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**ADMINISTRATION OF CRIMINAL JUSTICE LAW OF BAYELSA
STATE, 2019**

A Law on criminal justice procedure in Bayelsa State; and to repeal the Criminal Procedure Law, CAP. C15 Laws of Bayelsa State, 2006 and for other connected purposes.



Commencement

ENACTED by the Bayelsa State House of Assembly and by the Authority of same as follows: *Enactment*

**CHAPTER 1
PRELIMINARY, ARREST, BAIL AND PREVENTIVE JUSTICE**

**PART 1
PRELIMINARY**

1. (1) The purpose of this Law is to ensure that the system of administration of criminal justice in Bayelsa State promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of rights and interests of the suspect, the defendant, and the victim. *Purpose*
- (2) The courts, law enforcement agencies and other authorities or persons involved in criminal justice administration shall ensure compliance with the provisions of this Law for the realisation of its purposes.
- (3) The provisions of this Law shall apply to criminal investigations and trials for offences established by any law enacted by the House of Assembly and other offences punishable in Bayelsa State.
- (4) The provisions of this Law shall not apply to a Court Martial.

PART 2

**Arrest
GENERALLY**

2. 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. *Mode of Arrest*
3. A person arrested shall not be handcuffed, otherwise bound or be subjected to unnecessary restraint except by order of a Judge, a Magistrate or Justice of the *No unnecessary restraint*

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.

4. (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. *Notification of cause of arrest and right of the Defendant*

(2) The Police Officer, member of other Law Enforcement Agencies or a private person making the arrest or the Officer in charge of the place of detention shall inform the person arrested of his rights to remain silent or avoid answering any question, or making or writing any statement until after consultation with a legal practitioner, or any other person of his own choice.

(3) The Police Officer or the person making the arrest shall inform the person arrested that he may apply for free legal representation from the Office of the Public Defender, Legal Aid Council or any such agency.

5. No person shall be arrested in lieu of any other person.

arrest in lieu

6. (1) Whenever a person is arrested by a Police Officer, or a member of any Law Enforcement Agency, or a private person, that 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. *Search of Arrested person*

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 are reasonable grounds for believing that he has about his person any –

- (a) stolen articles;
 - (b) instruments of violence or poisonous substance;
 - (c) tools connected with the kind of offence which he is alleged to have committed; or
 - (d) other articles which may furnish evidence against him in regard to the offence which he is alleged to have committed.
- (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 about 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 to 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 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 any 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 a 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 that person so 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.

7. (1) A Police Officer or a member of any Law Enforcement Agency making the arrest or to whom the private person hands over the person arrested shall record an inventory duly signed by the Officer and the particulars of all items or properties recovered from the person arrested or about to be arrested. *Inventory of property of arrested person*
- (2) The person arrested or his legal representative or other person as the person arrested may direct shall be given a copy of the inventory.
8. (1) If a Police Officer or a member of any Law Enforcement Agency 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 the place shall, on demand by such Officer or person acting on his half, allow him free access and afford all reasonable facilities to search the place for the person sought to be arrested. *search of place entered by person sought to be arrested*
- (2) If access to such place cannot be obtained under subsection (1), any such person or Officer may enter the place and search therein for the person to be arrested, and in order to effect an entrance into the 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.

(3) Where the person to be arrested enters an apartment in the actual occupation of another person being a woman who by custom does not appear in public, the person making the arrest, before entering the apartment, shall give notice to such a woman that she is at liberty to withdraw and shall afford her every opportunity and facility for withdrawing, and may then enter the apartment; but the notice shall not be necessary if the person making the arrest is a woman.

9. A Police Officer, or a member of any Law Enforcement Agency or other person authorized to make an arrest who has entered the premises for the purpose of making the arrest and is detained therein, may break out of the house or place in order to liberate himself or any other person. *Power to break out of any house of liberation*

10. (1) Any person who is arrested, whether with or without a warrant shall be taken with reasonable dispatch to a Police Station, or other place for the reception of arrested persons and shall without delay be informed of the charge against him. *Arrested persons to be taken at once to Police Station*

(2) The person who is arrested under sub section (1) of this Section while in custody shall be given reasonable facilities for obtaining legal advice, take steps to furnish bail and otherwise make arrangements for his defence or release.

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

ARREST WITHOUT WARRANT AND PROCEDURE THEREON

11. (1) A Police Officer may, without an order of a court and without a warrant, arrest a person: *Arrested by police officer without warrant*

(a) whom he suspects upon reasonable grounds of having committed an offence triable on information against a Federal Law or against the Law of the State or against the Law of any other State, unless the written Law creating the offence provides that the offender cannot be arrested without a warrant;

(b) who commits an offence in his presence;

(c) who obstructs a Police Officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody;

(d) in whose possession anything is found which may reasonably be suspected to be stolen or who may reasonably be suspected of having committed an offence with reference to such thing;

(e) whom he suspects upon reasonable grounds of being a deserter from any of the Armed Forces of Nigeria;

(f) whom he suspects upon reasonable grounds of having been concerned in an act committed at any place out of the State which, if committed in the State, would have been punishable as an offence, and for which he is, under any enactment in force in the State, liable to be arrested and detained in the State;

(g) having in his possession without lawful excuse any implement of housebreaking, firearm or any offensive or dangerous weapon;

(h) 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) 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 misdemeanour.

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

(3) The Commissioner of Police or the head of every Law Enforcement Agency authorised by law to make arrest shall remit monthly to the Office of the Attorney-General a record of all arrests made with or without a Warrant in relation to State Offences. Such report shall include the following:

- (a) The alleged offence
- (b) The date and circumstances of his arrest
- (c) The full name, occupation and residential address and;
- (d) for the purpose of identification:
- (e) his height
- (f) his photograph,
- (g) his full fingerprint impressions, or
- (h) such other means of his identification.

(4) Where there is default of compliance with the provision of section 11(3) by the Commissioner of Police, or head of any law enforcement agencies the Attorney general shall within two weeks thereafter report the default to the

Police Service Commission or Command Headquarters of such Law Enforcement Agencies.

12. (1) When a person who in the presence of a Police Officer has committed or has been accused of committing an offence triable summarily, refuses on demand of the officer to give his name and residence, or gives a name or residence which the officer has reason, or gives a reason to believe to be false, he may be arrested by the officer in order that his name or residence may be ascertained. *Refusal to give name and residence*
- (2) When the true name and residence of the person referred to in sub-section (1) of this Section have been ascertained he shall be released on his executing a recognizance, with or without sureties, to appear before a Magistrate if so required: But if such person is not resident in the State, the recognizance shall be secured by a surety or sureties resident in the State.
- (3) If the true name and residence of the person cannot be ascertained within twenty-four hours from the time of arrest, or if he fails to execute the recognizance, or if required to furnish sufficient sureties, he shall forthwith be brought to the nearest Magistrate having jurisdiction by way of a complaint on oath.
- (4) If such person upon being brought before the Magistrate still refuses, the Court may deal with him as it would an uncooperative witness under this Law.
13. (1) A private person may arrest any person who commits an offence in his presence or whom he reasonably suspects of having committed an offence *Arrest by private person*
- (2) After the arrest of a person under subsection (1) of this Section, a private person shall not subject the arrested person to torture, inhuman or degrading treatment.
14. (1) A person found committing an offence involving damage to property may be arrested without a warrant by the owner of the property or any other person. *Arrest by owners of property*
- (2) A private person may arrest any person found damaging public property.
15. (1) A private person who arrests any other person without a warrant shall without delay hand over the person arrested to a Police Officer, or in the absence of a Police Officer shall take the person to the nearest Police Station. *Handling over of person arrested by private person*
- (2) The Police Officer shall make a note of the name, residence and other particulars of the private person making the arrest.
- (3) The private person making the arrest shall make a statement of the circumstances of the arrest.

(4) If there is reason to believe that such person comes under the provisions of subsection (1) of Section 3, a Police Officer shall re-arrest him.

(5) If there is reason to believe that he has committed an offence triable on information, and he refuses on the demand of a Police Officer to give his name and residence, or gives a name or residence which the officer has reason to believe to be false, he shall be dealt with under the provisions of Section 11. If there is no sufficient reason to believe that he has committed an offence, he shall be released at once.

16. When an 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 subject to the provisions of this Law relating to bail, commit the offender to custody. *Offence committed in presence of Judge or Magistrate*

17. (1) A Judge or Magistrate may arrest or direct the arrest in his presence of a 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. *Arrest by a Judge or Magistrate*

(2) Where a person is arrested in accordance with the provisions of sub-section (1) of this Section, the Judge or Magistrate making or directing the making of such arrest may deal with the person so arrested in the same manner as if the person had been brought before him by or under the directions of any other person.

BAIL ON ARREST WITHOUT WARRANT

18. (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 twenty-four hours after the arrest. *Release on bail of a person arrested without warrant*

(2) The officer in charge of a Police Station may release the person arrested on bail upon his entering into a recognisance with or without sureties for a reasonable amount of money to appear before the Court or at the Police Station at the time and place named in the recognisance.

(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 person arrested shall be retained in custody, and the Police Officer shall refer the matter to the Attorney-General of the State for legal advice, and if indicted, shall cause the person to be brought before a court having jurisdiction with respect to the offence.

19. (1) Where a person taken into custody is not released on bail, a Magistrate having jurisdiction with respect to the offence may be notified by application on behalf of the arrested person. *Remedy of a person detained in custody*

(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.

20. When a person has been taken into Police custody without a warrant, for an offence other than an offence punishable with death, the officer in charge of the Police Station or other place for the reception of arrested persons to which such person is brought shall, if after the inquiry is completed and he is satisfied that there is no sufficient reason to believe that the person has committed any offence, forthwith release the person. *Discharge of person for want of evidence*

Warrants of Arrest

GENERAL AUTHORITY TO ISSUE

21. Where under a law, there is power to arrest a person without a warrant; a warrant for his arrest may be issued. *General authority to issue warrant*

22. (1) A warrant of arrest issued under this Law, unless the contrary is expressly stated, under any other Law shall; *Form and content of warrant of arrest*

(a) bear the date of issue,

(b) contain all necessary particulars, and

(c) the name and signature of the Judge, Magistrate, Justice of the Peace or other persons empowered by law to issue warrants by whom it is issued.

(2) Every such warrant shall, state concisely the offence or matter for which it is issued and name or otherwise describe the person to be arrested, and it shall order the Police Officer or officers to whom it is directed to arrest the person and bring him before the Court to answer the complaint or statement, or to testify or do otherwise according to the circumstances of the case, and to be further dealt with according to Law.

23. No warrant of arrest shall be issued in the first instance in respect of any complaint or statement unless it is made in writing and or on oath by the complainant himself or by a material witness. *Warrant issued on complaint to be in writing on oath*

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

25. (1) A warrant of arrest may be directed to a Police Officer by name or to all Police Officers. *Warrant to whom directed and duration*

(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 a Magistrate, as the case may be.

26. (1) A Court issuing a warrant of arrest may, if its immediate execution is necessary and no Police Officer is available, direct it to some other person and the person shall execute the warrant. *Warrant of arrest may in exceptional cases be directed to other persons*

(2) The person in subsection (1) 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 requirements placed by law on such a Police Officer.

EXECUTION OF WARRANT

27. (1) Every warrant of arrest may be executed any day, including, a Sunday or on a public holiday. *Procedure for execution of warrant*

(2) Every such warrant may be executed by a Police Officer at any time and at any place other than in a Court room, or any other place prohibited by a law.

(3) The person executing the 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 grounds that it is likely to occasion escape, resistance, or rescue.

(4) Every person arrested on a warrant shall, subject to the provisions of Sections 29 and 30 of this Law be brought before the Court which issued the warrant within a reasonable time.

28. A warrant of arrest may be executed notwithstanding that it is not in the possession of the person executing the warrant but the warrant shall, on the demand by the person arrested, be shown to him within a reasonable time. *Power to arrest on warrant but without the warrant*

BAIL BY ORDER OF COURT ON EXECUTION OF WARRANT OF ARREST

29. (1) A Court, on issuing a warrant for the arrest of a 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 recognisance for his appearance as may be required in the endorsement. *Court may direct particulars of security to be taken on execution of warrant*

(2) The endorsement shall specify the-

- (a) number of sureties, if any;
- (b) amount in which they and the persons named in the warrant are respectively to be bound, or are to provide cash security;
- (c) Court before which the person arrested is to attend; and
- (d) 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 recognisance, 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 recognisance.

(4) Where security is taken under this Section, the officer who takes the recognisance shall cause it to be forwarded to the Court before which the person named in the recognisance is bound to appear.

(5) The provisions of subsections (3) and (4) shall not have effect with respect to a warrant executed outside the State.

EXECUTION OF WARRANT OUT OF DIVISION OR DISTRICT IN WHICH ISSUED

30. (1) Where a warrant of arrest is executed in the 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.

*Procedure on
arrest of persons
outside Division or
District of court
Issuing warrant*

(2) The 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.

(3) If the person has been arrested in respect of a 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, 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.

(4) Nothing in this Section shall be deemed to prevent a Police Officer from taking security under Section 17.

PART 3 Escape and Re-arrest

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 re-arrest him. *Re-arrest of person escaping*
32. The provisions of Sections 1 and 2 shall apply to re-arrest under Section 31, although the person making such re-arrest is not acting under a warrant and is not a Police Officer having authority to re-arrest. *Provision of Section 1 & 2 to apply to re-arrest under Section 31*
33. Every person is bound to assist a Judge, Magistrate or Police Officer reasonably demanding his assistance in: *Assistant to Judge, magistrate or Police Officer*
- (a) arresting or preventing the escape of any other person whom the Judge, Magistrate or Police Officer is authorised to arrest;
- (b) prevention or suppression of a breach of the peace, or in the prevention of any injury or damage attempted to be committed on any person or any property.

PART 4 Prevention of Offences

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

34. (1) Whenever a Magistrate is informed on oath that any person is likely to commit a breach of the peace or disturb public peace, or to do a wrongful act that may likely occasion a breach of the peace or disturb public peace, the Magistrate may in the manner hereinafter provided, require that person to show cause why he should not be ordered to enter into a recognizance, with or without sureties, for keeping the peace for a period, not exceeding one year. *Power of magistrate to require execution of recognizance for keeping peace*
- (2) Proceedings shall not be taken under this Section unless the person against whom information is made is in the State and is within the District to which the Magistrate is assigned or the place where the breach of the peace or disturbance

- has occurred is within the District to which the Magistrate is assigned.
35. Whenever a Magistrate is informed on oath that a person is taking steps to conceal his presence within the District of the Magistrate and that there is reason to believe that the person is taking such steps with a view to committing an offence, the Magistrate may, in the manner hereinafter provided, require that person to show cause why he should not be ordered to enter into a recognisance, with sureties, for his good behaviour for a period, not exceeding one year. *Security for good behaviour for suspected person*
36. Whenever a Magistrate is informed on oath that a person within the District habitually commits or conspires or attempts to commit, or aids the commission of offences involving a breach of the peace, the Magistrate may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to enter into a recognisance, with surety, for his good behaviour for a period, not exceeding three years. *Security for good behaviour for habitual offenders*
37. When a Magistrate acting under Sections 34, 35 or 36 of this Law considers it necessary to require any person to show cause under these Sections, he shall make an order in writing setting forth the: *order to be made*
- (a) substance of the information received;
 - (b) amount of the recognisance to be executed;
 - (c) term for which it is to be in force; and
 - (d) number, character, and class of sureties, if any, required.
38. If the person in respect of whom an Order under Section 37 of this Law is made is present in Court, the Order shall be read over to him or, if he so desires, the content of the Order shall be explained to him. *Procedure in respect of person present in court*
39. (1) If the person against whom an order under Section 37 of this Law is made is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when the person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court. *Summons or warrant in case of person not present*
- (2) Whenever it appears to the 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 likelihood of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of the person, the Magistrate may at any time issue a warrant for his arrest.
40. Every summons or warrant issued under Section 39 shall be accompanied by a copy of the order made under Section 37, and the copy shall be delivered by the officer serving or executing such summons or warrant to the person served with *Copy of order under section 37 to accompany summons or warrant*

or arrested under the same.

41. 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 a recognisance for keeping the peace and may permit him to appear by a legal practitioner. *Power in dispense with personal attendance*

42. (1) When an Order under Section 37 has been read or explained under Section 38 to a person in Court, or when any person appears or is brought before a Magistrate pursuant to a summons or warrant issued under Section 39, the Magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take further evidence as may appear necessary. *Inquiry as to truth of information*

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner prescribed under this Law 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 public peace or the commission of an offence or for public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under Section 37 has been made to enter into a recognisance, 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 the recognisance is entered into or where he fails or refuses to enter into a recognisance, until the inquiry is concluded:

Provided that -

- (a) no person against whom proceedings are being taken under Section 34 shall be directed to enter into a recognisance for maintaining good behaviour; and
- (b) the conditions of such recognisance, whether as to the amount or as to the provisions of sureties or the number thereof or the pecuniary extent of their liability shall not be more onerous than those specified in the order under Section 37; 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 36 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 deems fit.

43. 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 recognisance, with or without sureties, the Magistrate shall make an order accordingly: *Order to give security*

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 37;
 - (b) the amount of every recognisance 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 child, the recognisance shall be entered into as provided in Section 116.
44. If, on an inquiry under Section 42, 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 recognisance, the Magistrate shall make an entry on the record to that effect, and if the person is in custody only for the purpose of the inquiry, shall release and discharge him, or if the person is not in custody, shall discharge him. *Discharge of person against whom allegation is made*

PROCEEDINGS IN ALL CASES SUBSEQUENT TO ORDER TO FURNISH SECURITY

45. (1) If a person in respect of whom an order requiring security is made under Section 43 is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of such sentence. *Commencement of period for which security is required*
- (2) In other cases, such period shall commence on the date of the order unless the Magistrate, for sufficient reason, fix a later date.
46. The recognisance to be entered into by any person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or conspiracy or attempt to commit or the aiding, counselling, or procuring the commission at any time during the continuance of the recognisance of any offence punishable with imprisonment, wherever it may be committed, shall be a breach of the recognisance. *Condition of recognisance*

47. A Magistrate may reject a surety offered under any of the preceding Sections if, in the opinion of the Magistrate, the surety is not a fit and proper person. *Power to reject sureties*
48. (1) If a person ordered to give security does not give such security on or before the date on which the period for which the security is to be given commences, he shall 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. *Procedure on failure of person to give security*
- (2) When a person who has been ordered by a Magistrate pursuant to subsection (1) of this Section, fails to give such security, the Magistrate shall commit the person to prison for a period not exceeding one month and the order shall be vacated after the expiration of one month.
- (3) If the security is subsequently presented 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.
49. Whenever a Magistrate is of the opinion that a person imprisoned for failing to give security may be released without hazard to the community, the Magistrate shall order the person to be discharged. *Power to release persons imprisoned for failure to give security*
50. The High Court may at any time, for sufficient reasons, vary, uphold or cancel any recognisance for keeping of the peace or for good behaviour executed under any of the preceding Sections. *Power of High Court to review recognisance*
51. (1) Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Magistrate to discharge any recognisance executed under any of the preceding Sections within the District to which the Magistrate is assigned. *Discharge of sureties*
- (2) On the application being made, the Magistrate shall, if satisfied that there is good reason for the application, issue summons or warrant, as he deems 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, the Magistrate after hearing such person may discharge the recognisance and in such event order the person to give, for the unexpired portion of the term of such recognisance, fresh security of the same description as the original security. Every such order shall for the purposes of Sections 46, 47, 48 and 49 be deemed to be an order under Section 43.

CHAPTER 2
PROVISIONS RELATING IN GENERAL TO ALL CRIMINAL TRIALS
AND INQUIRIES

PART 5
Application and General

52. The provisions of Sections 53 shall apply, except when express provision is made therein in respect of any particular Court or form of trial to all criminal trials, and other criminal proceedings in the High Court and Magistrates' Court. *Application*
53. 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 the State, or which according to law may be dealt with as if the offence had been committed within the jurisdiction and to deal with such person according to law. *General authority to bring persons before courts*

PART 6
Place of Trial

- 54.(1) Subject to the powers of transfer contained in any enactment or law establishing any Court, the place for the trial of an offence shall be in the Division or District: *Venue*
- (a) where the offence was committed; or
- (b) where the act was done or where consequence ensues or to be done; or
- (c) where the act is an offence by reason of its relation to any other act which is also an offence.
- (2) An offence may be tried by a Court having jurisdiction in any Division or District in any of the following circumstances:
- (i) when it is uncertain in which of several Divisions or Districts an offence was committed;
- (ii) when an offence is committed partly in one Division or District and partly in another;
- (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.
- (3) An offence committed while the offender is in the course of performing a

journey, may be tried by a court in the Division or District through which the defendant passed or in which the thing in respect of which the offence was committed is situated.

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

(5) On the application of either the prosecutor or the defendant, the Court may transfer the hearing of a cause from one Division or District to another or from one part of one division or district to another part of the same Division or District whenever the Court considers that the end of justice so requires.

55. Where any case shall be transferred from one place in a Division or District to another place in the same Division or District or to another Division or District, the case shall be tried and determined at the Division or District to which it has been so transferred; and all recognisances, subpoenas, and proceedings in or relating to the case shall thereupon be deemed to be returnable at a latter Division or District and all witnesses who are bound by recognisances or summoned to attend the trial shall be informed accordingly and shall attend at the latter Division or District. *Effect of charge of venue*

56. Where an offence against Federal Law- *Offences against Federal Laws*

(a) is begun in the State and completed in another State; or

(b) is completed in the State after being begun in another State,

the offender may be dealt with, tried and punished as if the offence had been actually or wholly committed in the State.

57. (1) Whenever any doubt arises as to the Magistrates' Court in which any offence shall be tried, a High Court Judge shall, upon the application of a Magistrate or the defendant, decide in which Magistrates' Court the offence shall be tried. *Judge to decide in case of doubt of venue*

(2) Any such decision of a High Court 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.

SENDING DEFENDANT TO ANOTHER MAGISTRATE

58. A Magistrate in this and in the next sections referred to as the remitting Magistrate, before whom a defendant who is within the Magisterial District of *A defendant to be sent in certain cases to another Magistrate*

such Magistrate and is charged with having committed an offence within the Magisterial District of another Magistrate is brought shall, unless he is authorised to proceed in the case, send the defendant 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, to answer the charge and to be dealt with according to law.

59. If such offences as are mentioned in Section 58 have been committed in a District within which one or more Courts shall have concurrent jurisdiction, the remitting Magistrate shall, unless he is authorised to proceed in the case, send the person charged and 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, to answer the charges and to be dealt with according to law. *Court having concurrent jurisdiction*
60. The remitting Magistrate shall send to the Court to which the defendant is remitted for trial all authenticated copies of the Information, Summons, Warrants, and all other process or documents regarding the case in his possession. *Transmission of document*
61. (1) Where a defendant is to be sent into custody, a Warrant shall be issued by the remitting Magistrate, and that Warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person named, and to carry him and deliver him up to the Court to which the defendant is remitted for trial. *Removal under warrants*
- (2) The person to whom the warrant is directed shall execute it according to its tenure without any delay.
62. (1) If the defendant is in custody and the Magistrate directing such transfer deems 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 where the cause arose. *Transfer of Case where cause of complaint has arisen out of jurisdiction of court*
- (2) The charge and recognisance, if any, taken by remitting Magistrate under the provisions of this Law shall be transmitted by him to the Magistrate before whom the defendant is to be taken; and such charge and recognisance, if any, shall be treated for all intents and purposes as if they had been taken by such last mentioned Magistrate.
- (3) If the defendant is not detained or placed in custody, the Magistrate shall inform him that he has directed the transfer of the case, and the provisions of the last preceding subsection relating to the transmission and use of the documents in the case shall apply.

ASSUMPTION OF JURISDICTION

63. (1) Notwithstanding the provisions of Sections 54, 57 and 58, a Judge or Magistrate of a Division or District in which a person is arrested and charged with an offence alleged to have been committed in another division or district; or

Courts may assume jurisdiction under certain conditions

(i) is in custody on such a charge; or

(ii) has appeared in answer to summons lawfully issued charging such offence,

may if he considers that justice would be better served and having regard to the accessibility and convenience of witness, proceed to hear the charge, try and punish the defendant as if the offence had been committed in the Division or District.

(2) The offence referred to in subsection (1) of this Section shall for all purposes be deemed to have been committed in that Division or District.

(3) If at any time during the course of any proceedings taken against the defendant before any Court pursuant to this Section, it appears that the defendant would suffer hardship if he is proceeded against and tried in the Division or District, the Court shall, without prejudice to a Magistrate's powers under Section 58, 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 of those offences, and all the offences with which that person is charged shall, for all purposes be deemed to have been committed in that Division or District.

64. If any cause is commenced in any other Division or District other than that in which it ought to have been commenced, a Judge or Magistrate may assume jurisdiction in accordance with the provisions of Section 63 and all acts performed and all decisions given by the Judge or Magistrate during the trial shall be deemed to be valid in all respects as if the jurisdiction has been assumed prior to the performance of the said acts and the giving of the said decisions.

Assumption of jurisdiction after commencement of proceedings

PART 7

Powers of the Attorney General

65. Notwithstanding anything to the contrary in this Law or any other law of the

Information by the Attorney-General

State, the Attorney-General of the State may exhibit an information in respect of any offence triable on information created by any law or in respect of any offence created by an Act the prosecution for which offence or an element of which has been committed in the State.

66. Where any person other than the Attorney-General of the State 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 direction as may be given by the Attorney-General of the State.

General control of prosecution by the Attorney-General

CONTROL OF CRIMINAL PROCEEDINGS

67. (1) In any criminal proceedings for an offence against a law of the State and at any stage before judgment, the Attorney-General of the State may discontinue the proceedings, either by himself or through officers of his Department and the defendant shall be discharged in respect of the charge or information immediately.

Discontinuance of Criminal Cases by the Attorney-General

(2) If the defendant has been committed to prison he shall be released, or if on bail the recognisance shall be discharged, and, where the defendant is not before the Court when such discontinuance is entered, the Registrar or other officer of the Court shall immediately 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 is not in custody shall immediately 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 to be 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 an accused person shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

68. (1) In any remand proceedings with respect to any offence triable on information against a law before a Magistrate, the Attorney-General of the State may indicate to the Court either personally 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 the suspect shall immediately be discharged in respect of the offence.

Withdrawal from prosecutions in remand proceedings for offences triable on information

(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.

69. (1) In any trial before a High Court or Magistrates' Court, a prosecutor with the consent of the Court, may, or on the instruction of the Attorney-General in the case of an offence against a law of the State at any time before judgment is pronounced or an order of committal is made, 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;

Withdrawals from prosecution in trials before a High Court or Magistrate Court

(a) if it is made in the course of a trial-

(i) before the defendant is called upon to make his defence, he shall be discharged in respect of such offence; or

(ii) 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 accused 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 prosecution for any offence under the provisions of this Section, the Judge or Magistrate may, in his discretion, award costs against such a prosecutor.

(3) A discharge of an accused person under this Section shall not operate as a bar to subsequent proceedings against him on account of the same facts.

70. (1) The Commissioner of Police shall forward all duplicate case files with respect to offences triable on information to the Office of the Attorney-General for the purpose of issuance of legal advice.

Issuance of legal advice

(2) Notwithstanding the provision of subsection (1) of this Section, the Attorney-General may request for duplicate files relating to any offence for the purpose of issuance of legal advice.

(3) The Office of the Attorney-General shall issue legal advice with respect to offences triable on information.

(4) Where the facts of a Police duplicate file forwarded to the Office of the Attorney-General in any proceedings with respect to any offence triable on information against a Law of the State indicate a *prima facie* case against a person, the Attorney-General shall inform the Magistrate in writing by way of legal advice through any of the officers in his Chambers or the prosecuting Police Officer.

(5) The Office of the Attorney-General shall ensure service of the copy of the legal advice upon a person in respect of whom legal advice is preferred through the prison authority if the person is remanded in custody and through the appropriate Court if the person is on bail.

PART 8

Plea Bargain in General

71. Notwithstanding anything in this Law or in any other law, the Attorney-General of the State shall have power to consider and accept a plea bargain from a person charged with any offence where the Attorney-General is of the view that the acceptance of such plea bargain is in the public interest, the interest of justice and the need to prevent abuse of legal process. *Plea Bargain*
72. (1) Subject to Section 71, the prosecutor and a defendant or his legal practitioner may before or after his plea to the charge, enter into an agreement in respect of- *Plea and Sent Agreements*
- (a) a plea of guilty by the defendant to the offence charged or a lesser offence of which he may be convicted on the charge, and
 - (b) an appropriate sentence to be imposed by the Court if the defendant is convicted of the offence to which he intends to plead guilty.
- (2) The prosecutor may only enter into an agreement contemplated in subsection (1) of this Section-
- (a) after consultation with the Police Officer responsible for the investigation of the case and if reasonably feasible, the victim, and
 - (b) with due regard to the nature of and circumstances relating to the offence, the defendant and the interest of the community.
- (3) The prosecutor, if reasonably feasible shall afford the complainant or his representative the opportunity to make representations to the prosecutor regarding-
- (a) the contents of the agreement; and

- (b) the inclusion in the agreement of a compensation or restitution order.
- (4) An agreement between the parties contemplated in subsection (1) shall be reduced to writing and shall -
- (a) state that, before conclusion of the agreement, the defendant has been informed-
- (i) that he has a right to remain silent;
- (ii) of the consequences of not remaining silent;
- (iii) that he is not obliged to make any confession or admission that could be used in evidence against him.
- (b) state fully the terms of the agreement and any admissions made and,
- (c) be signed by the prosecutor, the defendant, the legal practitioner and the interpreter as the case may be.
- (5) The Presiding Judge, or Magistrate before whom criminal proceedings are pending shall not participate in the discussions contemplated in sub-section (1):
- Provided that he may be approached by Counsel regarding the contents of the discussions and he may inform them in general terms of the possible advantages of discussions, possible sentencing options or the acceptability of a proposed agreement.
- (6) Where a plea agreement is reached by the prosecution and defence, the prosecutor shall inform the Court that the parties have reached an agreement and the Presiding Judge or Magistrate shall then inquire from the defendant to confirm the correctness of the agreement.
- (7) The Presiding Judge or Magistrate shall ascertain whether the defendant admits the allegations in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence and may-
- (a) if satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant on his plea of guilty to that offence, or;
- (b) if he is for any reason, of the opinion that the defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the defendant has pleaded guilty; discharge him;

- (c) or that the agreement is in conflict with the defendant's rights referred to in subsection (4) of this Section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.
- (8) Where a defendant has been convicted in terms of subsection (7) (a), the Presiding Judge or Magistrate shall consider the sentence agreed upon in the agreement and if he is-
- (a) satisfied that such sentence is an appropriate sentence, impose the sentence; or
 - (b) of the view that he would have imposed a lesser sentence than the sentence agreed upon in the agreement, impose the lesser sentence; or
 - (c) of the view that the offence requires a heavier sentence than the sentence agreed upon in the agreement, he shall inform the accused of such heavier sentence he considers to be appropriate.
- (9) Where the accused has been informed of the heavier sentence as contemplated in subsection (8) above, the defendant may-
- (a) abide by his plea of guilty as agreed upon and agree that, subject to the defendant's right to lead evidence and to present argument relevant to sentencing, the Presiding Judge, or Magistrate shall proceed with the sentencing; or
 - (b) withdraw from his plea agreement, in which event the trial shall proceed *de novo* before another Presiding Judge, or Magistrate, as the case may be.
- (10) Where a trial proceeds as contemplated under subsection (9) (a) or *de novo* before another Judge or Magistrate as contemplated in sub-section (9) (b)-
- (a) no reference shall be made to the agreement;
 - (b) no admissions contained therein or statements relating thereto shall be admissible against the defendant; and
 - (c) the prosecutor and the defendant may not enter into a similar plea and sentence agreement.
- (11) "Prosecutor" for the purpose of this section means a Law Officer.

PART 9
Proceedings in General

INSTITUTION OF CRIMINAL PROCEEDINGS

73. (1) Subject to the provisions of any other enactment, criminal proceedings may in accordance with the provisions of this Law be instituted-

*Methods of
Instituting Criminal
Proceedings*

(a) summarily in Magistrates' Court on a charge in respect of simple offences, misdemeanour or felonies; and

(b) in the High Court-

(i) by information of the Attorney-General of the State in accordance with the provisions of Section 65; and on information, filed by a private prosecutor pursuant to section 256; or

(ii) by information filed in the Court after the accused has been summarily committed for perjury by a Judge or Magistrate under the provisions of Section 301; or

(iii) summarily in respect of contempt.

(2) In all other trials in Magistrates' Court involving a felony the prosecution shall give the defendant statements of witnesses and report of experts that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

74. (1) Proceedings in a Magistrates' Court may be instituted by bringing a person arrested with or 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 date and place where the offence is alleged to have been committed.

*Particulars of
instituting criminal
proceeding in
Magistrates' Court*

(2) The charge sheet shall be signed by a Law Officer or a Police Officer;

Provided that the Defendant shall, on demand, be furnished by the prosecution with all the facilities needed for the defence.

75. A Magistrate may issue a summons or warrant as set out to compel the appearance before him of any person alleged of having committed in any place, whether within or outside Nigeria, any offence triable in the State.

*Compelling
appearance of a
defendant*

76. In every case, the Court may proceed by way of summons to the defendant or by

*Summons and
warrant*

way of warrant for his arrest in the first instance according to the nature and circumstances of the case.

77. (a) A summons may be issued or served on any day from Monday to Saturday between the hours of 8 a.m. and 6 p.m. *Issue and service on any day*

(b) A summons served on a Sunday or public holiday shall not be invalid but shall take effect from the next working day.

Enforcing Appearance of Defendant
ISSUE OF SUMMONS

78. Where a charge is preferred before a Magistrate as provided in Section 74 and the Magistrate decides to issue a summons in the first instance, such Magistrate shall issue a summons directed to the person or persons charged with the offence stating concisely the substance of the charge and requiring him to appear at a certain time not less than forty-eight hours after the service of such summons before the Court to answer to the said charge and to be further dealt with according to law. *Issue of summons and contents thereof*
79. The Court may, if it deems fit and with the consent of the parties, hear and determine a charge notwithstanding that the time within which the defendant was required to appear may not have elapsed. *Hearing by consent before return date of summons*
80. Nothing contained in Sections 77, 78, or 79 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*. *Discretion in exparte application*

FORM AND SERVICE OF SUMMONS

81. Every summons issued by a Court under this Law shall be in writing and in duplicate, signed by the presiding officer of such Court or by such other officer, as the Chief Judge may from time to time prescribe. *Summons to be in duplicate*
82. Every summons shall be served by an Officer of the Court issuing it or a Police Officer or any other public servant. *Service of summons*
83. The person effecting service of a summons shall effect it by delivering it on - *Normal methods of effecting service*
- (a) an individual, to him personally; or
- (b) a firm or corporation to one of the following:
- (i) one of the partners, or

(ii) a director, or

(iii) the secretary, or

(iv) the chief agent within the jurisdiction,

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

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

(c) a Local Government Council in accordance with the relevant provisions of the Local Government Law of the State.

84. Where service in the manner provided by paragraph (a) of Section 83 cannot by the exercise of due diligence be effected, the serving officer may with leave of the Court affix one of the duplicates of the summons to some conspicuous part of the premises or place in which the individual to be served ordinarily resides, and the summons shall be deemed to have been duly served. *Service where person summoned cannot be found*
85. Where the person summoned is in the service of Government, the Court issuing the summons may send it in duplicate to the Director or Head of the Department in which such person is employed for the purpose of being served on such person, if it shall appear to the Court that such is the most convenient form of service and such Director or Head of Department shall cause the summons to be served in the manner provided by paragraph (a) of Section 83 and shall return the duplicate to the Court under his signature, with the endorsement required by Section 88. Such signature shall be evidence of the service. *Service on persons in Government Service*
86. Where the Officer who served a summons is not present at the hearing of the case, proof of such service may be done by endorsement on a duplicate of such summons and by an affidavit showing when and how such service was effected. *Proof of service when serving officer not present*
87. 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. *Service outside local jurisdiction*
88. (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 handed shall endorse the duplicate. *Receipt of service of summons*
- (2) Where service is not effected by handing 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.

89. Every person who is required to endorse to the effect that he has received the summons and fails to endorse 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 as the Court may think necessary.

Person refusing to endorse may be arrested

WARRANT ISSUED IF SUMMONS DISOBEYED

90. 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 stated in the summons, the Court shall issue a warrant to arrest him and cause him to be brought before such Court.

Warrant may issue where summons is disobeyed

91. Where upon a complaint being made before a Magistrate as provided in Section 23 such Magistrate decides to issue a warrant in the first instance the Magistrate shall issue a warrant to apprehend the person complained against to bring him before the Court to answer the said complaint and be dealt with according to the Law.

Issue of warrant for defendant in the first instance

92. Where a warrant of arrest is issued in consequence of a complaint on oath as aforesaid, the provisions of Sections 21 to 30 shall apply to such warrant.

Application of sections 21-30 to warrant of arrest

93. Notwithstanding the issue of a summons as provided in Section 75, a warrant may be issued at any time before or after the time appointed for the appearance of the defendant.

Warrant may issue before or after return date of summons

PART 10

Miscellaneous Provisions Regarding Process

IRREGULARITIES

94. When any defendant is before a Magistrate whether voluntarily, or upon summons, or after being arrested with or without warrant, or while in custody for the same or any other offence, trial may be held notwithstanding any irregularity, 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, and notwithstanding any defect in the complaint, or any irregularity or in the arrest or custody of the defendant.

Irregularity in summons, warrant, service or arrest

95. No variation between the allegation contained in the summons or warrant and the offence alleged in the charge, 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.

Variation between charge, summons or warrants

96. A summons or warrant or other process issued under any written law shall not be invalidated by reason of the death of the person who signed the same or his ceasing to hold office or have jurisdiction.
- Process valid notwithstanding death or vacation of office of person issuing*

SAVING OF VALIDITY OF PROCESS

97. The following provisions shall have effect in respect of warrants of commitment and warrants of distress-
- Validity of process*

(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 therein 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.

98. (1) In addition to the provisions of Sections 25 and 26, all summonses, warrants and process of every description shall be sufficiently addressed for service or execution by being directed to the sheriff.
- General addressee of process for issue and execution*

(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.

99. The provisions contained in Sections 22, 24 and 27 relating to summonses, warrant of any description and other processes and their issue, service, enforcement and execution shall, so far as may and be, apply to every summons, warrant of any description and other process issued in respect of matters within the jurisdiction of the Court under any law.
- Certain provisions applicable to summons, warrants and processes*

PART 11
Search Warrant

ISSUE AND EXECUTION

100. (1) Where a Magistrate is satisfied by information on oath or in writing that there is reasonable ground for believing that there is in the State in any building, ship, carriage, receptacle, motor vehicle, aircraft or place-

Cases in which search warrants may be issued

- (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 of 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 Magistrate 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 named in it -

- (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 Magistrate issuing the search warrant or some other Magistrate to be dealt with according to law; and
- (ii) to arrest the occupier of the house or place where the thing was found if the Magistrate deems fit so to direct on the warrant.

101. If the occupier of any building or the person in whose possession anything named in a search warrant is found is brought before a Magistrate and he is not charged with any offence, he shall forthwith be discharged by such Magistrate.

Discharge of suspected person

102. (1) Every search warrant shall be signed by the Magistrate issuing same.

Search warrants to be signed by Magistrate

(2) Every such warrant shall remain in force until it is executed or until it is cancelled by the Court.

103. 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 of them.

Search Warrant to whom directed

104. (1) A search warrant may be issued and executed on any day including a Sunday

Time when search warrant may be issued and

or public holiday. It shall be executed between the hours of 5:00 a.m. and 8.00 p.m., but the Court may, in its discretion, authorise by the warrant the execution of the warrant at any hour.

(2) Where a Magistrate authorises the execution of a search warrant at any hour other than between the hours of 5:00 a.m. and 8:00 p.m. such authorisation may be contained in the warrant at the time of issue or may be endorsed thereon by any Magistrate at any time thereafter prior to its execution.

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

(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 8 and 9 of this Law.

(3) When any person in or about such building, thing or place is reasonably suspected of concealing on 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.

DETENTION AND DISPOSAL OF ARTICLES SEIZED

106. (1) When upon the execution of a search warrant anything referred to in Section 100 is seized and brought before any Magistrate, the Magistrate may detain or order it to be detained, taking reasonable care that it is preserved until the conclusion of the trial. *Detention of articles seized*

(2) If any person is committed for trial, or if any appeal is made, he may order it to be detained in such manner and place and by such person as he may direct for the purpose of the trial or pending the hearing of the appeal.

(3) If no person is committed for trial or no appeal is made, the Magistrate shall, except in the cases hereinafter mentioned, unless he is authorised or required by law to dispose of it otherwise, direct-

(a) that the property or a part of it is restored to the person who appears to the Magistrate to be entitled to it, and if he is 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 of it be applied to the payment of any costs or compensation directed to be paid by the person charged.

107. Where anything seized under a search warrant and before a Magistrate is of a perishable or noxious nature such thing may be disposed of in such manner as the Court may direct. *Perishable articles may be disposed of by court*
108. If the thing to be searched for under a search warrant is gunpowder, arms, ammunition or any other explosive, 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 authorised to search for any such thing, and the thing itself shall be disposed of in the same manner as directed by any such law, or, in default of such direction, as the Court may either generally or in any particular instance order. *Search for and disposal of gunpowder, etc.*
109. If in consequence of the execution of a search warrant, there is brought before any Magistrate any forged bank-note, bank-note paper, instrument, or other thing, the possession of which, in the absence of lawful excuse, is an offence triable on information according to any enactment for the time being in force, the Magistrate may cause such thing to be defaced or destroyed. *Destruction of forged banknotes*
110. Where a search warrant is issued in respect of an offence against the law of any other State of the Federation and a summons has been issued for that offence, or any person has been charged with that offence before Court of that State, the Magistrate issuing the search warrant may unless he has disposed of the thing in accordance with Section 107, transmit anything seized and brought before him to that Court. *Transmission to court of other state*

PART 12

Provisions as to Bail and Recognizance Generally

111. (1) A suspect arrested, detained or charged with an offence punishable with death shall only be admitted to bail by a Judge of the High Court, under exceptional circumstances. *Grant of bail*
- (2) For the purpose of exercise of discretion in subsection (1) of this section, "exceptional circumstances" includes:
- (a) ill health of the applicant which shall be confirmed and certified by a qualified medical practitioner employed in a Government hospital, provided that the suspect is able to prove that there are no medical facilities to take care of his illness by the authority detaining him;
 - (b) extraordinary delay in the investigation, arraignment and prosecution for a period exceeding one year; or
 - (c) any other circumstances that the Judge may, in the particular facts of the case, consider exceptional.

112. (1) A defendant charged with an offence punishable with imprisonment for a term exceeding three years shall, on application to the court, be released on bail except in any of the following circumstances: *Where a defendant is charged with offence exceeding three years imprisonment*
- (a) where there is reasonable ground to believe that the defendant will, where released on bail, commit another offence;
 - (b) attempt to evade his trial;
 - (c) attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case;
 - (d) attempt to conceal or destroy evidence;
 - (e) prejudice the proper investigation of the offence; or
 - (f) undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.
113. In any other circumstance other than those referred to in sections 111 and 112 of this Law, the defendant shall be entitled to bail, unless the court sees reasons to the contrary. *Where a defendant is charged with offence not exceeding three years imprisonment*
114. (1) Except where an application for bail is allowed to be made orally in the Magistrates' Court, such application shall be made by motion which shall be supported by affidavit and shall state under what rule of Court or Law the application is brought. Every motion shall be served within 5 days of filing by counsel to counsel where parties are represented by Legal Practitioners. *Mode of Application for bail*
- (2) Every such application shall be accompanied by a written address in support of the relief sought.
 - (3) Where the other party intends to oppose the application, he shall within 7 days of the service on him of such application, file his written address and, may accompany it with a counter affidavit.
 - (4) The applicant may on being served with the written address of the opposing party file and serve an address in reply on point of law and facts raised by the opposing party within 7 days of being served. Where counter affidavit is served on the applicant, he may file further affidavit with his reply.
115. (1) The security for bail in any case shall be at the discretion of the Court, such bail security shall be fixed having regard to the circumstances of the case and shall not be excessive. *Security for bail*

(2) The Court may require the deposit of money or any other security as specified by the Court from the applicant and/or his surety before the bail is approved.

(3) Where money is deposited as security for bail, it shall be kept in an interest yielding account by the Chief Registrar of the Court, and at the end of the trial, it shall be disposed in accordance with subsection (4) of this Section.

(4) Such money or any other security deposited shall be returned to the applicant and/or his surety at the conclusion of the trial or upon an application by the surety to the Court to discharge his recognisance subject to Section 128 of this Law.

116. Where in any case the person in respect of whom the Court makes an order requiring that a recognisance be entered into is a child, the child shall not execute the recognisance but the Court shall require a parent, legal guardian or other fit person, with or without sureties, to enter into a recognisance that the child shall do what is required under the Court's order. *Recognisance in respect of children*
117. (1) A defendant admitted to bail may be required to produce such 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 recognisance accordingly. *Sureties*
- (2) The Court shall make direction and impose conditions it deems necessary to ensure that the identity, residence and status of surety is properly verified.
- (3) No person shall be denied or prevented or restricted from entering into any recognisance or standing as surety or providing any security on the ground that the person is a woman.
118. A Judge may, if he thinks fit, admit any person charged before a Magistrate Court to bail although the Court before whom the charge is made has not thought it fit to do so. *Admission to bail after its refusal*
119. Notwithstanding the provisions of Sections 115 and 116, a Judge may in any case direct that any person in custody in the State be admitted to bail or that the bail required by a Magistrates' Court or Police Officer be reviewed. *Judge may vary bail fixed by Magistrate or Police*
120. When in respect of any recognisance the Court has fixed the amount in which the sureties, if any, are to be bound, the recognisance need not be entered into before the said Court, but may be entered into by the parties before any other Court, or before any Registrar, or before any superior Police Officer or officer in charge of a Police Station, or where any of the parties is in a prison before the superintendent or other person in charge of such prison, and all the consequences of law shall ensue and the provisions of this Law with respect to recognisance before a Court shall apply as if the recognisance had been *Persons before whom recognisance may be executed*

entered into before the Court.

121. Where as a condition for the release of any person he is required to enter into a recognisance with sureties, the recognisance of the sureties may be taken separately either before or after the recognisance of the principal, and if so taken the recognisance of the principal and sureties shall be as binding as if they had been taken together and at the same time. *Mode of entering into recognisance*
122. Where a person is admitted to bail, the recognisance may be conditioned for his appearance at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned, without prejudice, however, to the power of the Court to vary the order at any subsequent hearing. *Continuous bail*
123. (1) Where the entering into a recognisance is a condition for the release of a person, that person shall be released as soon as the recognisance has been entered into and if he is in prison or police custody, the Court shall issue an order of release to the Superintendent of the Prison or other place of detention and such officer on receipt of the order shall release him. *Discharge from custody*
- (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 recognisance was entered into or to which the bail relates.
124. If a Court is notified by information on oath by a complainant, surety or other person that any person bound by recognisance to appear before any Court or Police Officer is about to leave the State, for the purpose of evading justice, the Court may cause him to be arrested and may commit him to prison until the trial, unless the Court shall deem it fit to admit him to bail upon further recognisance. *Person bound by recognisance who absconds may be committed to prison*
125. Where a defendant has been admitted to bail and circumstances 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 the 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. *Re-consideration of amount of bail on application by Law Officer or Police Office*
126. (1) Where 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 in the *Power to revoke bail*

same manner as if he had been originally committed for trial of the offence for which he is indicted.

(2) For the purposes of this Section, a person shall be deemed to be indicted when the information against him has been filed in a High Court.

127. If at any time after a recognisance has been entered into it appears to the Court that for any reason the surety or sureties is/are unsuitable, the Court may issue a summons or warrant for the appearance of the defendant and upon his coming to the Court may order him to execute a fresh recognisance with other surety or sureties, as the case may be. *Variation of a recognisance where surety is unsuitable*
128. (1) Any surety may at any time apply to the Court to discharge the recognisance either wholly or so far as it applies to the applicant. *Discharge of sureties*
- (2) On such application being made, the Court shall issue a warrant of arrest directing that the defendant be brought before the Court.
- (3) On the appearance of such defendant pursuant to the warrant, or on his voluntary surrender, the Court shall direct the recognisance to be discharged either wholly or so far as it relates to the applicant or applicants and shall call upon the defendant to find other sufficient surety or sureties and enter into a fresh recognisance and if he fails to do so the Court 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 recognisance, with or without sureties, as the case may be.
129. When any surety becomes insolvent, insane or dies or when any recognisance is forfeited under the provisions of Section 131, the Court may order the defendant to furnish fresh security in accordance with the directions of the original order and, if the security is not furnished, such Court may proceed as if there had been default in complying with such original order. *Order for fresh security upon original order*
130. Where a surety dies before the recognisance is forfeited, his estate shall be discharged from all liability in respect of the recognisance. *Death of surety*
131. (1) Where it is proved to the satisfaction of a Court that a recognisance entered into under this Law has been forfeited, the Court shall record the facts and by order declare the recognisance to be forfeited, the Court shall record the grounds of such proof and may call upon any person bound by the recognisance to pay the penalty or show cause why it should not be paid. *Forfeiture of recognisance*
- (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 in the Law for the recovery of fines.
- (3) A surety's estate shall only be liable under this Section if the surety dies after

the recognisance is forfeited.

132. The Court may at any time cancel or reduce the forfeiture, upon the person liable under the recognisance applying and giving security, to the satisfaction of the Court, for the future performance of the condition of the recognisance 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 deem just. *Mitigation of forfeiture*
133. (1) Where a recognisance 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 defendant or as surety before the Court, a Court may, upon proof of the conviction of the defendant by such recognisance of any offence which is by law a breach of the condition of the same, by order, declare that such recognisance be forfeited and adjudge the persons bound thereby, whether as defendant or as sureties or any of such persons to pay the sums for which they are respectively bound. *Forfeiture on conviction*
- (2) A certified copy of the judgment of the Court by which such person was convicted of such offence may be used as evidence in proceedings under this Section and, if such certified copy is so used, the Court shall presume such offence was committed by such person until the contrary is proved.
134. Where any recognisance is declared or adjudged to be forfeited, the Court having jurisdiction over the matter of the complaint may, immediately or at any time after such declaration, issue a warrant of commitment against any person liable, whether as principal or surety under such recognisance, for any term not exceeding the term prescribed by law in respect of a like sum in the scale of imprisonment set forth in Section 319 with or without hard labour, unless the amount due under such recognisance is paid. *Where recognisance forfeited: warrant may issue*
135. All sums paid or recovered in respect of any recognisance declared or adjudged by a Court in pursuance of Section 133 to be forfeited shall be paid to the Chief Registrar of the Court. *Payment on recognisance*
136. Any order of forfeiture made under Section 131 or 133 shall be subject to appeal in accordance with the procedure provided by Law. *Appeal*
137. (1) The Chief Judge may, by regulation, register and license individuals or corporate bodies or persons to act as Bondsperson within the jurisdiction of the Court in which they are registered. *Registration of bondsperson and revocation of license*
- (2) The regulation referred to in subsection (1) above shall stipulate the qualification for registration and grounds for revocation of license of the bondsperson.
- (3) No person shall engage in the business of bail bond services without being duly registered and licensed in accordance with the provisions of sub-section (1)

of this Section.

(4) Any person who engages in bail bond services without registration and license under this Law, or otherwise violates the terms of his license shall be liable to a fine of ₦500,000 or 12 months' imprisonment or both.

(5) Such Bondsperson registered under the provision of subsection (1) of this Section may undertake recognisance, act as surety, or guarantee the deposit of money as required by the bail condition of any person granted bail by the Court within the jurisdiction in which the Bondsperson is registered.

(6) No person or organisation shall be registered as a Bondsperson unless the person is, or the organisation is composed of persons of unquestionable character and integrity, and must deposit with the Chief Judge sufficient bank guarantee in such amount as may be determined by the Chief Judge in the regulation, which shall be such sum of money as the registered class or limit of the Bondsperson's recognisance shall determine.

(7) Every registered Bondsperson shall maintain with a bank or insurance company designated in his licence, such fully paid deposit to the limit of the amount of bonds or recognisances to which his licence permits him to undertake.

(8) Every Bondsperson shall have the powers to arrest any defendant or suspect who is absconding or who he believes is trying to evade or avoid appearances in Court; if he cannot bring the person arrested within 12 hours of the arrest before a Court, he shall hand the person arrested over to the Police who shall produce such person before the appropriate Court.

138. When any person who is bound by any recognisance entered into under this Law to appear before a 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.

Arrest on breach of recognisance for appearance

PART 13

Bringing Persons in Custody before Court

139. (1) Where a suspect or defendant is detained in a prison, police station or any other place of detention, the court may issue an order to the officer in charge of the prison, police station or other place to produce the suspect or defendant at the time and date specified in the order before the court.

Power of court to order person in custody to be brought before it

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

PART 14

Forms in respect of Summons, Warrants, Recognisance and other Similar Process

140. Subject to the express provisions of this Law, if any, of the rules, the forms contained in the First Schedule may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply, and, when so used, shall be good and sufficient in law. *Use of Forms in First Schedule*

PART 15

*Provision relating to Property and Persons***OWNERSHIP OF PROPERTY**

141. Where in any summons, warrant of any description, charge sheet, information or any document whatsoever issued by a Court in the exercise of its criminal jurisdiction or filed in Court, 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 following provisions shall apply- *Methods of stating ownership of property*
- (a) 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 other joint owners or possessors it may be described in the name of any one of such persons and another or others;
 - (b) if the property belonged to Joint Stock Companies, Company, a Limited Liability Partnership, Association, Club or Society, it may be described by its legal or registered title;
 - (c) property belonging to or provided for the use of any public establishment, service or department may be described as the property of the State;
 - (d) 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 church warden or church wardens of such church, chapel or building or place, without being necessary to mention his name;

- (e) 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;
- (f) 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 part or of any town, or village or of any local authority, 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 township, town, or village, or of any local authority, as the case may be, without naming any of the inhabitants of any such areas or jurisdictions.

DESCRIPTION OF PERSONS

142. (1) Where in any summons, warrant of any description, charge sheet, information or any document whatsoever issued by a Court of Law 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. *Description of persons in criminal process*
- (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 and 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, 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.

RIGHTS OF MARRIED WOMEN IN RESPECT OF SEPARATE ESTATE

143. Every woman who has contracted a valid marriage shall have in her own name against all persons whatsoever, including the husband of such marriage, *Remedies of a married woman*

subject 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.

144. In any proceedings taken under the provisions of Section 143, the husband and wife shall be compellable witness in accordance with the provisions of Part XI of the Evidence Act, 2011. *Husband and wife competent witnesses*

PART 16
The charge

FORM OF, AND JOINDER OF OFFENCES AND PERSONS

145. Charges may be as in the format set out in the Forms in the Second Schedule and may be modified in such respect as may be necessary to adapt to the circumstances of each case. *Form of charges to be used and adopted*

146. (1) Every charge shall contain the following: *Form of charge*

- (a) the offence with which a 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 must 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.

147. (1) The charge shall contain such particulars as to the date 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. *Particular of a charge*

(2) 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 one offence within the meaning of Section 151.

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

(4) Where the nature of the offence is such that the particulars required by Section 146 and subsections (1) to (3) of this Section 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.

148. (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 law creating such offence. *Sense of words used in charge*

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

149. (1) The description of property in a charge shall be in ordinary language and such as to indicate with sufficient clarity 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. *Owner and value of property need not be named unless specifically required*

(2) Where property is vested in more than one person and the owners of that property are referred to in the charge, the property may be described as being owned in accordance with the appropriate provisions set out in Section 141.

(3) Coin 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 of any bank or currency note, although the particular species of coin of which such amount was composed or the particular nature of the bank or currency note shall not be proved, and in cases of stealing and defrauding by false pretences, by proof that the accused dishonestly appropriated or obtained any coin or any bank or currency note, or any portion of the value, although such coin or bank or currency note may have been delivered to him in order that some part of the value should be returned to the party delivering the same or to any other person, and such part shall have been returned accordingly.

(4) Where the ownership of any property is described under paragraph (b) of Section 141 as being in any Joint-Stock Company, 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 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.

(5) (a) Where a 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 law, may be stated in the alternative in the charge.

(b) It shall not be necessary in any charge where the offence is one constituted by a law to negate any exception or exemption from or qualification to the operation of the law creating the offence.

(6) 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 142.

(7) 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 usually known, or by the purport of it, without setting out any copy.

(8) 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 a manner as to indicate with reasonable clearness the place, time, thing, matter, act, or omission referred to.

(9) It shall not be necessary in stating any intent to defraud, deceive or injure any particular person, where the written law creating the offence does not make it an essential ingredient of the offence.

150. The following persons may be charged and tried together or separately as the Court may deem fit: *When persons may be charged together*

- (a) When two or more persons are charged with the same offence or of different offences committed in the same transaction; or
- (b) When a person is accused of committing an offence and another of abetting or being accessory to or attempting to commit such offence; or
- (c) When a person is accused of any offence of theft, criminal misappropriation, criminal breach of trust and another of receiving or retaining or assisting in the disposal or concealment

of the subject matter of such offence.

151. 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 Section 152. *Separate charges for district offences*
152. Offences may be charged and tried together as the Court may deem fit in the following circumstances- *When offences may be charged together*
- (i) any three offences committed by a person within 12 months whether or not they are of the same or similar character or whether or not they are in respect of the same person or persons; or
 - (ii) any number of the same type of offence committed by a person; or
 - (iii) any number of offences committed by a person in the course of the same transaction having regard to proximity of time and place, continuity of action and community of purpose.

VARIATION OF CHARGE

153. Where the charge preferred against any person is imperfect or erroneous, the Court may permit or direct the framing of a new charge or add to or otherwise alter the original charge. *Procedure when a charge is imperfect*
154. (1) The prosecution may apply to alter or add to any charge or frame a new charge at any time before judgment is given or verdict returned. *Alteration of charge*
- (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 a prosecution to frame a new charge or amend the charge before any Court.
155. (1) If a new charge is framed or alteration made to a charge under the provisions of Section 153, the Court shall call upon the defendant to plead and to state whether he is ready to be tried on such charge or altered charge. *Procedure on alteration of 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.

156. When a charge is altered by the Court 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 re-examine or cross-examine such witness with reference to such alteration. *Recall of witnesses when charge is altered*
157. 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 stage of the case as material unless the defendant was in fact misled by such error or omission. *Effect of error*
158. No judgment shall be stayed or reserved on the ground of any objection which if stated after the charge was read over to the defendant during the progress of the trial might have been amended by the Court because of- *Objections cured by verdict*
- (a) any variance between the charge or any process relating to it 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; or,
 - (b) any variance between the charge or any process relating to it and the evidence adduced in support of the charge as to the place in which the cause of complaint is alleged to have arisen; or
 - (c) any alleged defect in substance or in form in any charge complaint, warrant or other process relating to the charge and the evidence adduced in respect of the charge.

CONVICTION OF ONE OF SEVERAL OFFENCES AND OF OFFENCES NOT SPECIFICALLY CHARGED

159. Where a defendant is charged with an offence but the evidence establishes an attempt to commit such offence, he may be convicted of having attempted to commit that offence although the attempt is not separately charged. *Full offence charged attempt proved*
160. 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 *Attempt charged, full offence proved*

entitled to an acquittal but he may be convicted of the attempt and punished accordingly.

161. Where a person has been convicted of an attempt under either Section 159 or 160 such person shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit. *Defendant's liability as to further prosecution*
162. Where a person is charged with an offence and the evidence establishes that he became an accessory after the fact to that offence or to some other offence of which a person charged with the first mentioned offence may be convicted by virtue of the provisions of any of Sections 160, 161 and 164 to 171, he may be convicted as an accessory after the fact to that offence or that other offence, as the case may be, and be punished accordingly. *On charge of an offence, conviction as accessory after the fact to that or connected offence may follow*
163. If upon the trial of any person for any misdemeanour or simple offence, it appears that the facts proved in evidence amount in law to a felony, such person shall not by reason of that fact 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 such person to be indicted or 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. *Person tried for misdemeanour not to be acquitted if felony proved, unless court so direct*
164. Where a person is charged with any of the following offences: *Conviction of related offences relating to property*
- (a) stealing any property, contrary to the Criminal Law applicable in the State;
 - (b) obtaining or inducing the delivery of any property by false pretence, and with intent to defraud, contrary to the Criminal Law applicable in the State;
 - (c) obtaining or inducing the delivery or payment of any property or money by means of a fraudulent trick or device, contrary to the Criminal Law applicable in the State;
 - (d) receiving any property obtained by means of an act constituting a felony or misdemeanour, contrary to the Criminal Law applicable in the State,

and the evidence establishes the commission by him with respect to the same property of any other of those offences, he may be convicted of that other offence although he was not charged therewith.

165. If at any trial for any of the offences mentioned in the Criminal Law applicable in the State, the facts proved in evidence justify a conviction for some other offences, and not the offence for which the defendant is charged, he may be found guilty of the said other offences and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such offences. *Persons charged with an offence may be convicted for any other offence*
166. If at any trial for rape under the Criminal Law applicable in the State, the facts proved in evidence authorised a conviction for the offence of rape or for an indecent assault and not the offence with which the accused is charged, he may be convicted of rape or of indecent assault, as the case may be, and he shall be punished as if he had been convicted on a charge or an information charging him with such an offence. *On charge of rape conviction for indecent assault may follow*
167. (1) If at any trial for defilement under the Criminal Law applicable in the State, the facts proved in evidence warrant a conviction for an indecent assault and not the offence with which the defendant is charged, the defendant may be convicted of indecent assault although he was not charged with that offence. *On charge of defilement conviction of indecent assault may follow*
- (2) Notwithstanding any provision contained in any law, including the Criminal Code Law, there shall be no time limitation within which to file a charge or information for any sexual offence.
168. Where at the trial of any defendant for the murder of any child or for infanticide it appears from the evidence that such a defendant is not guilty of murder or of infanticide, as the case may be, but is guilty of the offence of concealing the birth of a child under the Criminal Law applicable in the State, such a defendant may be found guilty and convicted of that offence. *Where murder or infanticide is charged and concealment of birth is proved*
169. (1) Where at the trial of a woman for the murder of her newly-born child it appears from the evidence that having regard to the provisions of the Criminal Law applicable in the State, she was not guilty of murder but was guilty of infanticide, she may be found guilty of infanticide. *Where murder is charged and infanticide is proved*
- (2) Nothing in subsection (1) of this Section shall prevent a woman who is tried for the murder of her newly-born child from-
- (a) being convicted of manslaughter; or
 - (b) being found guilty of concealment of birth in pursuance of Section 168 of this Law; or
 - (c) being acquitted upon the ground that by virtue of the provisions of the Criminal Law applicable in the State she was not criminally responsible, and being dealt with under Section 223 of this Law.

170. (1) In addition to the provisions specifically made in this Law, whenever a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete lesser offence in itself and such combination is proved but the remaining particulars are not proved, he may be convicted of such lesser offence or may plead guilty to it although he was not charged with it.

Where offence proved is included in offence charged

(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

171. (1) When more than one charge is 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.

Withdrawal of remaining charges on conviction on one of several charges

(2) Such withdrawal shall have the 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.

PART 17

Previous Acquittals or Convictions

172. (1) Without prejudice to Section 161, a person charged with an offence (in this Section referred to as "the offence charged") shall not be liable to be tried if it is shown-

Person convicted or acquitted not to be tried again for same or related offence

- (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 of which, apart from this Section, he might be convicted by virtue of being charged with the offence charged.

(2) Nothing in subsection (1) above shall prejudice the operation of any law giving power to any Court, on an appeal, to set aside a verdict or findings of any other Court and order a re-trial.

173. 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 152. *Persons acquitted or convicted may be tried again on separate charge in certain cases*
174. 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. *Consequences supervening or not known at previous trial*
175. 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. *Where court at first trial was not competent*

PART 18

*Witnesses***ENFORCING ATTENDANCE OF WITNESS**

176. (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 for such person requiring him to attend, at a time and place to be mentioned in the summons, before the Court to give evidence in respect of the case and to bring with him any specified documents or things and any other documents or things relating which may be in his possession or power or under his control. *Issue of summons for witness*
- (2) If the proceedings is pursuant to private prosecution, the person to whom such summons is addressed shall not be bound to attend unless his travelling expenses are paid to him.
177. (1) Every Court having criminal jurisdiction shall have a Process Server assigned to it whose responsibility shall be amongst others the due efficient and efficacious service of witness summons and such other Court processes as may require service. *Service of summons on a witness*
- (2) Every proof of service of summons and such other Court processes shall be filed and placed in the Court's file.
- (3) Every such summons or other process shall be served upon the persons to whom it is directed in the same manner as is set out in Section 83 or 85 or, with leave of the Court. Section 84 and the provisions of Sections 86 to 89 shall apply to such summons.

178. If the person to whom any such summons is directed does not appear 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 wilfully 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 warrant, before the Court in order to testify. *Warrant for witness after summons*
179. If the Court is satisfied in the first instance, by proof on 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 to do so, then, instead of issuing a summons, it may issue a warrant in the first instance for the arrest of such person. *Issue of warrant for witness in first instance*
180. Any witness who- *Penalty on witnesses refusing to attend*
- (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 precinct of the Court without the leave of the Judge or Magistrate, shall be liable, on summary conviction, to a penalty not exceeding five thousand Naira, or to imprisonment for any term not exceeding two months.
181. 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 doing so, 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. *Non-attendance of witness on adjourned hearing*
182. Any person who is 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. *Persons in court may be required to give evidence though not*
183. Every person who is bound by recognisance to attend at any criminal session as a witness, whether for the prosecution or for the defence, in any case to be tried at such session, shall, if he has received a subpoena or notice, be bound to attend the Court on the date appointed for the trial of such case, and on subsequent dates of the sessions, until the case has been disposed of or until he has been discharged by the Court from further attendance. *Attendance of witness bound by recognisance*

184. If any person who has been bound by recognisance to attend as a witness, whether for the prosecution or for the defence, at the trial of any case does not attend Court on the day appointed for the trial of such case after having been served with notice of the trial, and no reasonable excuse is offered for such non-attendance, the Court may issue a warrant to arrest such person, 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 not attending on recognisance*
185. If any person to whom any writ of subpoena is directed does not attend Court at the time and place mentioned in it, 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 wilfully 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 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*
186. Every person who defaults in attending as a witness in either of the cases mentioned Sections 184 and 185 of this Law shall be liable, on the summary order of the Court, to a fine of Five Thousand Naira. *Fine for non attendance of witness*
187. Every 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 recognisance to attend as a witness at the criminal sessions in which such case is to be tried, may be summoned by a writ of subpoena. *Writ of subpoena*
188. (1) The Registrar, on being furnished with the names and places of abode of any witness 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 of it as there may be witnesses named in such writ or writs. *Service of subpoena*
- (2) When application shall be made to postpone any trial by reason of the absence of any witness stated to be material, it shall be taken as *prima facie* evidence that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such witness if it appears that no subpoena to such witness was issued at least four clear days before the first day of the criminal sessions.

REFRACTORY WITNESS

189. (1) When any person attending either in obedience to a summons or after notification as in Section 182 or by virtue of a warrant or being present in Court and being verbally required by the Court to give evidence in any case- *Witness refusing to be sworn, or produce documents*
- (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 offering any sufficient excuse for such refusal or neglect,

the Court may, if it deems 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 other place of safe custody, unless he 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 deems fit, again adjourn the hearing of the case, and commit him to prison or other place of safe custody for the same period, and so again from time to time until such person consents to do what is so required of him.

(3) Nothing in this Section 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.

EXPENSES OF WITNESSES

190. Where any person appears before the Court on summons, recognisance or by virtue of a warrant to give evidence against any defendant, such a person shall be paid allowance approved by the Office of the Attorney-General of the State. *Expenses of witnesses for the prosecution*
191. The Court may in its discretion, at the request of any person who appears before such Court on summons, recognisance or by virtue of a warrant to give evidence on behalf of a defendant order payment by the State in accordance with the provisions of any Rules of Court to such witness of such sum of money as the Court deems reasonable and sufficient to compensate him for the expenses, trouble, and loss of time which he incurred or sustained in appearing before the Court. *Expenses of witnesses for the defendant*
192. 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 party, direct that the amount payable to any witnesses in accordance with the provisions of this Law and any Rules of Court, or such sum not exceeding such amount as the Court may fix, shall be paid by the party requesting the adjournment to such witnesses as maybe present and whose evidence it has not been possible to take owing to the granting of the adjournment. *Adjournment shall be granted subject to witnesses' cost*

193. The amount of expenses and compensation payable to any witness appearing for the defendant before the Court shall be processed by the Registrar and shall be paid out of general revenue to the witness by the Accountant-General of the State. *Payment of witnesses' expenses*
194. It shall be the duty of the Court to provide interpreter where the defendant does not understand the language of the Court. *Provision of interpreter*

EXAMINATION OF WITNESS

195. Subject to the provisions of any other law, the examination of witnesses shall be in accordance with the relevant provisions of the Evidence Act. *Application of the Evidence Act*
196. The Court *suomotu*, or upon the application of the Prosecution or the defence, at any stage of any trial or other proceedings under this Law may call any person as a witness and examine such person or recall and re-examine any person already examined if his evidence appears to the Court to be essential to the just decision of the case. *Power to call or recall witnesses*
197. Certificates signed by any of Government officers shall be admissible in evidence in accordance with the relevant provisions of the Evidence Act. *Certificate of certain government technical officers*
198. 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: *Right of reply*

Provided that a Law Officer when appearing as counsel for the prosecution or a Police Officer who is a legal practitioner shall in all cases have the right of reply.

PART 19 Publicity and View

199. Subject to the provisions of Sections 201 and 216 and any other law specifically relating to 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 to as far as it can conveniently contain them. *Public to have access to hearing*
200. (1) The Judge or Magistrate presiding over a trial, in his discretion and subject to the provisions of Section 202, may exclude the public at any stage of the hearing on the grounds of public policy, decency or expedience. *Public may be excluded*
- (2) 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 from 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 and communicate with any person allowed to be present there.

201. The Court may, where a person who in the opinion of the Court, has not attained the age of seventeen 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. *Court shall be cleared whilst child or young person is giving evidence in certain cases*
202. (1) An order made under either Section 200 or 201 excluding the public from a Court shall not unless specifically stated- *Order under Section 200 or 201 not to apply to press and certain others*
- (a) authorise the exclusion of *bona fide* representatives of a newspaper or news agency; or
- (b) apply to messengers, clerks and other persons required to attend the 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.
203. No child other than an infant in arms shall be permitted to be present in Court during the trial of any person charged with an offence or during any proceedings of the Court 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 such case he shall remain for so long as his presence is necessary. *Prohibition of children in court during the trial of other persons*
204. (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 shall, 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. *View by court of locus*
- (2) The defendant shall be present during the view.
- (3) In the case of any such view being had, the Court shall give such directions as it shall deem fit for the purpose of preventing communication between the witnesses and the defendant:
- Provided that a breach of any such directions shall not affect the validity of the proceedings unless the Court otherwise directs.

PART 20
Determination of Age

205. (1) Where a person is before any Court and it appears to the Court that such person is a child, the Court shall make due inquiry as to the age of that person and for that purpose may take such evidence as shall be forthcoming at the time, or at the time to which the inquiry shall be adjourned but 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 purposes of this Law be deemed to be the true age of that person. *Presumption and determination of age*
- (2) Where the age of a person is in issue in any criminal proceeding, the court may determine the 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 Rights Law, or any other relevant law in force.
- (3) The evidence of a witness, who is not an expert within the meaning of Section 68 of the Evidence Act, shall be admissible for the purpose of this section.

206. 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 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 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 to have been under or above that age, as the case may be, unless the contrary is proved. *Age in relation to offences*

PART 21
Presence of Parties and Conduct of Trials

207. Every defendant shall subject to Section 216, be present in Court during the whole of his trial unless he misconducts himself by so interrupting the proceedings or otherwise as to render his presence impracticable. *Presence of the defendant at the trial*
208. (1) Both the prosecution and the defendant shall be entitled to conduct their respective cases in person or by legal practitioners. *Counsel for the prosecution and for defendant*
- (2) Where the defendant is in custody or on remand, he shall be allowed access to his legal practitioner at all reasonable times.

209. Where a defendant appears before a Court on a summons he may be required to enter the dock or to stand or sit adjacent to it as may be ordered by the Court. *Position of person summoned in court*

PART 22
Recording of Plea

210. (1) The person to be tried upon any charge or information shall be placed before the Court unfettered unless the Court shall direct otherwise and the charge or information shall be read over and explained to him in the language he understands to the satisfaction of the Court by the Registrar or other officer of the Court or where applicable in the presence of a legal practitioner representing the defendant. *Pleading to information or charge*
- (2) The defendant shall be called upon to plead instantly to the charge except where the defendant is entitled to service of a copy of the information, he objects on the grounds of non-service and if the Court finds he has not been duly served.
211. Every person who pleads not guilty shall be deemed to have put himself up for trial. *Effect of plea of not guilty*
212. (1) Where a defendant pleads guilty to an offence with which he is charged, the Court shall: *Plea of guilty*
- (i) record his plea as nearly as possible in the words used by him;
 - (ii) invite the prosecution to state the facts of the case; and
 - (iii) enquire from the defendant whether his plea of guilty is to the facts as stated by the prosecution.
- (2) Where the Court is satisfied that the defendant intends to admit the truth of all the essential elements of the offence for which he has pleaded guilty, it shall convict him of that offence and pass sentence upon him or make an order against him unless there shall appear sufficient reason to the contrary.
- (3) Where the defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.
213. (1) Where a defendant pleads guilty to a kindred offence, but not guilty of the offence charged, the Court shall follow the provisions of section 212 and if satisfied of the guilt of the defendant may convict the defendant of the offence admitted, unless the prosecution states its desire to proceed with the trial of the defendant for the offence stated in the charge. *Plea when offence admitted is included in offence charged*
- (2) Where a defendant pleads guilty to an offence, which is not charged, the

court shall enter a plea of not guilty to the offence charged, and call upon the prosecution to proceed with the trial of the offence.

- 214.** If the defendant when called upon to plead stands mute out of malice or will not or cannot answer directly when called upon to plead to the charge, the Court shall enter or cause to be entered a plea of not guilty for the defendant and the plea so entered shall have the same force and effect as if such defendant had actually pleaded the same, or the Court shall then proceed to try whether the defendant is of unsound mind in accordance with the provisions of Sections 216 to 228 and if he is found to be of sound mind shall proceed with his trial. *Failure to plead due to malice*
- 215.** (1) Any defendant against whom a charge or information is filed may plead- *Pleas: autrefois acquit or convict, pardon*
- (a) that by virtue of Section 172 he is not liable to be tried for the offence with which he is charged; or
- (b) that he has obtained a pardon for his offence.
- (2) If either of such plea 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.
- (4) Nothing in this Section shall prevent a person from pleading that by virtue of some other provision of a law he is not liable to be prosecuted or tried for any offence with which he is charged.

PART 23 Persons of Unsound Mind

- 216.** (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 when defendant is suspected to be of unsound mind*
- (2) Such investigation may be held in the absence of the defendant if the Court is satisfied that owing to the state of mind of the defendant it would be in the interest of the safety of the defendant or of other persons or in the interests of public decency that he should be absent, 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 a mental health asylum, or the Court may, if it deems fit, take oral evidence from a medical officer on the state of mind of such defendant.

(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 a mental health asylum.

(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.

(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 a mental health 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 defendant, and shall forward a copy of his opinion, in writing, to the Court.

217. (1) If such medical officer certifies that the defendant is of sound 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. *Certificate of Medical officer*
- (2) If such medical officer certifies that the defendant is of unsound mind and incapable of making his defence, the Judge, or Magistrate shall, if satisfied of the fact 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.
- (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.
- (4) The certificate of such medical officer shall be receivable as evidence under this Section.
- (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 Section.
218. (1) (a) 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 *Release of person of unsound mind pending trial*

be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Court or such officer as the Court appoints in that behalf.

(b) If such a defendant is before a Magistrate charged with an offence which is bailable by a Judge and not by a Magistrate, or if the offence is bailable by a Magistrate but he refuses to grant bail, such Magistrate shall inform the defendant of his right to apply to a Judge for bail.

(2) If a Judge has refused bail under paragraph (a) of subsection (1) or after an application made under paragraph (b) of subsection (1) or if sufficient security is not given or no application is made for bail, the Judge shall notify the Attorney General who shall report the case to the Governor who after consideration of the report may, in his discretion, order the defendant to be confined in a mental health asylum or other suitable place of safe custody and the Judge shall give effect to such order.

(3) Pending the order of the Governor, the defendant may be committed to prison or other suitable place for safe custody.

219. Whenever a trial is postponed under Section 216 or 217, the Court may at any time re-open or commence the trial *de novo* and require the defendant to appear or be brought before it. *Resumption of trial*
220. When the defendant has been released under Section 218, the Court at any given time may require the defendant to appear or be brought before it and may again proceed under Section 216. *Resumption of proceedings under section 216*
221. Whenever any person is acquitted by virtue of any provision of the Criminal Law applicable in the State on the ground of insanity or mental disorder, the verdict of the Court before which the trial has been held, shall state specifically whether he committed the act alleged or not. *Acquittal on ground of insanity (including insanity resulting from intoxication)*
222. (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 the incapacity found have constituted an offence, order such person to be kept in safe custody in such place and manner as the Court deems fit and shall notify the Attorney General who shall report the case for the order of the Governor. *Safe custody of person acquitted*
- (2) The Governor may at his discretion order such person to be confined in a mental health asylum, prison or other suitable place of safe custody.
223. When any person is confined under Section 218 or 222, the medical officer of the prison or the medical officer attached to the mental health 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 to the Attorney-General for the information of the Governor as to the state of mind of *Observation of prisoners of unsound mind*

such person at that time or times as the Governor shall require.

224. When any person is, confined under the provision of Section 218 in a prison or a mental health asylum and is certified by the medical officer 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 said certificate shall be receivable as evidence. *Procedure when person of unsound mind reported able to make defense*
225. (1) If the medical officer of a prison or the medical officer attached to a mental health asylum in which a person is confined under Section 218 or Section 222 certifies that such person in his judgment may be discharged without the risk of his doing injury to himself or to any other person, upon the receipt of report from the Court, in the case of the first instance, the Governor may order him to be discharged or to be detained in custody or in prison or to be transferred to a mental health asylum if he has not already been sent to such a mental health asylum, *Procedure where person of unsound mind reported fit for discharge*
- (2) Where the Governor orders the person referred to in subsection (1) of this Section to be transferred to a mental health asylum, he may require the appropriate Director of Medical Services to appoint two medical officers to report on the state of mind of such person and upon any other facts the Governor may require and on receipt of such report the Governor may order his discharge or detention as he deems fit.
226. Where a person is confined in a prison or a mental health asylum, the Governor may direct his transfer from one prison or a mental health asylum to any other prison or a mental health asylum as often as may be necessary. *Transfer from one place of custody to another*
227. (1) Whenever any relative or friend of any person confined under Section 218 or 222 desires that such person shall be delivered over to his care and custody, the Governor, upon the application of such relative or friend, and on his giving security to the satisfaction of the Governor 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. *Delivery of person of unsound mind to care of relative*
- (2) Where a person is confined under the provisions of Section 222, the Governor may further require such relative or friend to give security to the satisfaction of the Governor that if at any time it shall appear to the Governor that such person is capable of making his defence, such relative or friend shall produce such person for trial.
- (3) 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 Governor directs.

(4) Sections 223 and 224 shall, apply to persons delivered to the care and custody of persons under this Section as far as is applicable.

228. Whenever it shall be necessary to remove a prisoner to a prison or mental health asylum under the provisions of Sections 216 to 228, an order for such removal given under the provisions of Sections 216 to 228 shall be sufficient authority for such removal and the detention of such prisoner notwithstanding that such prison or asylum is situate in another State of Nigeria. *Removal of another state*

PART 24 **Trials Generally**

229. Trials shall be held-

Trials

(a) in the High Court-

(i) on information, after the preparation of proofs of evidence either by the Attorney-General or by a private prosecutor, as the case may be, such information being filed by the Attorney-General or private prosecutor in accordance with the provisions of Part 9; or

(ii) on information, filed in the court after the accused has been summarily committed for trial by a Judge or magistrate under the provisions of Part 31; or

(iii) on information exhibited by the Attorney-General under the provisions of section 65; or

(iv) summarily in accordance with the provisions of section 230; or

(b) in magistrates' court summarily in accordance with the provisions of section 230

230. The provisions of this Part shall apply to offences triable summarily, that is to say- *Summary trials*

(a) to all trials in the High Court other than that on information;

(b) to all trials in the High Court in respect of offences for which it is provided that a trial can be had in the High Court otherwise than on information and for which no special procedure is provided;

(c) to all trials in any magistrates' Court to the extent of the jurisdiction of the magistrate adjudicating; and

(d) for all offences declared by any written law to be triable summarily or on

summary conviction or in a summary manner or by a magistrate.

231. The provisions of this law, other than those relating to the preparation of proofs of evidence where necessary shall apply to trials under Section 230 and Part 37 of this law save that where the provisions of these Parts conflict with the provisions so applied the provisions of these Parts shall prevail. *Application of parts of the Law to processes under section 230 and part 37*
232. It shall be the duty of a Court trying a case summarily to make or cause to be made such local inspection as the circumstances of the case shall require. *Local inspection*
233. A case shall be mentioned for hearing in the Court on the date and at the place specified in the summons or warrant. *Date and place of hearing*
234. If 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 prosecutor, having to the satisfaction of the Court, had due notice of the time and place of hearing, does not appear in person or in the manner authorised by any law, the Court shall dismiss the case unless the Court, having received a reasonable excuse for the non-appearance of the prosecutor or his representative or for other sufficient reason, deem fit to adjourn the hearing of the case to some future date upon such terms as the Court shall deem just. *Non-appearance of prosecutor*
235. (1) Where the legal representative of the defendant ceases to appear in Court, the Court shall after a reasonable period of non-appearance enquire from the defendant if he wishes to engage another counsel arranged by him or a counsel engaged by way of legal aid. *Non-appearance of defendant's counsel*
- (2) The Court shall allow the defendant to make his own arrangement if he indicates to do so.
- (3) In circumstances where a defendant fails or is unable to secure legal representation, the Court shall have power to order that the defendant be represented by way of legal aid.
236. (1) Every legal practitioner who is engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant as the case may be until final judgment, unless allowed for any special reason to cease from acting by the Court of its own motion or upon application by the legal practitioner. *Change of legal practitioner*
- (2) Where a legal practitioner wishes to disengage from a matter, he shall notify the Court, not less than three (3) clear days before the date fixed for hearing, notice of which shall be served on the Court and on all parties.
- (3) Except a legal practitioner, or a defendant files a notice at a trial court indicating disengagement, the legal practitioner shall be bound to accept service of any process in relation to any appeal from such judgment:

237. (1) When a case is called in which summons has been issued and the defendant does not appear and no sufficient excuse is offered for his absence, then the Court, if satisfied that the summons has been duly served, shall issue a warrant, called a bench warrant, for his arrest or if not satisfied that the summons has been duly served, the Court shall adjourn the hearing of the case to some future date, in order that proper service shall be effected or until the defendant be arrested as the case may be.

*Non-appearance
of defendant*

(2) If the defendant is arrested on a bench warrant or other warrant as the case may be, he shall be brought before the Magistrate who shall then commit him by warrant to prison or to such other place of safe custody as he shall deem fit, and order him to be brought at a certain date and place before the Court.

238. When a case is called and neither the prosecutor nor the defendant appears, the Court shall make such order as the justice of the case requires.

*Non-appearance
of both parties*

239. When a case is called, and both the prosecutor and the defendant appear, the Court shall proceed to hear and determine the case.

*Appearance of
both parties*

240. (1) At the commencement of hearing of a case, the Court shall direct that all witnesses shall leave the Court and out of hearing, upon such direction, the relevant provisions of the Evidence Act shall apply:

*Witnesses in
general to be
out of hearing*

Provided that the Judge or Magistrate shall in his discretion permit professional and technical witnesses to remain in Court: failure of the Court to comply with the provisions of this subsection shall not invalidate the proceedings.

(2) The Court shall then proceed to hear the prosecutor and such witnesses as he shall call and other evidence as he shall adduce in support of the charge, and also to hear the defendant and such witnesses as he shall call and such other evidence as he shall adduce in his defence and also, if the Court deems fit, to hear such witnesses as the prosecutor shall call in reply if the defendant has called any witnesses or given any evidence.

(3) The prosecutor and the defendant shall put questions to each witness called by the other side and where the defendant gives evidence he shall be cross-examined.

(4) 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 questions to that witness, and shall record his answer on the minutes.

241. (1) If at the close of the evidence in support of the charge, it appears to the Court that a case is not made out against the defendant sufficiently to require him to make a defence, the Court shall discharge him in respect of that particular

*Discharge of
defendant when no
case to answer*

charge.

(2) Where the defendant is represented by a legal practitioner, he shall by application invoke the provision of subsection (1) of this Section.

(3) Where the defendant is not represented by legal practitioner, the Court shall discharge him after hearing the prosecution on the issue consider, if the provision of subsection (1) of this Section avails the defendant.

242. (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- *Defence*

(a) if the defendant is not represented by a legal practitioner, the Court shall inform him that he has three alternatives open to him, namely-

(i) he may make a statement, without being sworn, from the place where he then is, in which case he will not be liable to cross-examination; or

(ii) 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

(iii) he need not say anything at all, if he so wishes, and in addition the Court shall ask him if he has any witnesses to examine or other evidence to adduce in his defence and the Court shall then hear the defendant and his witnesses and other evidence, if any; and

(b) if the defendant is represented by a legal practitioner, the Court shall call upon the legal practitioner to proceed with the defence.

(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 Sections 176 to 182 take the necessary steps to compel their attendance.

(3) Where the defendant intends to call witnesses, he shall within 14 days upon being called by the court to open his defence, file and serve his witness statements on the prosecution.

243. If the defendant adduces in his defence a new matter, which the prosecutor could not foresee, the prosecutor may, with leave of Court, adduce evidence to rebut such first mentioned evidence. *Evidence in reply*

244. Whenever it appears to the Court that any person who is seriously ill or hurt that there is a possibility he may not recover, is able and willing to give material evidence relating to any offence and it shall not be practicable to take the evidence in accordance with the provisions of this Law, the Judge or Magistrate shall take in writing the statement on oath or affirmation of such person and subscribe the same and certify that it contains accurately the whole of the statement made by such person, and he shall add a statement of his reason for taking the statement, the date and place when and where the same was taken, and shall preserve such statement and file it for record. *Power to take evidence of persons seriously ill*
245. The Court shall cause reasonable notice of the intention to take the evidence of a seriously ill person 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. *Notices to be given to parties*
246. (1) Evidence of seriously ill persons taken in accordance with Section 244 may be used in evidence at the trial of any defendant of an offence to which the same relates in accordance with the provisions of Section 39 of the Evidence Act. *When statement may be used in evidence*
- (2) The signature and attestation of the Judge or Magistrate shall be sufficient *prima facie* proof of that 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.
247. (1) The Court shall in every case take notes in writing of the oral evidence, as it considers material, in a book to be kept for that purpose and such book shall be signed by the Judge or Magistrate at the conclusion of each day's proceedings provided that the proceeding of the court may be recorded by the court by means of electronic recording. *Notes of evidence to be taken*
- (2) Where the proceeding of the court has been recorded by means of electronic recording, a transcript thereof shall be produced and signed or authenticated by the Judge or Magistrate and kept in the record of the court together with the electronic storage device.
- (3) Where the proceeding of the court has been recorded by means of electronic recording, a copy of the transcript duly signed or authenticated by the Judge or magistrate shall supersede the hand written notes of the proceeding taken by the Judge or Magistrate.
- (4) No person shall be entitled, as of right, to inspection of, or to a copy of the record so kept as mentioned except by means of an application duly made for an inspection or certified copy of such record.
- (5) The record so kept as the case may be or a copy purporting to be signed and

certified as a true copy by the Judge or Magistrate shall at all times, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

248. Upon the conclusion of hearing of a case, 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 order as shall deem fit. *Giving of decision upon conclusion of hearing*
249. In any summary trial, the Court may, whether the charge is to be dismissed or not, bind over any person involved in the charge, with or without a surety or sureties, to be of good behaviour, and may order any person so bound, in default of compliance with the order, to be imprisoned for any term not exceeding three months, with or without compulsory labour, in addition to any other punishment to which such person is liable. *Power to bind parties to be of good behaviour*
250. (1) Where a charge is dismissed and such dismissal is stated to be on the merits, such dismissal shall have the same effect as an acquittal. *Effect of judgement of dismissal "on merits" "not on merits" and "without prejudice."*
- (2) Where a charge is dismissed and such dismissal is stated to be not on the merits or to be without prejudice such dismissal shall not have the same effect as an acquittal.
251. Prosecutorial authority shall be exercised in the High Court in the name of "The State of Bayelsa". *Prosecutorial authority*
252. Every information shall bear the date when it was signed and, with such modifications as shall be necessary to adapt it to the circumstances of each case and shall be as set out in the Schedule. *Form of information*
253. (1) Where an information is exhibited in the High Court under the provisions of this Law, it shall set out - *Contents of information*
- (a) a description of the offence charged or where more than one offence is 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) 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, a reference to that written law;
 - (d) the particulars of the 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) consecutively numbered counts, where the counts are more than one;

(f) proof of evidence;
provided that all the documents intended to be relied upon by the prosecution shall accompany the information.

(g) list of witnesses; and

(h) list of exhibit(s).

(2) The forms set out to this or forms conforming to that as nearly as shall be, shall be used in the cases to which they are applicable and in other cases forms to the like effect or conforming to that as nearly as 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 notice of additional evidence.

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

*Procedure on
information of
offenders*

(2) Wherever information has been filed in the Court, the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to a Judge within fifteen (15) days of its filing.

(3) On assigning the information, the appropriate Court to which the information is assigned shall within fourteen (14) days of such assignment issue hearing notices to the witnesses and defendant and a reproduction warrant properly endorsed by the Judge in respect of the person charged if he is in custody for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information not more than three (3) days from the date they are issued.

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

place of detention.

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

(6) Where it is impossible or impracticable to effect personal service of the hearing notice and information on the defendant, same shall be served on him, with leave of Court, through his legal practitioner, if any, or on his surety or sureties, or on any adult of 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 the information were served on him less than three (3) days before the date of trial, if he consents to being tried.

255. An information shall be signed by a Law Officer.

*Signing of
information on
behalf of state*

256. The Chief Registrar of the High Court shall receive an information from a private person if-

*Information by
private person*

(a) it has endorsed on its certificate by the Attorney-General, or any Law Officer, acting on the express authority of the Attorney-General, to the effect that he has seen such information and declines to prosecute at the public instance the offence contained in the information; and

(b) such private person has entered into a recognisance in the sum of ten thousand Naira (₦10, 000.00) together with one surety to be approved by the Chief Registrar in the like sum, to prosecute the information to conclusion and to pay such costs as shall be ordered by the Court, or, in lieu of entering into such recognisance, to deposit the said sum in Court to abide by the same conditions.

257. The Registrar or his deputy, 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, a notice of trial, such notice shall specify the particular sessions at which the party is to be tried on the information and shall be in the following form, or as near to that as may be:

*Form of notice
of trial*

A.B. TAKE NOTICE that you will be tried on the information of which this is a true copy, at the sessions to be held at on the day of..... 20

258. (1) Nothing shall prevent any person in custody or awaiting trial at the opening of or during any sessions, from being tried if he had been served with a copy of the information and notice of trial not less than three days before the date on which

*Prisoner shall be
tried at once*

he is to be tried.

(2) The period of three days referred to in subsection (1) of this Section maybe reduced to a shorter period if such person shall express his consent and no special objection be made on the part of the State.

(3) The Sheriff or other proper officer shall in like manner deliver to each witness the said notice of trial.

259. 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. *Return of service*
260. Where any person against whom information has been duly proffered, and who is then at large, does not appear to plead to such information, whether he is under recognisance to appear or not, the Court shall issue a warrant for his arrest. *Bench warrant where the defendant does not appear*
261. Where a person is charged with a capital offence, the State shall be represented by a Law Officer, or legal practitioner duly authorised and if the defendant is not defended by a legal practitioner, the Court shall assign a legal practitioner for his defence. *Counsel for state and defence in capital cases*
262. (1) The person to be tried upon an information shall be arraigned in accordance with the provisions of Sections 210 to 215 of this Law. *Arraignment, time for raising certain objections*
- (2) An objection to the sufficiency of evidence disclosed in the proof of evidence attached to the information or to the information itself shall not be raised before the close of the prosecution's case.
263. In addition to the provisions of Sections 255 to 269 and other express provisions of this Law or any other enactment relating to trials of offences triable on information, the provisions of this Law relating to evidence, adjournment, addresses, the discharge or 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 other than those specifically mentioned, shall be applicable to a trial on information. *Application of Law to trials*
264. Where a matter arises in respect of which no adequate provisions are made in this Law, a Court shall adopt such procedure as will in its view do substantial justice between the parties concerned. *Trials according to practice of High Court of Justice where no rules exist*
265. A witness arrested or detained under this law shall not be kept in the same room or place with the defendant, nor shall the defendant be allowed to make contact with such witness. *Witness arrested under warrant*

PART 25
Remand

266. (1) Any person arrested for any offence triable on information shall within a reasonable time of arrest be brought before a Magistrate for remand and the Magistrate shall have powers to remand such a person after examining the reasons for the arrests exhibited in the request form filed by the Police, and if satisfied that there is probable cause to remand such person pending legal advice of the Director of Public Prosecutions or the arraignment of such person before the appropriate Court or Tribunal.
- Court may remand
defendant in
custody*
- (2) In this Section "probable cause" includes: circumstance of the individual case, nature and seriousness of the alleged offence, reasonable grounds that the person has been involved in the commission of the alleged offence and reasonable grounds that the person may abscond or commit further serious offence.
- (3) The request form filed by the Police in accordance with subsection (1) of this Section shall contain reasons for the request for remand.
- (4) Following an examination of the remand form filed by the Police, the Magistrate shall consider the conduct, personality and social circumstances of the person concerned before making an order of remand.
- (5) Where applicable, a Magistrate shall grant bail to any person brought before him pursuant to subsection (1) of this Section pending the arraignment of such person before the appropriate Court or Tribunal.
- (6) An order of remand made pursuant to subsection (1) of this Section shall not exceed a period of thirty (30) days in the first instance and at the expiration of which the Magistrate shall order the release of the person remanded unless good cause is shown by inquiry why there should be a further remand order for a period not exceeding another period of fourteen days (14).
- (7) At the expiration of the further order made pursuant to subsection (6) above, the Magistrate shall, except for capital offences, grant bail to the person remanded and serve a notice of the bail granted to the Commissioner of Police and Director of Public Prosecutions.
- (8) The power to make inquiry as conferred by this Section shall be exercised whether the suspect is present in Court or not.
- (9) In this Section unless the context otherwise requires, "offences triable on information" means any offence-
- (a) which on conviction shall be punished by a term of

imprisonment exceeding two years;

(b) which on conviction shall be punished by imposition of a fine exceeding fifty thousand Naira; or

(c) which on conviction shall be punished by death.

(10) An application for remand shall be made in accordance with the form prescribed in the schedule to this Law.

267. During remand, the Court may order the defendant to be brought before it.

Court shall bring up defendant during remand

268. If a Court is satisfied that a defendant who has been remanded is, by reason of illness or accident, unable to appear personally before the Court at such adjournment as is mentioned in Section 266, the Court may, in the absence of the defendant, order him to be further remanded for such time as shall be deemed reasonable and cause him to be so informed in writing.

Magistrate may adjourn where defendant cannot appear

269. All persons committed to prison under this Law shall be committed to the Prisons or other place of safe custody.

Place of commitment

PART 26 Addresses

270. 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 with an opening statement and then adduce evidence in support of the charge.

Opening of case for the prosecution

271. (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 deems 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 prosecution shall not be entitled to address the Court a second time but if in opening the case for the defence, the person appearing for the defendant has in addressing the Court introduced a new matter without supporting it by evidence, the Court, in its discretion, may allow the prosecution to reply.

In certain cases, prosecution has no right of reply

(2) Addresses under the provisions of subsection (1) shall be in writing and may be adopted in open Court.

272. 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

Cases in which prosecution shall reply

second time on the whole case and the prosecution shall have a right of reply.

273. The provisions of Sections 271 and 272 shall not affect the right of reply by a Law Officer or a Police Officer who is a Legal practitioner.

*Reply by Law Officers
or a Police Officer
who is a Legal
Practitioner*

PART 27

Procedure where Constitutional Questions are referred to Higher Court

274. (1) Where any question as to the interpretation of the Constitution of the Federation arises in the course of a trial and is referred to the Court of Appeal under the provisions of the Constitution, the Court before which the question arose may in its discretion either-

*Reference to
Court of Appeal*

- (a) adjourn the trial until such question shall have been considered and decided; or
- (b) conclude the trial and postpone the verdict until such time as the question has been considered and decided; or
- (c) conclude the trial and pass sentence and suspend execution until such time as the question has been considered and decided, and in any such case the Court in its discretion shall commit the defendant or convicted person to prison or admit him to bail in accordance with Sections 111 to 138.

- (2) When the question has been decided, the Court shall-

- (a) continue the trial or discharge the defendant; or
- (b) acquit or convict the defendant; or
- (c) order the execution of the sentence, as the circumstances may require.

275. (1) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, an application for stay of proceedings in respect of any criminal matter pending before the High Court and Magistrates' Court shall not be entertained before judgment is delivered in the case provided that such application may be heard and determined after judgment but before sentencing.

Stay of proceedings

(2) If the court hears the application for stay of proceedings under section 275(1) and decides to grant it but the defendant has been found guilty of the offence charged, the court shall nevertheless pronounce its sentence, but subject to such conditions that may be imposed by the court from time to time to secure the attendance of the defendant when required, suspend its commencement until the determination of the appeal.

(3) Where the court suspends its sentence under section 275(2), it shall make an order for the defendant to report to the Chief Registrar of the court at least once a week pending the commencement of the sentence provided that if the defendant defaults in reporting to the Chief Registrar on the date and time appointed in any one week, the suspension of the sentence shall abate and the defendant shall be arrested for his sentence to commence.

(4) Where the appeal pending which a stay of proceedings was granted under section 275(2) has been determined by the Court of Appeal and that court does not set aside the proceedings or judgment of the High Court or Magistrates' Court, the defendant shall immediately be arrested for his sentence to commence.

PART 28 Conclusion of Trial

276. When the case for both sides is closed, the Court shall consider its verdict and for this purpose may adjourn the matter for judgment. *Deliberation by court*
277. The Judge or Magistrate shall record his judgment in writing and every such judgment shall contain the point or points for determination, the decision and the reasons for the decision and shall be dated and signed by the Judge or Magistrate at the time of pronouncing it. *Judgment to be in writing*
278. If the Court finds the defendant not guilty, he shall be discharged and acquitted. *Defendant to be discharged if found not guilty*
279. If the Court convicts the defendant or if 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, or in mitigation of sentence, but the omission of the Registrar to ask him or his being asked by the Judge or Magistrate instead of the Registrar shall have no effect on the validity of the proceedings. *Defendant to be asked whether he has anything to say before sentence*
280. (1) If the Court finds the defendant guilty of the offence, the Court shall either pass sentence on the defendant or make an order or reserve sentencing and adjourn the case to some future date. *Sentence*
- (2) The Court shall record in writing the reasons for the sentence and in particular the reasons for applying or not applying non-custodial disposition measures provided by Law.
281. (1) Where a defendant is found guilty of an offence, the Court shall in passing sentence take into consideration any other charge that is pending against the defendant if the defendant admits the other charge and desires that it be taken into consideration and if the prosecutor of the other charge consents. *Conviction on other charges pending*

- (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 173 to 175 or unless the conviction which has been had is set aside, by a superior Court, the defendant shall not be liable to be charged or tried in respect of any such offence so taken into consideration.
282. When a person is convicted of any offence, the Court may, instead of passing sentence, discharge the offender upon his entering into his own recognisance, with or without sureties, in such sum as the Court may deem fit on the condition that he shall appear and receive sentence at some future sitting of the Court or when called upon. *Deliberation by court*
283. Where a Judge or Magistrate having tried a case is prevented by illness or other cause from delivering his judgment or sentence, if such judgment and sentence, has been reduced into writing and signed by the Judge or Magistrate, maybe delivered and pronounced in open Court in the presence of the defendant by any other Judge or Magistrate. *Delivery of judgment when Judge or Magistrate is absent*

WARRANT OF COMMITMENT

284. Where a conviction or sentence does not order the payment of money but orders that the convicted person be imprisoned, the Court shall issue a warrant of commitment accordingly. *Direct imprisonment*
285. A warrant signed by the Judge or Magistrate sentencing or committing any person to prison for non-payment of a penalty or fine, shall be full authority to the Superintendent of any Prisons and to all other persons for carrying into effect the sentence described in such warrant not being a sentence of death. *Authority for carrying out non capital sentences*

DEFECT IN ORDER OF WARRANT

286. The Court may at any time amend any defect in substance or in form in any order or warrant of commitment given under this Law and no omission or error in a warrant validly issued, 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 mentioned, or may be inferred that it is founded on a conviction or judgment sufficient to sustain it. *Error or omission not to affect legality of act*

PART 29

Costs, Compensation and Damage

287. (1) A Court that acquits or discharges a person charged with 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 *Costs against private prosecutor*

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 of it may be ordered by the Court to be made out of any moneys taken from such person on his arrest or maybe recovered by distress.

(2) No order as to costs as aforesaid maybe made if the Court considers that the private prosecutor had reasonable grounds for making his complaint and the costs awarded shall be as the Court shall deem fit.

(3) Costs shall be awarded under this Section and may be in addition to any compensation awarded and accepted under Section 292.

288. If in any case before a Court any person is charged with any offence and the Court trying the case discharges or acquits any of the defendants and the presiding Judge or Magistrate is of the opinion that the accusation against any of them was false, frivolous or vexatious, the Judge or Magistrate may for reasons to be recorded, direct that compensation be paid as the Court shall deem fit to the defendant or any of them by the person upon whose complaint the accused was charged. *Compensation in case of false and vexatious charge*
289. Any sum awarded as compensation shall be specified in the order of discharge or acquittal, as the case may be, and the Court shall order that on 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 out in Section 319. *Enforcement of award of compensation*
290. The provisions of Sections 287 and 288 shall be subject to any express provision made in any law relating to the procedure to be followed in the awarding of costs or compensation in respect of conditions specified in such written law. *Saving of express procedure for awarding costs and compensation*
291. (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, the receipt of such compensation, or the undergoing of such imprisonment, as the case shall be, shall be a bar to any action for the same injury. *Injured person may refuse to accept compensation; but payment of compensation is bar*
- (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.

PART 30**Seizure, Restitution, Forfeiture and Disposition of Property**

292. (1) 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 or otherwise of any movable or immovable property produced before it with respect to which any offence appears to have been committed or which has been used for the commission of any offence and in case of any immovable 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 purpose of the exercise of the power of forfeiture, confiscation or otherwise conferred by this Section.
- Order for disposal of property with respect to which offence is committed*
- (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 be kept or sold and that the same, if sold, the proceeds shall be held as it directs until some person establishes to the Court's satisfaction a right to it. If no person established such a right within six months from the date of forfeiture or confiscation of such property, the proceeds shall be paid into and form part of the general revenue.
- (3) The power conferred by subsections (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 law under which the conviction was had or in any other 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 had passed or when such appeal is entered until the disposal of such appeal.
293. The Court may order the seizure of any instruments, materials or things which there is reason to believe are provided or prepared, or being prepared, with a view to the 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 296.
- Seizure of things intended to be used in commission of offence*
294. (1) On a conviction under the Criminal Law applicable in the State for offences relating to seditious publication, the Court may order the confiscation and destruction of all the copies of the thing in respect of which publications 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.
- Destruction of seditious and prohibited publications committed*

- (2) The Court shall in like manner on a conviction for an offence under the Criminal Law applicable in the State for exposing for sale things unfit for food or drink, order the food or drink in respect of which the conviction was had and also all other unfit or adulterated food or drink which remain in the possession or power of the person convicted to be destroyed.
295. Where a Magistrate is satisfied by information on oath in writing that there is reasonable ground for believing that there is in the State in any building, ship, carriage, motor vehicle, aircraft, receptacle or place anything in respect of which an order shall be made under Section 293 or 294, 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 deem proper. *Search warrant shall be used to search for things subject to Sections 293 and 294*
296. (1) Whenever a person is convicted of an offence involving the use of 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 deems fit, order the possession of same to be restored to such person. *Restoration of possession of immovable property*
- (2) No such order 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.
297. 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 any 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, order that out of such money a sum not exceeding the price paid by such purchaser shall be delivered to him. *Payment of innocent person of money found on defendant*
298. Where, on 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 – *Restitution and disposition of property found on person arrested*
- (a) that the property or a part of it be restored to the person who appears to the Court to be entitled to it, and, if he be the person charged, that it be restored either to him or to such other person as he may direct; or
- (b) that the property or a part of it be applied to the payment of any costs or compensation directed to be paid by the person charged.
299. (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 of it *Restitution of property stolen*

be restored to the person who appears to be the owner, either on payment or without payment of any sum named in such order by the owner to the person in possession of such property or a part of it.

(2) This Section 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 shall 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 had been stolen.

300. Subject to the express provisions of any written law relating to every article, not pecuniary, forfeited in respect of a summary conviction or the seizure, forfeiture or disposition of which shall 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 same manner as if the proceeds were a penalty imposed under the law on which the proceeding for the forfeiture is founded.

*Mode of dealing
with non-pecuniary
forfeiture*

PART 31 Summary Procedure in Perjury

301. (1) If it appears to a Court that a person has been guilty of perjury in any proceedings before it, the Court, subject to the provisions of subsections (2) and (3), may-

*Perjury summary
procedure*

(a) commit him for trial upon information of perjury and bind any person by recognisance to give evidence at his trial, or

(b) try him summarily in like manner as for contempt of Court and if he is found guilty commit him to prison, subject to the limit of jurisdiction of the Court.

(2) Where a Judge or Magistrate decides to try a person summarily under subsection (1) for contempt of Court, such Judge or Magistrate shall record in the evidence book the fact of such decision, 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 and shall record such explanation in the book aforesaid.

(3) (a) If a Magistrate orders a person to be imprisoned or to pay a fine under subsection (1), he shall not issue his warrant of commitment or make an order for imprisonment for non-payment of the fine but may remand such person or release him on a recognisance with or without sureties to come up before the

Court when called upon and shall forward to the Chief Judge or such Judge as the Chief Judge may direct a certified copy of the proceedings and the Chief Judge or Judge mentioned above shall 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 as soon as practicable thereafter of his decision.

(b) If the Chief Judge does not wholly set aside the Magistrate's order, the Magistrate shall issue his 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.

(4) Any imprisonment or fine ordered or imposed under this Section shall be a bar to any other proceedings for the same offence except where the order of a Magistrate has been wholly set aside.

PART 32 General

302. Subject to the provisions of any law relating to any specific offence or class of offence and to the jurisdiction conferred on any Court or on any person presiding over such Court, the provisions of Sections 306 to 319 shall apply to sentences of death, imprisonment, fine and other non-custodial sentences.

Construction of provisions relating to punishment

CHAPTER 3

PART 33 Capital Sentence

303. (1) Punishment of death is inflicted by hanging the offender by the neck till he be dead.

Capital sentence

(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 God have mercy on your soul".

304. (1) Where a sentence of death has been passed, such sentence shall only be carried out in accordance with the provisions of Sections 303 to 313.

Prior formalities (generally)

(2) Where a woman found guilty of a capital offence, is in accordance with the provisions of Section 317 is found to be pregnant, the sentence of death shall not be passed on her but shall be substituted with sentence to imprisonment for life.

- (3) 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 person to be detained at the discretion of the Governor and if so

ordered he shall be detained in accordance with the provisions of Section 332 notwithstanding anything to the contrary in any law.

305. A certificate signed by 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. *Authority for detention*
306. The provisions of Sections 307 to 312 shall apply in the case of a sentence of death for an offence in respect of which the power of pardon is vested in the Governor. *Procedure of pardon vested in Governor*
307. Any Judge who pronounces a sentence of death shall issue, and affix the seal of Court on 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 and for carrying such sentence of death into effect in accordance with and subject to the provisions of Sections 308 to 313. *Judge's Certificate*
308. The registrar of a Court that sentenced a person to death shall, as soon as practicable after sentence has been pronounced-
- Steps to be taken by the Registrar*
- (a) hand two copies of the certificate issued by the Judge under the provisions of Section 311 to the prison officer responsible for the safe custody of the sentenced person, one of such copies shall be retained by the prison officer and the other handed 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.
309. The Judge who passed sentence shall as soon as it is practicable after sentence has been pronounced, transmit to the Commissioner for Justice 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 307 and a report in writing signed by him containing any recommendations or observations with respect to the sentenced person and with respect to the trial that he deems 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. *Judge to forward report to Commissioner for Justice*
310. (1) Where a defendant-
- Stage at which Governor is to consider report*
- (a) has been sentenced to death; and

- (b) has exercised his legal rights of appeal against the sentence and the conviction and the sentence have not been quashed or reduced or 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 309 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), the Advisory Council on the Prerogative of Mercy is required to advise the Governor in relation to any person sentenced to death, the Commissioner for Justice 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.

311. If the Governor decides that the sentence should not be commuted or that 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 and subject to the provisions of Sections 307 to 313 and the Sheriff shall make arrangements accordingly pursuant to the sentence of death pronounced upon the offender.

Where no communications, pardon or reprieve

312. (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 of it shall be sent to the Sheriff, directing that the execution should not proceed and that the offender be imprisoned in accordance with the recommendation, or that the offender be released, subject to such conditions, if any, as shall be specified.

Where a pardon or reprieve is granted

(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).

PROCEDURE WHERE WOMAN CONVICTED OF CAPITAL OFFENCE IS ALLEGED TO BE PREGNANT

313. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the Court before which a woman is so convicted deems fit so to do, the Court shall, before sentence is passed on her, determine the question whether or not she is pregnant.

Procedure where a pregnant woman is convicted of a capital offence

(2) The question whether the woman is pregnant or not shall be determined by the Court on such evidence as may be laid before it by the woman or by the prosecution.

- (3) Where, on proceedings under this Section, the Court finds that the woman in question is not pregnant, the Court shall pronounce sentence of death upon her.
- (4) An appeal shall lie to the Court of Appeal against such finding and the Court if satisfied that the finding should be set [aside, shall quash the sentence passed on her and substitute such with a sentence of imprisonment for life.
- (5) The Court shall report to the appropriate authority any case in which the Court passes a sentence of imprisonment for life under this Section.

PART 34 Imprisonment

314. Imprisonment shall be with labour unless otherwise ordered. *Imprisonment to be with labour*
315. (1) Where the Court has power to pass a sentence of imprisonment, the Court, may order that the offender be detained within the precincts of the Court or at any Police Station, till such sentence is passed: *Power of order detention*
- (2) Before making an order of detention under this Section, the Court shall take into consideration the distance between the place of detention and the offender's abode, if his abode is known or ascertainable, the Court, 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.
316. 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 in Nigeria. Where two or more sentences passed by a Magistrates' Court 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. *Consecutive sentence of imprisonment*
317. A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced provided that in reckoning the length of imprisonment, the Court shall direct that any period of detention prior to conviction shall be taken into consideration. *Date from which sentence commences*
318. (1) Subject to the other provisions of this Section, where a Court has authority under any law to impose imprisonment for any offence and has no specific authority to impose a fine for that offence, the Court may, in its discretion, impose a fine in lieu of imprisonment. *Power of impose fine in lieu of imprisonment*
- (2) In the case of a conviction in the High Court, the amount of the fine shall be at 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 Magistrates' Court 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 under the law. 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 subsection (2) of Section 321.

(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 as punishment for the offence by the 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.

319. A person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty is liable upon re-arrest to undergo the punishment which he was undergoing at the time of his escape, and for a term equal to that during which he was absent from prison.

*Escaped prisoner:
effect of escape on
punishment*

PART 35 Fines

320. A person convicted of an offence punishable by-

*Fines,
imprisonment in
default of payment*

- (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 suffer imprisonment, in default of payment of the fine, for a certain term, such imprisonment shall be in addition to any other term of imprisonment to which he may have been sentenced.

321. (1) Where, by any law the Court is empowered to impose a penalty for an offence triable summarily, it may, in the absence of express provision to the contrary in the same or any other law, order a defendant who is convicted of such offence, in default of payment of the sum of money adjudged to be paid by the order, at the time specified in the order, as the case may be, to be imprisoned, with labour, in accordance with the scale set out in this section.

*General power of
awarding
imprisonment in
default of payment
of penalty*

(2) Subject to the provisions of a written law on which an 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:

Imprisonment in default of payment of fine shall not exceed the following where fine:

Does not exceed N5,000	-	seven days
Does not exceed N 6,000	-	fourteen days
Does not exceed N 7,000	-	one month
Does not exceed N 8,000	-	two months
Does not exceed N 9,000	-	four months
Does not exceed N10,000	-	six months
Does not exceed N11,000	-	one year
Does not exceed N12,000	-	two years

(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.

322. 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 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 shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine, or of such part as may be paid or recovered, shall be applied as follows-

Payment and allocation of fines and fees

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

323. (1) In every case where an order is made against any person for the payment of a sum of money and such person is liable to be imprisoned for a certain term unless such sum shall be paid, the Court may do all or any of the following:

Power of commit defendant in certain cases

- (a) issue a warrant of commitment;
- (b) allow time for the payment of the said sum;
- (c) direct payment of the said sum to be made by instalments; or

(d) direct that the person liable to pay the said sum shall be at liberty to give, to the satisfaction of the Court, security, either with or without a surety or sureties, for the payment of the said sum or any instalment.

(2) 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, such Court may, direct payment by instalments of the sum so adjudged to be paid.

(3) Where a sum of money is directed to be paid by instalments and default is made in the payment of any instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid.

(4) Where, 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 shall if it deems fit issue a warrant committing him to prison.

324. (1) 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 may issue a 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 requiring him to receive such person into the prison and imprison him with or without labour, as the case may be, for such time as shall 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.

*Power of postpone
issue of warrant
of commitment*

(2) Where application is made to the Court 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 seem just.

(3) When the Court orders the imprisonment of any person, the Court may, if it deems fit, order that such imprisonment shall not commence immediately, 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 discharge him upon his entering into a recognisance, with or without sureties, conditioned for his re-appearance on such day to undergo such imprisonment.

(4) Any warrant of commitment issued under the provisions of this Section may be executed on any day including a Sunday or a public holiday.

325. 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 with the amount of the expenses of such warrant up to the time of such payment or tender, the person having the execution of such warrant shall cease to execute the same. *Payment of penalty to person executing warrant*
326. 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 and the imprisonment shall be computed from such day. *Commencement of imprisonment*
327. 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 new evidence is produced to the Court or on proof of a change of circumstances, the Court, having regard to all the circumstances of the case may reduce the amount for which it ordered that the surety or sureties should be bound, or dispense with the surety or sureties, or otherwise deal with the case as the Court shall deem just. *Varying of or discharging order for sureties*
328. (1) 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, the Superintendent of Prisons shall receive same and discharge such person, unless he is in his custody for some other matter. *Right of person imprisoned in default*
- (2) In any case where under the last preceding subsection, 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 costs or 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.
- (3) Subject to the provisions of subsection (2) where an amount is paid towards a fine, the following procedure 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 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:

(4) Where in the opinion of the Superintendent or other officer, 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 inform the Court of the action taken and such Court shall make such order or record as the Court shall consider to be required in the circumstances.

(5) 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.

329. 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 mentioned above, shall order that the offender be imprisoned, with or without labour as the case may be, in accordance with the scale set forth in Section 321.

*Where fines may
be recoverable by
distress*

330. (1) Where the Court orders a sum to be recoverable by distress, the Court shall issue its warrant of distress for the purpose of recovering same, such warrant shall be in writing and signed by the Court, it shall authorise the person charged with the execution 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.

Warrant of distress

(2) 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;
- (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 shall, by a written endorsement on the warrant, authorise him to use such force as

shall be necessary to enable him to execute the warrant;

- (c) the wearing apparel and bedding of the person and of his family, to the value of ten thousand Naira (₦10,000:00) and the tools and implements of his trade, shall not be taken;
- (d) except as provided in paragraph (e) 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, the sale may be in accordance with such consent;
- (e) 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, of taking and keeping the goods distrained on, are paid;
- (f) if any person charged with the execution of a warrant of distress wilfully 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 Magistrate, to a penalty not exceeding twenty thousand Naira (₦20,000:00):

Provided that nothing 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 movable 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; and
- (h) a person charged with the execution of a warrant of distress shall sell the distress or cause the same to be sold, and may deduct out of the amount realised 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 the Court, 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.

331. 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 Section 328 shall apply. *Part payment reduces period of imprisonment in proportion*
332. (1) When any person is ordered to be detained at the discretion of the Governor, he shall notwithstanding anything contained in this Law or in any other law 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. *Condition attached to detention at discretion of the Governor*
- (2) A person detained at the discretion of the Governor may at any time be discharged by the Governor on licence.
- (3) A licence may be in such form and may contain such conditions as the Governor may direct.
- (4) A licence may at any time be revoked or varied by the Governor and where a licence has been revoked the person to whom the licence 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.

PART 36 Deportation

333. Where a person is convicted of an offence punishable by imprisonment without the option of a fine, the Court may, in addition to or instead of any other punishment, recommend to the Minister of Internal Affairs that he be deported if it appears to the Court to be in the interest of peace, order and good governance that an order of deportation should be made under this Section. *Court may recommend deportation for offences punishable by imprisonment without option of fine*
334. Where, upon any affidavit, it appears to a Court that there is reason to believe that any person in the State is about to commit a breach of the peace, or that his conduct is likely to produce or excite to a breach of the peace, the Court, after due inquiry at which the person concerned shall be present, may order him to give security in two or more sureties for peace and good behaviour, and in default, may recommend to the Minister of Internal Affairs that he be deported. *Deportation in default of security for peace*

335. Where it is shown by evidence on oath to the satisfaction of a Court that any person in the State is conducting or has conducted himself so as to constitute a threat to peace and order, or is endeavouring or has endeavoured to excite enmity between any section of the people of the Federal Republic of Nigeria or is intriguing or has intrigued against constituted power and authority in Nigeria, the Court shall recommend to the Minister of Internal Affairs that he be deported. *Deportation of a person threatening peace and order*
336. (1) Where a person required to give security under Section 334 default in so doing and the Court contemplates recommending to the Minister of Internal Affairs, the deportation of a person to whom Section 335 relates, before making any such recommendation, the Court shall require the person concerned to attend before the Court and, being informed of the allegations made against him, be given an opportunity to show cause why he should not be deported. *Procedure prior to court recommending deportation under Section 334 or 335*
- (2) After considering the representation, if any, of the person concerned and the facts upon which the proceedings are founded, the Court shall decide whether or not to recommend to the Minister of Internal Affairs that the person concerned be deported.
337. Where the Court decides to recommend to the Minister of Internal Affairs the deportation of any person under Section 333, 334 or 335, the Court shall forward to the Minister of Internal Affairs the recommendation together with a report setting out the reasons why the Court considers it necessary to make the recommendation and a certified true copy of any proceedings relating to it. *Procedure on recommendation of deportation under Section 333, 334 or 335*
338. Where a recommendation for deportation has been made in respect of a person to whom Section 333, 334 or 335 relate, such person may be detained in custody pending the decision of the Minister of Internal Affairs and during such time shall be deemed to be in lawful custody. *Detention of person concerned*
339. If the Minister of Internal Affairs decides that in the interest of peace, order, and good governance, an order of deportation should be made, he may issue a written order directing the person to be deported to a place outside Nigeria. *Order of deportation*
340. If the Minister of Internal Affairs decides that no order of deportation shall be made, he shall inform the Court, the Court shall proceed to make such order of imprisonment or other punishment as may be authorised by law. *Minister of Internal Affairs may withhold order and remit case to court*
341. (1) If a person ordered to be deported is sentenced to any term of imprisonment, such sentence of imprisonment shall be served before the order of deportation is carried into effect. *Provisions as to sentence of deportation*
- (2) An order of deportation shall be expressed to be in force for a limited time or for an unlimited time and shall require the deported person to report himself to the nearest Administrative Officer or Police Officer at intervals of not less than

thirty days.

(3) An order of deportation shall be sufficient authority to all persons to whom it is directed or delivered for execution to receive and detain the person named in the order and to carry him to the place named.

(4) The provisions of this Law on deportation shall not apply to Nigerian Citizens.

CHAPTER 4 JUVENILE OFFENDERS AND PROBATION

PART 37 *Juvenile Offenders*

342. (1) Where a child or young person is brought before the High Court or Magistrates' Court charged with an offence, the charge shall be inquired into in accordance with the provisions of the Children and Young Persons Law, Child Rights Law or any other law enacted in that respect, and not in accordance with the provisions of this Law. *Procedure for trying juvenile offenders*
- (2) With respect to bail of juvenile, the provisions of the Child Rights Law shall apply.
343. (1) Where any person is charged before a Court for an offence triable summarily and the Court finds 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 inexpedient to impose any punishment other than a nominal punishment, or that it is expedient to release the offender on probation, the Court shall without proceeding to conviction make an order either- *Conditional release of offenders*
- (a) dismissing the charge; or
 - (b) discharging the offender conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour for a period not less than one year and not exceeding three years.
- (2) The Court shall, 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 conduced to the commission of the offence, the Court may under and in accordance with Section 342 of this Law after hearing such parent or guardian,

order payment of such damages and costs by such parent or guardian.

(3) 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.

344. (1) A recognisance ordered to be entered into under Sections 343 to 347 shall, if the Court so orders, contain a condition that the offender be under the supervision of such person or persons of either sex, called a probation officer, as may, with the consent of such probation officer, be named in the order during the period specified in the order, an order requiring the insertion of such conditions in the recognisance, as in Sections 343 to 347 referred to as a probation order.

*Probation orders
and conditions of
recognisance*

(2) A recognisance under Sections 343 to 347 shall contain such additional conditions with respect to residence, abstinence 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.

(3) 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.

345. 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 recognisance to appear for conviction or sentence.

*Relieving probation
officer of his duties*

346. It shall be the duty of a probation officer, subject to the directions of the Court-

*Duties of probation
officers*

(a) to visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order or subject as the probation officer may deem fit, if the person on probation is not actually residing with the probation officer;

(b) to see that he observes the conditions of his recognisance;

(c) to report to the Court as to his behaviour;

(d) to advise, assist, and befriend him and when necessary to endeavour to find him suitable employment.

347. The Court before which any person is bound by a recognisance under Sections

*Variation of terms
and conditions of
probation*

343 to 347 to appear for conviction and 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 recognisance should be varied, summon the person bound by the recognisance to appear before it, and if he fails to show cause why such variation should not be made, vary the terms of the recognisance 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 recognisance has been such as to make it unnecessary that he be no longer under supervision, discharge the recognisance.

348. (1) If the Court before which an offender is bound by his recognisance under Sections 343 to 347 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 recognisance, it shall issue a warrant for his arrest or shall 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.

Provision in case of offender failing to observe conditions of release

(2) The offender when arrested shall if not brought forthwith before the Court in which he is bound by his recognisance to appear for conviction or sentence be brought before another Court.

(3) The Court before which an offender on arrest is brought or before which he appears in pursuance of such summons, may if it is not the Court before which he is bound by his recognisance to appear for conviction or sentence, remand him in custody or on bail until he can be brought before the last mentioned Court.

(4) A Court before which a person is bound by his recognisance to appear for conviction and sentence on being satisfied that he has failed to observe any conditions of his recognisance shall, without further proof of his guilt, convict and sentence him for the original offence.

COMMUNITY SERVICE

349. (1) A person convicted of an offence triable summarily may be ordered by the Court to render community service in lieu of sentence or fine.

Rules governing community service

(2) The Community Service Order shall contain such requirements as the Court

may consider necessary for effective supervision and rehabilitation of the offender.

(3) A community Service Order shall be in the nature of:

(a) environmental sanitation; or

(b) assisting in the care of children and the elderly in Government approved homes; or

(c) any other type of service which in the opinion of the Court would have a beneficial and salutary effect on the character of the offender.

(4) (a) The Community Service Officer and the person against whom the order is made shall enter into a written agreement specifying the number of hours of service that would be rendered on a daily or weekly basis.

(b) The written agreement referred to in subsection (4) paragraph (a) above shall be filed in the Court's registry by the community service office.

(c) Where the person against whom the order is made refuses or defaults to enter into the written agreement or where he breaches the terms of the agreement on more than three occasions without any lawful justification or excuse, the Court on the application of the Community Service Officer, shall issue a bench warrant for his arrest.

(d) The person against whom the order was made shall bear the burden of showing any lawful or valid excuse justifying or excusing the breach of the written agreement in which case the Court may permit the continuation of the community service order.

(e) The Court, if satisfied, that the person against whom the order was made has no lawful or valid excuse, shall impose custodial sentence or fine having regard to the punishment prescribed for the offence to which he was charged and the length of community service already performed.

(5) A Community Service Officer shall be appointed in each Magisterial District in the State by the Attorney General of the State after consultation with the Commissioner responsible for Social Development.

350. (1) A person convicted of an offence triable summarily may be sentenced and ordered to serve the sentence at a Rehabilitation and Correctional Centre established by the Bayelsa State Government in lieu of imprisonment.

*Rehabilitation and
Correctional
Centre*

(2) A court in making an order of confinement at a Rehabilitation and

Correctional Centre shall have regard to the following:

- (a) the age of the person convicted;
 - (b) state of health of the person convicted;
 - (c) the fact that the person convicted is a first offender; and
 - (d) any other relevant circumstances necessitating an order of confinement at Rehabilitation and Correctional Centre.
- (3) A court may make an order directing that a child standing criminal trial be remanded at a Rehabilitation and Correctional Centre.

PART 38 Coroner's Inquisition; Fees and Forms

351. From and after the coming into operation of this Law, no person shall be committed for trial on a Coroner's Inquisition. *No committal for trial by Coroner*

FEES

- 352 (1) Subject to the provisions of Section 353 in every proceeding before any Court, such fees as may be prescribed under this Law shall be paid. *Payment of fees*

(2) A Court may in any proceedings in which good cause appears to the Court for so doing, suspend payment of any fees payable until the conclusion of such proceedings and the Court may then direct such fees to be paid as costs by any party to the proceedings by whom the Court has power to order costs to be paid or permit the payment of such fees.

353. The provision of this Law relating to fees and to the giving of security shall not apply to the State or any Public Officer acting in his official capacity. *State not required to pay fees*

FORMS

354. (1) Subject to the express provisions, if any, of the rules, the forms and precedents contained in the First, Second, Third, Fourth and Fifth 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. *Use of forms in First, Second, Third, Fourth and Fifth Schedules*

(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.

355. (1) The Chief Judge of Bayelsa State may make rules in respect of any or all of the following matters- *Power to make rules of court*

- (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 processes under this Law, and the manner of receipt of and accounting for fees in respect of such process;
- (e) prescribing any rule required to be prescribed under the provisions of this Law;
- (f) prescribing rules of custodial interrogation; and
- (g) generally for carrying into effect the purposes of this Law.

(2) Where rules are made under this Section, separate rules shall be made in respect of the practice and procedure in Magistrates' Court, save where the procedure prescribed by the rules applies equally to the High Court and to Magistrates' Court.

356. 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 law nor the validity of any other procedure provided by any other law. *Saving as to other forms and procedure*

357. (1) The provisions of Sections 358 to 361 shall have effect in relation to proceedings in the High Court or in a Magistrates' Court. *Proceedings in relation to which Sections have effect*

(2) The provisions of Sections 357 to 360 shall apply to all trials held under this Law and where there is a conflict between the provisions of Sections 357 to 360 and any other provisions of this Law, the provisions of Sections 357 to 360 shall prevail.

PART 39

Special Provisions relating to Corporations

358. (1) 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 153, or a charge or information added to or altered under the provisions of Section 153 or Section 154) it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered *Plea by Corporations*

under the provisions of Section 215, and if either the Corporation does not appear by a representative or, though it does so appear, fails to enter 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.

(2) A representative for the purposes of this Law 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 Law, shall be admissible without further proof as *prima facie* evidence that that person has been so appointed.

359. Where a representative appears, any requirement of this Law that says 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: *Matters to be read, explained to representatives*

Provided that paragraph (a) of subsection (1) of Section 242 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 any, are heard.

360. Where a representative does not appear, any such requirement as is referred to in Section 361 shall not apply. *Non-appearance of representatives*
361. The provisions of paragraph (b) of Section 83 shall apply to the service on a 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. *Service on Corporation*

CHAPTER 5 PART 40

Service and execution throughout Nigeria of the Process of the Courts of the States

362. (1) This Section applies to a summons (other than a summons to compel the attendance of a witness) which is issued under this Law on information or complaint. *Service of summons issued on information etc.*

(2) Subject to the provisions of the Sheriffs and Civil Process Act, a summons to which this Section applies which is issued in one State may be served on the person to whom it is addressed in another State.

(3) Service under this Section may, subject to the Rules of Court in force under this Law, be effected in the same way as it could be effected in the State in which the summons was issued.

(4) Service so effected shall have the same force and effect as if it had been served in the State in which the summons was issued, and if the person on whom service has been effected fails to appear before the Court and at the time and place specified in the summons and it appears to the Court that service was effected a sufficient time before the time so specified, may be taken as if service had been effected in the State in which the summons was issued.

(5) The provisions of Sections 88 and 89 shall apply in relation to a summons served outside the State in which it was issued as they apply to such summons served within the State in which it was issued but as if the reference in Section 89 to "the Court which issued the summons" were a reference to the Court of a Magistrate of the State in which it was served.

363. (1) (a) When a subpoena or summons has been issued in accordance with the relevant provisions of this Law by any Court, Judge or Magistrate in any State requiring any person to appear and give evidence or to produce books or documents in any proceedings under this Law, such subpoena or summons may, if the Court, Judge or Magistrate is satisfied that the testimony of such person or the production of such books or documents is necessary in the interests of justice, by leave of such Court, Judge or Magistrate on such terms as the Court, Judge or Magistrate may impose, be served on such person in any other State.

Subpoena or summons to witness may be served in another State by leave

(b) When a person has been bound by recognisance in accordance with the relevant provisions of this Law to attend as a witness at any Court of a State, a notice of the hearing or trial of the case in respect of which he is bound may be served on such person in any other State or part of the Federation.

(2) If a person upon whom a subpoena, summons or notice of hearing has been served in accordance with subsection (1) fails to attend at the time and place mentioned in such subpoena, summons, or notice of hearing such Court, Judge or Magistrate shall on proof that the subpoena, summons, or notice of hearing was duly served on such person, issue such warrant for the arrest of such person as such Court, Judge or Magistrate might have issued if the subpoena, summons or notice of hearing had been served in the State in which it was issued.

(3) Such warrant may be executed in such other State in the manner provided in this Section 365 in case of warrants issued for the arrest of persons charged with an offence.

364. (1) Where-

(a) any defendant before any Court of a State is confined in a

Order for production of prisoners

prison or other lawful place of confinement in any other State; or

- (b) it appears to any Court of a State that the attendance of any person who is in lawful confinement in any State is necessary for the purpose of obtaining evidence in any proceedings before the Court under this Law, the Court shall issue an order directed to the Superintendent or other officer in charge of the prison or place where the person is confined requiring him to produce the person at the time and place specified in the order.

(2) Any order made under this Section shall be served upon the Superintendent of Prisons or officer to whom it is directed in whatever State he may be and he shall produce the defendant in such custody at the time and place specified.

(3) The Court before which any person is produced in accordance with an order issued under paragraph (b) of subsection (1) of this Section may make such order as to the costs of compliance with this order as the Court deems just.

365. When any summons, subpoena, notice or other process has under the provisions of Section 361 to 369 been served out of the State in which it was issued, such service may be proved-

Mode of proof of service

- (a) by affidavit sworn before any Magistrate or Justice of the Peace having jurisdiction in the State in which such service was effected; or
- (b) in any manner in which such service might have been proved if it has been effected within the State in which the summons, subpoena, notice or process was issued.

366. (1) Where a Court, a Judge, a Magistrate or a Justice of the Peace of any State has in accordance with this Law, issued a warrant for the arrest of a person, a Magistrate of another State being a State in or on his way to which the person against whom the warrant has been issued is or is supposed to be, shall, on being satisfied that the warrant was issued by the Court, Judge, Magistrate or Justice of the Peace, make an endorsement on the warrant in the form, or to the effect of the form, in the forms authorising its execution in that other State.

Execution of warrants outside State of issue

(2) A warrant so endorsed is sufficient authority to the person bringing the warrant, to all Police Officers and persons to whom the warrant is directed and to all Police Officers in that other State to execute the warrant in that other State, to arrest the person against whom the warrant was issued and to bring that person before a Magistrate of that State.

(3) The Magistrate before whom the person is brought shall-

- (a) by warrant under his hand, order the person to be returned to the State in which the original warrant was issued and, for that purpose, to be delivered into the custody of the person bringing the warrant or of a Police Officer or other person to whom the warrant was originally directed; or
- (b) where the offence charged is an offence in respect of which he may admit a person to bail, on such recognisances as he thinks fit, on condition that the person appears at such time (not exceeding one month after the date of the order admitting him to bail) and at such place in the State in which the original warrant was issued as the Magistrate specifies to answer the charge or complaint or to be dealt with according to law.

367. (1) Where a person is arrested without a warrant in a State and there is in that State no Magistrate who has jurisdiction with respect to the offence with which the person arrested is charged, the person arrested shall be taken as soon as practicable before a Magistrate of a State who has such jurisdiction:

*Arrest without
warrant*

Provided that if the person arrested cannot be taken before a Magistrate who has jurisdiction within twenty-four hours of his arrest and is then detained in custody, he shall be taken as soon as practicable before a Magistrate of the State in which he was arrested and such Magistrate shall -

- (a) by warrant under his hand, order the person to be returned to the State in which there is a Magistrate who has jurisdiction with respect to the offence and for that purpose to be delivered into the custody of a Police Officer or other person by whom he was arrested; or
- (b) where the offence charged is an offence in respect of which he may admit a person to bail, on such recognisances as he thinks fit, on condition that the person appears at such time (not exceeding one month after the date of the order admitting him to bail) and at such place in the State in which a Magistrate has jurisdiction with respect to the offence charged as may be specified in the order to answer the charge or complaint or be dealt with according to law.

(2) A Magistrate before whom a person is brought has, for the purposes of this Section, the same power to remand the person and admit him to bail for that purpose as he has in the case of persons arrested under warrants issued by him.

368. (1) Where a person arrested is dissatisfied with an order made under subsection (3) of Section 366, or under subsection (1) of Section 367, he may apply to a Judge of the High Court of the State in which he was arrested for a review of

*Review of order
of Magistrate*

the order and the Judge may review the order.

(2) A Judge to whom an application is made for the review of an order may-

- (a) except where the offence charged is an offence in respect of which bail may not be granted, order the release on bail of the arrested person on such terms and conditions as the Judge thinks fit; or
- (b) direct that the arrested person be kept in such custody as the Judge directs in the State in which the person is apprehended until the order has been reviewed.

(3) The review of the order shall be by way of re-hearing, and evidence in addition to, or in substitution for, the evidence given on the making of the order may be given on or in connection with the review.

(4) Upon the review of an order, the Judge may-

- (a) confirm or vary the order or substitute a new order; or
- (b) if it appears to him that-
 - (i) the charge is of a trivial nature; or
 - (ii) the application for the return of the person has not been made in good faith in the interests of justice; or
 - (iii) for any reason it would be unjust or oppressive to return the person either at all or until the expiration of a certain period, order the discharge of the person or order that the person be returned after the expiration of a period specified in the order and that he be released on bail until the expiration of that period.

(5) For the purposes of this Section-

- (a) a Judge has the same power to admit a person to bail as he has in the case of persons arrested under warrants issued by him or by any Magistrate or Justice of the Peace of the State in which he exercises jurisdiction;
- (b) a Judge, in varying an order relating to admittance to bail or substituting a new order admitting a person to bail, may impose terms requiring the person arrested to return to the State in which the original warrant was issued within such time (whether more or less than one month after the making of the order) as he thinks fit.

369. (1) Where a person has, in pursuance of Sections 366, 367 or 368, been admitted to bail in a State, by a Magistrate in that State, or where the person was admitted to bail by a Judge of the High Court of that State, and the Judge or Magistrate, is satisfied that the person has failed to comply with the conditions of the recognisance upon which he was so admitted to bail, that Judge or Magistrate may declare the recognisance to be forfeited. *Forfeiture of recognisance*

(2) Where a recognisance is so declared to be forfeited, payment of any sum due under the recognisance by a person residing in the State in which the recognisance was declared to be forfeited may be enforced in the same manner as a recognisance entered into in that State in accordance with the relevant provisions of this Law.

(3) An amount recovered in pursuance of this Section shall be transmitted to the principal officer of the Treasury of the State in which the original warrant was issued.

370. (1) Where a Court of a State has in accordance with the relevant provisions of this Law issued a warrant of distress, a Magistrate of another State, being a State in which any money or goods of the person against whom the warrant is issued are or are supposed to be, shall, on being satisfied that the warrant was issued by the Court, make an endorsement on the warrant in the form or to the effect of the form in the form authorising its execution in that other State. *Execution of distress warrants outside State of issue*

(2) A warrant so endorsed may be executed by the same persons, in the same manner and to the same extent as a warrant of distress issued by the Court by which it was endorsed.

(3) The amount recovered under a warrant endorsed, after deduction of the proper costs and charges of the execution and any sum payable to any person upon whose goods the distress was levied, shall be transmitted to the Court by which the original warrant was issued.

PART 41

Repeal, Interpretation, Citation and Commencement

371. The Criminal Procedure Law, Cap. C15, of 2006 is repealed. *Repeal*

372. For the purposes of this Law, unless the context otherwise requires: *Interpretation*
 "Adult" means a person who has attained the age of eighteen years or over;
 "Asylum" includes a mental health asylum, a mental or other hospital, a prison and any other suitable place of safe custody for medical observation;
 "Charge" means the statement of offence or statements of offences with which a defendant is charged in a trial whether by way of summary trial or trial by way of information before a High Court or any Court or Tribunal established by law.
 "Chief Judge" means the Chief Judge of the High Court;

- "Child"** means a person who has not attained the age of eighteen years;
- "Child Offender"** means an offender who has not attained the age of eighteen years;
- "Complainant"** includes any informant or prosecutor in offences triable summarily;
- "Complaint"** includes the allegation that any person has committed an offence made before a Magistrate or Police Officer for the purpose of moving him to issue process under this Law;
- "Corporation"** means anybody corporate, incorporated in Nigeria or elsewhere;
- "Court"** includes the High Court and a Magistrates' Court;
- "Defendant"** means any person against whom a Charge or information is made or brought, and for this purpose shall also mean an accused;
- "Deported"** with its grammatical variations and cognate expressions means in the case of a person not a citizen of Nigeria to a place outside Nigeria;
- "District"** means, a district into which the State is divided for the purposes of any Law under which a Magistrates' Court is established;
- "Division"** means a Judicial Division of the High Court within the meaning of the Law establishing that Court;
- "Federal Law"** means any Act enacted by an Act of the National Assembly having effect throughout the Federation and any Ordinance enacted prior to October 1, 1960 which under the Constitution of the Federation has effect with respect to the Federation;
- "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 Enactment"** means any enactment passed after the commencement of this Law;
- "Guardian"** means a guardian (other than a guardian of the estate of a child) appointed in accordance with the Law;
- "High Court"** means the High Court established for Bayelsa State;
- "Offence Triable on Information"** means any offence which on conviction may be punished by a term of imprisonment exceeding two years;
- "Indictment"** means the filing of an information against a person in the High Court;
- "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 a person appointed to be a Justice of the Peace under any law of the State;
- "Law Officer"** means the Attorney-General and the Solicitor-General of Bayelsa State, and includes the Director of Public Prosecutions, such other qualified officers by whatever names designated to whom any of the powers of a Law Officer are delegated by law or necessary intendment and a private legal

practitioner authorized by the Attorney General to appear for and on behalf of the Attorney General.

"Law of Bayelsa State" means any Law in force in the State which is not a Federal Law;

"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 Magistrate appointed in accordance with any Law of Bayelsa State;

"Magistrates' Court" means a Magistrates' Court established under a Law of Bayelsa State;

"Medical Officer" means the Medical Officer attached to any mental health asylum or any Medical Officer from whom a Court requires an opinion;

"Member of Other Law Enforcement Agencies" shall include any officer of any law enforcement Agency established by Law or an Act of the National Assembly;

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

"Offence Triable Summarily" means any offence which on conviction may be punished by a term of imprisonment of up to two years;

"Offence" means an offence against any enactment in force in Bayelsa State;

"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 matter within its jurisdiction and to which the public may have access;

"Order" includes any conviction in respect of a summary conviction;

"Penalty" includes any pecuniary fine, forfeiture, costs, or compensation recoverable or payable under an order;

"Place of Safety" includes any suitable place, the occupier of which is willing temporarily to receive an infant, or child;

"Police Officer" means any member of the Police Force, established by the Police Act.

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

"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;

"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;

"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 Law authorised to do, but a person so

appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any Court for any other purpose;

"**Registrar**" includes the Chief Registrar and a Registrar of the High Court and of a Magistrates' Court;

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

"**Sentenced to Imprisonment**" shall include cases 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 or a community service order and the expression "sentence of imprisonment" shall be construed accordingly;

"**Sheriff**" means a sheriff within the meanings of the Sheriffs and Civil Process Act and includes a deputy sheriff and any person authorised by the sheriff or a deputy sheriff to execute process of a Court;

"**Simple Offence**" means all offences other than felonies and misdemeanours;

"**State**" means Bayelsa State;

"**Offences Triable Summarily**" means any offence punishable by a High Court or a Magistrates' Court summarily and includes any matter in respect of which a High Court or a Magistrates' Court can make an order in the exercise of its summary jurisdiction;

"**Summary Trial**" means any trial by a Magistrate and a trial by a Judge commenced by filing of charge;

"**Superintendent of Prisons**" has the same meaning as in the Prisons Act;

"**Superior Police Officer**" has the same meaning as in the Police Act;

373. This Law may be cited as the **Administration of Criminal Justice Law of Bayelsa State, 2019** and shall come into force on the day of, 2019. *Citation and Commencement*

**1ST SCHEDULE
FORMS
FORM No. 1 (SECTION 141)
GENERAL FORM OF TITLE OF PROCEEDINGS
(FOR USE IN THE HIGH COURT)**

In the High Court ofin theJudicial
 Division Charge No.....20.....
 Charge
 Between:
 Complainant,
 and
Defendant.
 (FOR USE IN THE MAGISTRATES' COURT)

In the Magistrates' Court ofMagisterial District
 Charge No.....20.....
 Between:
 Complainant,
 and
 Defendant

FORM No. 2 (SECTION 34)

ORDER OF RECOGNISANCE TO KEEP THE PEACE, AND BE OF GOOD BEHAVIOUR

(General Title-Form No. 1)

Before the High/Magistrates Court of thein the
Judicial Division/Magisterial District sitting
at.....The.....day of.....20.....

A.B., having made a complaint that C.D., hereinafter called the defendant, on
the.....day of..... 20..... at.....in
t h e a f o r e s a i d ,
did.....
.....

It is adjudged that the accused person do forthwith to the satisfaction
of.....enter into a recognisance in the
sum of..... with
surety/sureties.....in the sum of.....[each] to keep the peace and
be of good behaviour within the State and towards all persons, and especially towards
t h e c o m p l a i n a n t , f o r t h e t e r m
of.....n
ow next ensuing:

And it is adjudged that if the defendant fails to comply with this order he be
imprisoned in the prison at.....for period
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.....20.....]:

And in default of payment it is ordered that the sum due be levied by distress and sale
of the defendant goods, and in default of sufficient distress that the accused person be
imprisoned in the said prison for the space of commencing at the termination of the
imprisonment before ordered, unless the said sum [and all costs and charges of the
(said distress and) commitment be sooner paid.

.....
Judge [or Magistrate]

FORM No. 3 (SECTION 82)
SUMMONS TO DEFENDANT
(General Title-Form No. 1)

To A . B .
of.....
Complaint has been made this day by..... that you on
the.....dayof.....20.....at....
.....inthe..... aforesaid
did*.....
.....

*[*state concisely the substance of the complaint.]*

You are hereby summoned to appear before the High/Magistrates' Court sitting
at..... on the..... day
of..... 20.....at the hour
of.....in the.....noon to answer to the said
complaint.

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

.....
Judge [or Magistrate]

**FORM NO. 4 (SECTION 94)
WARRANT FOR ARREST OF DEFENDANT WHO HAS
DISOBEYED SUMMONS**

(General Title-Form No. 1)

To..... Police Officer or To each and all Police Officers.
Complaint has been made on the..... day of.....20.....
.....that A.B. hereinafter called the Defendant on the.....day
of..... 20.....,at..... in the aforesaid,
did*.....

*[*state concisely the substance of the complaint.]*

And the defendant was thereupon summoned to appear before the High/Magistrates'
Court of the.....in the Judicial Division/Magisterial District sitting
at.....on the.....day of..... 20.....at the hour
of.....in the.....noon, to answer to the said
charge:

An oath has been made that the defendant was duly served with the summons, but did
not appear, and that such complaint is true.

You are therefore hereby commanded to bring the defendant before the
High/Magistrates' Court ofin the Judicial Division/Magisterial District
sitting at.....forthwith to answer to the said complaint and
be further dealt with according to Law.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 5 (SECTION 177)
SUMMONS TO WITNESS
(General Title-Form No. 1)

To
E.F.....

..
A.B. has been charged by..... for that he on the
.....day of.....20.....
at.....in the.....aforesaid, did*.....
.....

...
*[*state concisely the substance of the complaint.]*

and it appearing to me at the instance of..... that you are likely to give material
evidence therein on behalf of theand
will not voluntarily appear for that purpose.

You are therefore hereby summoned to appear before the High/Magistrates' Court of
the.....in the
Judicial Division/Magisterial District sitting at
.....on..... the.....day of
.....20....., at the hour of.....in the.....noon, to testify
what you know in such matter.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 6 (SECTION 134)
CONVICTION (FORFEITED RECOGNISANCE)
(General Title-Form No. 1)

Before the High/Magistrates' Court of..... in the
Judicial Division/Magisterial District sitting at.....
The.....day of.....20.....
A.B., hereinafter called the defendant, was by his: recognisance 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
recognisance being that the said defendant should

.....
..... And it being now proved that the defendant was on
the..... day of.....20..... convicted of the offence of
having.....
.....
... same being a breach of the said condition:

It is therefore adjudged that the said recognisance 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
of20.....]:

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]

FORM NO. 7 (SECTION 186)
WARRANT FOR ARREST OF A WITNESS
(General Title-Form No. 1)

To.....Police Officer or To each and all the Officers of.....

E.F. was duly summoned to appear before the Magistrates' Court ofMagisterial District sitting at.....on.....the.....day of..... 20.....at the hour of.....in the noon, to testify what he should know concerning a certain complaint against A.B. And he has neither 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/Magistrates' Court of..... in the Judicial Division/Magisterial District sitting at.....forthwith, to testify what he knows concerning the said matter.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 8 (SECTION 180)
WARRANT FOR ARREST OF WITNESS IN FIRST INSTANC
(General Title-Form No. 1)

To.....
A.B. has been charged by.....
for that he on the.....day of.....20.....
At.....in the..... aforesaid did*
.....

[state concisely the substance of the complaint.]

And it appearing to me at the instance of the.....; 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/ss' Court of the.....in the Judicial Division/Magisterial District sitting at forthwith, to testify what he knows concerning the said matter.

Dated the..... day of..... 20.....

.....
Judge [or Magistrate]

FORM No. 9 (SECTION 190)
WARRANT OF COMMITMENT OF WITNESS
(General Title-Form No. 1)

To..... and to the Superintendent of.....Prison E.F..... having appeared or being brought before the High/Magistrates' Court of the.....in the Judicial Division/Magisterial District sitting at.....,onthe.....day of.....,20....., 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 answer concerning the premises.

Dated the.....day of.....20.....

.....
Judge [or Magistrate]

FORM No. 10 (SECTION 264)
COMMITMENT ON REMAND
(General Title-Form No. 1)

To each and all of the Officers of the Nigeria Police and to the Superintendent ofPrison A.B. hereinafter called the defendant being brought before the High/Magistrates' Court of the.....in the Judicial Division Magisterial District sitting at..... Pursuant to Section 221 charged with having..... The hearing of the case being adjourned:

You, the said Police Officers, are hereby commanded to convey the defendant to the said prison, and there to 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 you the said Police Officers or you the said Superintendent, are hereby commanded to convey him before the High/Magistrates' Court of the.....in 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.....20.....

.....
Judge [or Magistrate]

ENDORSEMENT WHERE BAIL IS ALLOWED

I hereby certify that I consent to the accused person being bailed, himself in
...
Naira and.....sureties in..... Naira each.

.....
Judge [or Magistrate]

FORM No. 11 (SECTION 280)
CONVICTION (WITH SECURITY)
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the Judicial
D i v i s i o n / M a g i s t e r i a l D i s t r i c t s i t t i n g a t
.....the.....day
of.....20.....

A.B. hereinafter called the defendant, is this day convicted
f o r , t h a t h e o n
the.....day
of..... 20.....at..... i n
the.....aforesaid,
d i d
.....

But the Court being of the opinion that the said offence was of so trifling in nature that
it is inexpedient to impose 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 behaviour], 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 instalments of.....for
every.....days, the first instalment to be paid] forthwith [or on the..... day
of.....20.....]:

And in default of payment it is ordered that the sum due be levied by distress and sale
of the defendant's goods, and in default of sufficient distress that the defendant be
remanded 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]

FORM No. 12 (SECTION 282)
CONVICTION (IMPRISONMENT)
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the.....Judicial
 Division / Magisterial District sitting
 at.....on.....the.....day
 of.....20.....

A.B., hereinafter called the defendant, is this day convicted
 for..... that he, on the.....day
 of.....20.....at.....within
 the..... aforesaid
 did.....

And it is adjudged that the defendant, for his said offence, be remanded in the prison
 at.....
 and there kept to labour for the space of.....

If costs are ordered, add-

And it is ordered that the defendant pay to the said.....the
 sum of..... for costs [by instalments of.....for
 every.....days, the first instalment to be paid] forthwith [or on the.....day
 of.....20.....]:

And in default of payment, it is ordered that the sum due be levied by distress and sale
 of the defendant's goods, and in default of sufficient distress that the accused person
 be remanded 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]

FORM No. 13 (SECTION 287)
ORDER FOR MONEY (NOT A CIVIL DEBT)
(General Title-Form No. 1)

Before the High/Magistrates' Court of.....in the Judicial
Division/Magisterial District sitting at.....

The.....day of.....20.....
A.B., having made a complaint that C.D. hereinafter called the defendant, on
the.....day of.....20.....at.....within the
.....aforesaid, did.....
.....

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 instalments of.....for every.....days, the first
instalment to be paid] forthwith [or on the.....day of.....20.....]:

And in default of payment, it is ordered that [the said sums be levied by distress and
sale of the defendant's goods and in default of sufficient distress that] the defendant be
remanded in the prison at.....and there kept to labour [or without
labour] 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]

FORM No. 14 (SECTION 341)
ORDER OF DISMISSAL WITH DAMAGES
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in the Judicial
 Division / M a g i s t e r i a l D i s t r i c t s i t t i n g
 at.....The.....day
 of.....20.....Complaint having been made by A.B. that
 C . D . h e r e i n a f t e r c a l l e d t h e d e f e n d a n t , o n
 the.....
day of.....20.....at.....in the
aforesaid, did.....

And the Court being of the opinion that though the said charge is proved, the offence is of a trivial nature that it is inexpedient to impose any punishment, hereby dismiss the said information:

But doth order that the defendant do pay the complainant.....
 for damages and.....for costs [by instalments of.....
 for every.....days, the first instalment to be paid] forthwith
 [or on the.....day of.....20.....]

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

.....
Judge [or Magistrate]

FORM No. 15
ORDER FOR OTHER MATTERS
(General Title-Form No. 1)

Before the High/Magistrates' Court of the.....in theJudicial
Division/Magisterial District sitting at.....on.....
the.....day of.....20.....

A.B., having made a complaint that C.D. hereinafter called the defendant, on
the.....day of.....20.....at.....in the
.....aforesaid, did

..
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 pay to the said.....the sum
of..... for costs [by instalments of.....for every.....days, the
first instalment to be paid] forthwith [or on the.....day
of.....20.....]:

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

.....
Judge [or Magistrate]

FORM NO. 16 (SECTION 248)**ORDER OF DISMISSAL***(General Title-Form No. 1)*

Before the High/Magistrates' Court of the.....in the..... Judicial
 Division / Magisterial District sitting
 at.....the.....day
 of.....20.....

Complaint having been made by.....that A.B. hereinafter called the defendant, on
 the.....day of.....20.....at.....in the
 a f o r e s a i d ,
 d i d

...

This Court, having heard and determined the said complaint dismiss the same: *
 [*on its merits or without prejudice to its being brought again.]

If costs are ordered, add-

And it is ordered that the complainant pay to the defendant the sum of.....
for costs [by instalments of.....for every
days, the first instalment to be paid] forthwith [or on the.....
day of.....20.....]:

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

.....
[Judge [or Magistrate]

FORM No. 17 (SECTION 213)
CONVICTION ON PLEA OF GUILTY
(General Title-Form No. 1)

Before the High/Magistrates' Court of.....in the.....Judicial
D i v i s i o n / M a g i s t e r i a l D i s t r i c t s i t t i n g
at.....the.....
.....day of.....20.....

A.B., hereinafter called the defendant, is this day charged for that he on
the.....day of.....20.....at.....in
the.....
aforesaid, did.....

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

f costs are ordered, add-

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
remanded in the said prison for the period 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]

FORM No. 18 (SECTION 32D)
CONVICTION FOR PENALTY AND, IN DEFAULT OF PAYMENT,
IMPRISONMENT
(General Title-Form No. 1)

Before the High/Magistrates' Court of.....in the.....Judicial
 Division/Magisterial District sitting at.....
 the.....day of.....20.....
 A.B., hereinafter called the defendant, is this day charged.....on
 the.....day of.....20.....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 instalments of.....for every.....days, the first
 instalment to be paid] forthwith [or on the.....day of.....20.....]:

And in default of payment, it is 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 accused person be imprisoned in the prison at.....
and there kept to labour [or without labour] 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]

ENDORSEMENT WHERE SECURITY FOR PAYMENT IS PERMITTED

It is ordered that the defendant be at liberty to give to the satisfaction of [this Court]
 security in the sum of.....with.....
 surety.....in the sum of.....each] for the due payment
 of the said sums as adjudged.

.....
Judge [or Magistrate]

FORM No. 19 (SECTION 327)
WARRANT OF DISTRESS (FOR PENALTY)
(General Title-Form No. 1)

To.....

..
A.B., hereinafter called the defendant, was on the.....day
of.....20.....
convicted before the High/Magistrates' Court of summary jurisdiction sitting
at.....that he on the.....day of.....20.....at.....in the.....
aforesaid, did.....

And it was adjudged that the defendant for the said offence should be imprisoned [or
forfeit and pay the sum of.....] and should also pay the sum
of.....[for compensation and.....]
for costs [by instalments of..... for
every.....days, the first instalment to be paid] forthwith
[or on the..... day of..... 20.....], 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 the defendant
(except the wearing apparel and bedding of him and his family, and, to the value of ten
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 stated at the foot of this warrant, together with the reasonable costs and
charges of the making and keeping of the said distress, be not paid, then to sell the said
goods, and pay the money arising there from to the Registrar of that Court, and if no
such distress can be found, to certify the same to that Court.

Dated the..... day of.....20.....

.....
[Judge [or Magistrate]

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

**2ND SCHEDULE
CHARGES
(SECTIONS 146 and 353)**

UNDER CRIMINAL CODE WITH ONE HEAD

1. That you, on the.....day of.....20.....at.....
.....Being a witness upon the trial of a case in the Magistrate's Court of the
.....
Magisterial District sitting at.....in which one..... was complainant
and one.....was accused person, knowingly, falsely swore that you saw one M.N.
commit an offence at the.....day
of.....20.....and thereby committed an offence punishable under Section
118 of the Criminal Code.
2. That you, on the.....day of.....20.....at.....with
intent to mislead the Court in the course of the trial of fabricated evidence by means
other than perjury to wit:
.....and thereby committed an offence against Section 120 (1) of the
Criminal Code.
3. That you, being a common prostitute, on the.....day
of.....20..... at.....behaved in an indecent
manner by exposing your nakedness and thereby committed an offence punishable
under Section 249 (a) (1) of the Criminal Code.
4. That you, on the.....day of.....20.....at.....unlawfully
killed C.D. and thereby committed an offence punishable under Section 325 of the
Criminal Code.
5. That you, on the.....day of.....,20.....at.....aided
A.B. in killing himself and thereby committed an offence punishable under Section
326 (3) of the Criminal Code.
6. That you, on the.....day of.....,20..... at.....unlawfully
wounded C.D. with intent to maim, disfigure or disable or to do some grievous harm
or to resist the lawful arrest of yourself and thereby committed an offence punishable
under Section 332 (1) of the Criminal Code.
7. That you, on the.....day of.....,20.....at.....unlawfully
wounded C.D. and thereby committed an offence punishable under Section 338 (1) of
the Criminal Code.
8. That you, on the.....day of.....,20..... at.....unlawfully
and indecently assaulted M.S. and thereby committed an offence punishable under
Section 360 of the Criminal Code.

3RD SCHEDULE

1. **STATEMENT OF OFFENCE**

SECTIONS 251 and 141

Perjury, contrary to Section 118 of the Criminal Code.

Particulars of Offence

A.B., on the.....day of.....20.....in the Judicial Division of.....being a witness upon the trial of an action in the High Court in which one.....was plaintiff, and one.....was defendant, knowingly gave false testimony that he saw one M.W. on the..... day of 20.....

2. **STATEMENT OF OFFENCE**

SECTIONS 251 and 141

Uttering counterfeit coin, contrary to Section 151 of the Criminal Code.

Particulars of Offence

A.B., on the.....day of.....20.....at.....market in the Judicial Division of.....uttered a counterfeit currency, knowing the same to be counterfeit.

3. **STATEMENT OF OFFENCE**

SECTIONS 251 and 141

Murder, contrary to Section 319 of the Criminal Code.

Particulars of Offence

A.B., on the.....day of.....20.....in the Judicial Division ofmurdered J.S.

4. **STATEMENT OF OFFENCE**

SECTIONS 251 and 141

Accessory after the fact to murder, contrary to Section 322 of the Criminal Code.

Particulars of Offence

A.B., well knowing that one, H.C., did on the.....day of.....20.....in the Judicial Division of.....murder C.C., did on the.....day of.....20.....in the Judicial Division of.....and on other days thereafter receive, comfort, harbour, assist and maintain the said H.C.

4TH SCHEDULE

FORM A (SECTION 309)
Public Seal

Order for Sentence of Death to be Carried Out
ORDER FOR EXECUTION

Whereas at the.....Holden at Bayelsa
on the.....day of.....20.....,
one.....was duly convicted of a capital offence and was sentenced to
death:

AND WHEREAS a written report of this case from the trial Judge, together with any
other information derived from the record of proceedings of this case or elsewhere
has been taken into consideration at a meeting of the Advisory Council set up to deal
with such matters, the Attorney-General and Commissioner for Justice who is
designated for that purpose has in his own deliberate judgment thereafter decided to
recommend to me that I should exercise my powers in relation to the person so
convicted:

AND WHEREAS I have decided in accordance with the advice of the said Attorney-
General to confirm the sentence:

NOW, THEREFORE, I do hereby order that the said sentence be carried out
according to the Law and that the said.....be executed at.....at a
time and by the person appointed by you and that the body of the
said.....be buried in the usual place for
interment for condemned criminals executed at the place of execution.

AND FOR SO DOING this shall be your Warrant.

GIVEN under my hand and the Public Seal of Bayelsa State, this.....day
of.....20.....

.....
Governor

To the Sheriff at Bayelsa.

Public Seal

**FORM B
ORDER FOR COMMUTATION OF SENTENCE (SECTION 310)**

Whereas on the..... day of 20.....
one..... was duly convicted of a capital offence and was sentenced
to death by the Holden at Bayelsa

AND WHEREAS a written report of this case from the trial Judge, together with any
other information derived from the record of proceedings of this case or elsewhere
has been taken into consideration at a meeting of the Advisory Council set up to deal
with such matters, the Attorney-General and Commissioner for Justice who is
designated for that purpose has in his own deliberate judgment thereafter decided to
recommend to me that I should exercise my powers in relation to the person so duly
convicted:

AND WHEREAS I have decided in accordance with the advice of the State
Commissioner to commute the sentence:

NOW, THEREFORE, I do hereby commute the sentence and direct that the said
sentence be not carried out, and in lieu thereof the said
..... be imprisoned for

GIVEN under my hand and the Public Seal of Bayelsa State, this.....day
of.....20.....

.....
Governor

To the Sheriff at Bayelsa.
(for transmission to the appropriate Prisons authority)

5TH SCHEDULE

FORM A

ENDORSEMENT ON WARRANT OF ARREST (SECTION 365)

Whereas proof has this day been made before me that the name
subscribed to, in the within warrant is in the handwriting of the within mentioned
.....
.....
.....
.....

I hereby authorise who brings me this warrant and all other
persons to whom this warrant and all other persons to whom this warrant was
originally directed and also all Police Officers
..... to execute this warrant
within..... and to bring the said..... If the
arrested within..... before me or before some Magistrates of the
..... to be dealt with according to Law.

Given under my hand, this.....day of

.....
Magistrate

FORM B

ENDORSEMENT ON WARRANT OF DISTRESS (SECTION 369)

Whereas proof has this day been before me that the name of
subscribed to the within warrant is in the handwriting of the within mentioned
.....
.....

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) to the 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 stated in the within
warrant, together with the reasonable costs and charges of the making and keeping of
the said distress, be not paid, being then to sell the said goods, and pay the money
arising there from to the Registrar of this Court, and if no such distress can be found,
to certify the same to this Court.

Dated the day of 20

.....
Judge [or Magistrate]

FORM C

RECOGNISANCE (SECTION 122)
(TITLE OF PROCEEDINGS)

By this recognisance the undersigned principal party [and surety (or sureties)
Acknowledges himself [or acknowledge themselves] bound to forfeit to the State the
sum of N.....K
..... subject only to this conditions,
that if [here insert the condition of the recognisance] then this recognisance shall be
thereby discharged.

.....

Principal Party.

.....

.....
Sureties

Taken before me at this day of 20

FORM D

WARRANT TO BRING A PRISONER BEFORE THE COURT (SECTION 140)

(TITLE OF PROCEEDINGS)

To the Superintendent of Prisons 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 of20.....at eight o'clock in the forenoon.

Issued at ontheday of20.....

Court Fees:

Warrant

Hearing

Total

.....
Judge [or Magistrate]

FORM E

**WARRANT REMITTING DEFENDANT TO ANOTHER COURT
(SECTION 62)**

(TITLE OF PROCEEDINGS)

Toand to the superintendent
of.....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 theCourt without any delay.

Dated day of20

.....
Magistrate

Note: This form may be varied to suit the case under Section 62 of the Law.

FORM F

SEARCH WARRANT (SECTIONS 104, 106, 107 and 108)

(TITLE OF PROCEEDINGS)

In the Magistrates' Court of 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 104 of the Law)

You are hereby commanded in the name of the Bayelsa State, 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 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 5.00 a.m. in the forenoon and 8.00 p.m. at night *and may also be executed at any hour during day or night.

Issued at this day of 20

.....
Magistrate

*Strike out if not authorised

FORM G
WARRANT TO ARREST A PERSON FAILING TO APPEAR PURSUANT
TO RECOGNISANCE (SECTION 185)

To.....
.....
and.....
.....

Whereas.....o f.....is bound by recognisance 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 H
WARRANT TO CARRY OUT SENTENCE (SECTION 283)
(TITLE OF PROCEEDINGS)

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

The defendant.....was on the.....day of.....20.....
 Sentenced as follows-
 No.

S/N	Offence	Term, Fine, Compensation and costs,	Term in Default

The defendant has made default in payment of the above sum [or sums, or 1st and 2nd above-named sums, as the case may be.]

The imprisonment is to commence forthwith [upon the expiration of any other term of imprisonment which the defendant may now be 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 labour.]

You are hereby commanded to take the said defendant and imprison him in accordance with the above sentence and the Law.

Dated the.....day of.....20.....

.....
 Judge [or Magistrate]

**FORM I
RECOGNISANCE OF WITNESS (SECTION 122)**

In the Magistrates' Court of Bayelsa State.....CD.
of.....
(address and occupation or profession)

Acknowledges that he/she owes the Bayelsa State the sum of.....payment
thereof to be enforced against him/her by due process of law is he/she fails to comply
with the conditions endorsed hereon.

Signature of C.D.....

Taken before me, this.....day of.....20.....

.....
Magistrate
(Endorsement)

Conditions

The condition of this recognisance is that whereas A.B. (hereinafter called the
defendant) was this day charged before me (name of Magistrate),the above-
mentioned Magistrate, with (state shortly particulars of offence):

If, therefore, the said C.D. appears at the High Court of Bayelsa State on a day to be
notified to him/her later and there gives evidence upon the trial of any information
against the accused and in all respects complies with the requirements of any notice
which he/she may subsequently receive relating to this recognisance, then this
recognisance shall be void but otherwise shall remain in full force.

FORM J
INFORMATION ON LEGAL PRESENTATION (SECTION 74 (6))

The Office of the Attorney-General has determined that proceedings shall continue against you as per the attached Legal Advice.

Indicate whether you wish to be presented by a Legal Practitioner arranged by you or by the Office of the Public Defender or Legal Aid Council or any organization providing legal aid.

I wish to be represented by a Legal Practitioner arranged
by me
Name of Legal Practitioner

.....
Address of Legal Practitioner

.....
Telephone number

.....
Signature of defendant

.....
Signature of Controller of Prisons (where applicable)

I wish to be represented by a Legal Practitioner by way of
Legal Aid.
Name

.....
Signature of defendant

.....
Signature of Controller of Prisons (where applicable)

FORM K
FORM FOR REQUEST FOR REMAND (SECTION 264 (1) and (2))

IN THE MAGISTARES' COURT OF BAYELSA STATE
IN THE.....MAGESTERIAL DISTRICT

COMMISSIONER OF POLICE

Versus

XYZ

The Court is informed that there is probable cause to order the remand of XYZ of
No.....in custody who is reasonably suspected to have committed the
offence of.....within theMagisterial District
on or about the.....day of.....20.....

GROUND FOR THE REQUEST:

- Place and Time of Arrest-
- Arrested with exhibit(s)-
- Fingerprint evidence-
- Confessional statement-
- Found in custody or possession of offensive weapon(s)
- Identification by victim or witness.
- Need for further investigation.

(Sgd)-.....
Police Officer

This printed impression has been carefully compared by me with the Bill which has passed the Bayelsa State House of Assembly and found by me to be a true and correctly printed copy of the said Bill.

.....
MR. OWUDOGU KOZIGENA EDWARD
Ag. Clerk of the House

assented the 29th day of March, 2019

.....
HON. HENRY SERIAKE DICKSON
Governor of Bayelsa State