

**ANAMBRA STATE OF NIGERIA**

**ADMINISTRATION  
OF CRIMINAL  
JUSTICE LAW,  
2010**

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**2010, NO.**

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## CHAPTER 1: PRELIMINARY

- Short title and Commencement.** 1. (1) This Law may be cited as the Administration of Criminal Justice Law, 2010.
- Savings and transitional provisions** (2) This Law shall apply to –  
(a) all cases filed after the commencement of this Law; and  
(b) existing cases filed under the Criminal Procedure Law Cap 37, 1991.
- Repeal.** (3) Subject to the provision of subsection (2), the Criminal Procedure Law Cap. 37, 1991 shall cease to have effect from the commencement of this Law.
- Interpretation.** 2. In this Law, unless the context otherwise requires –  
“act” means an enactment of parliament of Federal application, or any other enactment which has effect as such;  
“adult” means a person who has attained the age of eighteen years or above;  
“charge” means the statement of offences with which a defendant is charged in a summary trial before a court;  
“chief judge” means the Chief Judge of the High Court for the State;  
“child” means any person who has not attained the age of eighteen years;  
“complainant” includes any informant or prosecutor in any case relating to a summary conviction offence;  
“complaint” means the allegation that any named person has committed an offence made before a magistrate for the purpose of moving him to issue process under this Law;  
“court” includes the High Court and Magistrates’ Court;  
“constitution” means the Constitution of the Federal Republic of Nigeria;  
“defendant” means any person against whom a complaint is made or against whom a criminal proceedings is initiated;  
“district” means a magisterial district created under the provisions of the Magistrates’ Courts Law;  
“division” means a Judicial Division created under the provisions of the High Court Law;  
“federal law” means any Act of the National Assembly;  
“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 a conviction;  
“future law” means any law passed after the commencement of this Law.

**"high court"** means the High Court established for the State under the Constitution;

**"indictable offence"** means any offence:-

- (a) which on conviction may be punished by a term of imprisonment exceeding two years, or
- (b) which on conviction may be punished by imposition of a fine exceeding ten thousand naira; or
- (c) which is not declared by the written law creating the offence to be punishable on summary conviction;

**"indicted"** means the filing of an information against a person after the preparation of proofs of evidence;

**"infant"** means a person who has not attained the age of seven years;

**"judge"** means a Judge of the High Court;

**"justice of the peace"** means any person appointed under any written law to be a justice of the Peace of Anambra State;

**"juvenile offender"** means an offender who has not attained the age of eighteen years;

**"law"** means an enactment of the Legislature of the State or any other enactment which has effect as such an enactment;

**"law officer"** means the Attorney-General of the State and includes such other qualified officers by whatever names designated to whom any of the powers of a law officer is dedicated by law or necessary intendment.

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

**"magistrate"** means a Chief Magistrate or a magistrate appointed under the Magistrates' Courts Law;

**"minor"** means the same thing as a child or young person.

**"offence"** means an offence against any Law or Act including any regulation, order, rule or proclamation made under any Law or Act;

**"officer in charge of a police station"** includes the officer in charge of a police station or any police officer who acts in the absence of the officer-in-charge.

**"open court"** means any room or place in which any court shall be sitting to hear and determine any matters within its jurisdiction and to which the public may have access;

**"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;

**"police officer"** includes any member of the police force established by the Police Act;

**"prescribed"** means prescribed by rules made under the authority of this Law;

**"registrar"** includes the Chief Registrar and a registrar of the High Court and of a Magistrate's Court;

**"rules"** or **"rules of court"** means any rules of court relating to the practice and procedure of the High Court or of the Magistrates' Courts in the exercise of their criminal jurisdiction;

**“sentenced to imprisonment”** shall include a case where imprisonment 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 Act and includes a deputy sheriff and any person authorized by the sheriff or a deputy sheriff to execute process of court;

**“summary conviction offence”** means any offence punishable by a High Court or magistrates’ court on summary conviction, and includes any matter in respect of which a High Court or Magistrates’ 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) any magistrate when sitting in open court to hear and determine any matters within his jurisdiction either under the provisions of this Law or any other written law;

**“summary trial”** means any trial by a magistrate and a trial by a judge not on information;

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

**“the State”** means Anambra State, and **“a State”** means any other State of the Federation or the Federal Capital Territory;

**“young person”** means a person who has not attained the age of eighteen years.

**Application** 3. The general provisions of this Law shall apply to criminal trials and other criminal proceedings in the High Court and Magistrates’ Courts except when express provision is made in this Law or in any Law in respect of any particular court or form of trial.

**Saving of other forms and procedure** 4. Nothing in this Law shall affect the use or validity of any special forms in respect of any procedure or offence specified under the provisions of any other written law or the validity of any other procedure provided by any other written law.

**Construction of provisions relating class to punishments** 5. The provisions of Chapters 25 and 26 shall apply subject to the provisions of any written law relating to any specific offence or of offences and to the jurisdiction conferred on any court or any person presiding over such court.



*Inter-State service of process* 6. Nothing in this Law shall be construed to authorize:-

- (a) the service outside the State of a summons to enforce the appearance before a court of a defendant, surety, or parent of a defendant;
- (b) the service outside the State of a subpoena, summons or notice of hearing to compel the attendance of a witness before a court;
- (c) the execution outside the State of a warrant for the arrest of any person or of a search warrant;
- (d) the issue of an order to compel the production of any person confined in a prison outside the State;
- (e) the execution outside the State of a warrant of distress; or
- (f) the execution outside the State of a warrant of committal issued in accordance with section 372 of this Law.



**CHAPTER 2: ARREST**

- Arrest how made** 7. In making an arrest, the police officer or other person making the arrest shall touch or confine the body of the person to be arrested, unless there is a submission to the custody by word or action.
- No unnecessary Restraint.** 8. A person arrested shall not be handcuffed, otherwise bound or be subjected to unnecessary restraint except by order of the court, a magistrate or justice of peace or unless there is reasonable apprehension of violence or of an attempt to escape or unless the restraint is considered necessary for the safety of the person arrested.
- Notification of cause of arrest and rights of the arrested person** 9. (1) Except when the person arrested is in the actual course of the commission of a crime or is pursued immediately after the commission of a crime or escape from lawful custody, the police officer or other person making the arrest shall inform the person arrested of the cause of the arrest.
- (2) Any person arrested shall be accorded humane treatment, having regard to his right to the dignity of his person.
- (3) No arrested person shall be subjected to any form of torture, inhuman and degrading treatment.
- (4) No person shall be arbitrarily arrested, or arrested on allegation that borders on civil breach of contract, but the arrest shall be based on reasonable suspicion that the person arrested committed or is about to commit a criminal activity punishable as an offence under any law.
- (5) Nothing in this Section and in this Law shall be construed as permitting a police officer, private person or officer of an agency to arrest a person by reason only of consanguinity or affinity or association with the person alleged to have committed an offence.
- Search of arrested person.** 10. (1) Whenever a person is arrested by a police officer or a private person, the police officer making the arrest or to whom the private person hands over the person arrested may search the person, using such force as may be reasonably necessary for such purpose, and place in safe custody all articles other than necessary wearing apparel found upon him;

Provided that whenever the person arrested is admitted to bail and bail is furnished, such person shall not, subject to the provisions of subsection (6) be searched unless there is reasonable ground for believing that he has about his person, any:-

- (a) stolen articles; or
- (b) instruments 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 with regard to the offence which he is alleged to have committed.
- (2) Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman.
- (3) Notwithstanding the other provisions of this Section, any police officer or other person making an arrest may in any case take from the person arrested any offensive weapons which he has on his person.
- (4) Where any property has been taken under this Section from a person charged before a court of competent jurisdiction with any offence, a report shall be made by the police to such court of the fact of such property having been taken from the person charged and of the particulars of such property, and the court shall, if of the opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the person charged, direct such property or any portion thereof to be returned to the person charged or to such other person as he may direct.
- (5) Where any property has been taken from a person under this section, and the person is not charged before a court but is released on the ground that there is no sufficient reason to believe that he has committed any offence, any property so taken from him shall be restored to him.
- (6) When a person is in lawful custody upon a charge of committing any offence of such nature and alleged to 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 it shall be lawful for a qualified medical practitioner, acting at the request of a police officer, or if no such practitioner is procurable, then for such police officer, and for any person acting in good faith in aid and under the direction of such practitioner or police officer, as the case may be, to make such an examination of the person in custody as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

**Search of place 11.  
entered by person  
sought to be arrested**

- (1) If any person or police officer acting under a warrant of arrest or otherwise having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any place, the person residing in or being in charge of such place shall, on demand of such person acting as aforesaid or such police officer, allow him free ingress thereto and afford all reasonable facilities to search therein for the person sought to be arrested.

- (2) If ingress to such place cannot be obtained under subsection (1) of this Section, any such person or police officer may enter such place and search therein for the person to be arrested, and in order to effect an entrance into such 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 otherwise obtain admittance.

**Power to break  
out of any house  
purpose  
of liberation**

12. Any police officer or other person authorized to make an arrest may break out of any house or place in order to liberate himself or any other for person who, having lawfully entered for the purpose of making an arrest, is detained therein.

**Arrested person 13.  
to be taken at  
once to police station**

- (1) Any person who is arrested, whether with or without a warrant, shall be taken with all reasonable despatch to a police station other place for the reception of arrested persons, and shall without delay be informed of the charge against him. Any such person while in custody shall be given reasonable facilities for obtaining legal advice, taking steps to furnish bail, and otherwise making arrangements for his defence or release.
- (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 thereof 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 private legal practitioner or any other person of his choice.
- (3) The legal practitioner or any other person referred to in subsection (2) shall also endorse with his full particulars, the confessional statement as having witnessed the recording thereof.

**Arrest by police 14.  
officer without warrant**

- (1) Any police officer may, without an order from a magistrate and without a warrant, arrest :-
- (a) any person whom he suspects upon reasonable grounds of having committed an indictable offence against a Federal Law or against the Law of the State, unless the written law creating the offence provides that the offender cannot be arrested without a warrant;
  - (b) any person who commits any offence in his presence;
  - (c) any person who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody;

- (d) any person 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 such thing;
- (e) any person whom he suspects upon reasonable grounds of being a deserter from any of the armed forces of Nigeria;
- (f) any person whom he suspects upon reasonable grounds of having been concerned in any act committed at any place out of Nigeria which, if committed in Nigeria, would have been punishable as an offence, and for which he is, under any enactment in force in Nigeria, liable to be apprehended and detained in Nigeria;
- (g) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house breaking;
- (h) any person for whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in the State;
- (i) any person who has no ostensible means of subsistence and who cannot give a satisfactory account of himself; and
- (j) any person 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 which is a felony or misdemeanor.

**Refusal to give 15.  
name and residence.**

- (1) When any person who in the presence of a police officer has committed or has been accused of committing a non-indictable offence refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.
- (2) When the true name and residence of such person has been ascertained he shall be released on his executing a recognizance, with or without sureties, to appear before a magistrate if so required;  
Provided that if such person is not resident in Anambra State the recognizance shall be secured by a surety or sureties resident in Anambra State.
- (3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the recognizance, or, if so required to furnish sufficient sureties, he shall forthwith be forwarded to the nearest magistrate having jurisdiction.

**Arrest by private persons.** 16. Any private person may arrest any person in the State who in his presence commits an indictable offence, or whom he reasonably suspects of having committed an offence which is a felony or having committed by night an offence which is a misdemeanor.

**Arrest by owners of property** 17. (1) A person found committing any offence involving damage to property may be arrested without a warrant by the owner of the property or his servants or persons authorised by him.  
(2) A private person may arrest any person found damaging public property.

**Handing over of person by private person arrested** 18. (1) Any private person arresting any other person without a warrant shall without unnecessary delay hand over the person so arrested to a police officer, or in the absence of a police officer shall take such person to the nearest police station.  
(2) If there is reason to believe that such person comes under the provisions of subsection 14(1) of this Law, a police officer shall re-arrest him.  
(3) If there is reason to believe that he has committed an indictable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 11 of this Law; and if there is no sufficient reason to believe that he has committed any offence he shall be at once released.  
(4) Where a person so arrested by a private person is handed over to a police officer or to an official of any agency authorized by law to make arrests, such police officer or official shall take note of the names, residence and other particulars of the private person making the arrest, and the date, time and other circumstances of the arrest, and where the person arrested is taken to the police station or to such agency the charge room officer shall make such 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) If there is sufficient reason to believe that the person handed over has committed any offence, he shall at once be re-arrested.



**Offence committed 19.  
in presence of a  
Judge or Magistrate**

When any offence is committed in the presence of a judge or magistrate, the judge or magistrate may himself arrest or order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

**Arrest by a Judge 20.  
or Magistrate**

(1) A judge or magistrate may arrest or direct the arrest in his presence of any person whose arrest upon 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 the provisions of either section 19 or 20 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 such last named person had been brought before him by or under the directions of any other person.

**General authority 21.  
to issue warrant  
without**

Where under any written law, whether passed before or after the commencement of this Law, there is power to arrest a person without a warrant, a warrant for his arrest may be issued.

**Form and content 22.  
of warrant of arrest**

(1) Every warrant of arrest issued under this Law or, unless the contrary is expressly provided, under any other written law shall bear the date of the day of issue, shall contain all necessary particulars and shall be signed by the judge or magistrate by whom it is issued.

(2) Every such 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 apprehend such person and bring him before the court to answer the complaint or statement, or to testify or otherwise according to the circumstances of the case, and to be further dealt with according to law.

**Warrant issued 23.  
on complaint to  
be in writing on oath**

No warrant of arrest shall be issued in the first instance in respect of any complaint or statement unless such complaint or statement is on oath either by the complainant himself or by a material witness.

**Warrant may 24.  
be issued on any day**

A warrant of arrest may be issued on any day including a Sunday or public holiday.

**Warrant to 25.  
whom directed  
and duration**

(1) A warrant of arrest may be directed to a police officer by name or to all police officers.

(2) It shall not be necessary to make any such warrant returnable at any particular time and a warrant shall remain in force until it is executed or until it is cancelled by a Judge or Magistrate, as the case may be.

(3) Where a warrant has been executed and the person arrested has been released the warrant shall no more be valid for re-arresting the person.

*Warrant of arrest may in exceptional cases be directed to other persons*

26.

(1) Any court issuing a warrant of arrest may, if its immediate execution is necessary and no police officer is immediately available, direct it to some other person or persons and such person or persons shall execute the same.

(2) Any such person, when executing a warrant of arrest directed to him, shall have all 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 such a police officer.

*Procedure for execution of warrants*

27.

(1) Every warrant of arrest may be executed on any day including a Sunday or public holiday.

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

(3) The person executing any such warrant 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 such information on the ground that it is likely to occasion escape, resistance or rescue.

(4) Every person arrested on any such warrant shall, subject to the provisions of sections 29 and 30 be brought before the court which issued the warrant as soon as practicable after he is so arrested.

*Power to arrest on warrant but without the warrant.*

28.

A warrant of arrest may be executed notwithstanding that it is not in the possession at the time of the person executing the warrant but the warrant shall, on the demand of the person arrested, be shown to him as soon as practicable after his arrest.

*Court may direct particulars of security to be taken on execution of warrant.*

29.

(1) Any court, on issuing a warrant for the arrest of any person in respect of any matter other than an offence punishable with death, may if it thinks fit by endorsement on the warrant, direct that the person named in the warrant be released on arrest on his entering into such a recognizance for his appearance as may be required in the endorsement.



- (2) The endorsement shall specify:-
  - (a) the number of sureties, if any;
  - (b) the amount in which they and the person named in the warrant are respectively to be bound, or to provide cash security;
  - (c) the court before which the person arrested is to attend; and
  - (d) the time at which he 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 such an endorsement is made, the officer in charge of any police station to which on arrest the person named in the warrant is brought, shall discharge him upon 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) The provisions of subsections (3) and (4) of this Section shall not have effect with respect to a warrant executed outside Anambra State.

**Procedure on  
arrest of persons outside  
Division or District of  
Court issuing warrant**

30.

- (1) Where a warrant of arrest is executed in Anambra State outside the division or district of the court by which it was issued, the person arrested shall, unless security is taken under section 29, be taken before the court within the division or district in which the arrest was made.
- (2) Such court shall if the person arrested, upon such inquiry as the court deems necessary, appears to be the person intended to be arrested by the court which issued the warrant, direct his removal in custody to such court:  
Provided that if such person has been arrested in respect of any matter other than an offence punishable with death:-
  - (a) and is ready and willing to give bail to the satisfaction of the court within the division or district of which he was arrested; or
  - (b) if a direction had been endorsed under section 29 on the warrant and such person is ready and willing to give the security required by such direction;

- (c) 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.

*Re-arrest of  
person escaping*

31. If a person in lawful custody escapes or is rescued, the person from whose custody he escapes or is rescued or any other person may pursue and arrest him.

*Provisions of  
sections 11 and 12  
to apply to arrests  
under section 25.*

32. The provisions of sections 11 and 12 of this Law shall apply to arrest under the last preceding section, although the person making any such arrest is not acting under a warrant and is not a Police officer having authority to arrest.

*Assistance to Judge,  
Magistrate or Police  
Officer*

33. Every person is bound to assist a judge, magistrate, police officer or any other person reasonably demanding his assistance in the:-  
(a) arresting or preventing the escape of any other person whom the judge, magistrate, police officer or such other person is authorized to arrest;  
(b) prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed on any person or any property.

*Arrest on breach  
of recognizance for  
appearance.*

34. Where any person who is bound by any recognizance entered into under this Law to appear before the court does not so appear, the Officer presiding in such court may issue a warrant directing that such person be arrested and brought before him.

### CHAPTER 3: SEARCH WARRANTS

#### *Issue and Execution*

*Cases in which 35.  
search warrants may  
be issued and application  
search warrant*

- (1) Where a court or justice of the peace is satisfied by information upon oath and in writing that there is reasonable ground for believing that there is in Anambra State in any building, ship, for carriage, receptacle, motor vehicle, aircraft or place:-
  - (a) anything upon or in respect of which any offence has been or is suspected to have been committed; or
  - (b) anything which there is reasonable ground for believing will afford evidence as to the commission of any offence; or
  - (c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence, the court or justice of the peace may at any time issue a warrant, called a search warrant, authorizing an officer of the court, member of the police force, or other person therein named:-
    - (i) to search such building, ship, carriage, receptacle, motor vehicle, aircraft or place for any such thing, and to seize and carry such thing before the court or justice of the peace issuing the search warrant or some other court to be dealt according to law; and
    - (ii) to arrest the occupier of the house or place where the thing was found if the magistrate thinks fit so to direct on the warrant.
- (2) In this Section and section 36 of this Law, "offence" includes an offence against a law of any other State of Nigeria which would be punishable in Anambra State if it had been therein committed.

*Discharge of 36.  
suspected persons*

If the occupier of any building or the person in whose possession any thing named in a search warrant is found, is brought before a court and complaint is not made that he has committed an offence, he shall forthwith be discharged by such court.

*Search warrant to 37.  
be signed by the court  
or Justice of the Peace*

- (1) Every search warrant shall be under the hand of the court or justice of the peace issuing the same.

*Duration.*

- (2) Every search warrant shall remain in force until it is executed or until it is cancelled by the court or justice of the peace that issued it.

*Search warrant 38.  
to whom directed*

A search warrant may be directed to one or more persons and when directed to more than one it may be executed by all or by any one or more of them.

*Time when search may be issued and executed* 39. (1) A search warrant may be issued and executed on any day *warrant* including a Sunday or public holiday. It shall be executed between the hours of five o'clock in the forenoon and eight o'clock at night but the court or justice of the peace may, in its/his discretion, authorize by the warrant the execution of the warrant at any hour.

- (2) Where a court or justice of the peace authorises the execution of a search warrant at any hour other than between the hours of five o'clock in the forenoon and eight o'clock at night such authorization may be contained in the warrant at the time of issue or may be endorsed thereon by any court or justice of the peace at any time thereafter prior to its execution.

*Person in charge of closed place to allow access* 40. (1) Whenever any building or other thing or place liable to search is *of* closed, any person residing in or being in charge of such building, thing or place shall, on demand of the police officer or other person executing the search warrant, allow him free access and afford all reasonable facilities for a search therein.

- (2) If access into such 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 and 12 of this Law.

- (3) When any person in or about such building, thing or place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If the person to be searched is a woman she shall if practicable be searched by another woman and may be taken to a police station for that purpose.

- (4) Unless the court or justice of the peace otherwise directs, searches under this part shall be made in the presence of the person to whom the search warrant is addressed and whom may also provide a witness.

- (5) A list of all items found on the person searched and seized shall be drawn up by the person carrying out the search and shall be signed by the person to whom the search warrant is addressed, the person executing the search warrant and the witnesses, if any. A copy of the list shall be delivered to the person searched, if he so demands.

*Detention of articles recovered* 41. (1) When upon the execution of a search warrant anything referred to in section 35 of this Law is recovered and brought before any court, the court may detain or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the trial and if an information is preferred against any person after the preparation of the proofs of evidence, or if any appeal is made, the court may order

it to be further detained in such manner and place and by such person as the court may direct for the purpose of the trial or pending the hearing of the appeal.

- (2) If no information is preferred against any person after preparation of proofs of evidence or no appeal is made, the court shall, except in the cases hereinafter mentioned, unless it is authorized or required by law to dispose of it, otherwise direct:-

- (a) that the property or a part thereof be restored to the person who appears to the court to be entitled thereto, and if he be the person charged, that it be restored either to him or to such other person as the person charged may direct; or
- (b) that the property or a part thereof be applied to the payment of any costs or compensation directed to be paid by the person charged.

*Perishable articles may be disposed of by court.* 42. Where anything recovered under a search warrant and brought before a court is of a perishable or noxious nature such thing may be disposed of forthwith in such manner as the court may direct.

*Search for and disposal of gunpowder, etc.* 43. If the thing to be searched for under a search warrant is gunpowder, arms, ammunition, explosives or dangerous or noxious substance or thing, the person making the search shall have the powers and protection as are given by any written law for the time being in force to any person lawfully authorized to search for any such thing, and the thing itself shall be disposed of in the same manner as directed by any such written law, or, in default of such direction, as the court may either generally or in any particular instance order.

*Destruction and disposal of forged banknote and coin.* 44. If, in consequence of the execution of a search warrant, there is brought before any court any forged banknote, banknote paper, counterfeit coin, instrument, or other thing, used for forgery or counterfeiting, the possession of which, in the absence of lawful excuse, is an indictable offence according to any enactment for the time being in force, the magistrate or the judge may cause such thing to be defaced or destroyed.

*Transmission to of another State.* 45. Where a search warrant is issued in respect of an offence against the court law of any other State of Nigeria and a summons has been issued for that offence, or any person has been charged with that offence before a court of that State, the court issuing the search warrant may unless it has disposed of the thing in accordance with section 42, transmit anything recovered and brought before it to that court and in relation to anything so transmitted the functions conferred upon a court by section 41, 42, and 44 of this Law shall be exercised and performed by that court instead of the court that issued the search warrant.



#### CHAPTER 4. – PREVENTION OF OFFENCES

*Police to prevent offences and prevent damage to public property.*

46. (1) Every police officer may intervene for the purpose of preventing, and shall to the best of his ability prevent, the commission of any offence.
- (2) A police officer may of his own authority intervene to prevent any damage attempted to be committed in his view to any public property, movable or immovable, or the removal of or any damage to any public landmark or buoy or other mark used for navigation.

*Information of a plan to commit an offence.*

47. Every police officer receiving information of a plan to commit any offence shall communicate such 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 any such offence.

*Arrest to prevent commission of an offence.*

48. Notwithstanding the provisions of this or any other written law relating to arrest, a police officer knowing of a plan to commit any offence may arrest, without orders from a judge or magistrate and without a warrant, the person so planning, if it appears to such officer that the commission of the offence cannot otherwise be prevented.

*Power to make regulations.*

49. The Commissioner of Police or Controller of Prisons may make regulations for all or any of the following purposes:-

charge  
photographing

- (a) providing for the registration and photographing of suspects and persons detained by the police or in custody awaiting trial, and the manner, form, and places in which registers of suspects and such other persons shall be kept;
- (b) prescribing the duties of officers of police or officers in of prisons in connection with the registration and of convicts, suspects and persons detained or in custody awaiting trial;
- (c) providing for the taking by any authorized person of the fingerprints of convicts, suspects and persons charged with or being suspected of having committed any felony, misdemeanor, or other offence punishable by imprisonment for one month or more and for the taking of the fingerprints for comparison, of any person reasonably suspected of having made a finger impression on any document or object likely to become an exhibit in a criminal case;
- (d) generally for the purpose of giving effect to the objects and purposes of this Law.

*Power of magistrate to require execution of recognizance for keeping the peace.*

50. (1) Whenever a magistrate is informed on oath that any person is likely to commit a breach of peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, the magistrate may in the manner hereinafter

provided, require such 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 thinks fit.

- (2) Proceedings shall not be taken under this Section unless:-
- (a) the person informed against is in Anambra State;
  - (b) and such person is within the district to which the magistrate is assigned or the place where the breach of the peace or disturbance is apprehended is within the district to which the magistrate is assigned.

*Security for good  
behaviour for suspected  
persons.*

51. Whenever a magistrate is informed on oath that any person is taking precautions to conceal his presence within the local limits of such magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, such magistrate may in the manner hereinafter provided, 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 one year, as the magistrate thinks fit.

*Security for good  
the behaviour for habitual  
offenders.*

52. Whenever a magistrate is informed on oath that any person within local limits of his jurisdiction:-
- (a) is by habit a robber, housebreaker, or thief; or
  - (b) is by habit a receiver of stolen property, knowing the same to have been stolen; or
  - (c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property; or
  - (d) habitually commits or attempts to commit, or aids or abets in the commission of any offence punishable under chapter 33, 34, 35 or 40 of the Criminal Code; or
  - (e) habitually commits or attempts to commit or aids or abets in the commission of offences involving a breach of the peace; or
  - (f) is so desperate or dangerous as to render his being at large without security hazardous to the community; such magistrate may, in the manner hereinafter provided, 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 three years as the magistrate thinks fit.

*Order to be  
Made.*

53. When a magistrate acting under sections 50, 51, or 52 deems it necessary to require any person to show cause under such section, he shall make an order in writing setting forth:-
- (a) the substance of the information received;
  - (b) the amount of recognizance to be executed;
  - (c) the term for which it is to be enforced; and
  - (d) the number, character and class of sureties required, if any.



**Procedure in respect of person present in court.** 54. If the person in respect of whom such order is made is present in court, it shall be read over to him, or if he so desires, the substance thereof shall be explained to him.

**Summons or warrant in case of a person not so present.** 55. If such person is not present in court, the magistrate shall issue a summons requiring him to appear, or when such person is in custody, warrant directing the officer in whose custody he is to bring him before the court:

Provided that whenever it appears to such magistrate, upon the report of a police officer or upon 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 such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the magistrate may at any time issue a warrant for his arrest.

**Copy of order under section 53 to accompany summons or warrant.** 56. Every summons or warrant issued under the last preceding section shall be accompanied by a copy of the order under section 53, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

**Power to dispense with personal attendance.** 57. The magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to enter into recognizance for keeping the peace, and may permit him to appear by a legal practitioner.

**Inquiry as to truth of information.** 58. (1) When an order under section 53 has been read or explained under section 54 to a person in court or when any person appears or is brought before a magistrate in compliance with or in execution of a summons or warrant issued under section 55, 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) Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in trials before Magistrates' Courts.

(3) Pending the completion of the inquiry under subsection (1), the magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility or 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 53 has been made to enter into

recognizance, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such recognizance is entered into or, in default of execution, until the inquiry is concluded:

Provided that:-

- (a) no person against whom proceedings are being taken under section 50 shall be directed to enter into a recognizance for maintaining good behaviour; and
  - (b) the conditions of such recognizance, whether as to the amount thereof or as to the provisions of sureties or the number thereof or the pecuniary extent of their liability shall not be onerous than those specified in the order under section 53; and
  - (c) no person shall be remanded in custody under the powers conferred by this section for a period exceeding fifteen days at a time.
- (4) For the purposes of this section the fact that a person comes within the provisions of section 52 may be proved by evidence of general repute or otherwise.
- (5) 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 thinks fit.

*Order to give security.*

59.

- (1) If upon such inquiry it is proved that it is necessary for keeping the peace or 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:

Provided that:-

- (a) no person shall 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 53;
  - (b) the amount of every recognizance shall be fixed with due regard to the circumstances of the case and shall not be excessive;
  - (c) when the person in respect of whom the inquiry is made is a minor, the recognizance shall be entered into as provided in section 76.
- (2) Any person ordered to give security for good behaviour under this section may appeal to the High Court whose decision shall be final.

*Discharge of person informed against.*

60.

- If on an inquiry under section 58 of this Law, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should enter into a recognizance, the magistrate shall make

an entry on record to that effect, and, if such person is in custody only for the purpose of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

*Commencement of period for which security is required.*

61. (1) If any person in respect of whom an order requiring security is made under section 59 of this Law is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.
- (2) In other cases such period shall commence on the date of such order unless the magistrate, for sufficient reason, fixes a later date.

*Conditions of recognizance.*

62. The recognizance to be entered into by such person shall bind him to keep the peace or be of good behaviour, as the case may be, and in the later case the commission or attempt to commit or the aiding, abetting, counseling, or procuring the commission anywhere within the State at any time during the continuance of the recognizance of any offence punishable with imprisonment, wherever it may be committed, shall be a breach of the recognizance.

*Power to reject the sureties. by the*

63. A magistrate may refuse to accept any surety offered under any of preceding sections on the ground that, for reasons to be recorded magistrate, such surety is an unfit person.

*Procedure on give failure of person to give security.*

64. (1) If any person ordered to give security as aforesaid does not such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case mentioned in subsection (2) of this section, be committed to prison, or if he is already in prison, be detained in prison until such period expires or until within such period he gives the security to the court or magistrate who made the order requiring it.
- (2) When such person has been ordered by a magistrate to give security for a period exceeding one year, such magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the High Court, and the proceedings shall be laid as soon as possible before such court.
- (3) The High Court, after examining such proceedings and requiring from the magistrate any further information or evidence which it thinks necessary, may make such order in the case as it thinks fit.

(4) The period, if any, for which any person is imprisoned for failure to give security in any specified amount shall not exceed the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 365 of this Law.

(5) If the security is tendered to the officer in charge of the prison, he shall forthwith refer the matter to the court or magistrate who made the order and shall await the order of such court or magistrate.

*Power to release persons imprisoned for failure to give security by High Court.*

65. Whenever a magistrate is of opinion that any person imprisoned for failing to give security may be released without hazard to the community, such magistrate shall make an immediate report of the case for the order of the High Court, and such court may, if it thinks fit, order such person to be discharged.

*Power of High Court to cancel recognizance.*

66. The High Court may at any time, for sufficient reasons to be recorded in writing, cancel any recognizance for keeping the peace or for good behaviour executed under any of the preceding sections by order of any court.

*Discharge of sureties.*

67. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a magistrate to discharge any recognizance executed under any of the proceeding sections within the district to which the magistrate is assigned.

(2) On such application being made, the magistrate shall if satisfied that there is good reason for the application issue a summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

(3) When such person appears or is brought before the magistrate, such magistrate after hearing such person may discharge the recognizance and in such event order such person to give, for the unexpired portion of the term of such recognizance, fresh security of the same description as the original security. Every such order shall for the purposes of Section 62, 63, 64 and 65 be deemed to be an order under section 39 of this Law.

## CHAPTER 5: BAIL AND RECOGNIZANCES

*Release on bail of  
a person arrested  
without warrant..*

68. (1) When a person has been taken into police custody without a warrant for an offence other than an offence punishable with death, an officer in charge of a police station may release the person arrested on bail subject to subsection 2 of this Section, if it will not be practicable to bring the person before a court having jurisdiction with respect to the offence alleged within 24 hours after the arrest.
- (2) The officer in charge of a police station may release the person arrested on bail upon entering into a recognizance with or without surety 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 police officer shall bring the person arrested before a court having jurisdiction with respect to the offence or empowered to deal with such person within a reasonable time

*Remedy of a  
detained person and  
power of court to  
release him on bail.*

69. (1) Where a person taken into custody is not released on bail, a court having jurisdiction with respect to the offence may be notified by an 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.

*Discharge of person  
for an for want of evidence.*

70. When any person has been taken into custody without a warrant, offence other than an offence punishable with death, the officer incharge of the police station or other place for the reception of arrested persons to which such person is brought, if after the inquiry is completed he is satisfied that there is no sufficient reason to believe that the person has committed any offence, shall forthwith release such person.

*Police to report  
to the arrest and detention.*

71. Officers in charge of police stations shall make a quarterly report nearest magistrate the cases of all persons arrested without warrant within the limits of their respective stations whether such persons have been admitted to bail or not. The magistrate shall notify the chief registrar of the High Court of such report who shall forward the same to the Chief Judge for necessary actions.



*Court may direct particulars of security to be taken on execution of warrant.*

72. (1) Any court, on issuing a warrant for the arrest of any person in respect of any matter other than an offence punishable with death, may if it thinks fit, by endorsement on the warrant, direct that the person named in the warrant be released on arrest on his entering into such a recognizance for his appearance as may be required in the endorsement.
- (2) The endorsement shall specify:-  
(a) the number of sureties, if any;  
(b) the amount in which they and the person named in the warrant are respectively to be bound;  
(c) the court before which the person arrested is to attend; and  
(e) the time at which he 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 such an endorsement is made, the officer in charge of any police station to which on arrest the person named in the warrant is brought, shall discharge him upon his entering into a recognizance, with or without sureties approved by that officer, in accordance with the endorsement stipulating the condition 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) The provisions of subsections (3) and (4) shall not have effect with respect to a warrant executed outside Anambra State.

*When bail may be granted by High Court only.*

73. (1) A person charged with any offence punishable with death shall not be admitted to bail, except by a judge of the High

*When discretionary.*

- (2) Where a person is charged with any felony other than a felony punishable with death, the court may, if it thinks fit, admit him to bail.

*When to be ordinarily granted.*

- (3) When a person is charged with any offence other than those referred to in the two last preceding subsections, the court shall admit him to bail, unless it sees good reason to the contrary.

- |   |     |  |
|---|-----|--|
| <i>Bail in respect of matters other than offences.</i>    | 74. | Where any person is brought before a court on any process in respect of any matter not included within section 73, such person may in the discretion of the court be released upon his entering into a recognizance stipulating the condition for his appearance before such court.  |
| <i>Security for bail.</i>                                 | 75. | The security for bail in any case shall be at the discretion of the court having regard to the circumstances of the case and shall not be excessive.   |
| <i>Recognizance in respect of minors.</i>                 | 76. | Where in any case the person in respect of whom the court makes an order requiring that a recognizance be entered into is a minor, the minor 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 minor shall do what is required under the court's order.   |
| <i>Sureties.</i>  | 77. | <p>(1) A defendant admitted to bail may be required to produce surety or sureties, as in the opinion of the court admitting him to bail, will be sufficient to ensure his appearance as and when required and shall with him or them enter into a recognizance accordingly.</p> <p>(2) The court shall make direction and impose conditions it deems necessary to ensure that the identity, residence and status of the surety is properly verified.</p> <p>(3) No person shall be denied or prevented from entering into any recognizance or standing as a surety or providing any security on the ground that the person is a woman.</p> |
| <i>Admission to bail after its refusal.</i>               | 78. | A judge of the High Court may, if he thinks fit, admit any person charged before a lower court in Anambra State subject to the jurisdiction of the High Court to bail although the court before which the charge is made has not thought fit to do so.   |
| <i>Notice of right to apply for bail.</i>                 | 79. | An application by or on behalf of a defendant to a judge of the High Court for bail in any case where a lower court has refused bail to the defendant or where the offence is not bailable by a lower court, shall be made by a motion on notice to the prosecution.   |
| <i>Judge may vary bail fixed by magistrate or police.</i> | 80. | Notwithstanding the provisions of sections 74 and 75, a judge of the High Court may in any case direct that any person in custody in Anambra State be admitted to bail or that the bail required by a magistrates' court or police officer be reviewed.  |
| <i>Before whom recognizance may be executed.</i>          | 81. | When in respect of any recognizance the court has fixed the amount in which the sureties, if any, are to be bound, the   |

recognizance need not be entered before the said court, but may be entered into by the parties before any other court, or before any registrar, or before any superior officer of police or officer in charge of a police station, or where any of the parties is in a government prison before the superintendent or other person in charge of such prison, and thereupon all the consequences of law shall ensue and the provisions of this Law with respect to recognizance before a court shall apply as if the recognizance had been entered into before the said court.

*Mode of entering  
into recognizance*

82. Where as a condition for the release of any person he is required to enter into a recognizance with sureties, the recognizance of the sureties may be taken separately and either before or after the recognizance of the principal, and if so taken the recognizance of the principal and sureties shall be as binding as if they had been taken together and at the same time.

*Conditional bail.*

83. Where a person is released on bail, the recognizance may 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, without prejudice, however, to the power of the court to vary the order at any subsequent hearing.

*Discharge from  
the custody.*

84. (1) Where the entering into of a recognizance is a condition of release of any person, that person shall be released as soon as the recognizance has been entered into and if he is in prison or police custody, the court shall issue an order of release to the officer in charge of the prison or other place of detention and such officer on receipt of the order shall release him.
- (2) Nothing in this section or in any other section relating to bail shall be deemed to require the release of any person 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.

*Person bound  
by recognizance  
absconding may be  
committed to prison.*

85. If it is made to appear to any court by information on oath by a complainant, surety or other person that any person bound by recognizance to appear before any court or police officer is about to leave Anambra State or, for the purpose of evading justice, is about to leave 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 deems it fit to admit him to bail upon further recognizance.

*Reconsideration*

86. Where a defendant has been admitted to bail and circumstances

*of amount of bail on  
application by law  
officer or police.*

arise which, if the defendant had not been admitted to bail would, in the opinion of a law officer or police officer, justify the court in refusing bail or in requiring bail of greater amount, a judge or magistrate, as the case may be, may on the circumstances being brought to his notice by a law officer or police officer, issue a warrant for arrest of the defendant and, after giving the defendant an opportunity of being heard may either commit him to prison to await trial or admit him to bail for the same or an increased amount as the judge or magistrate may think just.

*Power to revoke  
or require higher bail.*

87. (1) When a defendant who has been admitted to bail by a magistrate is indicted by a law officer for an offence which is not bailable by a magistrate, the magistrate shall, on being informed of the fact by any superior police officer, issue a warrant for the arrest of the defendant and commit him to prison.
- (2) For the purposes of this section, a person shall be deemed to be indicted when the information against him has been filed in the High Court.

*Variation of a  
recognizance if surety  
unsuitable.*

88. If at any time after a recognizance has been entered into, it appears to the court that for any reason the surety or sureties are unsuitable, such court may issue a summons or warrant for the appearance of the principal, and upon his coming to the court may order him to execute a fresh recognizance with other surety or sureties, as the case may be.

*Discharge of  
sureties for  
appearances of another.*

89. (1) Any surety for the appearance of a person may at any time apply to the court to discharge the recognizance either wholly or so far as it applies to the applicant.
- (2) On such application being made the court shall issue a warrant of arrest directing that the principal to the recognizance be brought before the court.
- (3) On the appearance of such principal pursuant to the warrant, or on his voluntary surrender, the court shall direct the recognizance to be discharged either wholly or so far as it relates to the applicant or applicants and shall call upon the person previously bound to find other sufficient surety or sureties and enter into a fresh recognizance and if he fails to do so may deal with him in the same manner as if he were a person who has failed to comply with an order to enter into a recognizance, with or without sureties, as the case may be.

*Order of fresh  
security upon  
original order.*

90. When any surety to a recognizance becomes insolvent, insane or dies, or when any recognizance is forfeited under the provisions of section 92, the court may order the person from whom such recognizance was demanded to furnish fresh security in accordance with the directions of the original order and, if such security is not furnished, such court may proceed as if there has been default in complying with such original order.

*Death of surety.*

91. Where a surety to a recognizance dies before the recognizance is forfeited, his estate shall be discharged from all liability in respect of the recognizance.

*Forfeiture of  
recognizance.*

92. (1) Where it is proved to the satisfaction of a court that a recognizance entered into under the provisions of this Law has been forfeited, the court shall record the grounds of such proofs and may call upon any person bound by the recognizance 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 same from any person bound or from his estate if he is dead in the manner laid down by law.
- (3) A surety's estate shall only be liable under this section if the surety dies after the recognizance is forfeited.
- (4) If the penalty is not paid and cannot be recovered in any manner as provided by law, the person bound shall be liable to imprisonment for a term not exceeding six months.

*Mitigation of  
forfeiture.*

93. The court may at any time cancel or mitigate the forfeiture, upon the 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 upon such other conditions as the court may think just.

*Forfeiture on  
conviction.*

94. Where a recognizance to keep the peace and to be of good behaviour or not to do or commit some act or thing has been entered into by any person as principal or as surety before a court, a court may, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is by law a breach of the condition of same, by order, adjudge such recognizance to be forfeited and adjudge the persons bound thereby, whether as principal or as sureties, or any of such persons to pay the sums for which they are respectively bound.

*Evidence of  
conviction.*

95. A certified true copy of the judgment of the court by which such person was convicted of such offence may be used as evidence in



proceedings under section 94 and, if such certified copy is used, the court shall presume such offence was committed by such person until the contrary is proved.

*Where recognizance  
forfeited warrant  
may issue.*

96. Where any recognizance is declared or adjudged to be forfeited, the court having jurisdiction over the matter of the complaint may, forthwith or at any time after such declaration, issue a warrant of commitment against any person liable, whether as principal or surety under such recognizance, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 365 with or without labour, unless the amount due under such recognizance is paid.

*Payment on  
or recognizance*

97. All sums paid or recovered in respect of any recognizance declared or adjudged by a court in pursuance of section 96 to be forfeited shall be paid to the appropriate officer of the court.

*Appeal*

.98. Any other forfeiture made under sections 92 or 94 shall be subject to appeal in the case of magistrate's order to the High Court and in the case of a judge's order to the Court of Appeal.

## CHAPTER 6 : ENFORCING APPEARANCE IN COURT OF DEFENDANT AND WITNESSES.

- |  |      |   |
|--|------|---|
| <i>General authority to bring persons before courts.</i>       | 99.  | Every court has authority to cause to be brought before it any person who is within the jurisdiction and is charged with an offence committed within Anambra State, or which according to law may be dealt with as if such offence had been committed within the jurisdiction and to deal with such person according to law.  |
| <i>Compelling appearance of a defendant.</i>                   | 100. | A court may issue a summons or warrant to compel the appearance before it of any defendant of having committed in any place, whether within or outside Nigeria, any offence triable in Anambra State.   |
| <i>Issue of summons contents thereof.</i>                      | 101. | Where a complaint is made before a magistrate as provided in <i>and</i> section 171 and the magistrate decides to issue summons in the first instance such magistrate shall issue a summons directed to the person complained against, stating concisely the substance of such complaint and requiring him to appear at a certain time and place being not less than 48 hours after the service of such summons before the court to answer to the said complaint and to be further dealt with according to law. |
| <i>Hearing by consent before return date of summons.</i>       | 102. | The court may, if it thinks fit and with the consent of the parties, hear and determine a complaint notwithstanding that the time within which the defendant was required to appear may not have elapsed.   |
| <i>Summons with immediate return in special circumstances.</i> | 103. | Whereupon a complaint being made before a magistrate as provided in section 171 and the magistrate decides to issue a <i>date</i> summons in the first instance, the defendant may be directed to appear forthwith in cases where an affidavit is made by the complainant either at the time of making the complaint or subsequently that such defendant is likely to leave the district within 48 hours.   |
| <i>Discretion in ex-parte application.</i>                     | 104. | Nothing contained in sections 101, 102 or 103 shall oblige any magistrate to issue any such summons in any case where the application for an order may by law be made ex-parte.   |
| <i>Summons to be in duplicate.</i>                             | 105. | Every summons issued by a court under this Law shall be in writing in duplicate, signed by the presiding officer of such court or by such other officers as the Chief Judge may from time to time prescribe.  |
| <i>Issue and service on any day.</i>                           | 106. | A summons may be issued or served on any day including a Sunday or public holiday.  |

**Service of  
summons.**

107. Every summons shall be served by a police officer or by an officer of the court issuing it or other public servant or through a courier service company duly registered with the Chief Judge as a process service agent of the court.

**Normal methods  
of effecting service.**

108. The person effecting service of a summons shall effect it by delivering it:-
- (a) if on an individual, to him personally; or
  - (b) if on a firm or corporation
    - (i) to one of the partners, or
    - (ii) to a director, or
    - (iii) to the secretary,
    - (iv) to the chief agent within the jurisdiction, or
    - (v) by leaving the same 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;
  - (c) if on a local government council then in accordance with the provisions of the Local Government Law, relating to service of court processes; or
  - (d) if on the Nigeria Police Force or any police officer, to the Commissioner of Police of the State.

**Service other  
than personal  
service.**

109. If service in the manner provided by paragraph (a) of section 108 cannot be conveniently effected, the court may order that service be effected either:-
- (a) by affixing one of the duplicates of the summons to a conspicuous place in the premises where the person to be served ordinarily resides; or
  - (b) where the court is satisfied that the person to be served is literate by publication of the summons in the State Official Gazette or in a newspaper circulating within the jurisdiction of the court from which the summons issued, provided that before the court makes the order the court shall also be satisfied that the person to be served ordinarily resides within the State.

**Service on  
the Government servant.**

110. (1) Where the person summoned is in the service of Government, court issuing the summons may send it in duplicate to the Director, Head of the Department in which the person is employed for the purpose of being served on such person, if it shall appear to the court that it may be most conveniently so served, and such Director or Head of Department shall thereupon cause the summons to be served in the manner provided by paragraph (a) of Section 108 and shall return the duplicate to the court under his signature, with the endorsement required by Section 112. Such signature shall be evidence of the service.

- (2) Notwithstanding the provisions of subsection (1) of this section, a person in the service of Government, may by order of the court, be served in any of the modes set out in Section 109 of this Law.

*Service outside  
jurisdiction of court.*

111. Where a court desires that a summons issued by it shall be served at any place outside the jurisdiction in which it is issued, the court shall send such summons in duplicate to a court within the jurisdiction in which the person summoned resides or is to be served.

*Proof of service  
when serving  
officer not present.*

112. (1) Where the officer who served a summons is not present at the hearing of the case, proof of such service if within the division or district of the court issuing the summons, may be by endorsement on the duplicate of such summons and when service has been effected outside the division or district of the issuing court, proof of service shall be by affidavit made before a magistrate or other prescribed person and such endorsement and affidavit shall form part of the record.
- (2) Such endorsement and affidavit shall show the manner in which such summons was served and in the case of an affidavit may be attached to the duplicate of the summons and returned to the issuing court.

*Receipt of service  
summons.*

113. (1) Where a summons has been served upon the person to whom it is addressed or is delivered to any other person, the person to whom it is addressed or the person to whom it is delivered, as the case may be, shall sign a receipt thereof on 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 has effected service.

*Person refusing  
to give receipt may  
be arrested.*

114. Every person who is required to sign a receipt on the back of a duplicate summons to the effect that he has received the summons and fails to sign such receipt may be arrested by the person serving the summons and taken before the court which issued the summons and may be detained in custody or committed to prison for such time not exceeding 14 days as the court may think necessary.

*Summons  
Warrant disobeyed,  
may issue.*

115. If the court is satisfied that the defendant has been served with a summons and the defendant does not appear at the time and place appointed in and by the summons, the court may issue a warrant to arrest him and cause him to be brought before such court.

- |  |      |   |
|--|------|---|
| <i>Issue of warrant<br/>defendant in the<br/>first instance.</i>         | 116. | Where a complaint is made before a magistrate as provided in for section 23 and such magistrate decides to issue a warrant in the first instance, he shall issue a warrant to arrest the person complained against and to bring him before the court to answer the said complaint and be dealt with according to law.   |
| <i>Application of<br/>on sections 22 to 31 to<br/>such warrant.</i>      | 117. | Where a warrant of arrest is issued in consequence of a complaint oath as aforesaid, the provisions of sections 22 to 31, and 72 shall apply to such warrant.   |
| <i>Warrant may<br/>issue before or after<br/>return date of summons.</i> | 118. | Notwithstanding the issue of a summons as in section 171 provided, a warrant may be issued at any time before or after the time appointed for the appearance of the defendant.  |
| <i>Power of court to<br/>order prisoner to<br/>be brought before it.</i> | 119. | <p>(1) Where any person for whose appearance or arrest a court is empowered to issue a summons or warrant is confined in any prison, the court may issue an order to the officer in charge of such prison requiring him to cause such prisoner to be brought in proper custody at a time to be named in the order before such court.</p> <p>(2) The officer so in charge, on receipt of such order, shall act in accordance therewith and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.</p>  |
| <i>Issue of<br/>summons for witness.</i>                                 | 120. | <p>(1) If the court is satisfied that any person is likely to give material evidence for the prosecution or for the defence, the court may issue a summons to such person requiring him to attend, at a time and place to be mentioned therein before the court, to give evidence respecting the case and to bring with him any specified documents or things and any other documents or things relating thereto which may be in his possession or power or under his control.</p> <p>(2) If the prosecutor is not a public officer, the person to whom such summons is addressed, shall not be bound to attend unless his travelling expenses as may be determined by the court are tendered to him.</p> |
| <i>Service of<br/>summons on witness.</i>                                | 121. | Every such summons shall be served upon the person to whom it is directed in the same manner as is set out in sections 108 or 110 or, with leave of the court under section 109 and the provisions of sections 111 to 114 shall apply to such summons.  |
| <i>Warrant for<br/>witness after<br/>summons.</i>                        | 122. | If the person to whom any such summons is directed does not attend before the court at the time and place mentioned therein, and there does not appear to the court on inquiry to be any  |



reasonable excuse for such non-attendance, then, after proof to the satisfaction of the court that the summons was duly served or that the person to whom the summons is directed willfully avoids service, the court, on being satisfied that such person is likely to give material evidence may issue a warrant to arrest him and to bring him at a time and place to be mentioned in the swarrant, before the court in order to testify as aforesaid.

*Issue of  
warrant for witness  
in first instance*

123. If the court is satisfied in the first instance, by proof upon oath, that any person likely to give material evidence, either for the prosecution or for the defence, will not attend to give evidence without being compelled so to do, then instead of issuing a summons, it may issue a warrant in the first instance for the arrest of such person.

*Mode of dealing  
with witness arrested  
warrant.*

124. (1) Every witness arrested under a warrant issued in the first instance, where the hearing of the case for which his *under* evidence is required is appointed for a time which is more than twenty-four hours after the arrest, shall if practicable be taken before a magistrate, and the magistrate may, on his furnishing security by recognizance to the satisfaction of the magistrate for his appearance at such hearing, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained for production at such hearing.
- (2) The provisions of sections 30 and 72 relating to bail of defendants and of sections 119 and 158 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, if the defendant is in custody:  
Provided that non-compliance with this subsection shall not vitiate any proceedings.

*Penalty on  
witnesses refusing  
to attend*

125. Any witness who :-
- (a) refuses or neglects, without reasonable cause, to attend at a court in compliance with the requirements of a summons duly served in the manner prescribed by law; or
- (b) departs from the precincts of the court without the leave of the judge or magistrate holding the same; shall be liable on summary conviction, to a penalty not exceeding six thousand naira or to imprisonment for any term not exceeding two months:

Provided that no complaint shall be made for any 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  
of witness on  
adjourned hearing.*

126. Every witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which such hearing or further hearing is so adjourned, shall be bound to attend at such time and place, and, in default of so doing, may be dealt with in the same manner as if he had refused or neglected to attend before the court in obedience to a summons to attend and give evidence.

*Persons in court  
may be required to give  
evidence though  
not summoned.*

127. Any person present in court and compellable as a witness, whether a party or not in a cause, may be compelled by the court to give evidence, and produce any document in his possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document and may be punished in like manner for any refusal to obey the order of the court.

*Expenses of  
witnesses for  
prosecution.*

128. Where any person appears before the court on summons, recognizance or by virtue of a warrant to give evidence against any person accused of any offence, the court may order payment in accordance with the provisions of any rules of court, of the costs and expenses of such witness together with compensation for his inconvenience and loss of time.

*Expenses of  
witnesses for  
defendant.*

129. The court may in its discretion, at the request of any person who appears before such court on summons, recognizance or by virtue of a warrant to give evidence on behalf of a defendant, order payment in accordance with the provisions of any rules of court to such witness of such sum of the money as the court deems reasonable and sufficient to compensate him for the expenses, inconvenience and loss of time which he incurred or sustained in attending before the court.

*Adjournment  
may be granted  
subject to costs to  
witnesses.*

130. In addition to any other power conferred on a court, the court may if it considers it proper so to do, on adjournment granted at the request of either or any party, direct that the amount payable to any witness in accordance with the provisions of this Law and any rules of court, or such sum not exceeding such amount aforesaid as the court may fix, shall be paid by the party requesting the adjournment to such witness as may be present and whose evidence it has not been possible to take owing to the granting of the adjournment.

*Ascertainment of  
expenses of witnesses.*

131. The amount of the expenses and compensation payable to any witness attending before the court shall be ascertained by the registrar, certified under his hand and shall be paid out of general revenue to the witness by the Accountant-General.

## CHAPTER 7: REMAND AND OTHER INTERLOCUTORY PROCEEDINGS.

*Magistrate may  
remand in prison custody.*

132. (1) Any person arrested for an offence for which the magistrate has no jurisdiction to try shall within a reasonable time of arrest be brought before a magistrate court for remand.
- (2) The magistrate after examining the reasons for the arrest and the request for the remand as exhibited in the prescribed Report and Request for Remand Form filed by the police shall have powers to remand such a person pending the receipt of legal advice from the Director of Public Prosecutions and/or the arraignment of such person before the appropriate court or tribunal.

*Transmission of  
case file.*

133. The magistrate making the remand order shall give appropriate directions for the transmission of the case file and the report and request for remand form to the office of the Attorney-General.

*Time protocol  
for remand orders.*

134. (1) Where an order of remand of the person is made pursuant to section 132 of this Law, such order shall be for a period not exceeding 60 days in the first instance, and the case shall be returnable within the said period of 60 days.
- (2) Where on application, 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 30 days and make the proceedings returnable within the said 30 days.
- (3) Where the person is still in custody on remand at the expiration of the period provided for under sub sections (1) or (2) of this Section, the magistrate may on application if satisfied that there is no probable cause for the continued detention grant the person remanded bail.
- (4) In considering whether "probable cause" has not been established pursuant to subsection (3) of this Section, the court may take into consideration the following:-
- (a) the nature and seriousness of the alleged offence;
  - (b) reasonable grounds to suspect that the person has been involved in the commission of the alleged offence;
  - (c) reasonable grounds for believing that the person may abscond or commit further offence if he is not committed to custody,
  - (d) any other circumstances of the case that justifies the request for remand.

- (5) At the expiration of the remand order made pursuant to subsection (1) or (2) of this Section, and if the person is still remanded with his trial having not commenced, or charge or information having not been filed at the appropriate court having jurisdiction, or the magistrate failed to grant bail under subsection (3), the magistrate shall issue a hearing notice to the Commissioner of Police and/or the Director of Public Prosecutions, and adjourn the matter within a period not exceeding 30 days to inquire as to the position of the case and to the Commissioner of Police and/or the Director of Public Prosecutions to show cause why the person remanded should not be released.
- (6) Where the Commissioner of Police and/or Director of Public Prosecutions show good cause pursuant to subsection (4) of this Section and make a request to that effect, the court may extend the remand of the person for a final period not exceeding 30 days for the person to be arraigned for trial before an appropriate court or tribunal and shall make the case returnable within the said period of 30 days from the date of showing good cause.
- (7) Where 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 magistrate shall, with or without an application to that effect, forthwith grant bail to the person.
- (8) The powers conferred on the magistrate to make enquiry under this Section shall be exercised whether the person remanded is present in court or not.

*Court may bring up person remanded or make any order during remand.*

135. During remand, the court may nevertheless order the person remanded to be brought before it.

*Place of to a commitment.*

136. All persons committed to prison under this Law shall be committed Government prison or other place of safe custody.

*Rank of magistrate conducting remand proceedings.*

137. The powers conferred on the magistrate under this chapter of this Law shall be exercised by a magistrate not below the rank of a senior Magistrate.

## CHAPTER 8: PREPARATION AND USE OF PROOFS OF EVIDENCE

*Preliminary inquiries cease to apply in the State*

138. Subject to the provisions of this chapter, the procedure whereby a preliminary inquiry or preliminary investigation into a criminal charge is conducted by a magistrate with a view to determining whether or not a defendant is to be committed to the High Court for trial shall cease to apply in the State.

*Proofs of evidence to replace preliminary inquiry.*

139. Where formerly there is in the Criminal Procedure Law or any other existing Law any provision which required or had the effect of requiring the holding of a preliminary investigation (howsoever worded or expressed) by a court or magistrate in any criminal charge, then instead of such preliminary investigation, there shall, in respect of any such charge be prepared the proofs of evidence for the purpose of determining whether or not an information may be preferred.

*Proofs of evidence by law officers.*

140. The proofs of evidence in respect of a criminal charge shall, subject to the direction and control of the Attorney-General, be prepared by law officers in the Ministry, or in the case of a private prosecution, by the private prosecutor in accordance with the provisions of this chapter.

*Cases to which taking of proofs of evidence is applicable.*

141. Proofs of evidence shall be prepared in all charges relating to:-  
(a) capital offences;  
(b) offences punishable with imprisonment for life; and  
(c) any indictable offence tried by the High Court.

*Capital offences, offences punishable with imprisonment for life and other indictable offences.*

142. In capital offences, offences punishable with imprisonment for life and other indictable offences, proofs of evidence in respect of a charge shall be prepared after the charge has been read to the defendant.

*Procedure by Magistrate after charge is read.*

143. (1) After the charge has been read to the defendant, the magistrate before whom the charge is pending shall record-
- (i) the charge against the defendant;
  - (ii) whether bail was granted or refused to the defendant and, where bail was refused, the fact that the defendant was informed of his right to apply to the High Court for bail; and
  - (iii) any other fact or matter relevant to the charge which transpired in the proceedings before the Magistrate, and shall thereafter direct the prosecuting police officer to transmit forthwith to the Attorney-General:-
    - (a) the police case file relating to the charge; and
    - (b) an inventory of all exhibits relating to the charge.



- (2) It shall be the duty of the magistrate after recording the matters mentioned in subsection (1) to transmit a copy of such record to the Attorney-General.

*Duty of police to transmit case file to Attorney-General.*

144. It shall be the duty of the police officer to whom a direction was given in that regard under the last preceding section or any other police officer acting under the general or special instruction of the Commissioner of Police to transmit forthwith to the Attorney-General the police case file and the inventory of exhibits to which the direction relates.

*Preparation of proofs of evidence.*

145. Upon the receipt by the Attorney-General of the police case file, the record of the facts or matters and other documents made under Section 143 (hereinafter in this chapter referred to as "statements or documents mentioned in Section 143"), it shall be the duty of the Director of Public Prosecutions of the State and other law officers in the Public Prosecutions Division of the Ministry, acting under and in accordance with the general or special instructions of the Attorney-General, to prepare the proofs of evidence in respect of the charge.

*Contents of proofs of evidence.*

146. The proofs of evidence shall consist of:-
- (a) a statement of the charge against the defendant;
  - (b) the name, address and statement of any material witness whom the prosecution intends to call;
  - (c) the name, address and statement of any material witness whom the prosecution does not intend to call:  
Provided that the submission of such names shall not prevent the prosecution from calling any such witness at the trial if the prosecution later so desires;
  - (d) the copy of any report, if available, made by a doctor about the state of mind of a defendant in custody;
  - (e) records of convictions, if any, affecting the credibility of any witness for the prosecution;
  - (f) statements of the defendant;
  - (g) an inventory of all exhibits to be produced to the court at the trial; and
  - (h) any other statement or document which the prosecution may consider relevant to the case.

*Certified true copies of proofs of evidence may be filed.*

147. For the avoidance of doubt, and notwithstanding anything to the contrary in this Law, it shall be sufficient for the Attorney-General or any other law officer in the Ministry to file an information accompanied with certified true copies of all the relevant documents comprised in the proofs of evidence as specified under section 146 of this Law.

*Binding over of witnesses.*

148. (1) The magistrate shall after the charge has been read, or at any time thereafter, bind over every witness present in court or brought before him subsequently to attend to give evidence at the trial of the defendant before the High Court,

whether or not the prosecution intends to call all such witnesses.

- (2) Subject to the provisions of any other written law, if among the witnesses bound over under subsection (1), there is any of them that the prosecution does not intend to call at the trial such witnesses shall nevertheless continue to be present at the trial for such reasonable period as might enable the defendant or his counsel to make up his mind as to whether or not he will call any of them to give evidence for the defence.
- (3) Every witness bound over under this Section shall enter into a recognizance and such recognizance shall specify the name and surname of the person entering into it, his occupation or profession, if any, and his address.
- (4) The recognizance shall be acknowledged by the person entering into it and be subscribed by the Magistrate before whom it is acknowledged.
- (5) A witness who refuses, without reasonable excuse to enter into such recognizance, may by a warrant issued by the magistrate be committed to prison or to other place of safe custody, to be kept therein until after the trial, or until the witness enters into a recognizance before a magistrate:  
Provided that if the defendant is afterwards discharged any magistrate may order any such witness to be discharged forthwith.

**Marking of exhibits.**

149. The magistrate before whom the defendant is charged shall direct the prosecuting police officer to take inventory of, label, or otherwise mark all articles, if any, connected with the charge and it shall be the duty of such police officer or any other police officer generally or specially instructed in that behalf by the Commissioner of Police to comply with such direction.

**Prima facie case –  
information to  
preferred.**

150. If at the conclusion of the taking of the proofs of evidence, the Attorney-General is satisfied that there is *prima facie* evidence *be* from the record to put the defendant on trial on all or any of the charges against him, he shall prefer an information against the defendant in respect of such charge or charges.

**Discharge of  
defendant when there  
is no prima facie case.**

151. If the record of the proofs of evidence does not in the opinion of the Attorney-General disclose sufficient evidence to support the charge or charges against the defendant, the Attorney-General shall so inform the magistrate in writing, and the magistrate shall as soon as possible thereafter, summon the defendant to the court and discharge him.

**Information and  
proofs of evidence to  
be transmitted to  
High Court.**

152. (1) Subject to subsection (3), where the Attorney-General prepares an information after the preparation of the proofs of evidence under this chapter, he shall cause sufficient copies of the information and of the proofs of evidence to be transmitted to the registrar of the High Court in which the trial is to take place.
- (2) Upon the receipt of the documents mentioned in subsection (1), the registrar shall proceed in accordance with Chapter 15 of this Law and any other law for the time being in force in the State in that regard, and shall furnish every defendant, free of charge, a copy of the information and of the proofs of evidence.
- (3) The records transmitted to the registrar of the High Court under subsection (1) shall not include any particulars of the defendant's previous convictions. Such particulars shall be supplied to the High Court after the accused has been convicted.

## CHAPTER 9 – EFFECT OF ERRORS IN COURT PROCESS

*Irregularity in  
summons, warrant,  
service or arrest  
not to vitiate trial*

153. When any defendant is before a court whether voluntarily, or upon summons, or after being apprehended with or without warrant, or while in custody for the same or any other offence, the proofs of evidence may be prepared or trial held, notwithstanding any irregularity, illegality, defect or error in the summons or warrant, or the issuing, service or execution of the same, and notwithstanding the want of any complaint upon oath, or any defect in the complaint, or any irregularity or illegality in the arrest or custody of the defendant.

*Variation between  
charge and complaint*

154. No variance between the charge contained in the summons or warrant and the offence alleged in the complaint or between any of them and the evidence adduced on the part of the prosecution, shall affect the validity of any proceedings at or subsequent to the trial.

*Process valid  
notwithstanding  
death or vacation of  
office of person issuing*

155. A summons, warrant of any description or other process issued under any written law shall not be invalidated by reason of the person who signed the same dying, ceasing to hold office or not having jurisdiction.

*Validity of process.*

156. The following provisions shall have effect in respect of warrants of commitment and warrants of distress:-
- (a) a warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been convicted, or ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to sustain the same;
  - (b) a warrant of distress shall not be held void by reason only of any defect therein, if it is alleged that an order has been made, and there is a good and valid order to sustain the same; and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution of the warrant; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress.

*General addressee  
process for  
issue and execution.*

157. (1) In addition to the provisions of Sections 25 and 26 in of respect of warrants of arrest, all summonses, warrants of every description and process of whatever description shall be sufficiently addressed for service or execution by being directed to the sheriff.

- (2) Notwithstanding the provisions of subsection (1) any such document 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 such warrant may be executed by any police officer or officer of a court.

***Certain provisions  
applicable to all  
summons and  
warrant in criminal  
matters.***

158. The provisions in sections 22, 24, and 27 in respect of warrants of arrest, and the provisions contained in this chapter relating to summonses, warrants of any description and other process and their issue, service, enforcement and execution shall so far as may be, apply to every summons, warrant of any description and other process issued in respect of matters within the criminal jurisdiction of the court under any written law.



## CHAPTER 10 - POWERS OF THE ATTORNEY-GENERAL AND CONTROL OF CRIMINAL PROCEEDINGS

*Information by  
the Attorney-General*

159. Notwithstanding anything to the contrary in this Law or any other Law of the House of Assembly, the Attorney-General of the State may prefer an information in the High Court in respect of any offence created by any Law or in respect of any offence created by an Act, the prosecution for which offence or an element thereof has been committed in the State.

*Issuance of  
legal advice and other  
directives to the police.*

160. (1) The Attorney-General of the State shall have powers to issue legal advice and/or such other direction to the police and any other agency in respect of any offence created by a Law of the House of Assembly.
- (2) Where any proceeding is pending in respect of the offence for which such legal advice or such other direction referred to in subsection (1) of this section is given, a copy of such legal advice or direction shall be forwarded by the Attorney-General of the State to the court seized of the proceeding.
- (3) The Attorney-General of the State may request from the police or any other agency for the case file in any matter in respect of any offence created by a Law of the House of Assembly, and the police or such other agency shall forward such case file as requested.

*Discontinuance  
or Nolle prosequi  
in criminal proceedings.*

161. (1) In any criminal proceedings and at any stage thereof before judgment, the Attorney-General may discontinue the proceedings, either by stating in court or informing the court in writing that the State intends that the proceedings shall not continue and thereupon the defendant shall at once be discharged in respect of the charge or information for which the discontinuance is entered.
- (2) If the defendant has been committed to prison he shall be released, or if on bail the recognizances shall be discharged, and, where the defendant is not before the court when such discontinuance is entered, the registrar or other proper officer of the court shall forthwith cause notice in writing of the entry of such discontinuance to be given to the officer in charge of the prison or other place in which the defendant may be detained and such notice shall be sufficient authority to discharge the defendant or if the defendant be not in custody shall forthwith cause such notice in writing to be given to the defendant and his sureties and shall in either case cause a similar notice in writing given to any witnesses bound over to prosecute.

- (3) Where a discontinuance is entered in accordance with the provisions of this section, the discharge of a defendant shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

**Discontinuance  
of prosecution in  
remand proceedings.**

162. (1) In any remand proceedings with respect to any indictable offence before a magistrate, the Attorney-General of the State may indicate to the court either personally by himself or through any of the officers in his chambers in writing informing the magistrate by way of legal advice through the prosecuting police officer or a law officer that the State intends that the proceedings shall be discontinued and there upon the suspect shall immediately be discharged in respect of the offence.

- (2) Where, following any remand proceedings before a magistrate, a person is charged with an offence on information before a High Court, the Attorney-General of the State may indicate by himself or through an officer in his chambers by stating orally in the open court or by informing the court in writing that the State intends that the proceedings shall be discontinued and such person shall immediately be discharged in respect of the charges that constitute the information.

**Withdrawal  
from prosecution.**

163. (1) In any trial or proceedings before a High Court or Magistrates' Court or during the preparation of the proofs of evidence in a criminal charge, any prosecutor with the consent of the court, may, or on the instruction of the Attorney-General in the case of any offence against a Law of the State, shall at any time before judgment is pronounced or an information is preferred withdraw from the prosecution of any person either generally or in respect of one or more of the offences with which such person is charged and upon such withdrawal-

If it is made in the course of a trial:-

- (a) before the defendant is called upon to make his defence, he shall be discharged in respect of such offence; or  
(b) after the defendant is called upon to make his defence, he shall be acquitted in respect of such offence:

Provided that in any trial before a judge or magistrate in which the prosecutor withdraws in respect of the prosecution of any offence before the defendant is called upon to make his defence, the judge or magistrate may in his discretion order the defendant to be acquitted, if he is satisfied upon the merits of the case that such order is a proper one

and when any such order of acquittal is made, the judge or magistrate shall endorse his reasons for making such order on the record.

- (2) Where any private prosecutor withdraws from a prosecution for any offence under the provisions of this section, the judge or magistrate may in his discretion award costs against such prosecutor.
- (3) A discharge of a defendant under this section shall not operate as a bar to subsequent proceedings against him on account of the same facts.

*Law officer  
may require case  
to be adjourned  
or dealt with specially.*

164. Where any charge of an indictable offence is being proceeded with summarily by a magistrate, a law officer acting under the control of the Attorney-General may, at any time before the decision thereof, by order in writing under his hand, require such magistrate to stop further proceedings and to transmit the case file and all statements and documents mentioned in Section 143 made or tendered during the hearing, to the Attorney-General for the purpose of preparing the proofs of evidence in respect of the charge with a view to preferring an information.

*General control  
of prosecution by  
the Attorney-General.*

165. Where any person other than the Attorney-General initiates or prosecutes, in any criminal proceedings for an offence against a Law of the State, on behalf of the State, or where any public officer initiates or prosecutes in his official capacity in any such criminal proceedings, such person or public officer shall initiate or prosecute such case subject to such general or specific directions as may be given by the Attorney-General.

*Names under  
which prosecution  
could be instituted.*

166. Where proceedings in respect of any offence against a Law of the State within the criminal jurisdiction of a court are brought by a police officer in the exercise of his official duty and it is not provided by any written law that such proceedings shall only be brought by or in the name of some specified persons, such proceedings may, subject to any special or general directions given by the Attorney-General, be brought in the name of the public officer or police officer instituting the proceedings or making the arrest if any, or in the case of a member of the police force in the name of the Commissioner of Police.

*Defendant may  
plead guilty for  
lesser offence than  
offence charged. Plea bargain.*

167. (1) Notwithstanding anything in this Law or in any other Law, the Attorney-General of the State shall have power to receive, consider, and accept a plea bargain from any Person charged with any offence either directly from that person charged or on his behalf, by way of an offer to accept to plead guilty to a lesser offence than that charged.

- (2) Where the Attorney-General is of the view that the acceptance of such plea bargain is in the interest of justice, public interest, public policy and the need to prevent abuse of legal process, he may accept such plea and the court seized of the matter shall be so informed and shall proceed to enter a guilty plea to such lesser offence and impose the due punishment accordingly.
- (3) When a person is convicted and sentenced under the provisions of subsection (1) of this section, he shall not be charged or tried again on the same facts with the higher offence earlier charged to which he had pleaded to a lesser offence.
- (4) The provisions of this section shall not apply to persons –
  - (a) charged with capital offences or any offences involving the use of violence;
  - (b) persons who had, in the last ten years, been convicted and sentenced for any such similar offence or any offence involving grievous violence or sexual assault.

**CHAPTER 11 – INSTITUTION OF CRIMINAL CASES*****Right of  
making complaint.***

168. (1) Any person may make a complaint against any other person alleged to have committed or to be committing an offence, unless it appears from the enactment on which the complaint is founded, that any complaint for such offence shall be made only by a particular person or class of persons, in which case only the particular person or a person of the particular class may make such a complaint.
- (2) Notwithstanding anything to the contrary contained in any 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 and  
requisites of complaint.***

169. (1) It shall not be necessary for any complaint to be in writing, unless it is required to be so by the enactment on which it is founded, or by some other enactment. If a complaint is not made in writing, the court or registrar shall reduce it into writing.
- (2) Subject to the provisions of Section 23, every complaint may, unless some enactment otherwise requires, be made without oath.
- (3) Every such complaint may be made by the complainant in person, or by a legal practitioner representing him, or by any person authorized in writing in that behalf, and shall be heard in private.
- (4) Every such complaint shall be for one offence only, but such complaint shall not be avoided by describing the offence or any material act relating thereto in alternative words according to the language of the enactment constituting such offence.

***Form of document  
in criminal proceedings.***

170. Every complaint, summons, warrant or other document laid, issued or made for the purpose of or in connection with any proceedings before a court for any offence, shall be sufficient if it contains a statement of the specific offence with which the defendant is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

***Rule as to statement  
of exception.***

171. (1) Subject to the provisions of Section 167, any person who believes from a reasonable or probable cause that an offence has been committed by any person whose appearance a magistrate has power to compel, may make a complaint thereof to a magistrate who shall consider the allegations of the complainant and may, in his discretion, refuse to issue a process and record his reasons for refusal, or may issue a summons or warrant as he shall deem fit, to



compel the attendance of the defendant before a magistrate's court in district.

- (2) The magistrate shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant.

*Limitation of period for making a private complaint.*

172. In every case where no time is specially limited for making a complaint for a summary conviction offence in the law relating to such offence, such complaint if made other than by a person in his official capacity shall be made within six months from the time when the matter of such complaint arose, and not after.

*Information by the Attorney-General.*

173. (1) Notwithstanding anything contained in this Law, the Attorney-General may exhibit to the High Court information for all purposes regarding the enforcement of the Criminal Code or any other written law creating offences and prescribing penalties therefor.
- (2) Such proceedings may be taken upon every such information so far as the circumstances of the case and the practice and procedure of the High Court will admit.

*Different methods instituting criminal Proceedings.*

174. Subject to the provisions of any Act or other Law, criminal of proceedings may in accordance with the provisions of this Law be instituted-
- (a) in magistrates' courts, on a charge or a complaint whether or not on oath; and
- (b) in the High Court –
- (i) by information of the Attorney-General in accordance with the provisions of Section 172;
- (ii) by information filed in the court after the defendant has been summarily committed for perjury by a judge or magistrate under the provisions of Chapter 13;
- (iii) by information filed in the court after the preparation of the proofs of evidence; and
- (iv) on complaint whether on oath or not.

*Particulars of instituting criminal proceedings in magistrates' court.*

175. Proceedings in a magistrates' court may be instituted in either of the following ways –
- (a) upon complaint to the court, whether or not on oath, that an offence has been committed by any person whose presence the magistrate has power to compel, and an application to such magistrate, in the manner hereinafter set forth for the issue of either a summons directed to, or a warrant to arrest such person; or
- (b) by bringing a person arrested without a warrant before the court upon a charge contained in a charge sheet specifying the name and occupation of the person charged, the charge

against him and the time and place where the offence is alleged to have been committed. The charge sheet shall be signed by a law officer or police officer in charge of the case.

*Summons and warrant.*

176. In every case the court may proceed either by way of summons to the defendant or by way of warrant for his arrest in the first instance according to the nature and circumstances of the case.

*Venue.*

177. Subject to the powers of transfer contained in the law constituting any court, the place for the trial of offences by such court shall be—  
(a) the division or district in which the court has jurisdiction and such offences being those committed within such division or district;

*Place of jurisdiction where offence committed.*

*Place where act has been done or omitted to be done, etc*

(b) when a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be tried by a court having jurisdiction in the division or district in which any such thing has been done or omitted to be done, or any such consequence has ensued;

*When offence constituted by relation to another offence.*

(c) when an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first mentioned offence may be tried by a court having jurisdiction in the division or district either in which it happened, or in which the offence, with which it was so connected happened;

*When place uncertain or offence distributed.*

(d) (i) when it is uncertain in which of several divisions or districts an offence was committed; or  
(ii) when an offence is committed partly in one division or district and partly in another; or  
(iii) when an offence is a continuing one, and continues to be committed in more divisions or districts than one; or  
(iv) when it consists of several acts committed in different divisions or districts, it may be tried by a court having jurisdiction in any of such divisions or districts;

*Offence committed on a journey.*

(e) an offence committed while the offender is in the course of performing a journey or voyage may be tried by a court in or through or into the division or district of whose jurisdiction the offender 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 at sea or out of Nigeria.*

(f) an offence committed at sea or elsewhere out of Nigeria, which according to law may be tried in Nigeria, may be so

tried at any place in Nigeria to which the defendant is first brought, or to which he may be taken thereafter.

*Judge to decide  
in case of doubt of venue.*

178. Whenever any doubt arises as to the magistrates' court before which any offence shall be charged or tried, a judge shall, upon the application of a magistrate or the accused, decide in which magistrate's court the offence shall be charged or tried. Any such decision of a judge shall be final and conclusive except that it shall be open to a defendant to show that no magistrates' court in the State has jurisdiction in the case.

*Defendant to be  
remitted in certain  
cases to another magistrate.*

179. (1) A magistrate, in this and in the next succeeding section referred to as the remitting magistrate, before whom any person who is within the magisterial district of such magistrate and is charged with having committed an offence within the magisterial district of another magistrate is brought shall, unless he is authorized to proceed in the case, send him in custody to the court within the magisterial district in which the offence was committed, or require him to give security for his surrender to such last mentioned court, there to answer the charge and to be dealt with according to law.

*Courts having  
concurrent jurisdiction.*

(2) If such offence as is mentioned in subsection (1) shall have been committed in a district within which one or more courts shall have concurrent jurisdiction, the remitting magistrate shall, unless he is authorized to proceed in the case, send the person charged in custody to such one of the courts having concurrent jurisdiction as can most conveniently deal with the case, or require him to give security for his surrender to such last mentioned court, there to answer the charge and to be dealt with according to law.

*Transmission of  
documents.*

(3) The remitting magistrate shall send to the court to which the person charged is remitted for trial an authenticated copy of the charge, summons, warrant, and all other process or documents in his possession, relative to such person.

*Removal under  
warrant.*

180. Where any person is to be sent in custody, a warrant shall be issued by the remitting magistrate, and the warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him and deliver him up to the court to which the person charged is remitted for trial. The person to whom the warrant is directed shall execute it according to its tenor without any delay.

- Transfer of case where cause of complaint has arisen out of district of court.*      **181.**    (1)    If the defendant is in custody and the magistrate directing such transfer thinks it expedient that such custody should be continued, or, if he is not in custody, that he should be placed in custody, the magistrate shall, by his warrant, commit the defendant to prison until he can be taken before a magistrate of the district wherein the cause of complaint arose.
- Complaint and recognizance to be transmitted.*      (2)    The complaint and recognizance, if any, taken by such first named magistrate under the provisions of this Law shall be by him transmitted to the magistrate before whom the defendant is to be taken; and such complaint and recognizance, if any, shall be treated to all intents and purposes as if they had been taken by such last mentioned magistrate.
- Defendant not retained or placed in custody*      (3)    If the defendant is not retained or placed in custody as aforesaid, the magistrate shall inform him that he has directed the transfer of the case as aforesaid, and thereupon the provisions of the last preceding subsection relating to the transmission and use of the documents in the case shall apply.
- Courts may assume jurisdiction under certain conditions.*      **182.**    (1)    Notwithstanding the provisions of Sections 176, 177 and 178, a judge or magistrate of a division or district in which a person –
- (a) is arrested;
  - (b) is in custody on a charge;
  - (c) has appeared in answer to summons lawfully issued, may if he considers that justice will be greater served and having regard to the accessibility and convenience of witnesses, proceed to hear the charge and the person charged may be tried and punished 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 incidental to or consequential on the prosecution, trial or punishment thereof be deemed to have been committed in that division or district.
- (3)    If at any time during the course of any proceedings taken against any person before any court in pursuance of this section it appears to the court that the defendant would suffer hardship if he were proceeded against and tried in the division or district aforesaid, the court shall forthwith, but without prejudice to a magistrate's powers under section 178, cease to proceed further in the matter.

- (4) Where any person is charged with two or more offences, he may be proceeded against, tried and punished in respect of all those offences in any division or district in which he could be proceeded against, tried or punished in respect of any one of those offences, and all the offences with which that person is charged shall, for all purposes incidental to or consequential on the prosecution, trial or punishment thereof, be deemed to have been committed in that division or district.

*Assumption of jurisdiction after commencement of proceedings.*

183. If any cause is commenced in any other division or district than that in which it ought to have been commenced, the judge or magistrate, as the case may be, may assume jurisdiction in accordance with the provisions of Section 181 and all acts performed and all decisions given by the judge or magistrate during the trial or inquiry shall be deemed to be valid in all respects as if the jurisdiction had been assumed prior to the performance of the said acts and the giving of the said decisions.

*Trials.*

184. Trials shall be held:
- (a) in the High Court –
    - (i) on the information filed by a law officer or private prosecutor; or,
    - (ii) on the information filed in the court after the defendant has been summarily committed for perjury by a judge or magistrate under the provisions of Chapter 13; or
    - (iii) on information exhibited by the Attorney-General under the provisions of Section 172; or
    - (iv) summarily in accordance with the provisions of Chapter 12.
  - (b) in magistrates' courts summarily in accordance with the provisions of Chapter 12.



## CHAPTER 12 – SUMMARY TRIAL

- Summary trials.* 185. (1) Trial shall be held summarily in the following instances –
- (a) in the High Court in respect of perjury and contempt;
  - (b) in respect of offences which by any law of the State House of Assembly are triable summarily;
  - (c) in respect of all trials for simple offences or misdemeanour in the magistrate's court or tribunal.

- (2) in all other trials in the magistrates' court or tribunals, the prosecution shall, on request, provide the defendant with statements of witnesses and report of experts, if any, that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

- Application of parts of the Law to processes under this chapter.* 186. The provisions of proofs of evidence where necessary shall apply to trials under this chapter save that where the provisions of this chapter conflict with the provisions so applied the provisions of this chapter shall prevail.

- Non-appearance of complainant.* 187. When the case is called the 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 authorized by any written law, the court shall dismiss the complaint not on merits or without prejudice, unless the court, having received a reasonable excuse for the non-appearance of the complainant or his representative or for other sufficient reason, think fit to adjourn the hearing of the same to some future day upon such terms as the court may think just.

- Non-appearance of defendant.* 188. (1) When a case is called in which summons has been issued and the defendant does not appear, or plead guilty, and no sufficient excuse is offered for his absence then the court if satisfied that the summons, has been duly served, may issue a bench warrant for his arrest or if not satisfied that the summons has been duly served or if a warrant has been issued, in the first instance, for the arrest of the defendant, the court may adjourn the hearing of the case to some future day, in order that proper service may be effected or until the defendant be arrested, as the case may be.

- (2) If the defendant is afterwards arrested on a bench warrant or other warrant as aforesaid, he shall be brought before the magistrate who shall thereupon commit him by warrant to prison or to such other place of safe custody as he may think fit, and order him to be brought at a certain time and place before the court; and of such time and place the complainant shall, by direction of the magistrate, be served with due notice.

- Non-appearance of both parties.* 189. (1) When the case is called and neither the complainant nor the defendant appears, the court shall make such order as the justice of the case requires.
- (2) In such order the court may include such direction as to the payment of costs as the court shall deem fit, and the payment of such costs may be enforced as if it were a fine.
- Appearance of both parties.* 190. When the case is called and both the complainant and the defendant appear, the court shall proceed to hear and determine the case.
- Withdrawal of complaint.* 191. If a complainant at any time before a final order is made in any case under this chapter, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the complaint and shall thereupon acquit the defendant unless the court directs that the defendant instead of being acquitted shall be discharged.
- Manner of hearing.* 192. (1) At the commencement of the hearing, the court shall state or cause to be stated to the defendant the substance of the complaint, and shall ask him whether he is guilty or not guilty.
- When defendant pleads guilty.* (2) If the defendant says that he is 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.
- Witnesses in general to be out of hearing.* (3) If the defendant says that he is not guilty the court shall direct that all witnesses shall leave the court and upon such direction the provisions of Section 187 of the Evidence Act shall apply: Provided that the judge or magistrate may in his discretion permit professional and technical witnesses to remain in court: Provided further that failure to comply with the provisions of this subsection shall not invalidate the proceedings.
- Hearing of complainant and witnesses.* (4) The court shall then proceed to hear the complainant and such witnesses as he may call and such other evidence as he may adduce in support of his complaint, and also to hear the defendant and such witnesses as he may call and such other evidence as he may adduce in his defence and also, if the court thinks fit, to hear such witnesses as the complainant may call in reply if the defendant has called any witnesses or given any evidence.
- Asking of questions* (5) The complainant 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.
- Unrepresented defendant.* (6) If 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 his answer.

*Discharge of the defendant when no case to answer.*

193. If at the close of the evidence in support of the charge, it appears to court that a case is not made out against the defendant sufficiently require him to make a defence, the court shall as to that particular charge, discharge him.

*When a prima facie case has been made out.*

194. (1) At the close of the evidence in support of the charge, if 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 upon him for his defence and-

- (a) if the defendant is not represented by a legal practitioner, the court shall inform him of the alternatives open to him, namely-
  - (i) he may give evidence in the witness-box, after being sworn as a witness; in which case he will be liable to cross-examination; or
  - (ii) he may remain silent, if he so wishes; or
  - (iii) he may call any witness or adduce any other evidence in his defence.
- (b) if the defendant is represented by a legal practitioner, the court shall call upon the legal practitioner to proceed with the defence.

*Witnesses for the defendant.*

(2) If the defendant or his legal practitioner states that he has witnesses to call but that they are not present, the court may, in the circumstances set forth in section 120 to 127 take the steps therein mentioned to compel their attendance.

*Saving as to Section 194 (1) (a).*

195. Failure to comply with the requirements of paragraph 1(a) in section 194 shall not of itself vitiate the trial provided that the court called upon the defendant for his defence and asked him if he had any witnesses and heard the defendant and his witnesses and other evidence, if any.

*New matters by defendant.*

196. If the defendant adduces in his defence new matter which the prosecution could not foresee, the prosecution may, with the leave of the court, adduce evidence to rebut such new mentioned evidence.

*Power to take evidence of persons dangerously ill.*

197. Whenever it appears to the court that any person who is so dangerously ill or hurt that there is a possibility he may not recover is able and willing to give material evidence relating to any offence triable summarily and it shall not be practicable to take the evidence in accordance with the provisions of this Law of the person so ill or hurt such magistrate may take in writing the statement on oath or affirmation of such person, shall subscribe the same and certify that it contains accurately the whole of the statement made by such person, and shall add a statement of his reason for taking the same and of the

date and place when and where the same was taken, and shall preserve such statement and file it for record.

*Notice to be given to parties.*

198. The court shall cause reasonable notice of the intention to take the evidence of the person who is seriously ill and of the time and place where it is to be taken, to be served upon the prosecutor and the defendant, and if the defendant is in custody he shall be brought by the person in whose charge he is, under an order in writing of the magistrate to the place where the statement is to be taken. The court may allow the prosecutor and the defendant to examine such person if deemed necessary.

*Transmission of statement.*

199. If the statement relates to an offence in respect of which proofs of evidence are subsequently prepared, it shall be transmitted to the Attorney-General.

*When statement may be used in evidence.*

200. (1) Such statement so taken may afterwards be used in evidence on the trial of any person accused of an offence to which the same relates in accordance with the provisions of Section 35 of the Evidence Act.

*Signature, etc, prima facie proof.*

(2) The signature and attestation of the judge or magistrate shall be sufficient *prima facie* proof of any statement, and that the same was taken in all respects according to law and such attestation and signature shall be admitted without further proof unless the court shall see reason to doubt the genuineness thereof.

*Notes of evidence to be taken.*

201. (1) The court shall in every case take record of the oral evidence, or so much thereof as it considers material, in a book or other device kept for that purpose and such book shall be signed by the judge or magistrate at the conclusion of each day's proceedings.

*Inspection not a right.*

(2) No person shall be entitled, as of right, to inspection of or to a copy of the record so kept as aforesaid save as may be expressly provided by the rules.

*Record as evidence of Proceeding.*

(3) The record so kept as aforesaid or a copy thereof purporting to be signed and certified as true copy by the court shall at all times, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

*Cross complaint*

202. Where a complaint is made by one or more parties against another party or parties and there is a cross-complaint by the defendant or defendants in such first named case with reference to the same matter, the court may if it thinks fit, hear and determine such complaints in the same proceeding.

*Joinder of complaints.*

203. Where two or more complaints are made by one or more parties against another party or parties and such complaints refer to the same matter, such complaints may, if the court thinks fit, be heard and determined in the same proceeding.

*Procedure where offence appears unsuitable for determination court of limited jurisdiction.*

204. (1) If, in the course of the hearing, circumstances should appear which cause the court to be of the opinion that the offence, on account of its aggravated character or other sufficient reason, is *by* not suitable to be disposed of by such court, then such court may instead of adjudicating, either of its own motion or on the direction of the Attorney-General, transmit the documents, statements or matters mentioned in Section 143 and all other documents before the court pertaining to the case to the Attorney-General.
- (2) The Attorney-General shall thereupon cause proofs of evidence to be prepared in respect of the charge and may, thereafter, prefer an information against the defendant.

*Giving of decision upon conclusion of hearing.*

205. Upon the conclusion of the hearing, the court shall either at the same or at an adjourned sitting, give its decision on the case either by dismissing or convicting the defendant and may make such other order as may deem just.

*Power to bind parties to be of good behaviour.*

206. (1) On any summary trial the court may, whether the complaint be dismissed or not, bind over either the complainant or defendant, or both, with or without a surety or sureties, to be of good behaviour..
- (2) Where any person so bound, in default of compliance with the order, he may be imprisoned for any term not exceeding three months, in addition to any other punishment to which such person is liable.  
Provided that before any such binding order, pursuant to subsection 1 of this section or order for imprisonment or any other punishment under subsection (2) of this section is made, the person to be affected shall be given an opportunity to be heard.

*Effect of judgment dismissal "on merits" and "without prejudice"*

207. (1) Where a complaint is dismissed on merits, such dismissal shall *of* have the same effect as an acquittal.
- (2) Where a complaint is dismissed and not on merits or stated to be without prejudice, such dismissal shall not have the same effect as an acquittal.



### CHAPTER 13. – SUMMARY PROCEDURE IN PERJURY

**Perjury.** 208. If it appears to a court that a person has been guilty of perjury in any proceeding before it, the court, subject to the provisions of section 210, may –

**Summary procedure.**

- (a) commit him for trial upon information of perjury and bind any person by recognizance to give evidence at his trial; or
- (b) try him summarily as for a contempt of court and if he is found guilty commit him to prison for six months or impose a fine on him in accordance with the scale of fine as provided in this Law.

**Decision to try 209. summarily.**

Where a judge or magistrate decides to try a person summarily under section 208 as for contempt of court, such judge or magistrate shall specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies upon which such charge is based and shall require him to give his explanation to such inconsistencies and shall record such explanation.

**When a person is 210. (1) ordered to be imprisoned or fined.**

If a magistrate orders a person to be imprisoned or to pay a fine under section 208 he shall neither issue a warrant of commitment nor make an order for imprisonment for non-payment of the fine, but shall either remand such person or release him on a recognizance with or without sureties to come up before the court when called upon and shall forthwith forward to the Chief Judge or such judge as the Chief Judge may direct a certified true copy of the proceedings and the Chief Judge or judge as aforesaid may without hearing argument and in the absence of the person concerned, set aside or confirm such order or reduce the sentence of imprisonment or the amount of the fine and shall inform the magistrate immediately of his decision.

**commitment or order for payment of fine.**

- (2) If the Chief Judge or judge does not wholly set aside the magistrates' order, the magistrate shall forthwith issue a warrant of commitment or make the necessary order for payment of the fine in accordance with the terms of the Chief Judge's or judge's order.

**Bar to other 211. proceedings.**

Any imprisonment or fine ordered under this chapter shall be a bar to any other proceedings for the same offence except where the order of a magistrate has been wholly set aside.

## CHAPTER 14 – SUMMARY TRIAL BY MAGISTRATE OF ADULT OR CHILD OR YOUNG PERSON CHARGED WITH AN INDICTABLE OFFENCE

*Summary trial by magistrate of indictable cases.* 212. Where a person who is an adult is charged before a magistrate court with any indictable offence other than a capital offence or an offence punishable with imprisonment for life, the court may subject to the provisions of this Law or any other Law for the time being in force and to the extent of the jurisdiction of the magistrate adjudicating, deal summarily with the offence.

*Summary trial by magistrate of indictable offences.* 213. Any written law in force at the commencement of this law which relates to the summary trial by a magistrate of indictable offences or which refers to indictable offences which are triable summarily by a magistrate shall, subject to the provisions of this section, be construed, as the case may be, as applying to summary trial by a magistrate of indictable offences under this section or as referring to all indictable offences which are triable summarily by a magistrate thereunder.

*Power to remand charged.* 214. A magistrate, without prejudice to any other power which he may *person* possess, may for the purposes 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 forty-eight hours or release him on bail.

*Adjournment for law officer's decision.* 215. Where an adult charged with an indictable offence is being tried summarily by a magistrate, such magistrate shall, at the request of any person in charge of the prosecution, made at any time before judgment, adjourn the hearing of the charge in order that a law officer may be consulted with a view to obtaining an order as in section 164 to have the case dealt with as one for trial on information in accordance with the provisions of Chapter 15.  
Provided that the order of the law officer shall be filed within thirty days from the date the magistrate grants such request of the prosecution, failing which the magistrate shall proceed to try and conclude the case summarily.

*Security for keeping the peace, in indictable cases triable summarily.* 216. (1) Any person convicted of any indictable offence tried summarily may, instead of or in addition to any punishment to which he is liable, 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 as may be fixed by the court.

(2) Such person may be ordered to be imprisoned until such recognizance, with sureties if so directed, is entered into.  
Provided that such imprisonment for not entering into recognizance shall not 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.

***Trial of a child.*** 217. Where a child is charged before a court for any offence, the proceedings shall be in accordance with the provisions of the Child Rights Law.

**CHAPTER 15. – TRIAL ON INFORMATION.*****Trial on information.***

218. Where a trial is to take place in the High Court after the preparation of proofs of evidence in respect of the charge, such trial shall be on information.

***Form of information.***

219. Every information shall bear the date when it is signed and with such modifications as shall be necessary to adopt it to the circumstances of each case, may commence in the following form-

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

The State v. A.B.

At the session holden at..... on the  
.....day of ....., 20....., the court is informed by the Attorney-General on behalf of the State that A.B. is charged with the following offence or offences.

***Contents of******information and indictment***

220. (1) An information shall contain -
- (a) a description of the offence charged or where more than one offence is so charged, of each offence so charged, in a separate paragraph called a count;
  - (b) a statement of the offence charged, called the statement of offence;
  - (c) a short description of the offence in ordinary language, avoiding as far as possible the use of technical terms and without necessarily stating all the essential elements of the offence, and, if the offence charged is one created by a written law, shall contain a reference to that written law;
  - (d) the particulars of that offence in ordinary language:  
Provided that where any written law limits the particulars of an offence which are required to be given in an information, nothing in this paragraph shall require any more particulars to be given than those so required;
  - (e) where an information contains more than one count, the counts shall be numbered consecutively;
  - (f) Proofs of evidence.

***Forms in Third Schedule.***

- (2) The forms set out in the Third Schedule hereto or forms conforming thereto as nearly as may be shall be used in the cases to which they are applicable and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances of each case.
- (3) The prosecution shall at any time before judgment be at liberty to file and serve notice of additional evidence.

*Information to contain only one capital offence.*

221. No other charge shall be joined with a charge punishable with death and not more than one charge punishable with death shall be charged in the same information, except where the offences are committed in one transaction.

*Procedure on information.*

222. (1) Subject to the provisions of this section an information shall be filed by the Attorney-General through the Director of Public Prosecutions or any officer in his department, or by any other person authorized by this law to do so, before the High Court charging any person with an offence for which that person shall lawfully be charged.

*Signing of information.*

(2) An information shall be signed by a law officer or any person authorized by the Attorney-General in that regard.

(3) Whenever an information has been filed in the court, the Chief Judge or Administrative Judge shall take appropriate steps to ensure that the information filed is assigned to a judge within seven days of its filing.

(4) On assigning the information, the appropriate court to which the information is assigned shall within fourteen days of such assignment issue hearing notices to the witnesses and the defendant and a production warrant properly endorsed by the Judge in respect of the defendant if he is in custody, for the purpose of ensuring his appearance on the date of trial and the Registrar shall ensure the prompt service of the notice and information not less than three days from the date stated therein for the hearing of the information.

(5) If the defendant in the information is in custody, the notice of trial and the information shall be delivered to him through the Superintendent of Prisons in which he is detained, and the warrant for his production shall be served on such officer of the prison.

(6) If the defendant is not in custody, the hearing notice and information shall be served on him personally.

(7) Where it is impossible or impracticable to effect personal service of the hearing notice and information on the defendant, same may be served on him, with leave of court through his legal practitioner, if any, or on his surety or sureties, or on any adult in his household, and such service shall be deemed to be due service on the defendant:

Provided that nothing in this section shall prevent the defendant from being tried by reason only that the notice of trial and information were served on him less than three days before the date of trial, if he consents to being so tried.



- Information by private persons.** 223. The Registrar shall receive an information from a private person if –
- (a) Such information is endorsed by the Attorney-General to the effect that he has seen such information and declines to prosecute the offence set out in the information; and
  - (b) such private person has entered into a recognizance in the sum of twenty thousand naira (N20,000.00) together with one surety to be approved by the registrar in the like sum, to prosecute the said information to conclusion at the times at which the defendant shall be required to appear and to pay such costs as may be ordered by the court, or, in lieu of entering into such recognizance shall have deposited the said sum in court to abide the same conditions.
- Conditions for private prosecutors.** 224. Where any private person has complied with the provisions of section 223, the information shall be signed by such person and not by a law officer and such person shall be entitled to prosecute the information.
- Venue.** 225. The place of trial shall be determined in accordance with the provisions of section 177 of this Law.
- Change of venue: Cause commenced in wrong division.** 226. Notwithstanding the provisions of section 225 of this Law –
- (a) where any 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, unless the defendant shall object thereto at or before the time when he is called upon to plead or to state his answer in such cause, in which case the court shall transfer the case to the proper division where it ought to have been commenced.
  - (b) either the prosecutor or the defendant, whenever he considers that the ends of justice so require, in any case may apply to the court either to transfer the hearing from one division to another or from one part of one division to another part of the same division.
- Effect of change of venue.** 227. Where any case is transferred from one place in a division to another place in the same division or to another division such case shall be tried and determined at the place or in the division to which it has been so transferred; and all recognizances, subpoenas, and proceedings in or relating to the case shall thereupon be deemed to be returnable at such latter place or division and all witnesses who are bound by recognizances or summoned to attend the trial shall be informed accordingly and shall attend at such later place or division.
- Form of notice of trial.** 228. The registrar or any other person directed by the court, shall endorse on, or annex to, every information and every copy delivered to the sheriff or proper officer, for service thereof, a notice of trial, which notice shall specify the particular sessions at which the party is to be tried on the said information and shall be in the following form, or as near thereto as may be –

A. 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.....

*Copy of information and notice of trial to delivered to sheriff.*

229. The registrar or other proper officer shall deliver, or cause to be delivered, to the sheriff or proper officer serving the information, a copy thereof, with the notice of trial endorsed on the same or annexed *be* thereto, and if there are more parties charged than one then as many copies as there are parties, together with a similar notice for service on each witness bound to attend the trial.

*Time and mode of summoning parties on information.*

230. (1) The sheriff or other proper officer shall, on receipt of the information and notice of trial serve on the person named in the notice, at least three days before the date specified on the notice of trial, or within such lesser time as the court may for good cause order, and when the said party is not in custody or shall have been admitted to bail and cannot readily be found, he shall leave a copy of the said information and notice of trial with someone of his household, for him at his dwelling house.  
(2) The sheriff or other proper officer shall in like manner deliver to each witness the said notice of trial.

*Return of service.*

231. The officer serving the copy of the information and notices shall render to the registrar or other proper officer a return of the mode of service.

*Bench warrant where defendant does not appear.*

232. Where any person against whom an information has been duly preferred, and who is then at large, does not appear to plead to such information, whether he is under recognizance to appear or not, the court may issue a bench warrant for his arrest.

*Counsel for state and defence in capital cases.*

233. Where a person is accused of a capital offence, the State shall be represented by a law officer or legal practitioner and if the defendant is not defended by a legal practitioner, the court shall assign a legal practitioner for his defence.

*Arraignment.*

234. The person to be tried upon an information shall be arraigned in accordance with the provisions contained in Chapter 20 relating to the taking of pleas and the procedure thereon.

*Attendance of witness bound by recognizance to attend.*

235. Every person who is bound by recognizance to attend as a witness, whether for the prosecution or for the defence, shall be bound to attend the court on the day fixed for the trial of such case, and on subsequent dates, until the completion of the case or until he has been discharged by the court from further attendance.

*Warrant for arrest of witness not attending on recognizance.*

236. If any person who has been bound by recognizance or summoned to attend as a witness, whether for the prosecution or for the defence, does not attend the court on the day fixed for the trial of such case or on any further adjourned date after having been served with notice of the trial, and he offers no reasonable excuse for his absence, the court may issue a bench warrant that such person be arrested and to bring him at a time

to be mentioned in the warrant, before the court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

*Warrant for arrest of witness disobeying summons.*

237. If any person to whom any writ of subpoena is directed does not attend the court at the time and place mentioned therein, and no reasonable excuse is offered for such non-attendance, then, upon the court being satisfied that the writ was duly served or that the person to whom the writ is directed willfully avoids service and that such person is likely to give material evidence, the court may issue a warrant to arrest such person, and to bring him, at the time to be mentioned in the warrant, before the court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

*Fine for non-attendance of witness.*

238. Any person who fails to attend as a witness in either of the cases mentioned in the two last preceding sections, shall be liable on the summary order of the court, to a fine as may be fixed by the court but not less than ten thousand naira, and in default of payment, to imprisonment for a term of two months.

*Writ of subpoena.*

239. Any person whose attendance as a witness, whether for the prosecution or for the defence, is required in any case, and who has not been bound by recognizance to attend as a witness on any date fixed for the trial of the case, may be summoned by a writ of subpoena.

*Service of subpoena.*

240. The registrar, on being furnished with the names and places of abode of witnesses on behalf of the prosecution or defence whose attendance is required to be secured by subpoena, shall prepare and deliver to the sheriff for service a writ or writs of subpoena directed to such witnesses, together with as many copies thereof as there may be witnesses named in such writ or writs.

*Application of Chapter 6 to trials under this chapter.*

241. In addition to the provisions made in this chapter in respect of witnesses the provisions contained in Chapter 6 shall *mutatis mutandis* apply to witnesses required to give evidence in a case triable under this chapter.

*Application of law to trials under this chapter.*

242. In addition to the provisions of this chapter and to other express provisions of this or any other Law relating to trial of indictable offences, the provision of this Law relating to evidence, adjournment, addresses, the discharge and sentencing of convicted persons, the awarding of compensation, costs and the directing and ordering of forfeitures and also all other incidental matters relating to the trial of a case, shall be applicable to a trial on information.

*Recording of judgment and sentence.*

243. The judgment and subsequent sentence of the court shall be endorsed by the registrar on the information.

## CHAPTER 16 – THE CHARGE

**Form of charges in Second Schedule to be used and adopted** 244. Charges may be as in the form set out in the Second Schedule of this Law and may be modified as may be necessary to the circumstances of each case.

**Contents of a charge** 245. (1) Every charge shall contain the following –  
(a) the offence with which the defendant is charged;  
(b) if the written law creating the offence gives it any specific name, the offence may be described in the charge by that name only;  
(c) if the written law which creates the offence does not give it any specific name, so much of the definition of the offence shall be stated as to give the defendant notice of the particulars of the offence with which he is charged; and  
(d) the written law and the section of the written law against which the offence is said to have been committed.

(2) The fact that a charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

**Particulars in a charge.** 246. (1) The charge shall contain such particulars as to the time and place of the offence and the person, 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 matter with which he is charged.

**Description of the offence** (2) The particulars in the charge shall describe the offence concisely in ordinary language avoiding as far as possible the use of technical terms.

**Breach of trust, fraud, etc.** 247. Where the defendant is charged with criminal breach of trust, fraudulent appropriation of property, fraudulent falsification of accounts or fraudulent conversion it shall be sufficient to specify the gross sum in respect of which the 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 within the meaning of section 261.

**Insufficient particulars.** 248. Where the nature of the offence is such that the particulars required by section 245 do not give the defendant sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the offence was committed as will be sufficient for that purpose.

**Sense of words used in a charge.** 249. (1) In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively in the written law creating such offence.



- (2) Figures and abbreviations may be used for expressing anything which is commonly expressed thereby.

**Owner and value of property.** 250.

The description of property in a charge shall be in ordinary language and such as to indicate with reasonable clearness the property referred to and if the property is so described it shall not be 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.

**Joint owners.** 251.

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 sections 289 to 296.

**Coin or currency notes.** 252.

(1) Coins and currency notes may be described as money, and any averment as to any money, so far as regards the description of the property, shall be sustained by proof of any amount of coin or currency note, although the particular species of coin of which such amount was composed or the particular nature of the currency note shall not be proved.

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

**Proof of registered title.** 253.

Where the ownership of the property is described under section 291 as being in any company, association, club or society by its registered title, proof of the registration of the company, association or society shall not be required unless the court decides that such 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 such registered title.

**Provision as to statutory offences.** 254.

Where a written law constituting an offence states the offence to be the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omission, capacities, or intentions, or other matters stated in the alternative in the written law, may be stated in the alternative in the charge.



- Provision as to negative provisions in offences.** 255. It shall not be necessary in any charge where the offence is one constituted by a written law to negative any exception or exemption from or qualification to the operation of the written law creating the offence.
- Description of persons.** 256. The description or designation of the defendant in a charge or of any other person to whom reference is made therein may be described in the manner set forth in section 297.
- Description of document.** 257. Where it is necessary to refer to any document or instrument in a charge, it shall be sufficient to describe it by any name or designation by which it is commonly known, or by the purport of such document, without setting out the content or attaching a copy of such document to the charge.
- General rule as to description.** 258. Subject to any other provisions of this Law, it shall be sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in any charge in ordinary language in such manner as to indicate with reasonable clearness the place, time, thing, matter, act, or omission referred to.
- Statement of intent.** 259. It shall not be necessary in stating any intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the written law creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.
- When persons may be charged jointly.** 260. The following persons may be charged or tried together or separately as the court may deem fit –
- (a) persons accused of the same offence committed in the course of the same transaction;
  - (b) persons accused of an offence and persons accused of abatement or of an attempt to commit the same offence;
  - (c) persons accused of more than one offence of the same or similar character committed by them jointly;
  - (d) persons accused of different offences committed in the course of the same transaction; and
  - (e) persons accused of offences which include theft, extortion, criminal misappropriation and persons 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 persons, or of abatement of or attempting to commit any of the last named offences.
- Separate charges for distinct offences** 261. For every distinct offence with which any person is accused there shall be a separate charge and every such charge shall be tried separately except in the cases mentioned in sections 262 to 267.

- Three offences of the same kind within twelve months may be charged together.* 262. When a person is accused of more offences than one committed within the period of twelve months from the first to the last of such offence whether in respect of the same person or thing or not, he may be charged with and tried at one trial for any number of them not exceeding three.
- Attempt same as substantive offence* 263. Any offence shall be deemed to be an offence of the same kind as an attempt to commit such an offence where such attempt is itself an offence.
- Trial for more than one offence.* 264. If in one series of acts or omissions so connected together as to form the same 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 person, charges for such offences may be joined and the person accused tried for these offences at one trial.
- Offences falling within two definitions.* 265. If the acts or omissions alleged constitute an offence falling within two or more separate definitions in any written law for the time being in force under which offences are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.
- Acts constituting one offence but constituting when combined a different offence.* 266. If several acts or omissions of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts or omissions when combined or for any offence constituted by any one or more of such acts.
- Where it is doubtful which offence committed.* 267. If a single act or omission or series of acts or omissions is of such a nature that it is doubtful which of several offences the facts of which can be proved will constitute, the defendant may be charged with having committed all or any of such offences and any number of such charges may be tried at once or he may be charged in the alternative with having committed any of the said offences.
- Procedure on imperfect charge.* 268. Where any person is arraigned for trial on an imperfect or erroneous charge, the court may permit or direct the framing of a new charge or add to or otherwise alter the original charge.
- Court may alter charge.* 269. (1) Any court may permit any alteration or addition to any charge at any time before judgment is given or verdict returned.
- (2) Every such alteration or addition or new charge shall be read and explained to the defendant.
- (3) No formal application shall be required for the alteration or amendment of a charge before any court.

**Procedure on  
alteration of charge.**

270. (1) If a new charge is framed or alteration made to a charge under the provisions of section 268 or section 269, the court shall forthwith call upon the defendant to plead thereto and to state whether he is ready to be tried on such charge or altered charge.
- (2) If the defendant declares that he is not ready, the court shall consider the reasons he may give and if proceeding immediately with the trial is not likely in the opinion of the court to prejudice the defendant in his defence or the prosecutor in his conduct of the case, the court may proceed with the trial as if the new or altered charge had been the original charge.
- (3) If the new or altered charge is such that proceeding immediately with the trial is likely, in the opinion of the court, to prejudice the defendant or the prosecutor, the court may either direct a new trial or adjourn the trial for such date as the court may consider necessary.
- (4) 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  
witnesses when  
charge altered.**

271. When a charge is altered, amended or substituted after the commencement of the trial, the prosecutor and the defendant shall be allowed to recall or re-summon any witness who may have been examined and examine or cross-examine such witness with reference to such alteration.

**Effect of error.**

272. No error in stating the offence or the particulars required to be stated in the charge and no omission to state the offence or those particulars shall be regarded at any state of the case as material unless the defendant was in fact misled by such error or omission.

**Objection to  
charge to be taken  
at plea.**

273. Any objection to a charge for any formal defect on the face thereof shall be taken immediately after the charge has been read over to the defendant and not latter.

**Objection cured by  
verdict.**

274. No judgment shall be stayed or reversed on the ground of any Objection which if stated after the charge was read over to the defendant or during the progress of the trial might have been amended by the court because of –
- (a) any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the time at which the cause of complaint is alleged to have arisen if it is proved that such complaint was in fact made within the time, if any, limited by law for making the same; nor

- (b) any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the place in which the cause of complaint is alleged to have arisen; nor
- (c) any alleged defect in substance or in form between any complaint, warrant or other process relating to the charge and the evidence adduced in respect of the charge.

*Full offence charged, attempt proved.* 275. Where a person is charged with an offence but the evidence establishes an attempt to commit the offence he may be convicted of having attempted to commit that offence although the attempt is not separately charged.

*Attempt charged, full offence proved.* 276. Where a person is charged with an attempt to commit an offence but the evidence establishes the commission of the full offence the defendant shall not be entitled to an acquittal but he may be convicted of the attempt and punished accordingly.

*Liability as to further prosecution.* 277. Where a person has been convicted of an attempt under either section 275 or 276 such person shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit.

*Person tried for misdemeanor not to be acquitted if felony proved, unless court so directs.* 278. If upon the trial of any person for any misdemeanour or simple offence, it shall appear that the facts proved in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanour or simple offence, and no person tried for such misdemeanour or simple offence shall be liable to be afterwards prosecuted for felony on the same facts, unless the court shall think fit, in its discretion, to stop the trial and to direct that such a person be charged for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanour or simple offence.

*When stealing is charged and receiving proved.* 279. Where a person is charged with stealing anything and it is proved that he received the thing knowing the same to have been stolen, he may be convicted of receiving stolen property under section 393 of the Criminal Code although he was not charged with that offence.

*Person charged with burglary may be convicted of Kindred offence* 280. If on any trial for burglary, house-breaking or related offence the facts proved in evidence justify a conviction for some other of the said offences and not the offence with which the defendant is charged, he may be found guilty of the said other offence and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such offence.

*Conviction of false pretences on charge of stealing.* 281. When a person is charged with stealing anything and it is proved that he obtained the thing in any such manner as would amount under the provisions of the Criminal Code to obtaining it by false pretences with intent to defraud, he may be convicted of obtaining it by false pretences with intent to defraud although he was not charged with that offence.



- Conviction of stealing on charge of false pretences.** 282. When a person is charged with obtaining anything by false pretences with intent to defraud and such thing is capable of being stolen and it is proved that the defendant stole the thing, he may be convicted of stealing it although he was not charged with that offence.
- On charge of rape conviction under Section 203 of Criminal Code or of indecent assault may follow.** 283. If on any trial for rape or for defilement of a girl under the age of thirteen years, the facts proved in evidence authorize a conviction under Section 203 of the Criminal Code or for an indecent assault and not the offence with which the defendant is charged, he may be convicted of an offence under Section 203 of the Criminal Code or indecent assault, as the case may be, and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such offence or indecent assault.
- On charge under Section 203 of Criminal Code Conviction of indecent assault may follow.** 284. If on any trial for an offence under Section 203 of Criminal Code, the facts proved in evidence warrant a conviction for an indecent assault and not the offence charged, the defendant may be convicted of indecent assault although he was not charged with that offence.
- Where murder or infanticide is charged and concealment of birth is proved.** 285. Where upon the trial of any person for the murder of any child or for infanticide, it appears upon the evidence that such person was not guilty of murder or of infanticide, as the case may be, but was guilty of the offence of concealment of birth, such person may be found guilty of that offence.
- Where murder is charged and infanticide proved.** 286. (1) Where upon the trial of a woman for the murder of her newly born child, it appears upon the evidence that having regard to the provisions of Section 282 of the Criminal Code she was not guilty of murder but was guilty of infanticide, she may be found guilty of infanticide.
- (2) Nothing in subsection (1) of this section shall prevent a woman who is tried for the murder of her newly born child from –
- being convicted of manslaughter; or
  - being found guilty of concealment of birth; or
  - being acquitted upon the ground that by virtue of section 18 or 19 of the Criminal Code, she was not criminally responsible, and being dealt with under section 285 of this Law.
- Where offence proved is included in offence charged.** 287. (1) Whenever a person is charged with an offence consisting of several particulars a combination of some only of which constitutes a complete lesser offence and such combination is proved but the remaining particulars are not proved, he may be convicted of such lesser offence or may plead guilty thereto although he was not charged with it.



*Where a lesser offence is proved, conviction may follow.*

- (2) When a person 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 remaining charges on conviction on one of several charges.*

288. (1) When more charges than one are made against a person and a conviction has been had on one or more of them, the prosecutor may with the consent of the court, withdraw the remaining charge or charges or the court of its own motion, may stay the trial of such charge or charges.

*Court may proceed upon withdrawn charges in certain circumstances.*

- (2) Such withdrawal shall have effect of an acquittal on such 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 upon the charge or charges so withdrawn.

## CHAPTER 17 - DESCRIPTION OF PROPERTY AND PERSONS IN THE COURT PROCESS

- Methods of stating ownership of property.* 289. Where in any complaint, summons, warrant of any description, charge sheet, information or any document whatsoever issued by a court in the exercise of its criminal jurisdiction, it is necessary to refer to the ownership of any property whether movable or immovable, which belongs to or is in the possession of more than one person, the provisions of sections 290 to 296 shall apply.
- Joint owners.* 290. If the property belonged to or was in the possession of more than one person whether as partners in trade or otherwise, joint tenants, tenants in common or joint owners or possessors it may be described in the name of any one of such persons and another or others.
- Companies and associations.* 291. Property of a company, association, club or society may subject to the provisions of any other written law be described as the property of an official of such company, association, club or society, or alternatively belonging to such company, association, club or society by its legal or registered title.
- Public department* 292. Property belonging to or provided for the use of any public establishment, service or department may be described as the property of the State.
- Places of worship.* 293. Where it is necessary to state the ownership of any church, chapel, mosque or building or place set apart for religious worship or of anything belonging to or being in the same, it may be stated that such church, chapel, mosque or building or place, or such thing is the property of any clergyman, minister or other person officiating therein or of the churchwarden or churchwardens of such church, chapel, mosque or building or place, without its being necessary to name him or them.
- The control of public offices.* 294. Where it is necessary to state the ownership of any money or other property whatsoever in the charge, custody, or under the control of any public officer, such money or property may be stated to be the money or property of the State.
- Public building, works or institutions.* 295. Where it is necessary to state the ownership of any work or building made, erected or maintained either wholly or in part at the expense of the public revenue of the State or of any town or village thereof or of any local government, or of anything belonging to or being in or used in relation to the same, or of 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 such work or building or any public road or highway, or of any other property whatsoever, whether movable or immovable as aforesaid, it shall be sufficient to state that such property is the property 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 any such areas or jurisdictions.

**Married Women's property.** 296. Property belonging to a woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under the law may be stated as belonging to such married woman.

**Description of persons in criminal process.** 297. (1) Where in any complaint, summons, warrant of any description, charge sheet, information or any document whatsoever issued by a court in the exercise of its criminal jurisdiction it is necessary to refer to any person, the description or designation of that person shall be such as is reasonably sufficient to identify him.

(2) It shall not be necessary to state the person's correct name or his abode, style, degree, or occupation so far as the person has been sufficiently described to identify him.

(3) Where it is impracticable to give the person's correct name, exact description or designation, because the name or such description or designation of the person is not known or for any other reason, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as "person unknown";

Provided that no person who is accused of an offence shall be described as "a person unknown" except in the case of a verdict found upon a coroner's inquisition.

**Remedies of married woman against her husband and others in respect of property** 298. Every woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under the law, shall have in her own name against all persons whatsoever, including the husband of such marriage, subject as to the provisions of any other law, the same remedies and redress by way of criminal proceedings for the protection and security of her own separate property as if such property belonged to her as an unmarried woman.

**Husband and wife competent witnesses.** 299. In any proceeding taken under the provisions of section 298 of this Law, the husband and wife shall be competent and compellable witnesses in accordance with the provisions of the Evidence Law.

## **CHAPTER 18. – DEFENDANT – ATTENDANCE TO COURT: REPRESENTATION BY COUNSEL AND DETERMINATION OF AGE**

- Presence of defendant at trial.** 300. Every defendant shall, subject to the provisions of section 427 (2), be present in court during the whole of his trial unless he misconducts himself by so interrupting the proceedings or otherwise as to render their continuance in his presence impracticable.
- Counsel for complainant and for defendant** 301. (1) Both the complainant and defendant shall be entitled to conduct their respective cases in person or by a legal practitioner.
- Access to legal practitioners.** (2) Where the defendant is in custody or on remand he shall be allowed the access of such legal practitioner at all reasonable times.
- Right of defendant to defend himself.** (3) Where the defendant elects to defend himself in person, the court shall inform him of all his rights within the trial and of the possible consequences of such election.
- Position in court of defendant.** 302. Where a defendant appears before a court to stand his trial he may be required to enter the dock or to stand or sit adjacent thereto as may be ordered by the court.
- Determination of age.** 303. (1) Where the age of any person is in issue in any criminal proceedings, the court may determine such question by taking into account one or both of the following:  
(a) the apparent physical appearance of the person concerned;  
(b) any evidence, in relation to the age of the person concerned, received by the court in accordance with the provisions of the Evidence Act, the Child's Rights Law or any other law in force.
- (2) The evidence of a witness, who is not an expert within the meaning of section 57 of the Evidence Act, shall be admissible for the purpose of this section.
- Provided that an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that 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 to offences.** 304. Where in a charge for any offence, it is alleged that the person by or in respect of whom the offence was committed was a child or young person, or was under or above any specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child or young person, or to have been 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 young person or to have been under or above that age, as the case may be, unless the contrary is proved.

## CHAPTER 19. – RIGHT OF THE PUBLIC TO ATTEND THE COURT SITTINGS

*Public to have  
access to hearing.*

305. (1) Subject to the provisions of sections 306 to 308 and of any other written law specifically relating thereto, the room or place in which any 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) The judge or magistrate presiding over a trial may in his discretion and subject to provisions of section 307, 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 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 any person allowed to be present thereat.

*Court may be  
cleared whilst child  
or young person is  
giving evidence in  
certain cases.*

306. In addition to and not in mitigation of any powers which a court may possess to hear proceedings *in camera* the court may, where a person who in the opinion of the court has not attained the age of eighteen is called as witness in any proceedings in relation to an offence against or any conduct contrary to decency or morality, direct that all or any persons not being members or officers of the court or parties to the case, their legal practitioners or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of such person.

*Order under  
section 305 or 306  
not to apply to press  
of a and certain others.*

307. (1) An order made under either section 305 or 306 excluding the public from a court shall not unless specifically stated –
- (a) authorize the exclusion of *bona fide* representatives newspaper or news agency, or
  - (b) apply to messengers, clerks and other persons required to attend at the said court for purposes connected with their employment.
- (2) Where such an order is made the judge or magistrate, as the case may be, shall record the grounds upon which such decision is taken.

*Prohibition on  
children being present.  
in court during  
the trial of other persons.*

308. No infant, other than an infant in arms, or child shall be permitted to be present in court during the trial of any person charged with an offence or during any proceedings preliminary thereto and if so present, shall be ordered to be removed unless he is the person charged with the alleged offence or 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.



## CHAPTER 20. – PLEA TO INFORMATION OR CHARGE

*Pleading to indictment or charge.*

309. The person to be tried upon any charge or information shall be placed before the court unfettered unless the court shall see cause otherwise to order, and the charge 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 such person shall be called upon to plead instantly thereto, unless where the person is entitled to service and the court finds that he has not been duly served therewith.

*Proof of previous conviction.*

310. Where the fact of a previous conviction of a defendant is a fact in issue, the prosecution shall prove the same in accordance with the provisions of the Evidence Act or otherwise to the satisfaction of the court.

*Pleas of autrefois acquit or convict; pardon*

311. (1) Any defendant against whom a charge or information is filed may plead –
- (a) that he has been previously convicted or acquitted, as the case may be, of the same offence; or
  - (b) that he has obtained a pardon for his offence.
- (2) If either of such pleas is pleaded in any case and denied to be true in fact, the court shall try whether such plea is true in fact or not.
- (3) If 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 or information.

*Where defendant remains silent or refuses to take a plea.*

312. (1) If the defendant when called upon to plead remains silent or refuses to answer, the court shall enter a plea of not guilty on his behalf.
- (2) Such plea 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, court shall proceed with his trial.
- (4) If the court finds that the defendant is of unsound mind, the provisions of this law in relation to persons of unsound mind shall apply.

*Effect of plea of Guilty.*

313. (1) If the defendant pleads guilty to any offence with which he is charged, the court shall record his plea as nearly as possible in the words used by him.
- (2) The prosecution shall state the facts of the alleged offence to which the defendant has pleaded, and if satisfied that he intended to admit the truth of all the essentials of the offence which he has pleaded guilty, the court shall convict him of that offence and pass sentence upon or make an order against him unless there shall appear sufficient cause 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  
where the defendant  
pleads guilty to an  
offence not charged.*

314. (1) If the defendant pleads guilty to any offence not contained in the charge or information on which he was arraigned, the court shall direct the prosecution to amend the charge or information to include the admitted offence.
- (2) In such a situation, a fresh plea of the defendant shall be taken on the amended charge or information.

*Effect of plea  
of not guilty.*

315. Every person who pleads not guilty shall be deemed to have Submitted himself to trial.

## CHAPTER 21 – ADDUCING EVIDENCE AND EXAMINATION OF WITNESSES

- Presentation of case for prosecution.** 316. After the defendant has pleaded not guilty to the charge or information the person appearing for the prosecution may open the case against the defendant and then adduce evidence in support of the charge.
- Rule as to statement of exception.** 317. Any exception, exemption, proviso, condition, excuse, or qualification, whether it does or does not in any enactment creating an offence accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negatived in the complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.
- Application of the Evidence Law.** 318. Subject to the provisions of any other written law, the examination of witnesses shall be in accordance with the provisions of the Evidence Law.
- Witness refusing to be sworn or produce documents.** 319. (1) When any person attending either in obedience to a summons or by virtue of a warrant or being present in court and being verbally required by the court to give evidence in any case –  
 (a) refuses to be sworn as a witness; or  
 (b) having been so sworn, refuses to answer any question put to him by the sanction of the court; or  
 (c) refuses or neglects to produce any documents which he is required by the court to produce;  
 without in any such case offering any sufficient excuse for such refusal or neglect, the court may, if it thinks fit, adjourn the hearing of the case for any period not exceeding eight days where practicable, and may in the meantime, by warrant, commit such person to prison or to other place of safe custody, unless he sooner consents to do what is so required of him.
- (2) If such person, upon being brought before the court at or before such adjourned hearing again refuses to do what is so required of him, the court may if it thinks fit, again adjourn the hearing of the case, and commit him for the like period, and so again from time to time until such person consents to do what is so required of him.
- (3) Nothing herein contained shall affect the liability of any such person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the court from disposing of the case in the meantime according to any other sufficient evidence taken by it.
- Power to call or recall witnesses.** 320. The court at any stage of any trial, or other proceedings under this Law may either of its own motion or on the application of either party to the proceedings call any person as a witness or recall and re-examine any person already examined and the court shall examine or recall and re-

examine any such person if his evidence appears to the court to be essential to the just decision of the case.

***Certificates of  
Certain Government  
technical officers.***

321. Certificates signed by a Government chemist, pathologist, entomologist or superintendent of a forensic science laboratory, or the Accountant-General shall be admissible in evidence in accordance with the provisions of sections 41 to 43 of the Evidence Law.

**CHAPTER 22. – VISIT TO LOCUS**

*View by court  
of locus.*

322. (1) Where it appears to the court that in the 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 view.

*No communication  
between defendant and  
witnesses during visit  
to locus.*

323. In the case of any view being had the court shall give such directions as may seem requisite for the purpose of preventing communication between the witness and the defendant:

Provided that a breach of any such directions shall not affect the validity of the proceedings unless the court otherwise directs.



**CHAPTER 23. – ADDRESSES**

*In certain cases  
prosecution has no  
right of reply.*

324. (1) After the case for the prosecution is concluded, the defendant or the legal practitioner representing him, if any, shall be entitled to address the court at the commencement or conclusion of his case, as he thinks fit, and if no witnesses have been called for the defence, other than the defendant himself or witnesses solely as to the character of the defendant and no document is put in as evidence for the defence, the person appearing for the prosecution shall not be entitled to address the court a second time but if in the opening case for the defence the person appearing for the defendant has in addressing the court introduced new matter without supporting it by evidence, the court in its discretion, may allow the prosecution to reply.

*Addresses to be  
in writing.*

- (2) Addresses under the provision of subsection (1) of this section shall be in writing unless otherwise directed by the court.
- (3) Where the Address is in writing the court may still allow the person making the address reasonable time to highlight certain points contained therein.

*Cases in which  
prosecution may  
reply.*

325. If any witness, other than the defendant himself or witnesses solely as to the character of the defendant, is called or any document is put in as evidence for the defence, the person appearing for the defendant shall be entitled after evidence on behalf of the defendant has been adduced to address the court a second time on the whole case and the prosecution shall have a right of reply.

*Reply by law officer  
or police officer who  
is a lawyer.*

326. The provisions of sections 324 and 325 shall not affect the right of reply by a law officer.

*Right of reply.*

327. In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the defendant has been called as a witness shall not of itself confer on the prosecution the right of reply:

Provided that a law officer or a police officer who is a legal practitioner when appearing personally as counsel for the prosecution shall in all cases have the right of reply.

## CHAPTER 24 – JUDGMENT

- Deliberation by Court.* 328. When the case for both sides is closed, the court shall consider its verdict and for this purpose may adjourn the matter for judgment.
- Judgment to be in writing* 329. The judge or magistrate shall record his judgment in writing and every such judgment shall contain the point or points for determination, the decision thereon and the reasons for the decision and shall be dated and signed by the judge or magistrate at the time of pronouncing it:  
Provided that in the case of a magistrate in lieu of writing such judgment, it shall be a sufficient compliance under this section if the magistrate –  
(a) records briefly in the book his decision thereon and where necessary his reasons for such decision and pronounces it, or  
(b) records such information in a prescribed form.
- Defendant to be discharged if found not guilty.* 330. If the court finds the defendant not guilty, he shall forthwith be discharged and an order of acquittal recorded.
- Defendant to be asked whether he has anything to say before sentence.* 331. If the court convicts the defendant or he pleads guilty, it shall be the duty of the registrar to ask the defendant whether he has anything to say why sentence should not be passed on him according to law, but the omission of the registrar to ask him or his being so asked by a judge or magistrate instead of the registrar shall have no effect on the validity of the proceedings.
- Sentence.* 332. If the court finds the defendant guilty the court shall either pass sentence on the accused or make an order or reserve judgment and adjourn the case to some future date.
- Conviction on other charges pending.* 333. (1) Where a defendant is found guilty of an offence, the court may in passing sentence take into consideration any other charge that is pending against him if the defendant admits the other charge and desires that it be taken into consideration and if the prosecutor of the other charge consents.  
(2) Where such a desire is expressed and consent given, the court shall enter or cause an entry to that effect to be made on the record and upon sentence being pronounced, the defendant shall not, subject to the provisions of sections 453 to 455 or unless the conviction which has been heard is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.
- Delivery of judgment when judge or magistrate is unavoidably absent.* 334. Where a judge or magistrate having tried a case is prevented by illness or other unavoidable cause from delivering his judgment or sentence, such judgment and the sentence, if the same has been reduced into writing and signed by the judge or magistrate, may be delivered and pronounced in open court in the presence of the defendant by any other judge or magistrate.

## CHAPTER 25. – SENTENCE AND IMPRISONMENT

- Security for coming up for judgment.* 335. When a person is convicted of any offence the court may, instead of passing sentence, discharge the offender upon his entering into his own recognizance, with or without sureties, in such sum as the court may think fit, on the condition that he shall appear and receive judgment at some future sitting of the court or when called upon.
- Capital sentence – death.* 336. (1) The punishment of death is inflicted by hanging the offender by the neck until he be dead.
- Death sentence – how pronounced* (2) Sentence of death shall be pronounced in the following form –  
“The sentence of the court upon you is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul.”
- Prior formalities generally.* 337. Where sentence of death has been passed such sentence shall only be carried out in accordance with the provisions of this chapter.
- Where pregnancy is found.* 338. Where a woman found guilty of a capital offence is found in accordance with the provisions of section 353 to be pregnant the sentence of death shall not be passed on her but in lieu thereof she shall be sentenced to imprisonment for life.
- Where offender is a young person.* 339. Where an offender who in the opinion of the court had not attained the age of eighteen years at the time the offence was committed is found guilty of a capital offence, sentence of death shall not be pronounced or recorded but the court shall order such offender to be detained at the pleasure of the Governor and if so ordered he shall be detained in accordance with the provisions of Chapter 30 notwithstanding anything to the contrary in any written law.
- Authority for detention.* 340. A certificate under the hand of the registrar, or other officer of the court, that such sentence has been passed, and naming the person condemned, shall be sufficient authority for the detention of such person.
- Application of sections 342 to 352.* 341. The provisions of sections 342 to 352 shall apply where the sentence of death has been passed for an offence in respect of which the power of pardon is vested in the Governor.
- Judge’s certificate.* 342. Any judge who pronounces a sentence of death shall issue under his hand and seal of the court a certificate to the effect that sentence of death has been pronounced upon the person named in the certificate, and such certificate shall be sufficient and full authority in law for the detention of the offender in safe custody until the sentence of death pronounced upon him can be carried into effect in accordance with and subject to the provisions of sections 336 to 353.

- Steps to be taken 343.** The registrar of the court by which the person is sentenced to death shall, as soon as practicable after sentence has been pronounced:—
- by the registrar.**
- (a) hand a copy of the certificate issued by the judge under the provisions of section 342 to the Commissioner of Police and another copy to the superintendent or other officer in charge of the prison in which the person is to be confined;
  - (b) transmit to the sheriff one copy of the said certificate; and
  - (c) file one copy of the said certificate with the record of proceedings in the case.

- Judge to forward 344.** The judge who passed the sentence of death shall as soon as practicable after the sentence has been pronounced, transmit to the Attorney-General a Certified True Copy of the record of proceedings at the trial together with a copy of the certificate issued by him under the provisions of section 342 and a report in writing signed by him containing any recommendations or observations with respect to a sentenced person and with respect to the trial that he thinks fit to make for the purpose of enabling the Advisory Committee on Prerogative of Mercy advise the Governor on the exercise of the prerogative of mercy.
- report to**
- Attorney-General.**

- State at which 345. (1)** Where a person –
- Governor is to**
- consider report.**
- (a) has been sentenced to death; and
  - (b) has exercised his legal rights of appeal against the conviction and sentence, and the conviction and sentence has 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 appeal, has failed to perfect or prosecute such application or appeal within the time prescribed by law;
- the Governor shall consider the report made under section 344 and after obtaining the advice of the Advisory Council on Prerogative of Mercy decide whether or not to commute the sentence to imprisonment for life or commute the sentence to any specific period or decide whether the prisoner should be otherwise pardoned or reprieved.
- (2) Where, for the purposes of subsection (1) of this section, the Advisory Council on the Prerogative of Mercy is required to advise the Governor in relation to any person sentenced to death, the Attorney-General shall cause a record of the case to be prepared and submitted to the Advisory Council, and the Advisory Council shall, in giving its advice, have regard to the matters set out in that record.

- Where no 346.** If the Governor decides that the sentence should not be commuted or that
- commutation,**
- pardon or reprieve**
- is granted.**
- the offender should not be pardoned or reprieved, he shall cause the Sheriff to be informed and the sentence of death pronounced upon the offender shall be carried into effect in accordance with the provisions of this law and the Sheriff shall make arrangements accordingly pursuant to the sentence of death pronounced upon the offender.

*Where commutation, pardon or reprieve is granted.*

347. (1) Where the Governor decides that the sentence should be commuted or that the offender should be otherwise pardoned or reprieved, he shall issue an order, a copy of which shall be sent to the superintendent or other officer in charge of the prison in which the offender is confined, and another copy thereof shall be sent to the Sheriff, directing that the execution should not proceed and that the offender be in prison in accordance with the recommendation, or that the offender be released, subject to conditions, if any, as may be specified.
- (2) The Sheriff and the superintendent or other officer in charge of the prison in which the offender is confined shall comply with and give effect to every order issued under the provisions of subsection (1).

*Copy of order to be sent to the judge.*

348. The Advisory Council on the Prerogative of Mercy shall send a copy of the Governor's order to the judge who presided over the trial or to his successor in office and such judge shall cause such order to be entered in the record of the court.

*Form of Governor's order Fourth Schedule.*

349. The Governor's order shall be under his hand and the Public Seal and shall be as in one of the forms set out in the Fourth Schedule or as near thereto as circumstances permit and if the sentence is to be carried out shall state the place and time where and when the execution is to be had and give directions as to the place of burial of the body or may direct that the execution shall take place at such time and at such place and the body of the person executed be buried at such place as shall be appointed by some officer specified in the order.

*Endorsement on the order by specified officer.*

350. When the place or time of execution or the place of burial is appointed by some person and is not stated in the Governor's order the specified officer shall endorse on the order over his signature the place and time of execution and place of burial or someone or more of them according to the terms of the order.

*Copy of order to be sent to sheriff.*

351. A copy of the Governor's order under his hand and the Public Seal shall be sent to the Sheriff of the area in which the execution is to be carried into effect and the Sheriff shall give effect to the order:

Provided that if for any reason a copy of the Governor's order is not received by the Sheriff before the date fixed therein or endorsed thereon for execution, the said Sheriff shall nevertheless have the order carried into effect on the earliest convenient day after receipt thereof.

*Order to be sufficient authority.*

352. The said copy of the Governor's order under his hand and the Public Seal or the directions issued by the sheriff under the last preceding section shall be sufficient authority in law to all persons to carry the sentence into effect in accordance with the terms thereof.



**Procedure where woman convicted of capital offence is alleged to be pregnant.** 353. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before or by which a woman is so convicted thinks fit so to do, the court shall, before sentence is passed on her behalf, determine the question whether or not she is pregnant.

**Proof of pregnancy.** (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 prosecution.

**Court pronounces sentence on the woman if she is not pregnant** (3) Where the court finds that the woman in question is not pregnant the court shall pronounce sentence of death upon her.

**Court of Appeal may quash the sentence.** (4) An appeal shall lie to the Court of Appeal against such finding and the Court of Appeal, if satisfied that the finding should be set aside, shall quash the sentence passed on her and in lieu thereof pass on her a sentence of imprisonment for life.

**Substitution of death sentence. an** (5) The rights conferred by this section on a woman convicted of offence punishable with death shall be in substitution for the right of such a woman to allege in an application for stay of execution that she is pregnant.

**Court reports to council.** (6) The court shall report to the Advisory Council on the Prerogative of Mercy any case in which the court passes a sentence of imprisonment for life under this section.

**Imprisonment to be with labour unless otherwise ordered.** 354. Imprisonment shall be with labour unless otherwise ordered by the court.

**Power to order detention for one day in precincts of the court.** 355. Where the court has power to pass a sentence of imprisonment, the court, in lieu of passing sentence of imprisonment, may order that the offender be detained within the precincts of the court or at any police station till such hour, not later than eight in the evening on the day on which he is convicted, as the court may direct;  
Provided that the court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the offender's abode, if his abode is known to or ascertainable by the court, and shall not make any such order of detention under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day on which such order of detention is made.

**Consecutive sentences of imprisonment.** 356. Where a sentence of imprisonment is passed on any person by a court, the court may order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced by any competent court or tribunal in Nigeria. However, where two or more sentences passed by a

Magistrates' Courts are ordered to run consecutively, the aggregate term of imprisonment shall not exceed four years or the limit of jurisdiction of the adjudicating magistrate whichever is greater.

**Date from which sentence commences.** 357. A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

**Power to inflict fine in lieu of imprisonment.** 358. (1)

Subject to the other provisions of this section, where a court has authority under any written law to impose imprisonment for any offence and has not specific authority to impose a fine for that offence, the court may, in its discretion impose a fine in lieu of imprisonment.

(2) In the case of a conviction in the High Court, the amount of the fine shall be in the discretion of the court, and any term of imprisonment imposed in default of payment of the fine shall not exceed two years.

(3) In the case of a conviction in a Magistrate's Court –

(a) the amount of the fine shall be in the discretion of the court but shall not exceed the maximum fine authorised to be imposed by the Magistrate by or under the Magistrates' Court Law; and

(b) no term of imprisonment imposed in default of payment of the fine shall exceed the maximum fixed in relation to the amount of the fine by the scale specified in section 365.

(4) In no case shall any term of 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) exceed the maximum term authorised by the written law.

(5) The provisions of this section shall not apply in any case where a written law provides a minimum period of imprisonment to be imposed for the commission of an offence.

**Escaped prisoners effect of escape on punishment.** 359.

A person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty is liable upon recapture to undergo the punishment which he was undergoing at the time of his escape, for a term equal to that during which he was absent from prison, after the escape and before the expiration of the term of his original sentence, whether at the time of his recapture the term of that sentence has or has not expired.

**Direct imprisonment.** 360.

Where a sentence or conviction does not order the payment of money but orders that the offender be imprisoned the court shall issue a warrant of commitment accordingly.

**Authority for carrying out sentences not capital.** 361.

A warrant under the hand of the judge or magistrate by whom any person shall have been sentenced or committed to prison for non-payment of a penalty or fine shall be full authority to the superintendent of any prison and to all other person for carrying into effect the sentence described in such warrant not being a sentence of death.

**Error or omission  
shall not to affect  
legality of act.**

362. The court may at any time amend any defect in substance or in form in any order or warrant of commitment and no omission or error as to time and place and no defect in form in any order or warrant of commitment given under this Law, shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant if it is therein mentioned, or may be inferred therefrom, that it is founded on a conviction or judgment sufficient to sustain the same.

## CHAPTER 26 – FINES

*Fines,  
imprisonment in  
default of.*

363. A person convicted of an offence punishable by –
- (a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment; or
  - (b) imprisonment or fine, and sentenced to pay a fine, may be ordered to serve imprisonment, on 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 power of  
awarding imprisonment  
in default of payment  
of penalty.*

364. Where by any written law the court is empowered to impose a penalty for a summary conviction offence, it may in the absence of express provision to the contrary in the same or any other written law, order a defendant who is convicted of such offence, in default of payment of the sum of money adjudged to be paid under the order, either forthwith or at the time specified in the order, as the case may be, to be imprisoned, with or without labour, in accordance with the scale set forth in section 365.

*Scale of  
imprisonment for  
non-payment of money  
adjudged to be paid.*

365. (1) The Chief Judge of the State shall have power to review from time to time the provisions for fines, compensation or sums of money under the law.
- (2) Subject to the provisions of the written law on which the order is founded, the period of imprisonment, whether with or without labour, which is imposed by the court in respect of the non-payment of any sum to be paid by an order, shall be such period as in the opinion of the court will satisfy the justice of the case but shall not exceed the maximum fixed in the following scale. Limitation of imprisonment in default of payment of fine shall not exceed the following where fine:-
- |                         |    |                |
|-------------------------|----|----------------|
| does not exceed ₦3,000  | .. | seven days;    |
| does not exceed ₦4,000  | .. | fourteen days; |
| does not exceed ₦5,000  | .. | one month;     |
| does not exceed ₦6,000  | .. | two months;    |
| does not exceed ₦7,000  | .. | four months;   |
| does not exceed ₦8,000  | .. | six months;    |
| does not exceed ₦9,000  | .. | one year;      |
| does not exceed ₦10,000 | .. | two years.     |

*Limitation of  
imprisonment in default  
of payment of fine.*

- (3) No commitment for non-payment of a fine shall be for a period longer than two years, except where the law under which the conviction has taken place enjoins or allows a longer period.

*Payment and  
allocation of fines  
and fees.*

366. A court in fixing the amount of any fine to be imposed on an offender shall take into consideration, amongst other things, the means of the offender so far as they appear or are known to the court and where a fine is imposed, the payment of the court fees and police fees 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 thereof as may be paid or recovered, shall be applied as follows –

- (a) in the first instance in the payment to the informant, complainant or victim of any court or other fees paid by him and ordered by the court to be repaid to him;
- (b) in the second instance the payment of any court fees not already paid by the informant, complainant or victim which may be payable under the rules of court;
- (c) the balance, if any, remaining after the above payments have been made shall be paid into general revenue.

**Power to commit defendant in certain cases.** 367. In any case where an order is made against any person for the payment of a sum of money and such person is in default of payment and liable to be imprisoned, the court may do all or any of the following;

- (a) issue a warrant of commitment forthwith;
- (b) allow time for the payment of the said sum;
- (c) direct payment of the said sum to be made by installments; or
- (d) direct that the person liable to pay the said sum shall be at liberty to give security, to the satisfaction of the court, either with or without a surety or sureties, for the payment of the said sum or any installment thereof.

**Allowance of further time and payment by installments.** 368. Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order, further time may, on an application by or on behalf of the person liable to pay such sum, be allowed by a court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, or such court may, subject as aforesaid, direct payment by installments of the sum so adjudged to be paid.

**Default in one payment renders all payable.** 369. Where a sum is directed to be paid by installments and default is made in the payment of any one installment, the same proceedings may be taken as if default had been in the payment of all the installments then remaining unpaid.

**Surrender before committal date.** 370. If before the expiration of the time allowed the person convicted surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may if it thinks it fit forthwith issue a warrant committing him to prison.

**Power to postpone issue of warrant of commitment.** 371. Where the person liable to pay any sum and to whom time has been given to pay either with or without a surety or sureties makes default in such payment or fails to enter into the security required by the court, the court shall issue its warrant of commitment requiring any police officer to take and convey such person to prison and there deliver him to the superintendent of prisons, and require him to receive such person into the prison and there to imprison him with or without labour, as the case may be, for such time as may be directed and appointed by the warrant of.



commitment, unless the sum of money adjudged to be paid by the order and also all other costs, charges and expenses shall be paid.

- Time and** 372. Where application is made to the court for a warrant for committing a person to prison for non-payment of any sum of money adjudged to be paid by an order, the court may, if it deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions if any, as the court may deem just.
- Limit of three months.** 373. When the court orders the imprisonment of any person, the court may, if it thinks fit, order that such imprisonment shall not commence forthwith, but shall commence on any day not more than three months after the date of such order as the court may fix, and in such case the court may either suffer the person to go at large until such day or discharge him upon his entering into a recognizance, with or without sureties, conditioned for his reappearance on such day to undergo such imprisonment.
- Execution of warrants.** 374. Any warrant of commitment issued under the provisions of sections 371 to 373 may be executed on any day including Sunday or public holiday.
- Payment of penalty to person executing warrant.** 375. In all cases where any person against whom a warrant of commitment for non-payment of any sum of money adjudged to be paid by an order is issued, pays or tenders to the person having the execution of the same, the sum or sums in such warrant mentioned together with the amount of the expenses of such warrant up to the time of such a payment or tender, the person having the execution of such warrant shall cease to execute the same.
- Commencement Of imprisonment.** 376. Where any person is brought to any prison to be imprisoned by virtue of a warrant of commitment there shall be endorsed on such warrant the day on which such person was arrested by virtue thereof and the imprisonment shall be computed from such day and inclusive thereof.
- Varying of or discharging order for sureties.** 377. Where any person has been committed to prison by the court for default in finding a surety or sureties the court may, on application made to it by such person or by some person acting on his behalf, inquire into the case of such person, and if upon new evidence produced to the court or proof of a change of circumstances the court thinks having regard to all the circumstances of the case that it is just so to do, the court may reduce the amount for which it was ordered that the surety or sureties should be bound, or dispense with surety or sureties, or otherwise deal with the case as the court may deem just.
- Right of person imprisoned in default to be released on paying sum.** 378. Where any person has been committed to prison by the court for non-payment of any sum of money adjudged to be paid by an order, such person may pay or cause to be paid to the officer in charge of the prison the sum mentioned in the warrant of commitment together with the amount of the costs, charges and expenses if any, also mentioned therein and the officer in charge of the prison shall receive the same and

thereupon discharge such person, unless he is in custody for some other matter.

**Application of a sum received from prisoner.** 379. In any case where under the last preceding section a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court such sum shall be applied firstly, towards the payment in full or in part of any cost, damages or compensation which the court may have ordered to be paid to the complainant and, secondly, towards the payment of the fine, if any, imposed on the prisoner.

**Part payment after committment.** 380. (1) Subject to the provisions of section 379 where an amount is paid towards a fine the procedure as hereunder in this subsection set forth shall be followed –  
(a) 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 such person is committed as the sum so paid towards the fine bears to the amount of the fine for which such person is liable;  
(b) the superintendent or other officer in charge of a prison in which a person who has made such part payment is confined shall as soon as practicable take such person before a court and such court shall certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction and shall make such order as is required in the circumstances;

Provided that where in the opinion of the superintendent or other officer as aforesaid, the delay occasioned by taking such person before a court shall be such that the person will be detained beyond the date upon which he should by reason of such part payment be released, such superintendent or other officer may release such person on the day which appears to such 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 such court shall thereupon make such order or record as the court shall consider to be required in the circumstances.

(2) In reckoning the number of days by which any term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account and in reckoning the sum which will secure the reduction of a term of imprisonment, fractions of a kobo shall be omitted.

**Fines may be ordered to be recoverable by distress.** 381. Where under the authority of any written law the court imposes a fine or any pecuniary penalty whether or not that fine or penalty is accompanied by a power to impose imprisonment and no special provision other than recovery by distress is made for the recovery of such fine or penalty the court may order such fine or penalty to be recoverable, by distress and, in default of such distress satisfying the amount of the fine or penalty as aforesaid, may order that the offender be imprisoned, with or

without labour as the case may be, in accordance with the scale set forth in section 365.

**Warrant of distress.** 382. Where the court orders a sum to be recoverable by distress the court shall issue its warrant of distress for the purpose of recovering the same, such warrant shall be in writing and signed by the court, it shall authorize the person charged with the execution thereof 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 the execution of distress Warrants.** 383. In the execution of a distress warrant the following provisions shall have effect –

- (a) a warrant of distress shall be executed by or under the direction of the sheriff; or
- (b) if the person charged with the execution of the warrant is prevented from executing the same by the fastening of doors or otherwise, the judge or magistrate may, by writing under his hand endorsed on the warrant, authorize him to use such force as may be necessary to enable him to execute the warrant; or
- (c) the wearing apparel and beddings of the person and of his family, and to the value of ten thousand naira (N10,000.00) and the tools and implements of his trade, shall not be taken; or
- (d) except as provided in paragraph (c) and so far as the person upon 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 five days and not more than fourteen days after the making of the distress; but where consent in writing is so given as aforesaid the sale may be in accordance with such consent; or
- (e) subject as aforesaid, the goods distrained on shall be sold within the time fixed by the warrant, unless the sum for which the warrant was issued and also the charges, if any, of taking and keeping the goods distrained on, are paid; or
- (f) if any person charged with the execution of a warrant of distress willfully retains from the proceeds of any property sold to satisfy the distress, or otherwise exacts any greater costs or charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall be liable, on summary conviction before a judge or magistrate, to a penalty not exceeding twenty thousand naira (N20,000.00); or

Provided that nothing herein contained shall affect the liability of any such person to be prosecuted and punished for extortion;

- (g) a written account of the costs and charges incurred in respect of the execution of any warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the judge or magistrate; and it shall be lawful for the person upon whose moveable property the distress was levied, at any time within one month after the

making of the distress, to inspect such account without payment of any fee or reward at any time during office hours and to take a copy of such account; or

- (h) a person charged with the execution of a warrant distress shall sell the distress or cause the same to be sold, and may deduct out of the amount realized by such sale all costs and charges actually incurred in effecting such sale, and shall pay to the court or to some person specified by him, the remainder of such amount, in order that the same 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 that the surplus, if any, may be rendered to the person upon whose movable property the distress was levied.

*Part payment  
reduces period of  
imprisonment in  
proportion*

384. Where a part only of the amount ordered to be recovered by distress is so recovered the period of imprisonment ordered to be suffered in default of recovery of the amount imposed shall 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, the warrant of commitment shall be drawn up accordingly and after such committal the provisions of sections 378 to 380 shall apply.

## CHAPTER 27 – COSTS, COMPENSATION AND DAMAGES

- Costs against defendant.* 385. A court may order any person convicted before it of an offence to pay to the private prosecutor in addition to any penalty imposed such reasonable costs as the court may deem fit.
- Against private prosecutor.* 386. A court that acquits or discharges a person accused of an offence, if the prosecution for such offence was originally instituted on a summons or a warrant issued by a court on the complaint of a private prosecutor, may order such private prosecutor to pay to the defendant such reasonable costs as the court may deem fit and the payment of such costs or any part thereof may be ordered by the court to be made out of any money taken from such person on his arrest or may be recovered by distress.
- Order may not be made under certain conditions.* 387. No order as to costs as aforesaid may be made if the court considers that the private prosecutor had reasonable grounds for making his complaint and the costs awarded shall not exceed twenty thousand naira (₦20,000.00) in the case of an award by a judge or ten thousand naira (₦10,000.00) naira in the case of an award by a magistrate.
- Costs may be awarded.* 388. Costs may be awarded under this chapter and may be in addition to any compensation awarded and accepted under section 390.
- Meaning of "private prosecutor"* 389. In this chapter "private prosecutor" does not include any person prosecuting on behalf of the State, a public officer prosecuting in his official capacity or a police officer prosecuting in his official capacity.
- Compensation in case of false and vexatious charge.* 390. If in any case before a court one or more persons is or are accused of any offence and the court which heard the case discharges or acquits any or all of the defendants and the judge or magistrate presiding over the court is of opinion that the accusation against any or all of them was false and either frivolous or vexatious the judge or magistrate may for reasons to be recorded, direct that compensation, to such an amount not exceeding twenty thousand naira (₦20,000.00) as he may determine, be paid to the defendant or to each or any of them by the person upon whose complaint the defendant was or were charged.
- Enforcement of award of compensation.* 391. Any sum so awarded as compensation shall be specified in the order of discharge or acquittal, as the case may be, and the court may order that in default of payment within such time as the court deems proper of any sum awarded for compensation, the person making default be imprisoned, with or without labour, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 365.
- Saving of express procedure for awarding costs and compensation.* 392. The provisions of sections 385 to 390 shall be subject to any express provision made in any written law relating to the procedure to be followed in awarding costs or compensation in respect of conditions specified in such written law.



*Order to pay costs* 393. An appeal shall lie against any order awarding costs under this chapter, if made by a magistrate to the High Court and if made by a judge to the Court of Appeal.  
*appealable.*

*Injured person may* 394. (1) The person to whom compensation is awarded may refuse to accept any such order for compensation but where any person receives compensation for an injury under the award of the court as above mentioned or where the offender, having been ordered to make compensation, suffers imprisonment for non payment thereof, the receipt of such compensation, or the undergoing of such imprisonment, as the case may be, shall be a bar to any action for the same injury.  
*refuse to accept*  
*compensation: payment*  
*of compensation is bar*  
*to further liability.*  
(2) Before making an order under subsection (1) the court shall explain the full effect of that subsection to the person to whom compensation would be payable.

*Wrongful* 395. (1) Where in a charge of an offence relating to property, the court is of the opinion that the evidence is insufficient to support that charge, but that it establishes wrongful conversion or detention of property, the court may order that such property be restored, and may also award reasonable damages to the person entitled to the property.  
*conversion*  
*or detention of property.*

*Damages recoverable as* (2) The damages awarded under this section shall be recoverable in like manner as penalty.  
*penalty.*

## CHAPTER 28 – PROBATION

- Conditional release of offenders.* 396. Where any person is charged before a court with an offence punishable by such court, and the court thinks that the charge is proved but is of the opinion that having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence or to the extenuating circumstances under which the offence was committed, it is expedient to inflict any punishment or any other than a nominal punishment or that it is expedient to release the offender on probation the court may without proceeding to conviction make an order either –
- (a) dismissing the charge; or
  - (b) discharging the offender conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour for a period not less than one year and not exceeding three years.
- Compensation for loss or injury and costs may be awarded.* 397. The court may, in addition to any such order, order the offender to pay such damages for injury or compensation for loss, not exceeding twenty thousand naira (₦ 20,000.00) or if a higher limit is fixed by any enactment relating to the offence that higher limit, and to pay such costs of the proceedings as the court thinks reasonable and if the offender has not attained the age of eighteen years and it appears to the court that the parent or guardian of the offender has condoned to the commission of the offence the court may under and in accordance with the provisions of Child's Rights Law after hearing such parent or guardian, order payment of such damages and costs by such parent or guardian.
- Restitution of stolen property.* 398. Where an order under this section is made, the order shall, for the purpose of reverting or restoring stolen property and enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money in connection with such restitution or delivery, have the like effect as a conviction.
- Probation orders and conditions of recognizance.* 399. A recognizance ordered to be entered into under this chapter shall if the court so orders contain a condition that the offender be under the supervision of such person or persons of either sex, hereinafter called a probation officer, be named in the order during the period specified in the order, and an order requiring the insertion of such conditions as aforesaid in the recognizance is in this chapter referred to as a probation order.
- Content of Recognizance.* 400. A recognizance under this chapter may contain such additional conditions with respect to residence, abstention from intoxicating liquor and any other matters 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.
- The court makes a notice in writing.* 401. The court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

**Relieving probation officer of his duties.**

402. The person named in a probation order may at any time be relieved of his duties and in any such case or in case of the death of the person so named another person may by consent be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

**Duties of probation officers**

403. It shall be the duty of a probation officer, subject to directions of the court –

- (a) if the person on probation is not actually residing with the probation officer to 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 deem fit; or
- (b) to see that he observes the conditions of his recognizance; or
- (c) to report to the court as to his behaviour; or
- (d) to advise, assist, and befriend him and when necessary to endeavour to find him suitable employment.

**Variation of terms and conditions of probation.**

404. The court before which any person is bound by recognizance under this chapter to appear for conviction and sentence or for sentence –

- (a) may at any time if it appears to it upon the application of the probation officer that it is expedient that the terms or conditions of the recognizance should be varied, summon the person bound by the recognizance to appear before it and if he fails to show cause why such variation should not be made, vary the terms of the recognizance by extending or diminishing the duration, however, that it shall not exceed three years from the date of the original order, or by altering the conditions or by inserting additional conditions; or
- (b) may on application being made by the probation officer, and on being satisfied that the conduct of the person bound by the recognizance has been such as to make it unnecessary that he be any longer under supervision, discharge the recognizance.

**Provisions in case of offender failing to observe conditions of release.**

405. If the court before which an offender is bound by his recognizance under this chapter to appear for conviction or sentence is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his arrest or may if it deems fit instead of issuing a warrant in the first instance issue a summons to the offender and his sureties, if any, requiring him or them to attend at such court and at such time as may be specified in the summons.

**Offender may be brought before another court.**

406. The offender when arrested shall if not brought forthwith before the court before which he is bound by his recognizance to appear for conviction or sentence be brought before another court.

**Bail or remand.**

407. The court before which an offender on arrest is brought or before which he appears in pursuance of such summons as aforesaid may if it is not the court before which he is bound by his recognizance to appear

for conviction or sentence, remand him in custody or on bail until he can be brought before the last mentioned court.

*Committal to prison during remand.*

408. An offender so remanded in custody may be committed during remand to any prison to which the court having power to convict or sentence him has power to commit prisoners.

In the case of a child or young person he shall, if remanded, be dealt with wherever practicable in accordance with the provisions of the Child's Rights Law.

*Conviction of original offence.*

409. A court before which a person is bound by his recognizance to appear for conviction and sentence on being satisfied that he has failed to observe any conditions of his recognizance may forthwith, without further proof of his guilt, convict and sentence him for the original offence.

## CHAPTER 29 – SEIZURE, RESTITUTION, FORFEITURE AND DISPOSAL OF PROPERTY

*Order for disposal  
of property regarding  
which offence committed.*

410. (1) Either before a charge is preferred or during or at the conclusion of any trial, the court may make such order as it thinks fit for the disposal whether by way of forfeiture, confiscation, delivery to any person or otherwise of any movable or immovable property produced before it regarding which any offence appears to have been committed or which has been used for the commission of any offence in the case of any movable property, the production of title document, deed, certificate of occupancy or receipt of purchase of such property shall be deemed as production of the property itself before the court for the purposes of this section.
- (2) Where the court orders the forfeiture or confiscation of any property as provided in subsection (1) but does not 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 the same if sold, the proceeds thereof shall be held as it directs until some person establishes to the court's satisfaction a right thereto. If no person establishes such a right within six months from the date of forfeiture or confiscation of such property, the proceeds thereof shall be paid into and form part of the general revenue.
- (3) The power conferred by subsection (1) and (2) upon the court shall include the power to make an order for the forfeiture or confiscation or for the destruction or for the delivery to any person of such property, but shall be exercised subject to any special provisions regarding forfeiture, confiscation, destruction, detention or delivery contained in the written law under which the conviction was had or in any other written law applicable to the case.
- (4) When an order is made under this section in a case in which an appeal lies such 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 such appeal is entered until the disposal of such appeal.
- (5) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same has been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise.

*Seizure of things  
intended to be used in*

411. The court may order the seizure of any instruments, materials or things which there is reason to believe are provided or prepared, or



|   |      |   |
|---|------|---|
| <i>commission of offence.</i>   |      | being prepared with a view to the commission of any offence triable by the court and may direct the same to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 410.   |
| <i>Destruction of seditious, prohibited or obscene publications and of obscene objects.</i> | 412. | On a conviction for an offence relating to seditious or obscene publication, the court may order the confiscation and destruction of all the copies of the publication or thing in respect of which the conviction was had and which are in the custody of the court and also all those which remain in the possession or power of the person convicted.  |
| <i>Unfit or adulterated food.</i>   | 413. | The court may on a conviction for an offence relating to adulterated or unfit food, drink or drug, order the food, drink or drug in respect of which conviction was had and also all other unfit or adulterated food, drink or drug which remain in the possession or power of the person convicted to be destroyed.  |
| <i>Search warrant may be used to search for things subject to sections 411 and 412.</i>     | 414. | Where a magistrate is satisfied by information on oath that there is reasonable ground for believing that there is in the State in any building, ship, carriage, receptacle or place anything in respect of which an order may be made under sections 411 and 412 such magistrate may issue a search warrant to search for any such thing and if such thing be found the same shall be brought before any court and dealt with as the court may think proper.   |
| <i>Restoration of possession of immovable property.</i>                                     | 415. | (1) Whenever a person is convicted of an offence attended by criminal force and it appears to the court that by such force any person has been dispossessed of any immovable property, the court may, if it thinks fit, order the possession of the same to be restored to such person.   |
| <i>Effect of the order.</i>   |      | (2) No order under subsection (1) shall prejudice any right or interest to or in such immovable property which any person, including the person convicted, may be able to establish in a civil suit.  |
| <i>Payment to innocent person of money found on defendant.</i>                              | 416. | When any person is convicted of any offence which includes or amounts to stealing or receiving stolen property and it is proved that any other person has bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that the money has on the arrest of the convicted person been taken out of his possession, the court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser shall be delivered to him. |
| <i>Restitution and disposition of property found on person Arrested.</i>                    | 417. | Where upon the arrest of a person charged with an offence, any property, other than that used in the commission of the offence, is taken from him, the court before which he is charged may order – that the property or a part thereof be restored to the person who   |

charged, that it be restored either to him or to such other person as he may direct; or that the property or a part thereof be applied to the payment of any costs or compensation directed to be paid by the person charged.

*Restitution of  
property stolen.*

418. (1) Where any person is convicted of having stolen or having received stolen property, the court convicting him may order that such property or a part thereof be restored to the person who appears to it to be the owner thereof, either on payment or without payment by the owner to the person in whose possession such property or a part thereof then is, of any sum named in such order.

*Exceptions to restitution  
Order.*

- (2) Section 417 (1) shall not apply to –
- (a) any valuable security which has been *bona fide* paid or discharged by any person liable to pay or discharge the same; or
  - (b) any negotiable instrument which have been *bona fide* received by transfer or delivery by any person for a just and valuable consideration without notice or without any reasonable cause to suspect that it has been stolen.

*Destruction of  
articles relating to  
counterfeiting where  
charge is laid.*

419. Where any person is charged with an offence relating to counterfeit note or coin and in that person's possession, actual or constructive, was found any counterfeit note or coin or any matter or thing intended to be used for the purpose of making counterfeit notes or coins then, whether such charge proceeds to conviction or not, such note or coin or matter or thing shall not be returned to the person charged or the person from whom the same was taken but shall be destroyed in such manner as the court may order.

*Destruction of  
articles relating to  
counterfeiting where no  
charge is laid* coins, he

420. Where any person comes into possession of any note or coin which he believes to be counterfeit or of any matter or thing which in his opinion is to be used for the purpose of making counterfeit notes or may hand such note, coin, matter or thing to any administrative officer, officer of the Central Bank of Nigeria or any bank or to any police officer not below the rank of an Inspector, and such administrative officer, officer of the Central Bank of Nigeria or police officer –
- (a) if satisfied that such note or coin is not counterfeit, or that any of such articles are not intended to be used for the purpose of making counterfeit notes or coins, shall return the note, coin or such articles, as the case may be, to the person purporting to be the owner thereof, if known; and
  - (b) if satisfied that such note or coin is counterfeit or such matter or thing is intended to be used for the purpose of making counterfeit notes or coins and if no charge is to be preferred against any person in connection with any such note, coin, matter or thing, may destroy or cause to be destroyed such note, coin, matter or thing in such manner and by such person

as may be approved by the Central Bank of Nigeria or Commissioner for Finance:

Provided that –

notice shall have been given to the person who appears to be the owner of such note, coin, matter or thing, if such person is known and can easily be found, that such note, coin, matter or thing will be destroyed at the end of a specified number of days unless such owner shows that the note or coin is not counterfeit or that the matter or thing shall have no claim against any such administrative officer, officer of the Central Bank of Nigeria, police officer or the Government in respect of any such note, coin, matter or thing so destroyed.

*Mode of dealing  
with forfeiture not  
pecuniary.*

421. Subject to the express provisions of any written law relating thereto every article, not pecuniary, forfeited in respect 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 such sale shall be applied in the like manner as if the proceeds were a penalty imposed under the written law on which the proceeding for the forfeiture is founded.

## CHAPTER 30. – DETENTION DURING THE GOVERNOR'S PLEASURE

*Conditions  
attached to detention  
during pleasure.*

422. When any person is ordered to be detained during the Governor's pleasure he shall notwithstanding anything in this Law or in any other written law contained be liable to be detained in such place and under such conditions as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

*Discharge of  
detainee by license.*

423. A person detained during the Governor's pleasure may at any time be discharged by the Governor on license.

*Form of license.*

424. A license may be in such form and may contain such conditions as the Governor may direct.

*Revocation of  
license.*

425. A license may at any time be revoked or varied by the Governor and where a license has been revoked the person to whom the license relates shall proceed to such place as the Governor may direct and if he fails to do so, may be arrested without warrant and taken to such place.

## CHAPTER 31 – PERSONS OF UNSOUND MIND

- Interpretation.* 426. For the purposes of this chapter unless the context otherwise requires –  
“**asylum**” includes a lunatic asylum, a mental home or other hospital, a prison and any other suitable place of safe custody for medical observation; “**medical officer**” means the medical officer attached to any asylum or any medical officer from whom a court requires an opinion.
- Procedure when defendant is suspected to be of unsound mind.* 427. (1) When a judge or magistrate holding a trial has reason to suspect that the defendant is of unsound mind and consequently incapable of making his defence, the judge or magistrate shall in the first instance investigate the fact of such unsoundness of mind.
- Procedure for investigation in the absence of the defendant* (2) Such investigation may be held in the absence of the defendant if the court is satisfied that owing to the state of the defendant’s mind it would be in the interest of the safety of the defendant or of other persons or in the interest of public decency that he should be absent, and the court may receive as evidence a certificate in writing signed by a medical officer to the effect that such defendant is in his opinion of unsound mind and incapable of making his defence or is a proper person to be detained for observation in an asylum, or the court may if it sees fit, take oral evidence from a medical officer on the state of mind of such defendant.
- Defendant is detained for observation if the court is not satisfied.* (3) If the judge or magistrate is not satisfied that such person is capable of making his defence, the court shall postpone the trial and shall remand such person for a period not exceeding one month to be detained for observation in an asylum.
- The medical officer shall certify his finding.* (4) The medical officer shall keep such person under observation during the period of his remand and before the expiration of such period shall certify under his hand to the court his opinion as to the state of mind of such person, and if he is unable within the period to form any definite conclusion, shall so certify to the court and shall ask for a further remand. Such further remand may extend to a period of two months.
- Detention of the defendant by medical officer for observation.* (5) Any court before which a person suspected to be of unsound mind is accused of any offence may, on the application of a law officer made at any stage of the proceedings prior to the trial, order that such person be sent to an asylum for observation. The medical officer may, notwithstanding any other provision of law detain any such defendant for such period, not exceeding one month, as may be necessary to enable him to form an opinion as to the state of mind of such person, and shall forward a copy of his opinion in writing to the court.



- Certificate of medical officer.** 428. (1) If such medical officer shall certify that the defendant is of unsound mind and capable of making his defence, the court shall, unless satisfied by the defence that the defendant is of unsound mind, proceed with the trial.
- Court may postpone trial under certain circumstances.** (2) If such medical officer shall certify that such person is of unsound mind and incapable of making his defence, the judge or magistrate shall, if satisfied of the fact, find accordingly, and postpone the trial. If the judge or magistrate is satisfied that the defendant is of sound mind and capable of making his defence, the court shall proceed with the trial.
- The evidence proving soundness of mind is deemed a part of trial.** (3) The trial of the issue as to whether or not the defendant is of unsound mind and incapable of making his defence shall, if 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.
- Evidence of medical certificate.** (4) The certificate of the medical officer shall be receivable as evidence under this section.
- Defendant may not attend court.** (5) If 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 chapter.
- Release of person of unsound mind pending investigation or trial.** 429. (1) Whenever a defendant is found to be of unsound mind and incapable of making his defence, the court, if the offence charged is bailable by the court, may, in its discretion, release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and of his appearance when required before the court or such officer as the court appoints in that behalf.
- Magistrate informs the defendant of his right to apply to a judge for bail.** (2) If such a defendant is before a magistrate charged with an offence which is bailable by a judge but not by a magistrate or if the offence is bailable by a magistrate but the magistrate refuses to grant bail, such magistrate shall inform the defendant of his right to apply to a judge for bail.
- Procedure when offence is not bailable.** (3) If the offence charged is not bailable by the Magistrate's Court or if a judge has refused bail under this section or if sufficient security is not given or if 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 of trial.** 430. Whenever a trial is postponed under section 427 subsection (3) the court may at any time commence the trial *de novo* and require the defendant to appear or be brought before such court.

**Resumption of proceedings.** 431. When the defendant has been released under section 429 subsection (1) the court may at any time require the defendant to appear or be brought before it and may again proceed under section 427 subsection (3).

**Judgment of acquittal on ground of mental disorder.** 432. Whenever any person is acquitted upon the ground that at the time at which he is alleged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act alleged as constituting the offence or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

**Safe custody of person acquitted.** 433. (1) Whenever the finding states that the defendant committed the act alleged, the court before which the trial has been held shall, if such act would but for incapacity found have constituted an offence, order such person to be kept in safe custody in such place and manner as the court thinks fit and shall report the case for the order of the Attorney-General.

(2) The Attorney-General may order such person to be confined in a lunatic asylum, prison or other suitable place of safe custody.

**Observation of prisoners of unsound mind.** 434. When any person is confined under sections 429 or 433 the medical officer of the prison if such person is confined in a prison, or the medical officer attached to the asylum if he is confined in any asylum, 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 Attorney-General as to the state of mind of such person at such time or times as the Attorney-General shall require.

**Procedure when person of unsound mind is reported fit for trial.** 435. When any person is, under the provisions of sections 429 and 430 confined in a prison or asylum and is certified by the medical officer thereof to be capable of making his defence, such person shall be taken before the court at such time as the court appoints, and the court shall proceed with the trial and the aforesaid certificate shall be receivable as evidence.

**Procedure when person of unsound mind is reported fit for discharge.** 436. If the medical officer of a prison or the medical officer attached to an asylum in which a person is confined under section 429 or section 433 shall certify that such person in his judgment may be discharged without danger of his doing injury to himself or to any other person, the Attorney-General may thereupon order him to be discharged or to be detained in custody or prison or to be transferred to an asylum if he has not already been sent to such an asylum, and in case he orders him to be transferred to an asylum may require the Director of Medical Services of the State to appoint two medical officers to report on the state of mind of such person and upon any other facts the Attorney-General may require and on receipt of such report the Attorney-General may order his discharge or detention as he thinks fit.

**Transfer from one place of custody to another.** 437. Where a person is confined in prison or any asylum, the Attorney-General may direct his transfer from one prison or asylum to any other prison or asylum as often as may be necessary.

**Delivery of person of unsound mind to care of relative.** 438. (1) Whenever any relative or friend of any person confined under section 429 or section 433 desires that such person shall be delivered over to his care and custody, the Attorney-General upon the application of such relative or friend and on his giving security to the satisfaction of the Attorney-General that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may in his discretion order such person to be delivered to such relative or friend.

Provided that if such person is confined under the provisions of section 429, the Attorney-General may further require such relative or friend to give security to the satisfaction of the Attorney-General that if at any time it shall appear to the Attorney-General that such person is capable of making his defence, such relative or friend shall produce such person for trial.

(2) Whenever such person is so delivered to the care and custody of any person, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Attorney-General directs.

(3) Sections 434 and 436 shall *mutatis mutandis* apply to persons delivered to the care and custody of persons under this section.

**Removal to another state.** 439. Whenever it shall be necessary to remove a prisoner to a prison or asylum under the provisions of sections 427 to 437, an order for such removal given under the provisions of the said Sections shall be sufficient authority for such removal and the detention of such prisoner notwithstanding that such prison or asylum is situate in another State in Nigeria.

## CHAPTER 32 – TRIAL OF CORPORATION

- Application of this chapter.** 440. The provisions of this chapter shall apply to all trials held under this Law and where there is a conflict between the provisions of this chapter and any other provisions of this Law, the provisions of this chapter shall prevail.
- Interpretation** 441. (1) In this chapter "corporation" means any body corporate, incorporated in Nigeria or else where.  
(2) In this chapter "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 chapter authorized 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.  
(3) A representative for the purposes of this chapter 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 chapter, shall be admissible without further proof as prima facie evidence that the person has been so appointed.
- Plea by corporation.** 442. Where a corporation is called upon to plead to any charge or information (including a new charge or information framed under the provisions of section 268, or charge or information added to or altered under the provisions of section 268 or section 269) it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under the provisions of section 311, 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 against a corporation.** 443. An information may be preferred against a corporation after the preparation of the proofs of evidence relating to the charge.
- Joinder of counts in same information.** 444. An information under section 443 may include, either in substitution for or in addition to counts charging the offence for which proof of evidence have been prepared counts which may be lawfully joined in the same information and are founded on facts or evidence disclosed in the proofs of evidence.
- Powers of Representative.** 445. A representative may on behalf of a corporation –  
(a) state whether the corporation is ready to be tried on a charge or information or altered charge or, information to which the

corporation has been called on to plead under the provisions of subsection (1) of section 270;

- (b) consent to the hearing and determination of a complaint before the return date of a summons in accordance with section 102;
- (c) express assent to the trial of the corporation on information, notwithstanding that a copy of the information and notice of trial have not been served on the corporation three days or more before the date on which the corporation is to be tried.

*Matters to be read or said or explained to representative.*

446.

Where a representative appears, any requirement of this Law that anything shall be done in the presence of the defendant, or shall 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:

Provided that paragraph (a) of subsection (1) of section 194 shall be sufficiently complied with if the representative is asked if he has any witnesses to examine or other evidence to adduce for the defence, and if the witnesses and other evidence if they are heard.

*Non-appearance of representative.*

447.

Where a representative does not appear, any such requirement as is referred to in section 442, shall not apply.

*Saving.*

448.

Subject to the preceding provisions of this chapter, the provisions of this Law relating to the inquiry into and trial of offences shall apply to a corporation as they apply to an adult.

*Joint charge against corporation and individual.*

449.

A corporation may be charged jointly and tried with an individual for any offence.

*Service on corporation.*

450.

The provisions of paragraph (b) of section 108 shall apply to the service on corporation of any information, notice or other document which is by this Law required to be served upon or delivered to a person charged as they do to the service of a summons.



## CHAPTER 33 – PREVIOUS ACQUITTAL OR CONVICTION

- Interpretation.** 451. In this chapter "offence" includes an offence against the law of any other State in Nigeria.
- Person once convicted or acquitted not to be retried for same or related offence.** 452. (1) Without prejudice to section 277, a person charged with an offence shall not be liable to be tried for that offence if it is shown –
- (a) that he has previously been convicted or acquitted of the same offence by a competent court; or
  - (b) that he has previously been convicted or acquitted by a competent court on a charge on which he might have been convicted of the offence charged; or
  - (c) that he has previously been convicted or acquitted by a competent court of an offence 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 any Law giving power to any court, on an appeal, to set aside a verdict or finding of any other court and order a re-trial.
- May be tried again on separate charge in certain cases** 453. A person acquitted or convicted of any offence may afterwards be tried for any distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of section 264.
- Consequences supervening or not known at previous trial.** 454. A person acquitted or convicted of any offence constituted by any act or omission causing consequences which together with such act or omission constitute a different offence from that for which he was acquitted or convicted may afterwards be tried for such 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 such consequences create the offence of murder or manslaughter.
- Where court at first trial was not act competent.** 455. A person acquitted or convicted of any offence constituted by any act or omission may notwithstanding such acquittal or conviction, be subsequently charged with and tried for the same or any other offence constituted by the same acts or omissions if the court by which he was first tried was not competent to try the offence with which he was first charged.
- Dismissal of charge.** 456. The dismissal of a complaint or the discharge of the defendant is not an acquittal for the purposes of sections 452 to 455.

## CHAPTER 34 – INQUIRIES BY DIRECTION OF ATTORNEY-GENERAL

- Inquiries by direction of Attorney-General.*** 457. Where a sworn information is made before any magistrate that an offence against a Law of Anambra State has been committed, the Attorney-General may, whether or not any known person be charged with the commission of the offence, direct any magistrate to hold an inquiry under this chapter and may, if he thinks fit, direct that such inquiry be held in camera.
- Conduct of inquiry*** 458. The magistrate so directed shall then examine on oath concerning such offence any person whom he has reason to believe to be able to give material evidence concerning it, other than a person confessing himself to be the offender, and shall take the deposition of such witness and, if he sees cause, bind such witness by his own recognizance to appear and give evidence at any place where, and at any time when, he may be called upon to do so.
- Report.*** 459. At the conclusion of an inquiry under this chapter the said magistrate shall forward to the Attorney-General the original depositions and recognizance of the witnesses together with his report upon the proceedings, and shall state in such report his opinion as to the persons implicated in the commission of such offence.
- Procedure.*** 460. The provisions contained in this Law relating to summoning witnesses and to, compelling their attendance and to their examination on oath, and to binding them over to give evidence, shall apply for the purposes of an inquiry under this chapter.
- Person charged entitled to copy of deposition.*** 461. If a person is put upon his trial for an offence respecting which an inquiry under this chapter has been held, he shall, if he so requests, be supplied free of charge with an authenticated copy of all depositions taken at such inquiry.
- Statements of witnesses privileged.*** 462. A witness examined at such inquiry shall not be excused from answering any question on the ground that the answer thereto may incriminate or tend to incriminate him but any confession or answer by a person to a question put at such examination shall not, except in the case of any criminal proceeding for perjury committed at or after the holding of such inquiry, be in any proceeding admissible in evidence against him.

**CHAPTER 35. – MISCELLANEOUS**

- Use of forms in First, Second and Third Schedules.* 463. (1) Subject to the express provisions, if any, of the Rules, the forms and precedents contained in the First, Second and Third Schedules may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply and, when so used, shall be good and sufficient in law.
- (2) The forms in the said Schedules may be added to, revoked, replaced or varied by the rules in all respects as if they had originally been so made.
- Payment of fees.* 464. Subject to the provisions of sections 465 and 466, in every proceeding had before any court such fees as may be prescribed under this Law shall be paid.
- Court may waive fees.* 465. A court may in any proceeding in which good cause appears to the court for so doing, suspend payment of any fees payable therein until the conclusion of such proceeding and the court may then direct such fees to be paid as costs by any party to the proceeding by whom the court has power to order costs to be paid or remit the payment of such fees.
- State not required to pay fees.* 466. The provisions of this Law relating to fees and to the giving of security shall not apply to the State or to any public officer acting in his official capacity.
- Power to make rules of court.* 467. (1) The Chief Judge may make rules in respect of all or any of the following matters –
- (a) fees to be paid under this Law;
  - (b) forms to be used for the process and procedure of the courts;
  - (c) accounts to be rendered of moneys received by any person under this Law;
  - (d) the method of issue of process under this Law; and the manner of receipt of and accounting for fees in respect of such process;
  - (e) regulating the procedure in connection with information filed by the Attorney-General under the provisions of section 173;
  - (f) prescribing anything or any person required to be prescribed under the provisions of this Law; and
  - (g) generally for carrying into effect the purpose of this Law.
- (2) Where rules are made under this section, separate rules shall be made in respect of the practice and procedure in the High Court and in Magistrates' Courts, save where the procedure prescribed by such rules applies equally to the High Court and to Magistrates' Courts.

**FIRST SCHEDULE**

**Section 463**

**FORMS**

**FORM 1**

**GENERAL FORM OF TITLE OF PROCEEDINGS**

**(For use in the High Court)**

**IN THE HIGH COURT OF ANAMBRA STATE OF NIGERIA**

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

Criminal Case No....., 20.....

**Between**

..... Prosecutor

**And**

..... Defendant.

**(for use in Magistrates' Courts)**

**IN THE MAGISTRATE'S COURT**

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

Charge No....., 20.....

**Between**

..... Complainant,

**And**

..... Defendant.

**FORM 2**

**Section 50**

**ORDER OF RECOGNIZANCE TO KEEP THE PEACE AND BE OF GOOD  
BEHAVIOUR**

(General Title – Form 1)

Before the High/Magistrate's Court of the ..... Judicial  
Division/Magisterial District sitting at .....

The ..... day of ..... two thousand and .....  
A. B., having made a complaint that C. D., hereinafter called the defendant, on the  
..... day of ..... at ....., in the  
..... aforesaid, did .....

It is adjudged 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 Governor and all persons, and  
especially towards the complainant, for the term of ..... now  
next ensuing.

And it is adjudged that if the defendant fails to comply with this order he be  
imprisoned in the prison at ..... for the space of .....,  
unless he sooner 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 .....).

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].

.....  
Magistrate

Section 168

FORM 3

COMPLAINT

\*State concisely the substance of the case

(General Title – Form 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 .....  
Aforesaid, ..... did

.....  
Taken before me this ..... day of .....

.....  
Judge (or Magistrate)

Section 101

FORM 4

SUMMONS TO DEFENDANT

(General Title – Form 1)

\*State concisely the substance of the complaint

To A.B. of .....

Complaint has been made this day by .....  
for that you on the ..... day of ..... at  
..... in the ..... aforesaid did\*

You are therefore hereby summoned to appear before the  
..... Magistrate's Court sitting at  
..... on the ..... day of  
....., at the hour of ..... in the  
..... noon to answer to the said complaint.

Dated this ..... day of ..... 20 .....

.....  
Magistrate

FORM 5

Section 232

Section 115

WARRANT FOR APPREHENSION OF DEFENDANT WHO HAS DISOBEYED  
SUMMONS

(General Title – Form 1)

To ..... Police Officer or to each and all Police  
Officers.

\*State concisely the substance of the complaint

Information has been filed/complaint has been made on the ..... day of  
..... that A.B. hereinafter called the defendant on the  
..... day of ....., at ..... in the aforesaid, did\*  
.....  
.....

And the defendant was thereupon summoned to appear before the  
High/Magistrate's Court of the ..... Judicial  
Division/Magisterial District sitting at ..... on the ..... day  
of ..... at the hour of ..... in the  
..... noon, to plead to the said information/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 therefore hereby commanded to bring the defendant before the  
High/Magistrate's Court of the ..... Judicial Division/Magisterial  
District sitting at ..... forthwith to plead to the said information/to  
answer to the said complaint and be further dealt with according to law.

Dated the ..... day of ..... two thousand and  
.....

.....  
Judge (or Magistrate)

Section 116

FORM 6

WARRANT FOR APPREHENSION OF DEFENDANT IN FIRST INSTANCE

(General Title – Form 1)

\*State concisely the substance of the complaint

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 ..... aforesaid,  
did\* ..... You  
are therefore hereby commanded to bring the defendant before the Magistrate's  
Court of the ..... Magisterial District sitting at  
..... forthwith to answer the said complaint and be dealt with  
according to Law.

Dated the ..... Day of ..... two thousand and  
.....

.....  
Judge (or Magistrate)

Section 120

FORM 7

SUMMONS TO WITNESS

(General Title – Form 1)

\*State concisely the substance of the complaint

To E.F. ....

Information has been preferred against A.B/A.B has been charged by  
..... for that he on the .....  
day of ....., at ..... in the aforesaid, did\*  
..... and it appearing 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 ..... Judicial Division/Magisterial District sitting at ....., on ..... day the ..... day of ....., at the hour of ..... in the ..... Noon, to testify what you know in such matter.

Dated the ..... day of ..... two thousand and .....

.....  
Judge (or Magistrate)

#### Section 94.

#### FORM 8

#### CONVICTION (FORFEITED RECOGNIZANCE)

(General Title – Form 1)

Before the High/Magistrate's Court of the ..... Judicial Division/Magisterial District sitting at ..... The ..... day of ..... two thousand and .....

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 E.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 having ....., the same a breach of the said condition:

It is therefore adjudged 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] forthwith [or on the ..... day of .....]; and in default of payment it is ordered that the sum due from the said ..... under this adjudication be levied by distress and sale of his goods, and in default of sufficient distress that he be imprisoned in the prison at

..... for the space of ..... unless the said sums [and all costs and charges of the (said distress and) commitment] be sooner paid.

.....  
Judge (or Magistrate)

Section 122

FORM 9

WARRANT FOR APPREHENSION OF A WITNESS

(General Title – Form 1)

To ..... Police Constables or to each and all the constables of .....

E.F. was duly summoned to appear before High Court/Magistrate's Court of the ..... Judicial Division/Magisterial District sitting at ..... on ..... day the ..... day of ..... at the hour of ..... in the ..... noon, to testify what he should know concerning a certain information preferred against A.B./a certain complaint against A.B.

And he has either appeared thereto, nor offered any just excuse for his neglect.

And it has been proved on oath that the summons has been duly served on him [and that a reasonable sum has been paid (or tendered) to him for his costs and expenses in that behalf].

You are therefore hereby commanded to bring him before the High/Magistrate's Court of the ..... Judicial Division/Magisterial District sitting at ..... forthwith to testify what he knows concerning the said matter.

Dated the ..... day of ..... two thousand and .....

.....  
Judge (or Magistrate)



Section 123

FORM 10

WARRANT FOR APPREHENSION OF WITNESS IN FIRST INSTANCE

(General Title – Form 1)

\*State concisely the substance of the complaint

To .....  
Information has been preferred against A.B./A.B. has been charged by  
..... for that he on the ..... day  
of ....., at ..... in the .....  
Aforesaid, ..... did\*

And it is appearing to me by the 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 so to do:

You are therefore hereby commanded to bring him before the  
High/Magistrate's Court of the ..... Judicial  
Division/Magisterial District sitting at ..... Forthwith to testify  
what he knows concerning the said matter.

Dated the ..... day of ..... two thousand and  
.....

.....  
Judge (or Magistrate)

Section 241

Section 319

FORM 11

WARRANT OF COMMITMENT OF WITNESS

(General Title – Form 1)

To ..... and to the Superintendent of  
..... Prison.

E.F. .... having appeared or being brought  
before the High/Magistrate's Court of the ..... Judicial  
Division/Magisterial District sitting at ..... on  
..... day the ..... day of  
..... to testify what he should know concerning a certain  
matter 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 premises 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 keep him for the space of  
..... Unless he in the meantime consents to be examined  
and answer concerning the premises.

Dated the ..... day of ..... two thousand  
and .....

.....  
Judge (or Magistrate)

FORM 12

REPORT AND REQUEST FORM FOR REMAND  
(Section 132(2))

IN THE MAGISTRATE'S COURT OF ANAMBRA STATE

IN THE MAGISTRATE COURT OF THE ..... MAGISTERIAL  
DISTRICT

HOLDEN AT .....

BETWEEN

COMMISSIONER OF POLICE

Applicant

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, occupation) of (state details of the Respondent's street address or where there is no precise street address, as clear and close description as possible of the location of the Respondent last known residence,) 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 \_\_\_\_\_ magisterial district on or about \_\_\_\_\_ (state the date or approximate date or period of his committing the alleged offence) on grounds stated below:

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

**Grounds for the Request for Remand**

1. Place. time and circumstances 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))

e. Name  
Age  
Sex  
Address  
Occupation

f. Name  
Age  
Sex  
Address  
Occupation

11. Need for further investigation \_\_\_\_\_ Yes \_\_\_\_\_ No

12. Period / duration required for further investigation  
\_\_\_\_\_ (state the approximate  
days/weeks/months required to complete investigation)

13. Any further relevant information  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signed  
(DPP State / Law officer or  
police officer)

For service on XYZ  
The person arrested  
Address of the person arrested

**FORM 13**  
**Section 132**  
**COMMITMENT ON REMAND**  
**(General Title – Form 1)**

To ..... and to Superintendent of  
..... Prison.

A.B. hereinafter called the defendant being brought before the High/Magistrate's  
Court of the ..... Judicial Division /Magisterial  
District sitting at ....., information having been filed

3. If arrested with Exhibit(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)
9. Found in custody or possession of offensive weapon, object or substance: \_\_\_\_\_ Yes \_\_\_\_\_ No
10. Identification by victim(s) or witness(es) \_\_\_\_\_ Yes \_\_\_\_\_ No

State the particulars of such victim(s) or witness(es)

a. Name  
Age  
Sex  
Address  
Occupation

b. Name  
Age  
Sex  
Address  
Occupation

c. Name  
Age  
Sex  
Address  
Occupation

d. Name  
Age  
Sex  
Address  
Occupation

that/charged

with

having

The hearing of the case being adjourned;

You the said Police Officer are hereby commanded to convey the defendant 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 until the ..... day of ..... 20....., and on that day to convey him before the High/Magistrate's Court of the ..... Judicial Division / Magisterial District sitting at ..... at the hour of ..... in the ..... noon, to be further dealt with according to law.

Dated the ..... day of ..... two thousand and .....

.....  
Judge (or Magistrate)

**ENDORSEMENT WHERE BAIL IS ALLOWED**

I hereby certify that I consent to the defendant being bailed, himself in ..... naira and ..... sureties in ..... naira each.

.....  
Judge (or Magistrate)

**FORM 14**

Section 241

Section 335

**CONVICTION (WITH SECURITY)**

(General Title – Form 1)

Before the High/Magistrate's Court of the ..... Judicial Division/Magisterial District sitting at .....

The ..... day of ..... two thousand and .....

A.B. hereinafter called the defendant, is this day convicted for that he on the ..... day of ..... at ..... in the ..... aforesaid, did .....

But the court being of opinion that the said offence was of so trifling a nature that it is inexpedient to inflict any [or any other than a nominal] punishment, and the defendant having given security to the satisfaction of this Court to appear for sentence when called upon [or to be of good behavior], he is discharged.

If costs are ordered, add:-

And it is ordered that the defendant pay to the said ..... the sum of ..... For costs [by installments of .....

For every ..... days, the first installment 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 prison at ..... for the space of ..... unless the said sum [and all costs and charges of the (said distress and) commitment be sooner paid].

.....  
Judge (or Magistrate)

Section 242

Section 360

**CONVICTION (IMPRISONMENT)****FORM 15**

(General Title – Form 1)

Before the High/Magistrate's Court of the .....  
Judicial Division/Magisterial District sitting at

The ..... day of .....  
two thousand and .....

A.B. hereinafter called the defendant, is this day convicted for that he on the ..... day of ..... at ..... in the ..... aforesaid, did .....

And it is adjudged that the defendant, for his said offence, be imprisoned in the prison at ..... and there kept to hard labour [or without hard labour] for the space of ..... if costs are ordered, add:-

And it is ordered that the defendant pay to ..... the sum of ..... for costs [by installments of ..... for every ..... days, the first installment 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 adjudges, unless the said sum [and all costs and charges of the (said distress and) commitment be sooner paid].

.....  
Judge (or Magistrate)

FORM 16

Section 242

Section 385 and 391

**ORDER FOR MONEY (NOT A CIVIL DEBT)**

(General Title – Form 1)

Before the High/Magistrate's Court of the .....  
Judicial Division/Magisterial District sitting at

The ..... day of ..... two thousand  
and .....

Information having been filed A.B. having made a complaint that C.D. hereinafter  
called the defendant, on the ..... day of  
..... at ..... within the  
..... aforesaid, did .....

On the trial of the defendant/on hearing the said complaint, it is ordered that the  
defendant pay to the said ..... the sum of  
....., and also the sum of ..... for  
costs [by installments of ..... for every  
..... days, the first installment to be paid] for with  
[or on the ..... day of  
.....]

And in default of payment it is ordered that [the said sums be levied by distress and  
sale of the defendant's goods, and in default of sufficient that] the defendant be  
imprisoned in the prison at ..... and there kept to hard  
[or without hard labour] for the space of  
....., unless the said sums [and all the space  
of .....], unless the said sums [and all costs and  
charges of the (said distress and) commitment be sooner paid].

.....  
Judge (or Magistrate)

#### Section 205

#### FORM 17

#### ORDER OF DISMISSAL WITH DAMAGES

(General Title – Form 1)

Before the High/Magistrate's Court of the .....  
Magisterial District sitting at .....

The ..... day of ..... two thousand  
and .....

Complaint having been made by A.B. that C.D. hereinafter called the  
defendant, on the ..... day of ..... at  
..... in the ..... aforesaid, did .....

And the Court being of opinion that, though the said charge is proved, the offence is  
trifling a nature that it is expedient to inflict any punishment, doth hereby dismiss  
the said information:-

Both doth order that the defendant do pay the complainant  
..... for damages and ..... for costs [by  
installments of ..... for every ..... days, the first  
installment to be paid] forthwith [or on the ..... day of  
.....]:

And in default of payment it is ordered that the said sums be levied by distress and sale of the defendant's goods, and in default of sufficient that the defendant be imprisoned in the prison at ..... for the space ..... unless the said sums [and all costs and charges of the (said distress and) commitment] be sooner paid.

.....  
Judge (or Magistrate)

Section 205  
FORM 18  
ORDER FOR OTHER MATTERS  
(General Title – Form 1)

Before the High/Magistrate's Court of the ..... Judicial Division/Magisterial District sitting at .....

The ..... day of ..... two thousand and .....

Information having been preferred against C.D./A.D. having made a complaint that C.D. hereinafter called the defendant, on the ..... day of ..... at ..... within the ..... aforesaid, did .....

On the trial of the defendant/on hearing the said complaint, it is ordered that the defendant do .....

If imprisonment is ordered, add:-

And it is adjudged that if the defendant neglects or refuses 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 pays to the said ..... the sum of ..... for costs [by installments of ..... for every ..... days, the first installment to be paid] forthwith [or on the ..... day of .....]:

And in default of payment 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 adjudged, unless the said sum [and all costs and charges of the (said distress and) commitment] be sooner paid.

.....  
Judge (or Magistrate)

Section 207.  
FORM 19  
ORDER OF DISMISSAL  
(General Title – Form 1)

\*On its merits or without prejudice to its being brought again  
Before the Magistrate's Court of the ..... Magisterial  
District sitting at .....

The ..... day of ..... two thousand  
and .....

Complaint having been made by ..... that A.B.,  
hereinafter called the defendant, on the ..... day of  
..... at ..... in the  
..... aforesaid, did .....

The court having heard and determined the said complaint doth dismiss the same\*

If costs are ordered, add:-

And it is ordered that the complainant pays to the defendant the sum of  
..... for costs [by installments of  
..... for every ..... days, the first  
installment to be paid] forthwith [or on the ..... day of  
.....]:

And in default of payment it is ordered that the sums due be levied by distress and  
sale of the complainant's goods, and in default of sufficient distress that the  
complainant be imprisoned in the prison at ..... for the  
space of ..... unless the said sums [and all costs and  
charges of the (said distress and) commitment] be sooner paid.

.....  
Judge (or Magistrate)

Section 242

Section 212

FORM 20

# ORDER UPON FINDING YOUNG PERSON GUILTY OF AN INDICTABLE OFFENCE

(General Title – Form 1)

(Cap 37)

Before the High/Magistrate's Court of the ..... Judicial  
Division/Magisterial District sitting at .....

The ..... day of ..... two thousand  
and .....

A.B. hereinafter called the defendant, being a child/young person with the meaning  
of the Criminal Procedure Law and above the age of seven/fourteen years, is this  
day found guilty of the offence of ..... without objection of the  
parent or guardian, for that he on the ..... day of  
..... at ..... in the aforesaid,  
did .....

And it is adjudged that [proceed as in other forms of conviction, if whipping is  
ordered insert either addition to or in substitution for any other punishment –

And that the defendant being a male under the age of seventeen years be, as  
soon as practicable, privately whipped with ..... strokes of a  
.....].

.....  
Judge (or Magistrate)

Section 212  
FORM 21

SUMMARY CONVICTION (BY CONSENT) FOR INDICTABLE  
OFFENCE

(General Title – Form 1)

Before the Magistrate's Court of the ..... Magisterial  
District sitting at .....

The ..... day of ..... two thousand  
and .....

A.B. hereinafter called the defendant, within the meaning of the Criminal Procedure  
Law is this day charged for that he on the ..... day of  
..... at ..... in the  
..... aforesaid do .....

The defendant, having consented to be dealt with summarily, is convicted of the said  
offence:-

And it is adjudged that (proceed as in other forms of conviction).

.....  
Judge (or Magistrate)

Section 242  
Section 212  
FORM 22

CONVICTION (ON PLEA OF GUILTY) FOR INDICTABLE OFFENCE

(General Title – Form 1)

Before the High/Magistrate's Court of the .....  
Magisterial District sitting at .....

The ..... day of ..... two thousand  
and .....

A.B. hereinafter called the defendant, is this day arraigned/charged for that he on  
the ..... day of ....., at  
..... in the ..... aforesaid,  
did .....

And the defendant having pleaded guilty to such information/the charge, is  
convicted of the offence, and is adjudged to be imprisoned in the prison at  
..... and there kept to hard labour or without hard  
labour for the space of .....

If costs are ordered, add:-

And in default of payment it is ordered that the sums 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 adjudged, unless the



said sums [and all costs and charges of the (said distress and) commitment] be sooner paid.

.....  
Judge (or Magistrate)

Section 367  
FORM 23

CONVICTION FOR PENALTY, AND, IN DEFAULT OF PAYMENT  
IMPRISONMENT  
(General Title – Form 1)

Before the High/Magistrate's Court of the .....  
Magisterial District sitting at .....

The ..... day of ..... two thousand  
and .....

A.B. hereinafter called the defendant, is this day convicted for that he, on the  
..... day of ....., at ..... within  
the ..... aforesaid,  
did.....

And it is adjudged that the defendant for his said offence do forfeit and pay the sum  
of ..... and do also pay the further sum of  
..... for compensation and for costs [by installments of  
..... for every ..... days, the first installment to be  
paid] forthwith [or on the ..... in the default of payment it is  
adjudged that [the sums due under this adjudication be levied by distress and sale of  
the defendant's goods, and in default of sufficient distress that] the defendant be  
imprisoned in prison at ..... [and all costs and charges of the (said  
distress and) commitment] be sooner paid.

.....  
Judge (or Magistrate)

Section 381  
FORM 24

WARRANT OF DISTRESS (FOR PENALTY)  
(General Title – Form 1)

To .....

A.B. hereinafter called the defendant, was on the ..... day  
of ..... convicted before the High/Magistrate's Court of  
summary jurisdiction sitting at ..... for that he on the  
..... day of ..... at  
..... in the ..... aforesaid, did  
.....

And it is adjudged that the defendant for his 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 installments of  
..... for every ..... days, the first

installment 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 to value of ..... naira, 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 states 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 ..... two thousand and .....

Judge (or Magistrate)

~~N~~

K

Amount adjudged .....  
Paid .....  
Remaining due .....  
Cost of issuing this warrant .....  
Total amount to be levied .....

**Section 244 and 463  
SECOND SCHEDULE  
CHARGES**

**UNDER CRIMINAL CODE WITH ONE HEAD**

**Criminal Code Section 125(a)**

1. That you on the ..... day of ..... at ..... being employed in the public service, and being charged with the performance of a duty by virtue of such employment, not being a duty touching the administration of justice, \*corruptly asked, received or obtained, or agreed or attempted to receive or obtain, any property or benefit of any kind for yourself or any other person on account of anything already done or omitted to be done, or to be afterwards, done or omitted to be done, by you in the discharge of the duties of your office and thereby committed an offence punishable under Section 125 of the Criminal Code.

**Criminal Code Section 146**

2. That you, on the ..... day of ....., at ..... being a witness upon the trial of 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 a street called Ogui Road, Awka on the ..... day of ....., and thereby committed an offence punishable under Section 146 of the Criminal Code.

#### Section 148

3. 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 148 of the Criminal Code.

#### Section 247 (a) (i)

4. That you, being a prostitute on the ..... day of ..... at ....., behaved in an indecent manner by exposing your naked person in Owerri Road and thereby committed an offence punishable under Section 247(a) of the Criminal Code.

#### Section 279

5. That you, on the ..... day of ..... at ....., unlawfully killed ..... and thereby committed an offence punishable under Section 279 of the Criminal Code.

#### Section 280 (c)

6. That you, on the ..... day of ..... at ....., aided A.B. in killing himself and thereby committed an offence punishable under Section 280 (c) of the Criminal Code.

#### Section 288 (a)

7. 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 288 (a) of the Criminal Code.

\* The words not applicable must be deleted and the nature of the property or benefit must be specified.

Section 297 (a)

8. That you, on the ..... day of ..... at ..... , unlawfully wounded ..... and thereby committed an offence punishable under Section 297 (a) of the Criminal Code.

Section 255

9. That you, on the ..... day of ..... at ..... , unlawfully wounded and indecently assaulted M.S. and thereby committed an offence punishable under Section 255 of the Criminal Code.

Section 364

10. That you, on the ..... day of ..... at ..... , robbed C.D. of (state the thing) and thereby committed an offence punishable under Section 364 of the Criminal Code.

Section 386

11. That you, on the ..... day of ..... at ..... , with intent to defraud, obtained from S.P. 5 meters of cloth by falsely pretending that you were a servant to J.S. and that you had been sent by the said J.S. to S.P. for the said cloth on behalf of the said J.S. and thereby committed an offence punishable under Section 386 of the Criminal Code.
12. 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.

Section 396

13. That you, on the ..... day of ..... at .....  
....., had in your possession one gold watch reasonably  
suspected of having been stolen or unlawfully obtained and thereby  
committed an offence punishable under Section 375 (1) of the Criminal Code.

Section 416

14. That you, on the ..... day of ..... at .....  
....., willfully and unlawfully obtained and thereby  
committed an offence punishable under Section 388 of the Criminal Code.

Section 443

15. That you, on the ..... day of ..... at .....  
....., forged an accountable receipt purporting to be the  
receipt of C.D., and thereby committed an offence punishable under Section  
443 (2) (a) of the Criminal Code.

CHARGES WITH TWO OR MORE HEADS

Section 216

16. First.

That you, on the ..... day of ..... at .....  
....., unlawfully supplied to C.D. (state thing supplied),  
knowing that it was intended to be lawfully used to procure the miscarriage  
of a woman and thereby committed an offence punishable under Section 216  
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 216 of the Criminal Code.



## 17. First.

That you, on the ..... day of ..... at  
....., sold matches made with white (yellow) phosphorous and  
thereby committed an offence punishable under Section 246 (a) of the  
Criminal Code.

## Secondly.

That you, on the ..... day of ..... at  
....., had in your possession, for the purposes of sale of  
matches sold with white (yellow) phosphorous and thereby committed an  
offence punishable under Section 246 (a) of the Criminal Code.

## 18. 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 353 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 353 (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 353 (8) (c) of the Criminal Code.

## MISCELLANEOUS

19. That you, being the holder of a retail liquor license, on the  
..... day of ..... permitted drunkenness to  
take place on your premises situate at ....., and thereby  
committed an offence punishable under Section 54 (a) of the Criminal Code.

20. That you, on the ..... day of ..... at ..... kept a dog over the age of three months without a license and thereby committed an offence punishable under Section 19 of the Dogs Law.

21. That you, on the ..... day of ..... at ..... being an unlicensed person, for or in the hope of obtaining a reward offered to act as a guide and thereby committed an offence against Section 5 (1) and punishable under Section 10 of the Unlicensed Guides (Prohibition) Law.

22. That you, on the ..... day of ..... at ..... drove a motor vehicle on the highway recklessly, having regard to all the circumstances of the case and thereby committed an offence punishable under Section 44 of the Road Traffic Law.

### Section 219 and 463 THIRD SCHEDULE

#### 1. STATEMENT OF OFFENCE

Perjury, contrary to Section 146 of the Criminal Code.

##### Particulars of Offence

A.B., on the ..... day of ....., 20..... in the Local Government Area of ....., being a witness upon the trial of an action in the High Court of Anambra State at Onitsha in which one ..... was plaintiff, and one ..... was defendant, knowingly gave false testimony that he saw one M.W. in the street called the New Market Road, Onitsha, on the ..... day of ....., 20.....

#### 2. STATEMENT OF OFFENCE

Uttering counterfeit seal, contrary to Section 444 of the Criminal Code.

##### Particulars of Offence

A.B., on the ..... day of ....., 20..... at ..... market in the Local Government Area of ....., uttered a counterfeit seal, knowing the same to be counterfeit.

#### 3. STATEMENT OF OFFENCE

Murder, contrary to Section 274 (1) of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20..... In the  
Local Government Area of ....., murdered J.S.

## 4. STATEMENT OF OFFENCE

Accessory after the fact to murder, contrary to Section 277 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the  
Local Government Area of ....., and on other days thereafter  
receive, comfort, harbor, assist and maintain the said H.C.

## 5. STATEMENT OF OFFENCE

Manslaughter, contrary to Section 279 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the  
Local Government Area of ....., unlawfully killed J.S.

## 6. STATEMENT OF OFFENCE

Wounding with intent, contrary to Section 288 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the  
Local Government Area of ....., wounded C.D., with  
intent to maim disfigure or disable, or to do some grievous harm, or to resist the  
lawful arrest of him the said A.P.

## Particulars of Offence

## STATEMENT OF OFFENCE – SECOND COUNT

Wounding, contrary to Section 297, subsection (a), of the Criminal Code.

A.B., on the ..... day of ....., 20....., in the  
Local Government Area of ....., unlawfully wounded  
C.D.....

## 7. STATEMENT OF OFFENCE

Rape, contrary to Section 309 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the  
Local Government Area of ....., had carnal knowledge of E.F.  
without her consent.

## 8. STATEMENT OF OFFENCE

Publishing defamatory matter, contrary to Section 326 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., published defamatory matter affecting in the form of a letter [book, pamphlet, picture, or as the case may be].

## 9. STATEMENT OF OFFENCE – FIRST COUNT

Stealing, contrary to Section 353 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., stole a bag, the property of C.D.

## STATEMENT OF OFFENCE – SECOND COUNT

Receiving stolen goods, contrary to Section 393 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., did receive a bag, the property of C.D., knowing the same to have been stolen.

## 10. STATEMENT OF OFFENCE

Stealing by clerks and servants, contrary to Section 353 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., being clerk or servant to M.N., stole from the said M.N. ten meters of cloth.

## 11. STATEMENT OF OFFENCE – FIRST COUNT

Stealing by agents and others contrary to Section 353 (8) (b) of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., stole two hundred naira which had been received by him for and on account of L.M.

## STATEMENT OF OFFENCE – SECOND COUNT

Stealing by agents and others contrary to Section 353 (8) (c) of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., stole two hundred naira which had been received by him for and on account of L.M.

## 12. STATEMENT OF OFFENCE

Robbery contrary to Section 364 of the Criminal Code.

## Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., robbed C.D. of a watch, and at, or immediately before or immediately after, the time of such robbery did use personal violence to the said C.D.

**13. STATEMENT OF OFFENCE**

**Demanding property by written threats, contrary to Section 371 of the Criminal Code.**

**Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area 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 cause to E.F.

**14. STATEMENT OF OFFENCE**

**Attempt to extort by threats, contrary to Section 373 of the Criminal Code.**

**Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., with intent to extort money from C.D., caused or threatened to accuse the said C.D. of an unnatural offence.

**15. STATEMENT OF OFFENCE**

**Obtaining goods by false pretences, contrary to Section 279 of the Criminal Code.**

**Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., with intent to defraud, obtained from S.P 4.57 meters 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 been sent by the said J.S to S.P. for the said cloth, and that he, the said A.B., was then authorized by the said J.S. to receive the said cloth on behalf of the said J.S.

**16. STATEMENT OF OFFENCE**

**Burglary, contrary to Section 378, and stealing contrary to Section 353 (4) (b) of the Criminal Code.**

**Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area 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.



**17. STATEMENT OF OFFENCE****Conspiracy to defraud, contrary to Section 497 of the Criminal Code.****Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area 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 pretending that A.B. and C.D., were then carrying on a genuine business as jewelers at ....., in the Local Government Area of ....., and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum of four naira.

**18. STATEMENT OF OFFENCE – FIRST COUNT****Fraudulent false accounting, contrary to Section 408 of the Criminal Code.****Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., 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 two hundred naira had been paid to L.M.

**STATEMENT OF OFFENCE – SECOUND COUNT****Fraudulent false accounting, contrary to Section 408 of the Criminal Code.****Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area 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 one hundred naira from H.S.

**19. STATEMENT OF OFFENCE****Arson, contrary to Section 416 of the Criminal Code.****Particulars of Offence**

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., willfully and unlawfully set fire to a house.

**20. STATEMENT OF OFFENCE**

A.B., Arson, contrary to Section 416 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 Local Government Area of ....., willfully and unlawfully set fire to a house. C.D., on the same day, in the Local Government Area of ....., did counsel or procure the said A.B. to commit the said offence.

## 21. STATEMENT OF OFFENCE

Damaging trees, contrary to Section 410 of the Criminal Code.

### Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., willfully and unlawfully damaged a cocoa tree there growing.

## 22. STATEMENT OF OFFENCE – FIRST COUNT

Forgery, contrary to Section 443 (2) (f) of the Criminal Code.

### Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., forged a certain will purporting to be the will of C.D.

## STATEMENT OF OFFENCE – SECOND COUNT

Altering a false document, contrary to Section 279 of the Criminal Code.

### Particulars of Offence

A.B., on the ..... day of ....., 20....., in the Local Government Area of ....., knowingly and fraudulently altered a certain forged will purporting to be the will of the C.D.

## 23. STATEMENT OF PREVIOUS CONVICTION

Prior to the commission of the said offence, the said A.B. had been previously convicted of burglary on the ..... day of ....., 20..... at the Sessions held at Enugu.

## FOURTH SCHEDULE

### Section 349

## ORDER FOR SENTENCE OF DEATH TO BE CARRIED OUT

### ORDER FOR EXECUTION

WHEREAS at the session of the High Court ..... holden at ..... on the ..... day of

....., 20....., was duly convicted of a capital offence and was sentenced to death.

AND WHEREAS a copy of the finding and sentence and of his notes of evidence taken on the trial has been forwarded to me by the Presiding Judge, with a report in writing signed by him:

AND WHEREAS I have been advised by the member of the Executive Council designated in that behalf:

NOT THEREFORE I do hereby order that the said sentence be carried out according to law, and that the said ..... be executed at ..... at a time to be appointed by the Sheriff of ..... Local Government Area, and that the body of the said ..... be buried in the usual place of internment for condemned criminal executed at the place of execution.

AND FOR SO DOING this shall be your Warrant.

GIVEN under my hand and the Public Seal of Anambra State of Nigeria, this ..... day of ....., 20.....

.....  
Governor of Anambra State of Nigeria

To the Sheriff of ..... Local Government Area.

#### ORDER FOR SENTENCE OF DEATH TO BE COMMUTATED

#### ORDER FOR COMMUTATION SENTENCE

WHEREAS at the session of the High Court holden at ..... on the ..... day of ....., 20....., was duly convicted of a capital offence and was sentenced to death by the .....

AND WHEREAS a copy of the finding and sentence and of his notes of evidence taken on the trial has been forwarded to me by the Presiding Judge, with a report in writing signed by him:

AND WHEREAS I have been advised by the member of the Executive Council designated in that behalf:

NOT 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 Anambra State of Nigeria, this  
..... day of ....., 20.....

.....  
Governor of Anambra State of Nigeria

## CRIMINAL PROCEDURE LAW

### SUBSIDIARY LEGISLATION

#### Criminal Procedure Rules

made under Section 467

#### Rules of Court

3 of 1945. 1 of 1948

1. These rules may be cited as the Criminal Procedure Rules.

#### Citation

2. The fees prescribed in the First Schedule shall, unless remitted or waived, be payable by the party prosecuting a proceeding or asking for a service as therein provided in respect of the proceedings or services to which they relate.

#### Payment of fees. First Schedule

3. Allowances may be made to witnesses in accordance with the provisions of the High Court Rules, or of the Magistrates' Courts Rules, according as they are summoned before the High Court or a Magistrate's Court.

#### Allowances to witnesses

4. The forms in the Second Schedule hereto shall (together with the title of proceedings prescribed in Form 1 in the First Schedule to the Law, where the case so admits) be used in connection with the proceedings for which they are provided and may be varied to suit the circumstances of the case but so that no variation of substance shall be made.

## FIRST SCHEDULE

All fees, the appropriation of which is not specified are to be paid to the registrar and accounted for by him to the Accountant-General.

No fees are to be taken in respect of any proceeding where such fees would be payable by any Ministry or non-Ministerial department of the Government or a Local Government Council:

## Rule 2

Provided however that when any person is ordered to pay the costs of the State or of any Ministry or non-Ministerial department of the Government or a local government council in any case, all fees which would have been payable but for the provisions of this rule shall be taken as paid and shall be recoverable from such person.

Fees may be waived or remitted by the court on the ground of the poverty of the person chargeable therewith where it appears that there are substantial grounds for his taking the proceeding or asking for the service to be rendered:

Provided however that the court may, where the court so thinks fit, order any party to pay any fees so waived or remitted.

## FEES PAYABLE

|   | N       |
|---|---------|
| 1. On every summons (to include hearing fee) .....  | 100. 00 |
| 2. On every warrant to arrest (unless specially directed<br>by the court to be issued)..... | 100. 00 |
| 3. On search warrant .....  | 100.00  |
| 4. On warrant of distress .....   | 100.00  |
| 5. On every subpoena (unless specially directed by the<br>Court to be issued) .....         | 25.00   |
| 6. On warrant for prisoner to give evidence .....   | 50.00   |
| 7. For searching the archives, for each period<br>of six months or part thereof .....       | 25.00   |
| 8. For preparing a copy where authorized: per folio   |         |



of 72 words..... 50.00

#### 9. Service of any document

Initial fee ..... 15.00

Plus Mileage fee –

(a) if within 1.61 kilometers from the court ..... 15.00

(b) if beyond 1.61 kilometers but not beyond eight:

(i) for the first 1.61 kilometer ..... 15.00

(ii) for every subsequent 1.61 kilometers or  
part thereof (one way) ..... 8.00

(c) if beyond 8 kilometers: per day or part thereof of

the time needed for travelling ..... 4.00

**Notes:** Where an officer serves more than one document or writ on the same route one mileage rate only is to be charged, and apportioned upon the documents or writs.

Where the sheriff, deputy sheriff or a registrar executes any duty in person by direction of the court he is entitled, instead of mileage fees, to his actual expenses and such travelling allowance as the court may allow.

When a service is rendered by a person who is not an officer of the court or in the service of the Government or of a local government council or a customary court the court may direct that the fee paid for such service be paid out of revenue to the person who has rendered the services.

In addition to the above fees, the party on whose behalf such services are to be performed shall be liable to pay such expenses of transport as the court may think reasonable. For the performing of any other duty not herein expressly provided for the officer may receive such fee as the court may allow.

## SECOND SCHEDULE

### Rule 4

FORM A  
RECOGNIZANCE

(Title of proceeding)

By this recognizance the undersigned principal party [and surety (or sureties) acknowledges himself [or acknowledge themselves] bound to forfeit to the Governor the sum of N....., subject only to this condition, that if [here insert the condition of the recognizance] then this recognizance shall be thereby discharged.

..... Principal  
Party.

.....}

.....} Sureties

.....}

Taken before me at ..... this ..... day of  
....., 20.....

FORM B

WARRANT TO BRING A PRISONER BEFORE THE COURT

(Title of proceedings)

To the Keeper of the Prison at .....

Whereas .....

a prisoner under custody is required to be produced before the court:

You are hereby commanded to produce the said prisoner before the court at  
..... on the ..... day of  
....., 20..... At eight o'clock in the forenoon.

Issued at ..... on the  
..... day of .....,  
20.....

Court Fees: Warrant .....

Hearing .....

Total .....

.....  
Judge (or Magistrate)

## FORM C

## WARRANT REMITTING DEFENDANT TO ANOTHER COURT

(Title of Proceedings)

To ..... and to the Superintendent of the  
..... Prison.A.B., hereinafter called the defendant, being brought before the above court  
charged with having committed the following offence within the Magisterial District  
of .....Namely, ..... (state the offence)  
.....You are hereby commanded to receive and detain the defendant and to carry him  
and deliver him up to the ..... Court without delay.Dated the ..... day of .....,  
20..........  
Magistrate

Note:- This form may be varied to suit the case in Section 153 (2) of the Law.

## FORM D

## SEARCH WARRANT

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

To .....

and .....

Whereas information on oath and in writing has this day 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 35 of the Law).

You are hereby commanded in the Governor's name, with proper assistance, to enter the above-named (state the place to be searched) and there diligently search for the things aforesaid and if the same or any part thereof are found on search, to bring the things so 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 shall be executed between the hours of five o'clock in the forenoon and eight o'clock at night \* and may also be executed at any hour during day or night.

Issued at ..... this ..... day of .....,  
20.....

.....  
Magistrate

Fees:

\*Strike out if not authorized.

## FORM E

### 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 has failed so to appear:

You are hereby commanded to arrest the said ..... and bring him before me at ..... without delay.

Judge (or Magistrate)

FORM F

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 in default in payment of the above sum [or sums, or first and second 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 be concurrent [or consecutive, or concurrent as to the ..... and ..... and consecutive as to or as the case may be].

[The imprisonment is to be without hard labour].



You are hereby commanded to take the said defendant [and imprison him][and cause him to be whipped] in accordance with the above sentence and the law.

Dated this ..... day of .....,  
20.....

.....

Judge (or Magistrate)

**FIRST SCHEDULE**

(Section 3)

This printed impression has been carefully compared by me with the Bill which has been passed by the House of Assembly and found by me to be a true and correctly printed copy of the said Bill.

-----  
**PIUS O. UDOH**

Ag. Clerk of the Legislature

**SECOND SCHEDULE**

(Section 4 (1))

I assent/Do not assent

-----  
**MR. PETER CBI**

Governor

Dated the ----- day of -----, 2010

**THIRD SCHEDULE**

(Section 8 (2))

Assented to on the ----- day of -----, 2010.