, charges and expenses, if any, and

the officer in charge of the prison shall

receive the sums and discharge the person,

unless he is in custody for some other

matter.

(2) In a case where under subsection (1) of this section a sum has been received in part satisfaction of a sun due from a prisoner in consequence of the conviction of the court, the sum shall be applied-

1. firstly, towards the payment in full or in part of any cost or damages or compensation which the court may have ordered to be paid to the complainant; and
2. secondly, towards the payment of the fine, if any, imposed on the prisoner.

(3) Subject to subsection (2) of this section, where an amount is paid towards a fine-

1. the imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the person is committed as the sum so paid towards the fine bears to the amount of the fine for which the person is liable; and
2. the Superintendent or other officer in charge of a prison in which a person who has made the part payment is confined shall, as soon as practicable thereafter, take the person before a court which shall-

(i)certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction; and

(ii) make such order as the circumstances require.

(4) Where, in the opinion of the superintendent or other officer, the delay occasioned by taking the person before a court is such that the person will be detained beyond the date on which he should, by reason of the part payment, be released, the Superintendent or other officer may release the person on the day which appears to the superintendent or other officer to be the correct day, endorse the warrant accordingly and shall, as soon as practicable thereafter, inform the court of the action taken and the court shall make such order or record as the court may consider to be required in the circumstances.

(5) In reckoning-

1. the number of days by which a term of imprisonment would be reduced under this section,

the first day of imprisonment shall be taken into account; and

1. the sum which will secure the reduction of a term of imprisonment, fractions of a naira shall be omitted.

**Fines may** 435. Where, under the authority of a law, the court

**be ordered** imposes a fine or apecuniary penalty, whether or **to be** not that fine or penalty is accompaniedby a **recoverable** power to impose imprisonment, and no special

**by distress.** provision otherthan recovery by distress is made

for the recovery of the fine orpenalty, the court

may-

1. order the fine or penalty to be recoverable by distress; and
2. in default of the distress satisfying the amount of the fine or penalty, order that the convict be imprisoned, in accordance

Fourth Schedule. with the scale set out in form H Fourth Schedule to this

Law.

**Warrant of** 436.Where the court orders a sum to be recoverable by **distress.** distress, it shall issue a warrant which shall be in

writing and signed by the court authorising the

person charged with the execution of the warrant

to take any money as well as any goods of the

person against whom distress is levied, and any

money so taken shall be treated as if it were the

proceeds of sale of goods taken under the

warrant.

**Procedure on** 437. In the execution of a distress warrant the

**the execution** following shall have effect-

**of distress**

**warrant.**

1. a warrant of distress shall be executed by or under the direction of the Sheriff;
2. where the person charged with the execution of the warrant is prevented from executing the warrant by the fastening of doors or otherwise, the Magistrate may, by writing under his hand endorsed on the warrant, authorise him to use such force as may be necessary to

enable him execute the

warrant;

1. the wearing apparel and bedding of the person and of his family, and to the value of N20,000.00, the tools and implements of his trade, shall not be taken;
2. except as provided in paragraph (e) of this section and so far as the person on whose movable property the distress is levied consents in writing to an earlier sale, the goods distrained on shall be sold at public auction not less than 5 days and not more than 14 days after the making of the distress, but where consent in writing is so given, the sale may be in accordance with the consent;
3. subject to paragraph (d) of this section, the goods distrained shall be sold within the time fixed by the warrant, unless the sum or charges, if any, of taking and keeping the goods distrained, for which the warrant was issued are sooner paid;
4. where a person charged with the execution of a warrant of distress-

(i) wilfully retains from the proceeds any property sold to satisfy the distress, or

(ii) otherwise exerts any greater costs or charges than those to which he is, for the time being, entitled by law or makes any improper charge,

he is liable, on summary conviction before a

Magistrate, to a penalty not exceeding

N20,000.00: Provided that nothing in this

paragraph shall affect the liability of the

person to be prosecuted and punished for

extortion, or for the return of the sum of

money or value of the item extorted, by the

person;

(g)a written account of the costs and charges incurred in respect of the execution of a warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the court, and the person on whose

movable property the distress was levied may, at any time within one month after the making of the distress, inspect the account, without payment of any fee or reward, at any time during office hours, and to take a copy of the account;

(h)a person charged with the execution of a warrant of distress shall sell the distress or cause the distress to be sold, and may deduct out of the amount realised by the sale all costs and charges actually incurred in effecting the sale, and shall pay to the court or to some person specified by the court, the remainder of the amount, in order that-

(i)the amount may be applied in payment of the sum for which the warrant was issued, and of the proper costs and charges of the execution of the warrant; and

(ii) the surplus, if any, may be rendered to the person on whose movable property the distress was levied.

**Part payment** 438. Where a part only of the amount ordered to be **to reduce** recovered by distress is so recovered, the period **period of** of imprisonment ordered to be suffered in **imprisonment** default of recovery of the amount imposed shall

**in proportion.** be reduced accordingly and shall bear the same

proportion to the full period as the amount

recovered bears to the total amount ordered to

be recovered, and the warrant of commitment

under section 429 of this Law, shall apply.

PART 40 – DETENTION IN SAFE CUSTODY OR SUITABLE PLACE OTHER THAN PRISON OR MENTAL HEALTH ASSYLUM

**Conditions attached** 439.(1)Where a person is ordered to be

**to detention** detained in a safe custody or suitable

**in a safe custody** place other than prison or mental health **or suitable place** asylum, he is, notwithstanding anything **other than prison** in this Law or in any other law, liable to **or mental asylum.** be detained in a prison or asylum or

such other placeas provided under this

Law or any law as the Attorney-General

may direct and whilst so detained shall

be deemed to be in legal custody.

(2) A person detained in a safe custody or suitable place other than prison or mental health asylum may at any time be discharged by the Attorney-General on licence.

(3) The Attorney-General may at any time revoke or vary a licence and where a licence has been revoked, the person to whom the licence relates shall proceed to such place as the Attorney-General may direct and if he fails to do so may be arrested without warrant and taken to the place.

PART 41 – CHILD OFFENDERS

**Procedure for** 440.(1) Where a child is alleged to have committed **trying child** an offence, the provisions of the Child **offenders.** Rights Law shall apply.

(2) Notwithstanding subsection (1) of this

section, the provisions of this Law relating

to bail shall apply to bail proceedings of a

child offender.

PART 42 – PROBATION AND NON – CUSTODIAL ALTERNATIVES

**Meaning of** 441. In this part, “probation order” means an order **probation** containing a condition specified in section 443 of **order.** this Law.

**Conditional** 442.(1) Where a defendant is charged before a court **release of** with an offence punishable by such court and the **defendant** court thinks that the charge is provedbut is of **and payment** opinion that having regard to the-

**of compensation**

**for loss or injury**

**and of costs.** (a) character, antecedents, age,

health, or mental conditionof

the defendant charged; or

(b) trivial nature of the offence, or

(c ) extenuating circumstances

under which the offence was

committed.

it is inexpedient to inflict a punishment or any order than a nominal punishment or that it is expedient to release the defendant on probation, the court may, without proceeding to conviction, make an order specified in subsection (2) of this section.

(2) The court may make an order under subsection (1) of this section-

1. dismissing the charge; or
2. discharging the defendant conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear at any time during such period not exceeding

3 years as may be specified in the order.

(3) The court may, in addition to an order under subsection (2) of this section, order the-

1. defendant to pay such damages for injury or

compensation for any loss suffered by a person by reason of the conduct or omission or the defendant, and to pay such costs of the proceedings as the

court thinks reasonable; and

1. parent or guardian of the defendant to pay the damages and costs specified in paragraph (a) of this subsection, where the defendant has not attained the age 18 years and it appears to the court that the parent or guardian

of the defendant has contributed to the commission of the offence.

(4) Where an order is made under this

section, the order-

(a) for the purpose of reinvesting or

restoring stolen property and of

enabling the court to make orders as

to the restitution or delivery of

property to the owner, and

(b)as to the payment of money upon,

or in connection with, such

restitution or delivery,

shall have the like effect as a conviction.

**Probation orders** 443.(1) A recognizance ordered to be entered into **and conditions of** under this Partshall, where the court so **recognizance.** orders, contain a condition that the

defendant be under the supervision of such

person or persons of the same sex, called a

probation officer, as may, with the consent

of the probation officer, be named in the

order during the period specified in the

order.

(2) A recognizance under this Part may contain such additional conditions with respect to residence, abstention from intoxicating substance and any other matter

as the court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

(3) The court by which a probation order is made shall furnish to the defendant a notice in writing stating in simple terms the conditions he is required to observe.

**Relieving** 444. A probation officer may at any time be relieved of **probation** his duties orin case of the death of the probation **officer of** officer named, another person may by consent be **his duties.** substituted by the court before which

the defendant is bound by his recognizance to

appear for conviction or sentence.

**Duties of** 445.(1) A probation officer shall, subject to **probation** the directions of the Court-

**officers.**

1. where the person on probation is not actually with the probation officer, visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order or subject thereto as the probation officer may think fit;
2. see that he observes the conditions of his recognizance;
3. report to the court as to his behaviour; and
4. advise, assist, and befriend him and when necessary to endeavour to find him suitable employment.

(2) The Chief Judge shall make regulations with respect to the appointment of probation officer, including designation of persons of good character as probation officers from which list a court within the district or division where the probation officer resides may make its appointment under section 443 of this Law.

**Variation of** 446.The court before which a defendant is bound by a

**terms and** recognizanceunder this Part to appear for **conditions** conviction and sentence or for sentencemay-

**of probation.**

1. at any time where it appears to it on the application of the probation officer that it is expedient that the terms or conditions of the recognizance should be varied,

summon the defendant bound by the recognizance to appear before it and if he fails to show cause why the

variation should not be made-

(i)vary the terms of the recognizance by reducing or extending the duration, which shall not exceed 3 years from the date of the original order, or

(ii)alter the conditions or insert additional conditions, or

1. on application being made by the probation officer, and on being satisfied that the conduct of the defendant bound by the recognizance has been such as to make it unnecessary for him to be under supervision, discharge the recognizance.

**Provisions in** 447.(1) Where the court before which a defendant is **case of convict** bound by his recognizance under this Part to **failing to** appear for conviction or sentenceis satisfied **observe conditions** by information on oath that the defendant has **of release.** failed toobserve any of the conditions of his

recognizance, it may issue awarrant for his

arrest or may, where it thinks fit, instead of

issuing a warrant in the first instance, issue a

summons to the defendant and his sureties, if

any, requiring him or them to appear in court

at such time as may be specified in the

summons.

(2) The defendant where arrested shall, if not brought before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before another court.

(3) The court before which a defendant on arrest is brought or before which he appears in pursuance of the summons may, where it

is not the court before which he is bound by his recognizance to appear for conviction or sentence, remand him to custody or on bail until he can be brought before the last-mentioned court.

(4) A defendant so remanded in custody may be committed during remand to a prison to which the court having power to convict or sentence him has power to commit prisoners.

(5) A court before which a defendant is bound by his recognizance to appear for conviction and sentence on being satisfied that he has failed to observe a condition of his recognizance may, without further proof of his guilt, convict and sentence him for the original offence.

**Suspended** 448.(1)Notwithstanding the provision of any other law **sentence and** creating an offence, where the court sees **community** reason, the court may order that thesentence it **service.** imposed on the convict be, with or without

conditions,suspended, in which case, the

convict shall not be required to serve the

sentence in accordance with the conditions of

the suspension.

(2) The court may, with or without conditions, sentence the convict to perform specified

service in his community or such community

or place as the court may direct.

(3) A convict shall not be sentenced to

suspended sentence or to community service

for an offence involving the use of arms,

offensive weapon, sexual offences or for an

offence which the punishment exceeds

imprisonment for a term of 3 years.

(4) The court, in exercising its power under

subsection (1) or (2) of this section shall have

regard to the need to-

1. reduce congestion in prison;
2. rehabilitate prisoners by making them to undertake productive work; and
3. prevent convicts who commit simple offences from mixing with hardened criminals.

**Arrangements** 449.(1) The Chief Judge shall establish in every

**for community** Judicial Division a Community Service **service.** Centre to be headed by a Registrar who shall

be responsible for overseeing the execution

of community service order in the Division.

(2) The Registrar shall be assisted by suitable personnel who shall supervise the implementation of community service orders that may be handed down by the courts.

(3) The functions of the Community Service Centre include-

1. documenting and keeping detailed information about convicts sentenced to community service including the-

(i)name of the convict,

(ii) sentence and the date of the

sentence;

(iii)nature, duration and location of

the community service;

(iv) residential address of the convict;

(v) height, photograph, full

fingerprint impressions; and

(vi) other means of identification as

may be appropriate;

1. proving assistance to the court in arriving at appropriate community service order in each case;
2. monitoring the operation of community service in all its aspects;
3. counselling convicts with a view to bringing about their reformation;
4. recommending to the court a review of the sentence of convicts on community service who have shown remorse;
5. proposing to the Chief Judge measures for effective operation of community service orders;
6. ensuring that supervising officers perform their duties in accordance with the law; and

1. performing such other functions as may be necessary for the smooth administration of community service orders.

(4) Where the court has made an order committing the convict to render community service, the community service shall be in the nature of-

1. environmental sanitation, including cutting grasses, washing drainages, cleaning the environment and washing public places;
2. assisting in the production of agricultural produce,

construction, or mining; and

1. any other type of service which in the opinion of the court would have a beneficial and reformative effect on the character of the convict.

(5) The community service sentence shall be performed as close as possible to the place where the convict ordinarily resides to ensure that the community can monitor his movement.

(6) Before passing a community service order, the court shall consider the circumstances, character, antecedents of the convict and other factors that may be

brought to its attention by the Registrar of the community service centre.

(7) A convict sentenced to community service shall not at the same time be sentenced to a term of imprisonment for the same offence, but may, in default of performing his community service diligently and to the satisfaction of the court, be sentenced to a term of imprisonment for the remaining part of his community service to which he is in default or neglect.

(8) Upon sentence to community service, a convict shall be required to produce a guarantor who shall undertake to produce the convict if he absconds from community service.

(9) The guarantor shall be a relation of the convict or any other responsible person of adequate means or substance who shall produce the convict when required by the court, failing which the guarantor shall be

liable to a fine of N100,000.00 or more as the circumstances of each case may require.

**Performance** 450.(1) The community service order shall be

**of community** performed for aperiod of not more than 6 **service** months and the convict shall notwork for **order.** more than 5 hours a day.

(2) The convict shall be under the supervision of a supervising officer or officers or Non- Governmental

Organizations as may be designated by the Community Service Centre.

(3) The community service order shall contain such directives as the court may consider necessary for the supervision of the convict.

(4) The Registrar of the court making the community service order shall forward to the Registrar of the Community Service Centre a copy of the order together with any

other document and information relating to the case.

**Default of** 451.(1) Where any time during the community service **convict in** period, theRegistrar of the Community **complying** Service Centre informs the court ofthe default **with community** of the convict in complying with the directives **service order.** of the community service order, the court may

issue a summonsrequiringthe convict to

appear before it.

(2) Where the convict fails, refuses or neglects to

appear in obedience to the summons, the court

may issue warrant of arrest.

(3) Where it is proved to the satisfaction of the

court that the convict has failed to comply

with any of the requirements of the

community service order, the court may-

1. vary the order to suit the circumstances of the case; or
2. impose on him a fine not exceeding N100,000.00 or cancel the order and sentence the convict to any punishment which could have been imposed in respect of the offence, but the period of community service already performed may

count in the reduction of the sentence.

(4) A supervising officer shall not employ the convict for his or her personal benefit.

(5) Where a supervising officer employs the convict for his or her personal benefit, the officer is liable to a fine of N100,000.00 or more, or such other punishment as the court considers fit.

**Commission of** 452. Where a convict has been ordered to undergo **further offence.** community service on conviction by an

original court but has committed another

offence during the period of community

service, the following rules shall apply-

1. the subsequent court may add to the sentence or impose a term of imprisonment

which might have been passed by the original court and cancel the order of community service;

1. the subsequent court may take into account the period of community service served in reduction of the term of imprisonment;
2. where the original court is a High Court and the subsequent court is a subordinate court, the subordinate court shall send the copy of the proceedings to the High Court and , on receipt of the proceedings from the subordinate court, the

High Court shall proceed under paragraphs (a) and (b) of this section; and

1. where the original court is a subordinate court and the subsequent court is a High Court dealing with the matter at first instance or on appeal,

the High Court shall proceed under paragraphs (a) and (b) of this section.

**Amendment,** 453.(1) A convict undergoing community service **review and** who intends to change his place of

**discharge of** residence shall inform the supervisingofficer **community** of his intention to do so.

**service orders.**

(2) On receipt of the information, the supervising

officer shall furnish the Registrar of the

Community Service Centre with the

information giving the details of the case.

(3) On application by the Registrar of the

Community Service Centre, the court shall

make appropriate amendment in the

community service order and inform the

court having jurisdiction for the area where

the convict intends to reside.

(4) The court shall give the convict a copy of

the amended community service order

which the convict shall present to the subsequent Community Service Centre.

**Discharge of** 454.(1) Where a convict has been ordered to undergo **community** community service for a period of more than **service order.** 4 months, the supervising officer shall, from

time to time, give a report to the Registrar

on the convict’s performance and general

conduct.

(2) The supervising court based on the report

made by the Registrar, may reduce the

period of the community service

specified in the community service order

by not more than one-third where the

convict is of good conduct.

(3) The Registrar shall make a report to the

supervising court on the termination of

community service order.

(4) The supervising officer who is to be

responsible for the supervision of a

convict shall be the officer designated

by the Registrar of the Community

Service Centre and if that supervising

officer dies or is unable for any reason

to carry our his duties, another

supervising officer shall be appointed by

the Registrar of the Community Service

Centre.

(5) Where the convict is a female, the

supervising officer shall be a female.

**Confinement in** 455.(1)A defendant convicted of an offence triable **rehabilitation** summarilymay be sentenced and ordered **and correctional** to serve the sentence at a Rehabilitation **centers.** and Correctional Centre established by the

Federal Government in lieu of

imprisonment.

(2) A court in making an order of confinement

at a Rehabilitation and Correctional Centre

shall have regard to-

1. the age of the convict;
2. the fact that the convict is a first offender; and
3. any other relevant circumstance necessitating an order of confinement at a Rehabilitation and Correctional Centre.

(3) A court may make an order directing that a child standing criminal trial be remanded in Rehabilitation and Correctional Centre.

**PART 43 – PAROLE**

**Court may direct** 456. Where the Controller- General of Prisons **release of prisoner** makes a reportto the court recommending **before completion** that a prisoner-

**of sentence.**

1. sentenced and serving his sentence in prison is of good behaviour; and

1. has served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment,

The court may, after hearing the prosecution

and the prisoner or his legal representative,

order that the remaining term of his

imprisonment be suspended, with or without

conditions, as the court considers fit, and the

prisoner shall be released from prison on

the order.

(2) A prisoner released under subsection (1) of this section shall undergo a rehabilitation programme in a government facility or any other appropriate facility to enable him to be properly reintegrated into the society.

(3) The Comptroller – General of Prisons shall make adequate arrangement, including budgetary provision, for the facility.

**PART 44 – THE ADMINISTRATION OF CRIMINAL JUSTICE MONITORING COMMITTEE**

**Establishment** 457.(1) There is established the

**of the** Administration of Criminal Justice **Administration** Monitoring Committee (in this Law **of Criminal** referred to as the “Committee”).

**Justice**  (2) The Committee shall consist of-

**Monitoring**

**Committee.**

1. the Chief Judge of the State who shall be the Chairman;
2. Attorney-General or his representative not below

the level of a director in the Ministry;

1. A Judge from each judicial divisions of the High Court;
2. Director of Public Prosecution;
3. The Commissioner of Police or his representative not below the rank of Chief Superintendent of Police;
4. The Comptroller of Prison or his representative not below the rank of Deputy Comptroller;
5. The State Director of the National Human Rights Commission or his representative not below the level of a director.
6. Chairmen of all the local branches of Nigerian Bar Association in the State
7. The State Director- General of the Legal Aid Council of Nigeria or his representative not below the level of a director.
8. A representative of the Civil Society working on human right and access to justice or women rights to be appointed by the Committee to serve for a period of 2 years only; and
9. Deputy Chief Registrar.

(3) A member not being a public officer may resign his appointment by a letter to the Chairman.

**Functions of** 458.(1) The Committee shall be charged with the

**the Committee.** responsibility of ensuring effective and

efficient application of this Law by the

relevant agencies.

(2) Without prejudice to the generality of

subsection (1) of this section, the Committee

shall ensure that-

1. criminal matters are speedily dealt with;
2. congestion of criminal cases in courts is drastically reduced;
3. congestion in prisons is reduced to the barest minimum;
4. persons awaiting trial are not detained in prison custody;
5. the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in State;
6. information in relation to the administration of criminal justice sector in the State is collated, analyse and published;
7. quarterly report is submitted to the Chief

Judge to keep him abreast of developments towards improved criminal justice delivery and for necessary action; and

1. such other activities as are necessary for the effective and efficient administration of criminal justice are carried out.

**Secretariat of** 459.(1) The Committee shall establish and maintain **the Committee.** a secretariat with such number of staff as it

considers necessary for the efficient

running of its affairs.

(2) The Secretariat shall be headed by a

Secretary who shall be appointed by the

Attorney-General on the recommendation

of the Committee.

(3) The Secretary shall be a legal practitioner

of not less than 10 years post call

experience and shall possess sound

knowledge of the practical functioning of

the criminal justice system and adequate

experience in justice system

administration.

(4) The Secretary shall be responsible for the

execution of the policy of the Committee

and the day-to-day running of the affairs

of the Committee.

(5) The Secretary shall hold office for a

term of 4years and may, subject to

satisfactory performance of his

functions, be re-appointed for another

term of 4 years only.

(6) Subject to this section, the Secretary

shall hold office on such terms as to

emoluments and otherwise as may be

specified in his letter of appointment.

**Fund of the** 460.(1) There is established for the Committee a Fund **Committee.** into which shall be paid-

1. budgetary allocation to it through the Office of the Attorney – General of the State;
2. such monies as may, from time to time, be provided to the Committee by any public, private or international organisation by way of a grant, support or assistance on such terms as are consistent with its functions; and
3. such other monies as may be received by the Committee in relation to the exercise of its functions under this Law.

(2) The Secretary of the Committee shall be the accounting officer for the purpose of controlling and disbursing monies from the Fund established under this section.

**Annual estimates** 461.(1) The Secretary shall submit to the

**and accounts.** Attorney General notlater than 30th

September in each financial year, an

estimate of its expenditure and income

during the next financial year.

(2) The Committee shall keep proper accounts and records in respect of each financial year and shall cause its accounts to be audited not later than 2 months from the end of each financial year.

**Annual report** 462. The Committee shall prepare and publish an

annual report of its activities.

**Power to** 463.(1) For the purpose of carrying out functions **obtain** conferred on the Committee under this Law, **information.** it-

1. shall have a right of access to all the records of any of the organs in the administration of justice sector to which this Law applies; and
2. may, by notice in writing served on any person in charge of any such organs require that person to

furnish information on such matters as may be specified in the notice.

(2) A person required to furnish information under subsection (1) of this section shall comply with the notice within a stipulated time.

**Proceedings** 464.(1) The Committee may make standing orders **and quorum** regulating itsproceedings.

**of the Committee.**

(2) The quorum at a meeting of the Committee

shall consist of the Chairman or his

representative and two other members of

the Committee.

(3) subject to the provisions of the applicable

standing order, the Committee shall meet at

least once a quarter.

(4) At a meeting of the Committee, the

Chairman, or in his absence, his

representative shall preside.

(5) The validity of proceedings of the

Committee is not affected by a-

1. vacancy in the membership of the Committee; or
2. defect in the appointment of a member of the Committee.

(6) A member of the Committee who has a personal interest in any arrangement entered into or proposed to be considered by the Committee shall disclose his interest to the Committee and shall not vote on any question relating to the arrangement.

**PART 45 – TRIAL OF CORPORATION**

**Interpretation** 465.(1) In this part-

**under this Part.**

“corporation” means anybodycorporate,

incorporated in Nigeria or elsewhere;

“representative” in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this Part authorised to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(2) A representative for the purposes of this Part need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this Part,

shall be admissible without further proof as prima facie evidence that the person has been so appointed.

**Plea by** 466. Where a corporation is called upon to plead

**corporation** to any charge, complaint or information

including a new charge, complaint or

information framed under this Law or

charge, complaint or information

added to or altered under this Law, it may

enter in writing by its representative a plea

of guilty or not guilty or any plea which

may be entered under this Law and if either

the corporation does not appear by a

representative or, though it does so appear,

fails to enter as aforesaid any plea, the court

shall order a plea of not guilty to be entered

and the trial shall proceed as though the

corporation had duly entered a plea of not

guilty.

**Information** 467. A charge, complaint or information may be **against a** preferredagainst a corporation afterthe **corporation.** preparation of the proofs ofevidence relating

to the charge.

**Joinder of** 468. A charge, complaint or an information under **courts in** section 466 may include, either in substitution **same** for or in addition to counts chargingthe offence **information.** for whichproofs of evidence have been

prepared,counts which may belawfully joined

in the same charge, complaint or information

and are founded on facts or evidence disclosed

in the proofs of evidence.

**Power of** 469. A representative may, on behalf of a **representative.** corporation-

1. state, whether the corporation is ready to be tried on charge, complaint or information or altered charge, complaint or, information to which the corporation has been called on to plead;
2. consent to the hearing and determination of a complaint before the return date of a summons; and
3. express assent to the trial of the corporation on a charge, complaint or information, notwithstanding that a copy of the charge, complaint or information and notice of trial has not been served on the corporation 3 days or more before the date on which the corporation is to be tried.

**Matters to be** 470. Where a representative appears, any

**read, said or** requirement of this Law that anything shall be **explained to** done in the presence of the defendant, orshall **representative.** be read or said or explained to the defendant,

shall be construed as a requirement that, that

thing shall be done in the presence of the

representative or read or said or explained to

the representative.

**Non- appearance** 471. Where a representative does not appear, any

**of representative** such requirementas is referred to in section

466 of this Law, shall not apply.

**Saving under this** 472.(1)Subject to the preceding provisions of this **part and joint** part, theprovisions of this Law relating to **charge against** the inquiry into and trialof offences shall **corporation and** apply to a corporation as they apply to an **individual.** adult.

(2) A corporation may be charged jointly and

tried with an individual for any offence.

**PART 46 – APPEALS FROM MAGISTRATE COURTS TO HIGH COURTS**

**Appeals from** 473.(1) Appeals from a Magistrate court to the High **magistrates** Court of the State in criminal matters shall be **courts.** in accordance with the HighCourt Law of

the State or any rule made under any such

law.

(2) Where a defendant has been acquitted or an order of dismissal made by a Magistrate court the prosecutor may appeal to the High Court from such acquittal or dismissal on the ground that it is erroneous in law or that

the proceedings or any part thereof were in excess of the jurisdiction of the Magistrate court.

(3) An appeal, in accordance with this Part, shall be commenced by the appellant by giving notice to the registrar of the court from which the appeal is brought and such notice of appeal shall be signed by the appellant.

(4) The notice of appeal shall be given in every case before the expiration of the 30 days after the day on which the court has made the decision appealed against.

(5) An appellant shall file many copies of his notice of appeal as there are parties to be served, in addition to the copies for the court.

(6) An appellant, in an appeal brought in accordance with this Part, shall, within 30 days of the pronouncement of the decision appealed against, filed with the registrar of the court from which the appeal is brought a memorandum of ground of appeal setting forth the grounds of his appeal which shall be signed by the appellant or the legal practitioner representing him.

(7) An appellant, shall file as many copies of his memorandum of grounds of appeal, as there are parties to be served, in addition to the copies for the court.

(8) In his memorandum of grounds of appeal the appellant shall set forth in separate ground of appeal each error, omission, irregularity or other matter on which he relies or of which he complains with particulars sufficient to give the respondent due notice thereof.

(9) Without prejudice to the generality of subsection (8), the memorandum of grounds of appeal may set forth all or any of the following grounds that-

1. the lower court has no jurisdiction in the case;
2. the lower court has exceeded its jurisdiction in the case;
3. the decision has been obtained by fraud;
4. the case has already been heard or tried and decided by or forms the subject of a hearing or

trial pending before a competent court;

1. admissible evidence has been rejected, or inadmissible evidence has been admitted by the lower court and that in the latter case there is no sufficient admissible evidence to sustain the decision after rejecting such inadmissible evidence;
2. the decision is unreasonable or cannot be supported having regard to the evidence;
3. the decision is erroneous on point of law;
4. some other specific illegality, not mentioned and substantially affecting the merits of the case, has been committed in the course of the proceedings in the case; and
5. the sentence passed on conviction is excessive or in-adequate, unless

the sentence is one fixed by law.

(10) Where the appellant relies upon the grounds of appeal mentioned in subsection (9) (d), the name of the court shall be stated and, if it is alleged that a decision has been made, date of such decision.

(11) Where the appellant relies upon the ground of appeal mentioned in subsection (9) (g), the nature of the error shall be stated and, where he relies upon the ground of appeal mentioned in subsection (9) (h), the illegality complained of shall be clearly specified.

(12) A sentence by a magistrate court shall take effect notwithstanding an appeal unless-

1. a warrant has been issued under section 327 of this Law when no sale of property shall take place until the sentence has been confirmed or the appeal decided; or
2. an order for release on bail pending any further proceeding has been made by a competent court when the time during which

the convicted person has been so released shall be excluded in computing the period of any sentence which he has ultimately to undergo.

(13) A High Court exercising appellate jurisdiction shall not, in the exercise of such jurisdiction, interfere with the finding or sentence or other order of the lower court on the ground only that evidence has been wrongly admitted or that there has been a technical irregularity in procedure, unless it is satisfied that a failure of justice has been occasioned by such admission or irregularity.

PART 47 – FEES AND MISCELLANEOUS PROVISIONS

**Payment of** 474.Subject to this Law, such fees as

**fees.** may be prescribed under this Law shall be paid in

any proceeding before a court.

**Suspension** 475. A court may, in any proceeding in which good

**of payment** cause appears tothe court for so doing, suspend

**of fees.** payment of any fee payable untilthe conclusion of

the proceedings and the court may then direct the

fees to be paid as costs by a party to the

proceedings by whom the court has power to order

costs to be paid or remit the payment of the fees.

**State not** 476. The provision of this Law relating to fees and to **required** the giving of security shall not apply to the State **to pay fees.** or to a public officer acting in his official

capacity.

**Use of forms** 477. Subject to the express provisions, if any, of the

**in Schedule.** Rules of Court,the forms and precedents

contained in the Schedules to this Law may, in

accordance with any instructions contained in

the forms, and with such variations as the

circumstances of the particular case may

require, be used in the cases to which they apply.

**Power to** 478. The Chief Judge may make rules in respect of

**make** any or all of the following matters-

**rules**

**of court**

1. fees, costs or compensations to be paid under this Law and periodic review of the same;
2. forms to be used for the process and procedure of the courts;
3. accounts to be rendered of monies received by any person under this Law;
4. the method of issue of process under this Law, and the manner of receipt of and accounting for fees in respect of such process;
5. prescribing anything or any person required to be prescribed under this Law;
6. sentencing guidelines on a particular offence in order to promote consistently in sentencing;
7. regulation and management of non-custodial punishment provided under this Law; and
8. generally carrying into effect the purpose of this Law.

**Non-** 479. Where no other sanction is provided for in

**compliance.** this Law, failure on the part of a person to

discharge his responsibility under this Law

without reasonable cause shall be treated as

misconduct by the appropriate authority.

**Saving as to** 480.(1) Nothing in this Law shall affect the use or **other forms** validity of any form in respect of a

**and procedure.** procedure or an offence specified under the

provisions of a written law or the validity of

any other procedure provided by any other

written law.

(2) Nothing in this Law shall affect the validity of any charge, complaint or information or proceeding initiated or

commenced under any other law in so far as the proceeding was initiated or commenced before this Law came into force.

(3) Where there are no express provisions in this Law, the Court may apply any procedure that will meet the justice of the case

(4) The court may, as often as he deems fit and either before or after the expiration of the time appointed by this Law or by any judgment or order of the court, extend or adjourn the time for doing any act or taking any proceedings.

**Repeals** 481. (1) Subject to subsection (2) of this 39 section, the

Criminal Procedure Law Cap 39, Volume II

Laws of Oyo State is hereby repealed.

(2) Nothing in subsection (1) of this section shall

affect the continued operation of Part II of the

repealed law in a manner consistent with this

Law

This printed impression has been carefully compared by me with the Law which has been passed by the Oyo State House of Assembly and found by me to be a true and correct printed copy of the Law.

**………………………....... …………………………...............**

**Paul Ishola Bankole mni Rt. Hon. Adesina Michael Adeyemo**

**Clerk of the State Speaker of the State**

**House of Assembly House of Assembly**

**FIRST SCHEDULE**

**FORMS**

**FORM NO 1**

**GENERAL FORM OF TITLE OF PROCEEDINGS**

(i) (**For use in the High Court**)

IN THE HIGH COURT OF OYO STATE

………………………………………………………………

In the ………………………………………………………. Judicial Division

Holden at …………………………………………………………………………….

Charge No ……………….. 20 ………….

Between

………………………………………………………………………..Complainant,

And

…………………………………………………………………………Defendant.

Complaint ……………………………………………………………………………

(ii) (**For use in Magistrate Court**)

IN THE MAGISTRATE COURT

In the Chief Magistrate Court of …………………………………………………….

In the ………………………………………………………………Magisterial District

Holden at ………………………………………………………………………………

Charge No ………………20………..,

Between

…………………………………………………………………………. Complainant,

And

………………………………………………………………………….. Defendant.

Complaint …………………………………………………………………………..

**Section 55**

**FORM NO.2**

**ORDER OF RECOGNIZANCE TO KEEP THE PEACE AND BE OF GOOD BEHAVIOUR**

(General Title- Form No. 1)

Before the …………………………. High/ Magistrate Court of the …………………..………………………………………………………………………………………………. it is ordered that the defendant do forthwith to the satisfaction of …………………………… enter into a recognizance in the sum of ………………………………………………….

With ………………………………… surety ……………………. In the sum of …………………….. (each) to keep the peace and be of good behaviour towards the State and all persons, and especially towards the complainant, for the term of …….…………….. now next ensuing:

And it is ordered that if the defendant fails to comply with this order he shall be imprisoned in the prison at …………………. For the space of ……………….………………………………….. unless he complies with the order.

If costs are ordered, add-

And it is ordered that the defendant pay to the said …………….. the sum of

……………… for costs (by instalments of ……………………… for every ……..days, the first instalment to be paid) forthwith (or on the ………………. Day of 20…..):

And in default of payment it is ordered that the sum due be levied by distress and sale of the defendant’s goods, and in default of sufficient distress that the defendant be imprisoned in the said prison for the space of ………………………..

Commencing at the termination of the imprisonment before ordered, unless the said sum (and all costs and charges of the (said distress and) commitment) be sooner paid.

…………………………..

*Judge (for Magistrate)*

**FORM NO 3**

***Section 90***

COMPLAINT

*(General Title- Form No.1)*

The complaint of C.D (address and description), who upon oath (or affirmation) states that A,B of (address and description) on the ………. day of………………..20……….at……………………..in the …………above–mentioned, did\* ……………………………………………………………..

……………………………………………………………………………………….……………… taken before me this …………………….. day of ………………….

(\*State concisely the substance of the complaint)

………………………….

Judge (or Magistrate)

**FORM NO.4**

**Section 117**

SUMMONS TO DEFENDANT

(General Title- Form No. 1)

To A.B of…………………………………………………………………

Complaint has been made this day by ……………………………………... that you on the ………………………………. day of……………………… 20……….. at ………………………..in the ……………………………… above-mentioned did\*………………………………………………………

(\*State concisely the substance of the complaint)

You are hereby summoned to appear before the …………………….. High /Magistrate’s court sitting at ………………………………………………… on the …………………………… day of ………………… 20…….., at the hour of ………………………. In the …………………….

noon to answer to the said complaint.

Dated this ………………………….. day of ……….20…………

……………………………………

Judge (or Magistrate)

**FORM No. 5**

***Section 131***

WARRANT FOR ARREST OF DEFENDANT WHO HAS DISOBEYED SUMMONS

(General Title-Form No.1)

To ………………. Police Officer or To each and all Police Officers.

Complaint has been made on the ………………………… day of ……………… 20 ……That A.B. hereinafter called the defendant on the ……………………………. Day of …..20 ………..in the above mentioned did\*…………………………………………………………………………………………………………………………………………………………

(\*State concisely the substance of the complaint)

And the defendant was thereupon summoned to appear before the High/Magistrate’s Court of the………………………………………in the Judicial Division/ Magisterial District sitting at ……………………… on the day of ……………………..at the hour of …………………………….

in the ………… noon, to answer to the said charge:

………………………………………………………………………………

An oath has been made that the defendant was duly served with the summons, but did not appear, and that such complaint is true.

You are hereby commanded to bring the defendant before High/Magistrate’s Court of the ………….. in the Judicial Division/Magisterial District sitting at ………………………………...

……………………..forthwith to answer to the said complaint or be further dealt with according to law.

Dated the ………………day of ………………….20……….

………………………………

Judge (or Magistrate)

**FORM NO.6 *Section 132***

WARRANT FOR ARREST OF DEFENDANT IN FIRST INSTANCE

(General Title- Form No.1)

To…………………………………………….Police Officer Complaint on oath has been made on the ……………. day of ………………………by …………………………………….. that A,B, hereinafter called the defendant on the …………………… day of at………..……………in the ………………………………… above-mentioned did\* ……………………

……………………………………………………………………………….

(\*State concisely the substance of the complaint)

You are hereby commanded to bring the defendant before High/ Magistrate Court of the ……………………….. in the Judicial Division/Magisterial District sitting at ……………………………………………. to forthwith answer the said complaint and be dealt with according to law.

Dated the ………………………… day of ………………….. 20……….

…………………………..

Judge (or Magistrate)

**FORM NO.7**

***Sectio143***

SEARCH WARRANT

(TITLE OF PROCEEDING)

In the Magistrate Court of ……………………………… Magisterial District

To ……………………………… and ……………………………………..

Whereas information on oath and in writing this day has been made that there is reasonable ground for believing that there is in (state the place to be searched and state what is to be searched for in the terms of (a), (b) or (c) of section 143 (1) of this Law.)

You are hereby commanded in the name of the Federal Republic of Nigeria, with proper assistance, to enter the above-named (state the to be searched) and there diligently search for the things aforesaid and where the same or any part thereof found on search, to bring the things found, and also the said (name the occupier of the place to be searched) before this Court to be dealt with according to law.

This warrant may be executed at any time on any day, including Sunday or public holiday and may also be executed at any hour during day or night.

Issued at …………………………….. this ………………..day of …………………… 20………

…………………………….

Magistrate

INVENTORY OF ITEMS RECOVERED DURING EXECUTION OF SEARCH WARRANT IN TERMS OF SECTION 143

1. **LIST OF ITEMS DETAINED AND PLACE OF SUCH DETENTION**

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

1. **LIST OF ITEMS RELEASED TO THE OWNER(S)**

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

WITNESSES

………………………… …………….………………….

NAME/RANK/FORCE No. of OFFICER NAME/TITLE OF THE OCCUPIER

EXECUTIVE THE WARRANT. OF THE PLACE SEARCHED

………………………………… ………………………………………..

NAME/RANK/FORCE No OF NAME/TITLE OF AN

ACCOUNTING OFFICER INDEPENDENT WITNESS

Dated the …………….day of ……………….. 20………….

**FORM NO. 8**

***Section 181***

FORFEITURE ON CONVICTION

(General Title-Form No. 1)

Before the …………………………… High/ Magistrates Court of the …………………in the Judicial Division/Magisterial District siting on the …………………….. day of ……………………………………..20 ………

A.B., hereinafter called the defendant, was by his recognizance entered into the …………………day of …………………….., bound in the sum of …………………………….., and his sureties C.D and F.F. in the sum of ……………………….. each, the condition of the recognizance being that the said defendant should ………………………………………………….

And it being now proved that the defendant was on the ……………day of ……………………. …………………………………..convicted of the offence of having ………………………......………….. the same being a breach of the said condition:

It is therefore ordered that the said recognizance be forfeited, and that the said …………………………………………………….pay to …………the sum of ………………………………and the further sum of ……………for costs (by instalments of …………………….. for every …………….days, the first instalment to be paid) forth with (or on the ……………………… day of …………………….}:

And in default of payment it is ordered that the sum due from the said …………………………….. under this order be levied by distress and sale of his goods, and in default of sufficient distress that the he be imprisoned in the prison at …………………….for the peace of …………………… unless the said sums (and all costs and charges of the (said distress and ) committed) be sooner paid.

……………………………………….

Judge (or Magistrate)

**FORM NO. 9**

***Section 240***

SUMMONS TO WITNESS

(General Title-Form No.1)

To E.F ………………………………………………………………………..

A.B has been charged by …………………………………………………… for that he on the ……………day of ………………. 20 ……………., at …………in the ………………………….. *above-mentioned,* did\*

………………………………………………………………………………

(\*State concisely the substance of the complaint.)

and it appears to me by the oath of ……………………………………. that you are likely to give material evidence therein on behalf of the informant (or complainant or defendant), and will not voluntarily appear for that purpose.

You are therefore hereby summoned to appear before the High/Magistrate’s Court of the ………………………. In the Judicial Division/Magisterial Division sitting at …………….., on …………………………… day of ………………. 20…………………, at the hour of ………………… in the ……………………….. noon, to testify what you know in such matter.

Dated the ……………………… day of …………20……………………..

………………………………

Judge (or Magistrate)

**FORM NO. 10**

***Section 242***

WARRANT FOR APPREHENSION OF A WITNESS

(General Title-Form No.1)

To ………………………………………………………………….

A.B has been charged by ……………………………………… for ……………….. on the………………………………………….day of ………………….. at ……………… in the ………………… .aforesaid, did\* ………………………………………………………

(\*State concisely the substance of the complaint)

………………………………………………………………………

And it appearing to me by oath of ……………………………… that E..F. is likely to give material evidence concerning the said matter, and that it is probable he will not attend to give evidence unless compelled to do so:

You are hereby commanded to bring him before the High Court Magistrate of the ……………………………………….. in the Judicial Division/ Magisterial District siting at ………………… forthwith to testify what he knows concerning the said matter.

Dated the ………………………………… day of …………………………. 20………….

………………………………

Judge (or Magistrate)

***Section 243***

**FORM NO 11**

WARRANT FOR ARREST OF WITNESS IN FIRST INSTANCE

(General Title- Form No. 1)

To ……………………………………………………………………………

A.B has been charged by ……………………for ………………….. on the

Day of …………….. at ……………………..in the ……………aforesaid, did\*. ……………….(\*state concisely the substance of the complaint)

………………………………………………………………………………

And it appears to me by oath of ……………………………………… That E.F. is likely to give material evidence concerning the said matter, and that it is probable he will not attend to give evidence unless compelled to do so:

You are hereby commanded to bring him before the High Magistrate Court of the ……………………………… in the Judicial Division/Magisterial District sitting at …………………………………………… forthwith to testify what he knows concerning the said matter.

Dated the …………………….. day of ……………………………..20……

***Section 249***

**FORM NO. 12**

WARRANT TO COMMIT A WITNESS

(General Title-Form No. 1)

To …………. and to the Superintendent of …………. Prison. E.F …

Having appeared or being brought before the High /Magistrate Court of the

……………… in the Judicial Division/ Magisterial District sitting at …………………on ………………day of ………………………………

to testify what he should know concerning a certain case against A..B., refused to take an oath (or having taken an oath) refused to answer any (or a certain) question put to him concerning the case and did not offer any just excuse for his refusal.

You, the said Police Officer are hereby commanded to convey the said E.F safely to the said Prison, and there deliver him to the Superintendent thereof, together with this Warrant, and you, the Superintendent of the said Prison, to receive him into your custody, and keep him for the space of …………………….. unless he in the meantime consents to be examined and to answer questions concerning the case.

Dated the……………………. day of………………… 20………

……………………………

Judge (or Magistrate)

**Form No.13**

***Section 292***

FORM FOR REMAND PROCEEDINGS

(General Title Form No.1)

BETWEEN

COMMISSIONER OF POLICE Applicant

DIRECTOR OF PUBLIC PROSECUTIONS

AND

XYZ Respondent

To: The Registrar of the Court

The Court is hereby informed that there is a probable cause to order the

remand of XYZ (state particulars of the Respondent, namely age, sex and

occupation) of (state details of the Respondent’ street address or where

there is no precise street address, as near and close description as possible

of the location of the Respondent’s last known place of abode) in remand

custody in \_\_\_\_\_\_\_\_\_\_(state the exact place of custody in which the

applicant proposes to remand the Respondent such as the name and location

of the prison or other detention place) who is reasonably suspected to have

committed the offence of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_contrary to section

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_within………………………………………

Judicial Division/ Magisterial District on or about \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(state the date or approximate date or the period of commission of the

alleged offence) on grounds stated below:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_20\_\_\_\_\_\_\_\_\_

GROUNDS FOR THE REQUEST FOR REMAND

1. Place, time and circumstance of arrest: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.Arrested with Exhibit(s) \_\_\_\_\_\_\_\_\_\_\_ Yes \_\_\_\_\_\_\_\_\_\_\_\_\_ No (Tick appropriately) (disregard (3) and (4) below if the Respondent was not arrested with Exhibit(s)

3. If arrested with Exhibits(s), state clearly the particulars of the Exhibit(s) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4.If arrested with Exhibit(s), state clearly how the items are related to or linked with the committal of the alleged offence: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5.State particulars of other evidence or report linking the Respondent to the committing of the offence such as forensic evidence, marks or finger prints, etc.

6. Confessional statement \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Yes \_\_\_\_\_\_\_\_\_\_\_\_\_ No

7. Any previous conviction for the same or similar offence \_\_\_\_\_\_\_\_\_\_\_ Yes \_\_\_\_\_\_\_\_\_ No

8. If (7) above is Yes, state the particulars of previous conviction(s)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Found in custody or possession of offensive weapon, object or substance:** \_\_\_\_\_\_\_\_ Yes\_\_\_\_\_No

9. Identification by victim(s) or witness(es) \_\_\_\_\_\_\_\_\_ Yes \_\_\_\_\_\_\_\_\_\_ No

(State the particulars of such victim (s) or witness (es)

1. Name:

Age:

Sex:

Address:

Occupation:

(ii) Name:

Age:

Sex:

Address:

Occupation:

(iii) Name:

Age:

Sex:

Address:

Occupation:

(iv) Name:

Age:

Sex:

Address:

Occupation:

(v) Name:

Age:

Sex:

Address:

Occupation:

(vi) Name:

Age:

Sex:

Address:

Occupation:

10. Need for further investigation \_\_\_\_\_\_\_\_\_\_\_\_ Yes \_\_\_\_\_\_\_\_\_\_No

11. Period/duration required for further investigation \_\_\_\_\_\_\_\_\_\_\_\_\_\_ (state approximate days/weeks/ months required to complete investigation)

12. Any further relevant information \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed ………………………………..

(Commissioner of Police/ Director of Public Prosecution/

Law officer/ Police officer)

**FORM NO 14**

***Section 317***

CONVICTION (IMPRISONMENT)

(General Title-Form No. 1)

Before the High/ Magistrate Court of the …………………………………. in the Judicial Division/Magisterial District sitting at …………………….. on the …………………Day of ……………......................20………………

A.B. hereinafter called the defendant, is this day convicted for ………………….. that he, on the ……….... day of ……………………….. 20……………… at …………………… within the ……………………….

Above-mentioned, did…………………………………………………….

And it is ordered that the defendant, for his said offence, be imprisoned in the prison at ………….………………………………………. And kept for the period of …………………………………………………………………

If costs are ordered, add- And it is ordered that the defendant pay to the said ………………. sum of ………………………. for costs (by instalments of …………. for every …………………………..days, the first instalment to be paid) forthwith (or on the……………………………day of …………):

And in default of payment it is ordered that sum due be levied by distress and sale of the defendant’s goods and in default of sufficient distress that the defendant be imprisoned in the prison at …………………………… for the space of ……………………………. Commencing at the termination of the imprisonment before ordered, unless the said sum (and all costs and charges of the (said distress and) commitment be paid)

………………………………

Judge(or Magistrate)

**FORM NO.15**

Sections 320,323 and 327

ORDER FOR MONEY (NOT A CIVIL DEBT)

(General Title- Form No.1)

Before the High/Magistrates’ Court of the ………………………………… in the Judicial Division/Magisterial District sitting at …………………the ……..day of ………………………………….. 20………………………….

A, B having made a complaint that C,D hereinafter called the defendant, on the …………………...……day of ……………………….. at …………… Within the ……………………………….. above-mentioned, did …………

………………………………………………………………………………

On hearing the said complaint, it is ordered that the defendant pay to said ……the sum of …………………………………………………. and also the sum of …………………...……………………….. for costs (by instalments of ………………… for every…………………...

Days, the first instalment to be paid) forthwith (or on the ………………………………day of ……………………….):

And in default of payment it is ordered that the said sum due be levied by distress and sale of the defendant’s goods and in default of sufficient distress that the defendant be remanded in the prison at …………………… for the space of …………………….. unless the said sums and all costs and charges of the said distress and commitment be paid.

………………………………….

Judge (or Magistrate)

**FORM NO. 16**

***Section 371***

ORDER OF DISMISSAL

(General Title- Form No.1)

Before the High/Magistrate’s Court of the …………………. in the Judicial Division/Magisterial District sitting at ……………………………….. the ………………………………. day of …………………. 20………… Complaint having been made by …………………………….. that A.B hereinafter called the defendant, on the ……………………………………. day of ……………. at …………………………. In the ………………….. above-mentioned, did …………..……………………………………………

This Court having heard and determined the said complaint do dismiss same:\*

(\*on its merits or without prejudice to its being brought again.)

If costs are ordered, add-

And it is ordered that the complainant pay to the defendant the sum of …………………………. for costs (by instalments of ………………for every …………………. days, the first instalment to be paid) forthwith (or on the ………………………… day of ………………………………….)

And in default of payment it is ordered that sum due be levied by distress and sale of the defendant’s goods, and in default of sufficient distress that the defendant be imprisoned in the prison at …………….. for the space of ……………………….., unless the said sum (and all cost and charges or the (said distress and) commitment be paid)

………………………………….

Judge (or Magistrate)

**FORM NO. 17**

***Section 377 (9*)**

**INFORMATION ON LEGAL REPRESENTATION**

This office of the Director of Public Prosecutions has determined that proceeding shall continue against you as per the attached legal advice.

Indicate whether you wish to be represented by a legal practitioner arranged by you or by the Legal Aid Council or any organisation providing free legal representation.

(1)If you wish to be represented by a legal practitioner arranged by you, please indicate below the particulars of such legal practitioner:

Name of Legal Practitioner:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Legal Practitioner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone Number of Legal Practitioner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-mail of Legal Practitioner: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Defendant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Prison official or Police official in charge of place of custody of Defendant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(2) If you wish to be represented by a legal practitioner arranged by way of legal aid, please provide the relevant information below. If you do not know any organisation you wish to apply to provide legal practitioner to represent you, kindly enter the “Legal Aid Council” as the name of organisation:

Name of the Organisation: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of the Defendant ( Place of custody or remand) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Defendant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of the Prison official or Police official in charge of place of custody of defendant: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**FORM NO. 18**

**FORM OF INFORMATION**

***Section 378***

THE STATE VS C.D

In the High Court of …………………………………………..

In the Judicial Division of ……………………………………

THE STATE VS C.D

The ………………………………….. day of ………………20……..

At the sessions holding at…………………………………………………

on the …………………….day of…………………………. 20…………., the court is informed by the Attorney-General of the State on behalf of the State that C..D is charged with the following offence. (or offences). (and statement of offence (offences).

**FORM NO. 19**

***Section 435***

WARRANT OF DISTRESS (FOR PENALTY)

(General Title- Form No. 1)

To …………………………………………………………………………..

A.B., hereinafter called the defendant, was on the day of ………convicted before the High/ Magistrate’s Court sitting at ……………………………… for that he on the ………………………………… day of ………………. at …………………………………………………In the above-mentioned, did

……………………………………………………………………………….

And it was adjudged that the defendant for the said offence should be imprisoned ( or forfeit and pay the sum of …………………………………) and should also pay the sum of ……………..……………………….. (for compensation and …………………………) for costs (by instalments of ………………………………………. for every…………….. days, the first instalment to be paid) forthwith (or on the ………………………………. day of ……………………..), and that in default the said sum (or sums) should be levied by distress ,………………… and default having been made in payment.

You are hereby commanded forthwith to make distress of the goods of the defendant (except the wearing apparel and bedding of him and his family, and, the tools and implements of his trade) and if within the space of five clear days next after the making of such distress, unless he consents in

writing to an earlier sale, the sum stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of that court, and if no such distress can be found, to certify the same to that court.

Dated the ……………………….. day of …………………….20 ………

……………………………………..

Judge (or Magistrate)

N K

Amount ordered ………………………………..

Paid …………………………………………….

Remaining due …………………………………

Cost of issuing this warrant…………………….

Total amount to be levied……………………….

**FORM NO. 20**

***Section 442***

ORDER OF DISMISSAL WITH DAMAGES

(General Title-Form No. 1)

Before the High/Magistrate’s Court of the …………….. in the Judicial Division/Magisterial District sitting at ……………………………………..

The………………………………………. day of ………20………………

Complaint having been made by A.B. that C.D. hereinafter called the defendant, on the …………..……………………………………………day of …………………………………… 20………….. at ………………….. in the …………………………………. Above-mentioned, did ………….........

And the Court being of opinion that though the said charge is proved, the offence is of trivial nature that it is inexpedient to impose any punishment, hereby dismiss the said information.

But order that the defendant do pay the complainant ………………………………… for damages and ………………………………………. for costs (by instalments of ………….. for every …….

………………………… days, the first instalment to be paid) forthwith (or on the ……………….

………………………………… day of …………………… 20…………):

And in default of payment it is ordered that the said sums levied by distress and sale of the defendant’s goods, and in default of sufficient distress that the defendant be remanded in the prison at …………………………. for the space of …………………….. unless the said sums ( and all costs and charges of the ( said distress and ) commitment be paid)

………………………………..

Judge (or Magistrate)

**FORM NO. 21**

**ORDER FOR OTHER MATTERS**

**(General Title- Form No.1)**

Before the High/Magistrate’s Court of the ……………………………in the Judicial Division/Magisterial District sitting at …………………………… on the …………………….. day of ……………………………… 20…..

A.B., having made a complaint that C.D hereinafter called the defendant, on the ……………….………………………………………day of …………at ……………… in the ……………………………………………………… above mentioned, did ………………………………………………………..

………………………………………………………………………………………………………………………………………………………………..

On hearing the said complaint, it is ordered that the defendant ……………………………………..................................................................

If imprisonment is ordered, add-

And it is adjudged that if the defendant neglect or refuse to obey this order, he be imprisoned in the prison at …………………………………………… for the space of……………… days (or unless the said order be sooner obeyed).

If costs are ordered, add-

And it is ordered that the defendant pay to the said……………………sum of ……...... for costs ( by instalments of …………………… for every ……………………… days, the first instalment to be paid) forthwith (or on the ……………………………….. day of …………………………….):

And in default of payment it is ordered that the sum due be levied by distress and sale of the defendant’s goods, and in default of sufficient distress that the defendant be imprisoned in the said prison for the space of ………………………. commencing at the termination of the imprisonment before ordered, unless the said sum (and all costs and charges of the (said distress and) commitment) be paid.

……………………………

Judge (or Magistrate)

NOTICE OF TRIAL

1. B. Take notice that you will be tried on the information of which this is a true copy, at the session to be held at …………………… on the ……………… day of ………….. 20……..

Also find attached is the “Information on Legal Representation” Form which you must complete and return to the Registry of this court within 14 days of service on you of this notice of trial.

**SECOND SCHEDULE**

**CHARGES *Section 192***

FORM OF CHARGE UNDER THE CRIMINAL CODE WITH ONE HEAD

1. **CHARGES WITH ONE HEAD**

Criminal Code section 118

1.That you ……………………………………….. on the………… day of

……………………………….. at ………………………………….being a witness upon the trial of a case in the Magistrate’s Court of the Magisterial District sitting at ……………………………………………………in which one………………………………………………... was complainant and one ………………………………………………………………………………. was defendant, knowingly falsely swore that you saw on M.N. snatch a leather wallet from one Y, Z in the ……………………………. On the ……………………… day of ……………………… and thereby committed an offence punishable under section 118 of the Criminal Code

Criminal Code Section 120 (1)

2.That you, on the …………………… day of……………………. at……………… with intent to mislead the court in the course of the trial of …………… fabricated evidence by means other than perjury to wit: ………………………………………………… and thereby committed an offence against section 120 (1) of the Criminal Code.

Criminal Code Section 249 (a) (i)

3.That you, being a prostitute, on the ……………………………… day of

…………………………….., at ………………………………….. behaved in an indecent manner by exposing your naked person in Broad Street and

thereby committed an offence punishable under section 249(a) (i) of the Criminal Code.

Criminal Code Section 325

4.That you on the ………………. day of ……………………………. at…………………… unlawfully killed C.D and thereby committed an offence punishable under section 325 of the Criminal Code.

Criminal Code Section 326(3)

5.That you on the ………………….day of……………………at ……………………aided A.B in killing himself and thereby committed an offence punishable under section 326(3) of the Criminal Code.

Criminal Code Section332(1)

6.That you on the ………………………….day of……… at …………… unlawfully wounded C.D with intent to maim, disfigure or disable or to do some grievous harm or to resist the lawful arrest of yourself and thereby committed an offence punishable under section 332(1) of the Criminal Code.

Criminal Code Section 338(1)

7. That you on the……………………………. Day of ………………… at …………. Unlawfully wounded C.D and thereby committed an offence punishable under section 338(1) of the Criminal Code.

Criminal Code Section360

8. That you, on the ……………………..day of ………at………unlawfully and indecently assaulted M.S and thereby committed an offence punishable under section 360 of the Criminal Code.

Criminal Code Section 402

9. That you, on the …………………….. day of ………………………at …

Robbed C.D of (state the thing and thereby committed an offence punishable under section 402 of the Criminal Code.

Criminal Code Section419

10. That you, on the ……………………….. day of…………………… at ………………….. with intent to defraud, obtained from S.P five yards of cloth by falsely pretending that you were a servant to J.S and that you had then been sent by the said J.S to S.P for the said cloth, and that you were then authorised by the said J.S to receive the cloth on behalf of the said J.S and thereby committed an offence punishable under section 419 of the Criminal Code.

11. That you, on the ……………………. day of ……………………….. at …………………., with intent to defraud, obtained from A.B …………… by falsely pretending that you were able to double money and thereby committed an offence punishable under section 419 of the Criminal Code.

Criminal Code Section 430(1).

12. That you…………………………………. on the …………………. day of…………………. at……………………., had in your possession one gold watch reasonable suspected of having been stolen or unlawfully obtained and thereby committed an offence punishable under section 430 (1) of the Criminal Code.

Criminal Code Section 443

13. That you, on the ……………………… day of ………at……… wilfully and unlawfully set fire to a house and thereby committed an offence punishable under section 443 of the Criminal Code.

Criminal Code Section 467 (2)(i)

14.That you, on the …………………………. day of ………………. at………………..., forged an accountable receipt purporting to be the receipt of C.D., and thereby committed an offence contrary to section 467(2) (i) of the Criminal Code

**(ii) CHARGES WITH TWO OR MORE HEADS**

Criminal Code Section 230

15. First- That you, on the ……………….. day of………………………… at ……………………………………….. unlawfully supplied to C.D (state thing supplied) knowing that it was intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an offence punishable under section 230 of the Criminal Code.

Secondly – That you, on or about the …………………………….day of ………………………….at……………………………………………… unlawfully procured for C.D (state thing procured) knowing that it was intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an offence punishable under section 230 of the Criminal Code.

Criminal Code Section 248

16. First – That you, on the ……………day of……………………………., at………, sold matches made with white (yellow) phosphorous and thereby committed an offence punishable under section 248 of the Criminal Code.

Secondly – That you, on the …………………………….. day of ………………………….., at……………………………………… had in your possession for the purpose of sale of matches made with white (yellow) phosphorous and thereby committed an offence punishable under section 248 of the Criminal Code.

Criminal Code Section 390

17. First – That you, on the …………………………… day of …………………………………. at …………………… stole (state the thing stolen) the property of C.D. and thereby committed an offence punishable under section 390 of the Criminal Code

Secondly – That you, on the ……………………… day of ……………at ………………stole (state the thing stolen) which had been entrusted to you by C.D. for

you to retain in safe custody and thereby committed an offence punishable under section 390 (8) (b) of the Criminal Code.

Thirdly – That you, on the ……………….. day of…………………………. …………………………………… at………….. stole (state the thing stolen) which had been received by you for and on account of C.D and thereby committed an offence punishable under section 390(8) (c ) of the Criminal Code.

**OTHER FORM OF CHARGE**

BETWEEN:

THE STATE

VS

ABC

XYZ

At the session holden at Ibadan on the …………………. day of ……………20……….., upon the complaint of the Director of Public Prosecutions on behalf of the State the following persons; that is-

1. ABC
2. XYZ

Are charged with the following offences-

**COUNT I**

That you, ABC and XYZ ………………….

COUNT 2

Dated this………..Day of……………

………………………………………..

State Counsel

THIRD SCHEDULE

**INFORMATION PRECEDENT**

***Section 379 (4)***

**STATEMENT OF OFFENCE**

Perjury, contrary to section 118 of the Criminal Code

***Particulars of offence***

A,B., on the ……………………………… day of ………………………… 20……….in the division of ………………………………, being a witness upon the trial of an action in the High Court in which one ……………was claimant, and one ………………………………. was defendant, knowingly gave false testimony that …… (Name) of …….(Street/Town) saw one M.W in the street called Agodi, Ibadan on the ……………………………………….. day of ……………………………. 20 ……………

2 **STATEMENT OF OFFENCE**

Uttering counterfeit coin, contrary to section 151 of the Criminal Code

***Particulars of offence***

A,B, on the …………………………. day of ………………………….. 20,……………….. at ………………………………………………. market in the division of …………………………... uttered a counterfeit Naira, Coins/Notes, knowing the same to be counterfeit.

3  **STATEMENT OF OFFENCE**

Murder, contrary to section 319 of the Criminal Code/

***Particulars of offence***

A,B, on the …………………………. day of ……………………………… 20…………………… in the division of……………………. murdered J.S.

**4 STATEMENT OF OFFENCE**

Accessory after the fact to murder, contrary to section 322 of the Criminal Code

***Particulars of offence***

A,B, well knowing that one, H,C, did on the ……………………… day of, 20,……. in the division of ………………murdered C.C, did on the day of ………………… 20…. and on other days thereafter receive, comfort, harbour, assist and maintain the said H.C.

**5** **STATEMENT OF OFFENCE**

Manslaughter, contrary to section 325 of the Criminal Code

***Particulars of offence***

A.B, on the ……………………….day of ……… 20…….. in the division of ……………….., unlawfully killed J.S.

**6 STATEMENT OF OFFENCE-FIRST COUNT**

Wounded with intent, contrary to section 332, subsection (1) of the Criminal Code

***Particulars of offence***

A,B, on the ………………………… day of …………….. 20 ……. in the division did cause grievous harm, or to resist the lawful arrest of him the said A,B,

**STATEMENT OF OFFENCE-SECOND COUNT**

Wounding, contrary to section 338, subsection (1), of the Criminal Code

***Particulars of offence***

A,B, on the …………… day of ……………, 20…… in the division of …………… unlawfully wounded C.D.

**7 STATEMENT OF OFFENCE**

Rape, contrary to section 358 of the Criminal Code

***Particulars of offence***

A,B, on the ……………………. day of ………………….. 20 ……… in the division of ………….had carnal knowledge of E.F. without her consent.

**8 STATEMENT OF OFFENCE**

Publishing defamatory matter, contrary to section 375, of the Criminal Code

***Particulars of offence***

A,B, on the ………………… day of …………………….., 20…………… in the division of ………………………. published defamatory matter affecting E.F, in the form of a letter (book, pamphlet, picture, or as the case may be)

(*innuendo should be stated where necessary)*

**9 STATEMENT OF OFFENCE-FIRST COUNT**

Stealing contrary to section 390, Criminal Code

***Particulars of offence***

A,B, on the ………………. day of ……………………., 20 …… in the division of ……………….…………stole a bag, the property of the C.D.

**STATEMENT OF OFFENCE-SECOND COUNT**

Receiving stolen goods, contrary to section 427 of the Criminal Code

***Particulars of offence***

A,B, on the ………………………. day of ………. 20……… in the division did receive a bag, the property of C.D. knowing the same to have been stolen.

**10 STATEMENT OF OFFENCE-FIRST COUNT**

Stealing by clerks contrary to section 390(6) of the Criminal Code

***Particulars of offence***

A.B on the …………….. day of ………………… 20……… in the division

Stole N200.00 which had been entrusted to him by H.S for him, the said A.B, to retain in safe custody.

**STATEMENT OF OFFENCE-SECOND COUNT**

Stealing by agents and others, contrary to section 390(8) (b) of the Criminal Code

***Particulars of offence***

A.B, on the …………….. day of ………………… 20……… in the division of …………………,stole N200.00 which had been received by him for and on account of L.M.

**11 STATEMENT OF OFFENCE**

Robbery with violence, contrary to section 402 of the Criminal Code

***Particulars of offence***

A,B, on the ………………………. day of ………. 20……… in the division of ………………, robbed C.D of a watch, and at, or immediately after, the time of such robbery did use violence to the said C.D.

**12 STATEMENT OF OFFENCE**

Demanding property by written threats, contrary to section 402 of the Criminal Code

***Particulars of offence***

A,B, on the ………………………. day of ………. 20……… in the division of ………………, with intent to extort money from C.D. caused the said C.D. to receive a letter containing threats of injury or detriment to be caused to E.F.

**13 STATEMENT OF OFFENCE**

Attempt to extort by threats contrary to section 408, of the Criminal Code

***Particulars of offence***

A.B, on the ………………………. day of ………. 20……… in the division of ………………, with intent to extort money from C.C. accused or threatened to accuse the said C.D of an unnatural offence.

**14 STATEMENT OF OFFENCE**

Obtaining goods by false pretences, contrary to section 419, of the Criminal Code

***Particulars of offence***

A,B, on the ………………………. day of ………. 20……… in the division of ………………, with intent to defraud, obtain from S.P. five yards of cloth by falsely pretending that he, the said A.B. was a servant to J.S., and that he, the said A.B., had then been sent by the J.S., to S.P., for the said cloth, and that he, the said A.B., was then authorised by the said J.S., to receive the said cloth on behalf of the said J.S.

**15 STATEMENT OF OFFENCE**

Burglary, contrary to section 411, and stealing, contrary to section 390(4)(b) of the Criminal Code

***Particulars of offence***

A.B on the ……………….. day of……………………..20………, in the division of…………….., did break and enter the dwelling-house of C.D., with intent to commit a felony therein, namely to steal therein, and did steal therein one watch, the property of S.T.

**16 STATEMENT OF OFFENCE**

Conspiracy to defraud, contrary to section 422 of the Criminal Code

***Particulars of offence***

A,B, on the………….day of……………….20…………, and on different days between that day and the …………… day of ……………………., 20…………………. in the division of ……………………. conspired together with intent to defraud by means of an advertisement inserted by them, the said A,B, and C,D, in the H.S.

newspaper, falsely representing that A.B. and C.D. were then carrying on a genius business as jewellers at …………….., in the division of …….

………………………. and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum of …………………………..

**17 STATEMENT OF OFFENCE FIRST COUNT**

Fraudulent false accounting, contrary to section 438 of the Criminal Code.

***Particulars of offence***

A.B, on the ……………. day of ……….., 20………. in the division of ……………… and on different days between that day and the ……………. day of …………… 20……………., being clerk or servant to C.D. with intent to defraud, made, or was privy to making a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day N200.00 had been paid to L.M.

**STATEMENT OF OFFENCE-SECOND COUNT**

Fraudulent false accounting, contrary to section 438 of the Criminal Code

**Particulars of offence**

A,B on the …………………………....day of ………20……in the division of……………………………………, being clerk or servant to C.D., with intent to defraud, omitted or was privy to omitting from a cash book belonging to the said C.D., his employer, a material particular that is to say, the receipt on the said day of N100.00 from H.S.

**18 STATEMENT OF OFFENCE**

Arson, contrary to section 443, of the Criminal Code

***Particulars of offence***

A,B, on the ………………day of ………………….., 20…………… in the division of ………… wilfully and unlawfully set fire to a house.

**19 STATEMENT OF OFFENCE**

Arson, contrary to section 443, of the Criminal Code C,D,

accessory before the fact to same offence.

***Particulars of offence***

A,B, on the ………….. day of…………………., 20…….in the division of …………… wilfully and unlawfully set fire to a house, C,D, on the same day, in the division of …………...., did counsel or procure the said A,B, to commit the said offence.

**20. STATEMENT OF OFFENCE-FIRST COUNT**

Offence under section 449, subsection (1), of the Criminal Code

***Particulars of offence***

A,B, on the ………….day of ………………….,20……in the division of ……………, with intent to obstruct the use of the Nigerian Railway, displaced a sleeper belonging to the said railway.

**STATEMENT OF OFFENCE-SECOND COUNT**

Obstruction railway, contrary to section 459, of the Criminal Code

***Particulars of offence***

A,B, on the …………… day of …………. 20……. in the division of ………………., by unlawfully displacing a sleeper belonging to the Nigerian Railway, caused an engine or vehicle in use upon the said railway to be obstructed in its passage.

**21 STATEMENT OF OFFENCE**

Damaging trees, contrary to section 451 of the Criminal Code

***Particulars of offence***

A,B, on the ………………day of …….20…. in the division of ……………… wilfully and unlawfully damaged a cocoa tree from growing.

**22 STATEMENT OF OFFENCE FIRST COUNT**

Forgery, contrary to section 467(2), of the Criminal Code

***Particulars of offence***

A,B, on the ……………… day of ………… 20………… in the division of …………….,……….. forged a certain will purporting to be the will of C.D.

**STATEMENT OF OFFENCE SECOND COUNT**

Uttering a false document, contrary to section 468 of the Criminal Code

***Particulars of offence***

A,B, on the……………… day of……………….., 20…………… in the ……………..division knowing and fraudulently uttered a certain forged will purporting to be the will of C.D.

**23 STATEMENT OF PREVIOUS CONVICTION\***

Prior to the commission of the said offence, the said A,B, has been previously convicted of burglary on the ………………………… day of ………………20……., at the Session held at ……………………….

**FOURTH SCHEDULE**

***Section 37***

**Form A**

ENDORSEMENT ON WARRANT OF ARREST

Whereas proof has this day been made before me that the name…………... …………………………………… subscribed to the within warrant is in the handwriting of the within mentioned………………………………………...

I hereby authorise ……………………………………………………… who brings me this warrant and all the other persons to whom this warrant was originally directed and also all police officers of the …………………… to execute this warrant within ………………………… and to bring the said ……………………….… if arrested within …………………………before me or before some Magistrate of the …………………………… to be dealt with according to law.

GIVEN under my hand this ………………….. 20………………………

……………………………………….

Magistrate

**FORM B**

***Section 112***

COMPTROLLER-GENERAL OF PRISONS RETURNS OF PERSON(S) AWAITING TRIAL

(*Complete form in triplicate per individual)*

To: The Chief Judge of………………………………….. and to the Attorney General.

The Chief Judge of ……………………………………….. and the Attorney General are hereby informed that these are the records of all persons

awaiting trial held in custody within the State for a period beyond 180 days from the date of arraignment.

1. Name of person in

custody:…………………………………………………………

2. Date of

Arraignment:………………………………………………………

3.Court where arraigned

………………………………………………………………………

4.Particulars of the offence charged

with:……………………………………………………………………

5. Date of his Admission to

custody:………………………………………………………………….

6. Name of the Prosecuting

Agency:………………………………………………………………….

7. Any other relevant

information:……………………………………………………………….

………………………………..

Comptroller-General of Prisons

**FORM C**

***Section 183***

WARRANT TO ARREST A PERSON FAILING TO APPEAR PURSUANT TO RECOGNIZANCE

(TITLE OF PROCEEDINGS)

To ………………………………………………………………………………

And ………………………………………………………………………...

Whereas…………………………………………of ………………………… is bound by recognizance to appear before this court on………………(state when) but failed so to appear:

You are hereby commanded to arrest the said……………………………

…………………………………………………… and bring him before me at …………………………………………without delay.

……………………………

Judge (or Magistrate)

**FORM D**

***Section 244***

**RECOGNIZANCE OF WITNESS**

In the Magistrate’s Court of ……………………………………………C.D. of ……………………………(address and occupation or profession) acknowledges that he/she owes to the State Government the sum of …………………... payment thereof to be enforced against him/her by due process of law if he/she fails to comply with the conditions endorsed hereon.

Signature of C..D……………………….

Taken before me this ……………………… day of ……………. 20…….

…………………………..

Magistrate (or Judge)

(*Endorsement)*

Conditions

The condition of this recognizance is that whereas A,B, (hereinafter called the accused) was this day charged before me (name of Magistrate), the above-mentioned Magistrate, with (state shortly particular offence):

If therefore the said C.D. appears at the High Court of the State on a date to be notified to him later and there gives evidence upon the trial of any information against the accused and in all respects complies with the requirements of any notice which he/she may subsequently receive relating to this recognizance, then this recognizance shall be void but otherwise shall remain in full force.

**FORM E**

***Section 318***

**WARRANT TO CARRY OUT SENTENCE**

(TITLE OF PROCEEDINGS)

To …………………………………….. and to the Superintendent of Prison:

The defendant ……………………………… was on the ………………… day of ………………20……………, sentenced as follows-

|  |  |  |  |
| --- | --- | --- | --- |
| No | Offence | Term, Fine, Compensation, Costs, or Strokes | Term in default |
|  |  |  |  |

The defendant has made default in payment of the above sum (or sums, or 1st and 2nd above-named sums, or as the case may be).

The imprisonment is to commence forthwith (upon the expiration of any other term of imprisonment which the defendant may be now serving)

The terms are to run concurrent (or consecutive, or concurrent as to the …………………………. And ……………………………… and consecutive as to, or as the case may be).

You are hereby commanded to take the said defendant and imprison him in accordance with the above sentence and the Law.

Dated the …………………. day of ……………….. 20…………

……………………………

Judge (or Magistrate)

**Form F**

***Section 412***

ORDER FOR COMMUTATION OF SENTENCE

WHEREAS on the ……………… day of…….20…… was duly convicted of a capital offence and was sentenced to death by the …………………….. holding at …………………………………………………………………….

AND WHEREAS information derived from the records of the case or elsewhere having been duly taken into consideration at a meeting of the Committee on Prerogative of Mercy thereafter has decided to recommend to me that I should exercise my powers in relation to the person so convicted:

AND WHEREAS I have decided in accordance with the advice of the appropriate authority to confirm the sentence:

NOW THEREFORE I do hereby commute the sentence and direct that the said sentence be not carried out, and that in lieu thereof the said…………………………………………………………………………...

…………………………………………………………… be imprisoned for …………………………………………………………..

GIVEN under my hand and the Public Seal of Oyo State of Nigeria this

……………………………….. day of …………………..20………….

……………………………

Governor

To the Sheriff at …………………………..

(for transmission to the appropriate prisons authority)

***Section 414***

**Form G**

**Order for Sentence of Death to be Carried Out**

Public

Seal

ORDER FOR EXECUTION

WHEREAS at the …………………………………………… holding at …………………… on the ………………… day …………………….of ……………………… 20………..,one……….…………was duly convicted of a capital offence and was sentenced to death:

AND WHEEREAS information derived from the record of the case or elsewhere, having been duly taken into consideration at a meeting of the Executive Council of the State designated for the purpose in his own deliberate judgement thereafter has decided to recommend to me that I should exercise my power in relation to the person so convicted:

AND WHEREAS I have decided in accordance with the advice of the said Attorney-General to confirm the sentence:

NOW THEREFORE I hereby order that the sentence be carried out according to the law and that the said…………………………………be executed at …………………...at a time and by the person appointed by you and that the body of the said………………………...……… be buried in the usual place for internment for condemned criminals executed at the place of execution.

AND FOR SO DOING this shall be your Warrant.

GIVEN under my hand and the Public Seal of Oyo State of Nigeria this …………….. day of …………………… 20……..

………………………………

Governor

To the Sheriff at ………………………….

Public

Seal

**Form H**

SCALE OF IMPRISONMENT FOR NON-PAYMENT OF MONEY ORDERED TO BE PAID

***(Section 426)***

|  |  |
| --- | --- |
| Where the fine does not; | The period of imprisonment shall not exceed; |
| Exceed N2,000.00 | 7 days |
| Exceed N2,000.00 and does not exceed N5,000.00 | 14 days; |
| Exceed N 5,000.00 and does not exceed N20,000.00 | 1 month; |
| Exceed N 20,000.00 and does not exceed N60,000.00 | 2 months; |
| Exceed N 60,000.00 and does not exceed N100,000.00 | 3 months; |
| Exceed N 100,000.00 and does not exceed N200,000.00 | 4 months; |
| Exceed N 200,000.00 and does not exceed N400,000.00 | 5 months; |
| Exceed N 400,000.00 and does not exceed N600,000.00 | 6 month |
| Exceed N 600,000.00 and does not exceed N1,000,000.00 | 7 months |
| Exceed N 1,000,000.00 and does not exceed N2,000,000.00 | 8 months |
| Exceed N 2,000,000.00 and does not exceed N5,000,000.00 | 9 months |
| Exceed N 5,000,000.00 and does not exceed N10,000,000.00 | 10 months |
| Exceed N 10,000,000.00 | To the discretion of the Judge from 18 months and above. |

**Form I**

**ENDORSEMENT ON WARRANT OF DISTRESS**

***Section 436***

Whereas proof has this day been made before me that the name of ………………………………… subscribed to the within warrant is in the handwriting of the within mentioned……………………………………….

……………………………………………………………………………………… you…………..……… are hereby ordered forthwith to make distress of the goods of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of …………… Naira the tools and implements of his trade); and if within the space of the 5 clear days next after making of such distress unless he consents in writing to an earlier sale, the sum stated in the within warrant, together with the reasonable cost and charges of making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of this court, and if no such distress can be found, to certify the same to this court.

Dated the …………day of…………, 20…………….

…………………………..

Judge (or Magistrate).

**FORM J**

**RECOGNIZANCE OF WITNESS CONDITIONALLY BOUND OVER**

In the Magistrate’s Court of……………………………………………C.D. ……………………………………………………………………………….

(*address and occupation or profession)*

Signature of C.D……………………………………………………………..

Taken before me this …………………… day of……… 20……………

…………………………

Magistrate

(*Endorsement)*

**Conditions**

Whereas A,B, (hereinafter called the defendant) was this day charged before me(name of Magistrate), the above-mentioned Magistrate, with (state shortly particulars of offence): and Whereas C.D. has been informed that he/she is only conditionally bound over to give evidence at the trial of A,B, but that, after receiving a notice that he/she will be required to give evidence at the said trial, he/she will then be firmly bound by the following conditions:

If therefore the said C.D. appears at the High Court of …………………….. State on a date to be notified to him/her later and there gives evidence upon the trial of any information against the defendant and in all respects complies with the requirements of any notice which he may subsequently receive relating to this recognizance, then this recognizance shall be void but otherwise shall remain in full force.

**FORM K**

Notice to Witness that Defendant has not been Committed for Trial

In the Magistrate Court of ……….…………………………………

Whereas you C.D. of………………………………………were on the ……………………..day of………………… 20…… bound by a recognizance in the sum of ………………………………………….. to appear on a date to be notified to you at the High Court of ……………… State and give evidence upon the trial of A,B:

This is to give you notice that the Magistrate has determined not to commit the said A,B, for trial and that consequently you will not be required to appear at the High Court for the purpose above-mentioned.

Dated the……………………day of……………..20………..

………………………..

Judge (or Magistrate)

**FORM L**

Notice to Witness bound over that he is to be treated as having been bound over conditionally

In the Magistrate Court of…………………………………………………..

Whereas you, C.D. of ………………………………were on the ………..

day of …………….. 20……….. bound by a recognizance in the sum of …………………………………………… to appear at the High Court of …………………………………….State on a date to be notified to you, there give evidence upon the trial of A,B.

And whereas the Magistrate has since committed the said A,B. for trial at the High Court of ……………………………………………….State and has directed that you are to be treated as having been bound over to attend the trial conditionally upon notice being given to you:

This is to give you notice that you are not bound by the recognizance entered into by you until and unless you subsequently receive notice that you will be required to give evidence at the trial of the defendant A,B.

Dated the ……………..day of……………….20……….

……………………..

Judge (or Magistrate)

**FORM M**

NOTICE TO WITNESS BOUND OVER OR TREATED AS BOUND OVER CONDITIONALLY

In the High/Magistrate’ Court of…………………………………………

Whereas you C.D. of …………………………………………………… were on the ………………………………day of………………………….. 20…… bound over conditionally in the sum of …………………………to appear upon being given to you a notice to give evidence upon the trial of A,B, (or, whereas you C.D. were given notice, after entering into a recognizance to give evidence upon the trial of A,B, that you would not be bound by such recognizance until and unless you subsequently receive notice that you will be required to give evidence at the trial of A.B.):

This is to give you notice that you are required to appear and give evidence at the High Court of ……………… at the trial of A,B, on the …………(or on a date to be subsequently notified) and that unless you do so the said recognizance will be forthwith enforced against you.

Dated the ……………………day of……………………20…………

………………………………………..

Registrar of High/Magistrate Court