



KANO STATE

**ADMINISTRATION OF
CRIMINAL JUSTICE, LAW 2019
(1440 A.H).**

Obtainable from Government Printer, Kano.

ARRANGEMENT OF SECTIONS:

1. Citation and Commencement.....	1
2. Interpretation.....	1
3. Purpose.....	6
4. Application	7
5. Trial of offences under other Laws.....	7
6. Classes of state Criminal courts.....	7
7. Power to divide the State into divisions or districts.....	7
8. Establishment of Magistrate courts.....	8
9. Establishment and Jurisdiction of Magistrate's court in each District.....	8
10. Establishment of Sharia Courts.....	8
11. Jurisdiction of Sharia Courts and conflict of Laws	9
12. Appointment, Qualification and classes of magistrate.....	9
13. Appointment and Qualification of Sharia Courts judges.....	9
14. Territorial Jurisdiction of Magistrates and Sharia Courts	10
15. Power of Chief Magistrate to direct a subordinate magistrate.....	10
16. Offences under the Penal Code and jurisdiction of Sharia court.....	10
17. Offences under other Laws	10
18. Jurisdiction of High Court	11
19. Jurisdiction of the Magistrate to pass sentences.....	11
20. Power of the House of Assembly to increase jurisdiction.....	12
21. Combination of sentence	13
22. Imprisonment in default of payment of fine.....	13
23. Sentences in case of conviction of several offences at one trial.....	13
24. Power to bind parties to be of good behavior.....	13
25. Arrest generally.....	13
26. Arrest.....	14

27. Manner of arrest.....	14
28. No unnecessary restraint.....	14
29. Notification of cause of arrest and rights of suspect.....	14
30. Arrest in-lieu prohibited.....	15
31. Humane treatment of arrested suspect.....	15
32. Search of arrested suspect.....	15
33. Inventory of property of arrested suspect.....	16
34. Examination of arrested suspect.....	17
35. Search of place entered by suspect sought to be arrested.....	17
36. Power to break out of a house or place for the purpose of liberation.....	18
37. Suspect to be taken immediately to police station.....	18
38. Recording of arrests	18
39. Central Criminal Records Registry.....	19
40. Recording of Statement of suspect.....	20
41. Arrest by police officer without warrant.....	20
42. Refusal to give name and residence.....	22
43. Arrest by private person and arrest by property owner.....	22
44. Handing over of an arrested suspect by of private person	23
45. Arrest for offence committed in presence of Judge or Magistrate.....	24
46. When public is bound to assist in arrest.....	24
47. Pursuit of suspect into other jurisdictions.....	24
48. Quarterly report of arrests to the Attorney-General	24
49. Release on bail of a suspect arrested without warrant.....	25
50. Power to release on bail before charge is accepted.....	25
51. Remedy of suspect detained in custody.....	26

52. Police to report monthly to supervising Magistrate.....	26
53. Chief Magistrate to visit police stations every month.....	27
54. General authority to issue warrant.....	27
55. Form and requisites of warrant of arrest.....	28
56. Warrant to be issued on complaint only if on oath.....	28
57. Warrant may be issued on any day.....	28
58. Warrant to whom directed and duration.....	28
59. Warrant of arrest may in exceptional cases be directed to other Persons.....	28
60. Publication of public summons for persons absconding.....	29
61. Execution of warrant and procedure.....	29
62. Power to arrest on warrant but without the warrant.....	30
63. Court may direct particulars of security to be taken on execution of warrant.....	30
64. Procedure on arrest of suspect outside division or district of court issuing warrant.....	31
65. Warrant issued by Court.....	31
66. Re-arrest of suspect escaping.....	31
67. Provisions of sections 33 and 34 to apply to arrests under section 64.....	31
68. Police to prevent commission of offences and injury to public Property.....	32
69. Information of design to commit offence.....	32
70. Arrest by police to prevent offences.....	32
71. Prevention by other public officers of offences and injury to public property.....	32
72. Power of magistrate to require execution of recognizance for keeping peace.....	33

73. Security for good behavior for suspected persons.....	33
74. Security for good behavior for habitual offenders.....	34
75. Order to be made.....	34
76. Procedure in respect of suspect present in court.....	34
77. Summons or warrant in case of suspect not present.....	34
78. Copy of order under section 75 to accompany summons or warrant.....	35
79. Power to dispense with personal attendance.....	35
80. Inquiry as to truth of information.....	35
81. Order to give security.....	36
82. Discharge of suspect informed against.....	37
83. Commencement of period for which security is required.....	37
84. Conditions of recognizance.....	37
85. Power to reject sureties.....	38
86. Procedure on failure of suspect to give security.....	38
87. Power to release suspect imprisoned for failure to give security.....	38
88. Power of High Court to cancel recognizance.....	38
89. Discharge of sureties.....	38
90. Conditional order for removal of nuisance.....	39
91. Service of order.....	39
92. Suspect to whom order is addressed to obey or appear before Court.....	39
93. Consequences of failure to obey order or to appear.....	39
94. Procedure where suspect appears.....	40
95. Consequences of disobedience to order made absolute.....	40
96. Order pending inquiry.....	40
97. Prohibition of repetition or continuance of nuisance.....	41
98. Attachment of property of suspect absconding.....	41

99. Order to attach property.....	41
100. Restoration of attached property.....	42
101. Issue of warrant in lieu of or in addition to summons.....	42
102. Power to take bond for appearance.....	42
103. Provisions of this Part generally applicable to summons and Warrant.....	43
104. Application of Parts 9-30	43
105. General Authority to bring suspect before a court.....	43
106. Right of making complaint.....	43
107. Form of complaint.....	43
108. Form of documents in criminal proceedings.....	44
109. Rules as to exception.....	44
110. Limitation of period for a making a private complaint.....	44
111. Venue generally.....	45
112. Offence committed on a journey.....	45
113. Offences commenced and completed in different States.....	45
114. Chief Judge to decide question as to court of inquiry or place of Trial.....	45
115. Chief Judge/Grand Kadi may transfer a case.....	46
116. When cases may be remitted to another court.....	46
117. Removal under warrant.....	46
118. Transfer of case where cause of complaint has arisen out of Jurisdiction of court.....	47
119. Court may assume jurisdiction under certain condition.....	47
120. Assumption of jurisdiction after commencement of proceedings...	47
121. Charge by the Attorney-General.....	48
122. Issuance of legal advice and other directives to police.....	48
123. Prosecution of offences.....	48

124. Discontinuance of criminal cases.....	49
125. Withdrawals from prosecution in trials and inquiries before a Court.....	49
126. Different methods of instituting criminal proceedings.....	50
127. Mode of instituting criminal proceedings in a Magistrates' court.....	50
128. Returns by comptroller of Prisons.....	52
129. Procedure for receiving complaint and First Information Report.....	53
130. Compelling appearance of a suspect.....	55
131. Making of complaint and issue of process.....	56
132. Issue of Summons and service.....	56
133. Issue of Summons and its contents.....	56
134. Application for Summons to be made ex parte.....	56
135. Summons to be in duplicate.....	57
136. Service of summons.....	57
137. Normal methods of effecting service.....	57
138. Service where person summoned cannot be found	57
139. Service on public officers.....	58
140. Service outside jurisdiction of the court.....	58
141. Proof of service when serving officer not present.....	58
142. Receipt of service of summons.....	58
143. Person refusing to sign receipt may be arrested.....	59
144. Proof of Service.....	59
145. Summons disobeyed, warrant may be issued.....	59
146. Irregularities in summons, warrant, service, or arrest.....	59
147. Irregularities which vitiate proceedings.....	60
148. Variance between charge and complaint.....	60
149. Process valid notwithstanding death or vacation of office of person issuing.....	60

150. Validity of process: warrant of commitment and warrant of Distress.....	61
151. General addressee of process for issue and execution.....	61
152. Certain provisions applicable to all summonses and warrants in criminal matters.....	61
153. Application for search warrant.....	62
154. Cases in which search warrants may be issued.....	62
155. Discharge of suspected person.....	62
156. Search warrant to be signed by Judge or Magistrate.....	63
157. Search warrant to whom directed.....	63
158. Time when search warrant may be issued and executed.....	63
159. Person in charge of closed place to allow access.....	63
160. Occupant of place searched may attend.....	64
161. Execution of search warrant outside jurisdiction.....	64
162. Magistrate may direct search in his presence.....	64
163. Detention of articles recovered.....	64
164. Perishable articles may be disposed of by court.....	65
165. Search for and disposal of gunpowder.....	65
166. Disposal of counterfeit currency and other thing.....	65
167. Transmission to Court of other State.....	66
168. General entitlement to bail.....	66
169. Power of Court to order person in custody to be brought before it.....	66
170. Recognizance by parent or guardian of a child.....	66
171. Bail where a suspect is charged with capital offence.....	67
172. Bail where a defendant is charged with offence exceeding three years imprisonment.....	67

173. Bail where a defendant is charged with offence not exceeding three years imprisonment.....	68
174. Bail in respect of matters in other offences.....	68
175. Conditions for bail.....	68
176. Recognizance in respect of a child.....	68
177. Sureties.....	69
178. Judge may vary bail fixed by Magistrate or police.....	69
179. Reconsideration of bail.....	69
180. Before whom recognizance may be executed.....	69
181. Release on execution of recognizance	70
182. Mode of entering into recognizance	70
183. Continuous bail.....	73
184. Defendant bound by recognizance to appear before court or police may be committed to prison	71
185. Reconsideration of amount of bail on application by Law officer or police.....	71
186. Variation of a recognizance if surety unsuitable.....	71
187. Discharge of sureties.....	72
188. Order of fresh security upon original order.....	72
189. Forfeiture of recognizance.....	72
190. Mitigation of forfeiture.....	73
191. Where defendant fails to find surety	73
192. Forfeiture on conviction	73
193. Where recognizance forfeited warrant may be issued.....	74
194. Arrest on failure to appear	74
195. Payment on recognizance	74
196. Appeal	74
197. Methods of stating Multiple ownership Of property	74

198. Description of persons in criminal process	76
199. Remedies of married woman against her husband and others in respect of her person or property	76
200. Forms of charges in Appendix B to be used and adopted.....	76
201. Contents of a Charge.....	77
202. Legal presumption of Charge.....	77
203. Particulars in Charge	77
204. Proof of evidence, etc	77
205. Charge of criminal Breach of trust	78
206. Charge of criminal falsification of account.....	78
207. Charge may contain the manner in which the offence was Committed.....	78
208. Sense of words used in a charge	79
209. Description of Property and Joint owners.....	79
210. Description of bank or currency notes	79
211. Provisions as to Statutory offences.....	80
212. Description of persons and document.....	80
213. General rule as to description	80
214. Statement of intent.....	80
215. Defendants who may be charged jointly	80
216. Separate charges for distinct offences	81
217. Attempt same as substantive offences	82
218. Trial for more than one offence.....	82
219. Offences falling within two definitions.....	82
220. Acts constituting one offence but constituting a different offence when combined.....	82
221. Where it is doubtful which offence has been committed	82

222. Incidental offences in the same transaction	82
223. Alteration and amendment of charge by permission of court	83
224. Procedure on alteration of charge.....	83
225. When court may proceed with trial immediately after altering, adding to or framing charge.....	83
226. Recall of witnesses when charge is revised	83
227. Effect of error	84
228. Objection to a charge	84
229. Effect of material error	84
230. Where defendant charged with one offence may be convicted of another.....	84
231. Full offence charged, attempt proved.....	85
232. Attempt charged-full offence proved	85
233. Liability as to further prosecution.....	85
234. On charge of an offence conviction as accessory after the fact to that or connected offence may follow.....	85
235. Defendant tried for less offence but higher offence is proved.....	85
236. Conviction of kindred offence relating to property	86
237. Defendant charged with burglary may be convicted of kindred offence.....	86
238. On charge of Rape, Defilement, Incest, Unnatural offence conviction for Indecent assault may follow	86
239. Procedure for trial on charge for certain offences.....	86
240. Where homicide or death of an unborn child is charged and concealment of birth is proved	87
241. Where homicide is charged and death of an unborn child is proved	87
242. Where offence proved is not included in offence charged.....	88

243. Withdrawal of remaining charges on conviction on one of several charges	88
244. Defendant convicted or acquitted not to be tried again for same or kindred offence.....	88
245. A defendant may be tried again on separate charge in certain cases	89
246. Consequences supervening or not known at previous trial.....	89
247. Issue of summons for witness.....	89
248. Service of summons and other processes on witnesses	89
249. Warrant for witness after summons	90
250. Issue of warrant for witness	90
251. Mode of dealing with witness arrested under warrant.....	90
252. Penalty on witnesses refusing to attend.....	91
253. Non-attendance of witness on adjourned hearing.....	91
254. Persons in court may be required to give evidence though not Summoned.....	91
255. Manner of taking oath or affirmation	92
256. Witness refusing to be sworn, or produce documents	92
257. Application of the Evidence Act	92
258. Power to call or recall witnesses	92
259. Certificates of certain Government Technical Officers.....	93
260. A Law officer shall have the right of reply.....	93
261. Public to have access to hearing.....	93
262. Court may exclude certain person while taking evidence of a child or young person	93
263. Order under section 261 or 262 not apply to press and certain others	94
264. Prohibition on children being present in court during the trial of	

other persons	94
265. Visit to locus.....	94
266. Determination of age	95
267. Age in relation to offences	95
268. Presence of Defendant at trial	95
269. Conduct of cases by Legal Practitioner for complainant or for defendant.....	96
270. General control of prosecution by the Attorney-General.....	96
271. Position in court of person summoned	97
272. Plea bargain guidelines	97
273. Plea to a charge	100
274. Proof of previous Conviction	101
275. Effect of plea of not guilty	101
276. Effect of plea of guilty	101
277. Amending charge where defendant pleads guilty to offence not charged	101
278. Failure to plead due to malice or otherwise.....	101
279. Pleas: autrefois acquit or convict, or pardon.....	102
280. Procedure when defendant is suspected to be of unsound mind	102
281. Report from medical officer.....	103
282. Certificate of medical officer	104
283. Release of defendant of unsound mind pending investigation or Trial.....	104
284. Resumption of Proceedings or trial	105
285. Resumption of proceedings after release under section.....	105
286. Where Defendant appears to have been of unsound mind.....	105
287. Safe custody of Defendant discharged	106

288. Order of the Attorney-General in pursuant to section.....	106
289. Observation of prisoners of unsound mind	106
290. Procedure when defendant of unsound mind is reported to be able to make his defence	106
291. Procedure where defendant of unsound mind is reported fit for discharge.....	106
292. Transfer from one place of custody to another.....	107
293. Delivery of Defendant of unsound mind to care of relative	107
294. Removal to another State	108
295. Application for remand or other interlocutory proceedings	108
296. A court may remand in prison custody.....	108
297. Court may grant bail in remand proceedings	109
298. Time and protocol for remand orders	109
299. When court may exercise power of remand	110
300. Court may bring up person remanded or make any order during remand.....	111
301. Place of remand.....	111
302. Presentation of case for prosecution.....	111
303. No case submission at the instance of the Court	111
304. No case submission by the defence and replies.....	112
305. Defence and prosecutor's right of reply.....	112
306. Reference to the Court of Appeal.....	113
307. Stay of proceedings	113
308. Consideration of case by court and announcement of Finding.....	113
309. Judgment to be in writing	113
310. Defendant to be discharged where found not guilty.....	114
311. Procedure on finding of guilty	114

312. Sentence and sentencing hearing	114
313. Recommendation for mercy	114
314. Conviction on other charges pending.....	115
315. Compensation to victim in judgment.....	115
316. Delivery' of judgment when Judge or Magistrate is unavoidably absent.....	115
317. Warrant of commitment.....	115
318. Authority for carrying out sentence other than of death.....	116
319. Error or omission not to affect legality of act.....	116
320. Power of court to order payment of expenses or compensation..	116
321. Payment to be taken into consideration in subsequent civil suit...	117
322. Power of court to order restitution.....	117
323. Compensation in cases of false and vexatious accusation.....	117
324. Injured person may refuse to accept compensation but payment of compensation is bar to further liability.....	118
325. Monies paid as compensation, recoverable as fines.....	118
326. Warrant for levy of fine	118
327. Powers of court when convict is sentenced to only fine.....	119
328. Wrongful conversion or detention of property and award of Damages.....	120
329. Meaning of "Property"	120
330. Order for custody and disposal of property pending trial.....	120
331. Order for disposal of property after trial	121
332. Custody or sale of property	121
333. Seizure of things intended to be used in commission of crime	122
334. Destruction of seditious, prohibited or obscene publications and of obscene objects	122

335. Search warrant may be used to search for things.....	122
336. Restoration of possession of immovable property	122
337. Procedure on seizure of property taken during arrest or investigation or stolen	123
338. Procedure where owner of property seized is unknown.....	123
339. Power to sell perishable property	123
340. Payment to innocent person of money found on Defendant.	124
341. Restitution and disposition of property found on Defendant.....	124
342. Restitution of stolen property	124
343. Destruction of articles relating to counterfeiting where charge is Laid.....	125
344. Destruction of articles relating to counterfeiting where no charge is laid.....	125
345. Detention and destruction of counterfeit currency, etc.....	126
346. Mode of dealing with forfeiture not pecuniary	126
347. Summary procedure in perjury	127
348. Trials.....	128
349. Duty of Court; non-appearance and non-representation by legal practitioner	128
350. When summary trials shall be held	130
351. Non-appearance of complainant.....	130
352. Non-appearance of defendant.....	130
353. Non-appearance of both parties	131
354. Appearance of both parties.....	131
355. Withdrawal of complaint.	131
356. Manner of hearing	131
357. Discharge of Defendant when no case to answer	132
358. Defence	133

359. Process for compelling production of evidence at instance of Defendant.....	133
360. Saving as to section 358 (1)	133
361. Evidence in reply.....	134
362. Power to take deposition in certain cases	134
363. When statement may be used in evidence	134
364. Notes of evidence to be recorded electronically or in writing	135
365. Local inspection	135
366. Cross complaints	135
367. Joinder of complaints	136
368. Giving of decision upon conclusion of hearing	136
369. Power to bind parties to be of good behaviour.....	136
370. Effect of judgment of dismissal on merits, not on merit and without prejudice	136
371. Summary trial of child by Magistrate.....	136
372. Power to remand	136
373. Law officer may request case to be adjourned or dealt with Specially.....	137
374. Adjourned for Law officer's decision.....	137
375. Security for peace in cases tried summarily	138
376. Case files, legal advice, and related proceedings.....	138
377. Filing of charge.....	140
378. Assignment of charge and notice of trial.....	140
379. Venue	141
380. Change of venue	141
381. Effect of change of venue	141
382. Form of notice of trial to accompany charges	141
383. Copy of charge and notice of trial to be delivered to sheriff.....	142

384. Time and mode of summoning parties on a Charge	142
385. Service of notice of trial on witnesses	142
386. Registered courier companies may serve processes	142
387. Return of service	142
388. Warrant where Defendant does not appear.....	142
389. Law officer or legal practitioner for State and defence in capital Cases.....	143
390. Time for raising certain objection, day-to-day trial and adjournment.....	143
391. Attendance of witness bound by recognizance to attend.....	144
392. Warrant for arrest of Witness not attending on recognizance	144
393. Warrant for arrest of a witness disobeying summons	144
394. Fine for non-attendance of witness	144
395. Construction of provisions relating to punishments, and objectives of sentencing	145
396. Death penalty.....	146
397. How sentence of death is to be carried out.....	146
398. Sentencing in the case of pregnancy	146
399. Authority for detention of convict.	146
400. Judge's certificate of death sentence to be sufficient and full authority- for execution of convict, unless he is pardoned or Reprieved.....	146
401. Steps to be taken by the Registrar	146
402. Convict may send request to the committee on prerogative of Mercy.....	147
403. State at which Governor is to consider report	147
404. Where a pardon or reprieved is granted.....	147
405. Copy of order to be sent to Judge	147

406. Where pardon or reprieve is not granted.....	147
407. Copy of order to be sent to prison official.....	148
408. Provision where woman convict of capital offence alleged to be pregnant.....	148
409. Factors to consider while sentencing.....	149
410. Power to order detention for one day in precincts of the court	150
411. Date from which sentence commences	150
412. Default in payment of fine	151
413. Execution of sentence on escape convict.....	151
414. Fine in default of imprisonment.....	151
415. General provision on review of sums of amount.....	152
416. General power of awarding imprisonment in default of payment of penalty. Appendix E	152
417. Scale of imprisonment for non-payment of money ordered to be Paid.....	152
418. Limitation of imprisonment in default of payment of fine.....	152
419. Payment and allocation of fines and fees	152
420. Power to commit Defendant in certain cases	153
421. Allowance for time and payment by installment.....	153
422. Payment of penalty to person executing warrant.	154
423. Commencement of imprisonment pursuant to a warrant.....	154
424. Varying or discharging order for sureties	154
425. Right of person imprisoned in default to be released on paying sum and effect of part payment.	154
426. Fines may be ordered to be recoverable by distress.....	156
427. Warrant of distress	156
428. Procedure on execution of distress warrant.....	156
429. Part Payment to reduce period of imprisonment.....	157

430. Execution of sentence of Haddi lashing.....	157
431. Execution of sentence of caning	158
432. Stay of execution of sentence of caning	158
433. Stay of execution of sentence of caning to allow time for appeal.....	158
434. Conditions attached to detention in a safe custody or suitable other than prison or mental asylum	159
435. Procedure for trying child offenders	159
436. Meaning of probation order.....	160
437. Probation orders on conditions of recognizance	160
438. Relieving probation officer of his duties.....	160
439. Duties of probation officers	160
440. Variation of terms and conditions of probation	161
441. Provisions in case of convict failing to observe conditions of release	161
442. Suspended sentence and community service.....	162
443. Arrangements of community service	163
444. Performance of Community Service Order	165
445. Default of convict in complying with Community Service Order ..	165
446. Commission of further offence	166
447. Amendment, review and discharge of Community Service Order.....	166
448. Discharge of Community Service Order.....	166
449. Confinement in Rehabilitation and Correctional Centre	167
450. Court may direct release of prisoner before completion of Sentence.....	168
451. Interpretation under this Part.....	168
452. Plea by corporation	168
453. Charge against a corporation	169

454. Joinder of counts in same charge	169
455. Power of Representative.....	169
456. Matters to be read, said or explained to Representative	169
457. Non- appearance of Representative.....	169
458. Saving under this Part and joint charge against Corporation.....	170
459. Appeals from Sharia Courts	170
460. Appeals from other courts	170
461. Appeals from Magistrate's Courts	170
462. Compounding of offence	173
463. Payment of fees	174
464. Suspension to payment of fees	174
465. State not required to pay fees	174
466. Use of forms in the Appendix	174
467. Power to make Rules of Court	174
468. Finding or sentence when reversible by reason of error or omission in charge or other proceedings. N.N. 3 of 1963	175
469. Non-compliance.....	175
470. Savings	175
471. Repeal.	176
472. Appendix A.....	177
473. Appendix B.....	228
474. Appendix C.....	231
475. Appendix D.....	234
476. Appendix E.....	237
477. Appendix F.....	240
478. Appendix G.....	241
479. Appendix H.....	242

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DR. ABDULLAHI UMAR GANDUJE, OFR
Governor,
Kano State of Nigeria

KANO STATE ADMINISTRATION OF CRIMINAL JUSTICE, LAW 2019 (1440 A.H.).

No. 7



2019

Law No. 7 of 2019

A Law to provide for the Administration of Criminal Justice in the Court of Kano State and for other matters related thereto:

PART 1 -PRELIMINARY

1. This Law may be cited as the Administration of Criminal Justice Law 2019 and shall come into operation on the 8th days of May, 2019.

Citation and
Commencement.

2. In this Law unless the context otherwise requires:-

Interpretation.

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

“Attorney-General” means the Attorney-General of the State;

“Charge” means the statement of offence or statement of offences with which a defendant is officially brought to trial;

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

“Chief Registrar” means in matters relating to the State High Court Chief Registrars of the High Court and in matters relating to the Sharia Court of Appeal, the Chief Registrar of the Sharia Court of Appeal;

“Child” means a person who has not attained the age of 18 years under the Children and Young Persons Law;

“Complainant” includes any informant or prosecutor in any case relating to summary trial;

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

"Court" includes State High Court, Sharia Court, and Magistrates Courts and any other Court that may be established by a Law of the State House of Assembly;

"Currency" means coins, notes and any other legal tender;

"Corporation" means a body corporate, incorporated in Nigeria or elsewhere;

"Defendant" means any person against whom a complaint or charge is made;

"District" means a district into which the State is divided for the purposes of this Law or the Magistrates Court Law;

"Division" means a judicial division of the High Court;

"Federation" means the Federal Republic of Nigeria;

"Federal Law" means an Act of the National Assembly having effect with respect to the Federation or any part thereof;

"Felony" means an offence on conviction for which a person can, without proof of his having been previously convicted of an offence, be sentenced to death or to imprisonment for three years or more, or which is declared by Law to be a felony;

"Fine" includes any pecuniary penalty, pecuniary forfeiture or pecuniary compensation payable under this Law;

"Functions" includes powers and duties;

"Future Enactment" means an enactment passed after the commencement of this Law;

"Governor" means the Governor of the State;

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

"Grand Khadi" means Grand Khadi of the State;

"House of Assembly" means the State House of Assembly;

"High Court" means the High Court of the State;

"Indictable Offence" means an offence which on conviction may be punished by:

- (a) a term of imprisonment exceeding two years; or
- (b) of a fine exceeding N40,000.00 not being an offence declared by the Law creating it to be punishable on summary conviction;

"Indictment" means the filing of a charge against a person in court;

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

"Judge" includes a Judge of a High Court, Magistrate or a Judge of the Sharia Court, Khadi or Grand Khadi;

"Justice Sector Reform Team" means Justice Sector Reform Team established under the Kano State Justice Sector Reform Team Law;

"Law Officer" means the Attorney-General and the Solicitor-General and such other qualified officers, by whatever names designated, to whom any of the powers of a Law officer are delegated to by Law and a private legal practitioner authorized by the Attorney-General to appear for and on behalf of the Attorney-General;

"Law Enforcement Officer" includes any officer of any Law enforcement agency established by an Act of the National Assembly or any Law made by the House of Assembly;

"Legal Aid" means the assistance offered to persons who are unable to afford legal representation and access to the court system for issuing right to fair trial;

"Legal Guardian" in relation to an infant, child, young persons, 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;

"Licensed Courier Company" means a courier company registered under the relevant Law;

"Magistrate" means a Magistrate Court Judge appointed under the Law of the State;

"Magistrates Court" means Magistrates' Court established under the Law of the State;

"Medical Officer" means a medical doctor attached to an asylum or a medical doctor from whom a Court requires an opinion;

"Misdemeanour" means an offence punishable by imprisonment for not less than 6 months, but less than 3 years or which is declared by Law to be a misdemeanour;

"Offence" means an act or omission the doing of which violates criminal Law;

"Officer in-charge" includes, the officer in-charge of a police station or the officer in-charge of a unit in any other Law enforcement agency or other officer who acts in the absence of the officer in-charge;

"Open Court" means a room or place in which a court sits to hear and determine a matter within its jurisdiction and to which room or place the public may have access so far as the room or space can conveniently contain them;

"Order" includes any conviction in respect of a summary trial of an offence;

"Part-heard Criminal Matter" means a criminal matter under trial in which evidence has been adduced and taken by the trial court but not concluded;

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

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

"Plea Bargain" means the process in criminal proceedings whereby the Defendant and the prosecution work out a mutually acceptable disposition of the case; including the plea of the Defendant to a lesser offence than that charged in the complaint or charge and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the higher charge subject to the court's approval;

"Police" means the Nigerian police established by the Constitution or where the context so admits, shall include; any officer of any Law enforcement agency established by an Act of the National Assembly;

"Police Officer" includes any member of the Nigeria Police Force established by the Police Act;

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

"Private Prosecutor" does not include a person prosecuting on behalf of the State or a public officer prosecuting in his official capacity;

"Reasonable Time" is as defined under the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

"Registrar" includes the Chief Registrar and a registrar of a court;

"Representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this chapter 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;

"Rules" or "the Rules" mean rules of court relating to the practice and procedure of the High Court or of the Magistrates' courts or of the Sharia Courts in the exercise of their criminal jurisdiction;

"Sentenced to Imprisonment" shall include cases where imprisonments imposed by a court on any person either with or without the option of a fine, or in respect of the non-payment of any sum of money, or for failing to do or abstaining from doing any act or thing required to be done or left undone, and the expression;

"sentence of Imprisonment" shall be construed accordingly;

"Sharia Court" means a court established under the Sharia Courts Law of the State;

"Sharia Court Judge" means a person appointed to preside over a Sharia Court under the Sharia Courts Law;

"Sheriff" means a Sheriff within the meaning of the Sheriffs and Civil Process Act and includes a Deputy Sheriff and any person authorized by the Sheriff or a Deputy Sheriff to execute process of a court;

"State" means Kano State of Nigeria;

"Summary Conviction Offence" means an offence punishable by a High Court or a Magistrates' Court on summary conviction and includes any matter in respect of which a High Court or a Magistrate's Court can make an order in the exercise of its summary jurisdiction;

"Summary Court Judge" means unless the context otherwise requires:-

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

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

(c) Sharia Court Judge when sitting in court to hear and determine any matters within his power and jurisdiction either under the provisions of this Law or any other Law and a Judge or Magistrate when so sitting and presiding shall be deemed to be a **"Court"** or **"Summary Court"** within the meaning of this Law or any other Law;

"Summary Trial" means any trial by a Magistrate or Sharia Court or a trial by a High Court commenced without filing a charge;

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

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

"Suspect" means a person who has been arrested on the suspicion of committing an offence and who is yet to be formally charged for that offence;

"Weaning Period" means the period of 24 months from the date of delivery of a child.

(2) Unless the context otherwise requires, all words and Expressions used in this Law and defined in the penal Code Law shall have the meanings attributed to them by the Code.

- Purpose. 3. (1) The purpose of this Law is to ensure that the system of administration of criminal justice in the state promotes efficient management of criminal justice institutions, speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the suspect, the Defendant, and the victim.

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

4. (1) Without prejudice to section 104 of this Law, the provisions of this Law shall apply to criminal justice for offences created by a Law of the State and other offences punishable in the State, except otherwise provided.

Application.

(2) In addition to the provision of subsection (1) of this section, a Court may where the Law creating such Court permits the application of other rules of procedure apply such other procedure in determining a particular case.

5. All offences against any Law shall be investigated, inquired into, tried and dealt with in accordance with the provisions of this Law, subject to any other Law for the time being in force regulating the manner or place of investigation, inquiry or trial of such offence.

Trial of Offences
Under Other
Laws.

PART 2

THE CONSTITUTION AND POWER OF CRIMINAL COURTS

6. There shall be the following classes of criminal courts in the State namely: -

Classes of the
State Criminal
Courts.

- a) the High Court;
- b) courts of Chief Magistrate of the first grade;
- c) courts of Chief Magistrate of the second grade;
- d) courts of Senior Magistrates of the first grade;
- e) courts of Senior Magistrates of the second grade;
- f) courts of the Magistrates of the first and second grades;
- g) Sharia Courts of Upper grade;
- h) the Sharia Court; and
- i) any other court established under a Law of the State.

7. (1) The Chief Judge may: -

- a) divide the State into Magisterial Districts for the purpose of establishing Magistrates' courts;
- b) constitute any part of the State as a Magisterial district for the purpose of establishing Magistrate's court;

Powers to divide
the State into
Division or
District.

- c) distinguish such Magisterial Districts by such names or numbers as he may deem appropriate;
- d) vary the limits of territorial jurisdiction of any such Magisterial Districts; and
- e) create or designate divisions of the High Court to handle specific criminal matters solely or in addition to other matters or causes.

(2) In exercising the powers conferred in this section, the Chief Judge shall be guided by the provisions of section 3(1) of this Law.

Establishment of Magistrate Court.

8. (1) In each Magisterial District there shall be, and accordingly, there is hereby established a court, to be called the Magistrate's Court.

(2) A Magistrate's Court shall have such jurisdiction as is conferred upon it by this Law or any other Law.

Establishment and Jurisdiction of Magistrate's Court in Each District.

9. (1) Subject to the provisions of this Law;

- a) the Magistrate of each Magisterial District shall be the Presiding Magistrate of the court of such district and exercise all the jurisdiction and powers conferred upon him by his appointment; and
- b) no Magistrate shall exercise any jurisdiction or powers in excess of those conferred upon him.

(2) Where the Chief Judge assigns two or more Magistrates to any Magisterial District, each Magistrate shall be a presiding officer of the court of such District, and each sitting separately shall have and exercise all the jurisdiction and powers conferred upon him by his appointment.

Establishment of Sharia Courts.

10. (1) There is hereby established under this Law; –

- (a) upper sharia court in every district of the state; and
- (b) sharia court in every Local Government Council of the State.

(2) The Grand Khadi may with the approval of the Governor make an Order for the creation of more Upper Sharia Courts and Sharia Courts as are necessary for effective and smooth administration of Justice.

11. (1) The Upper Sharia Courts and Sharia Courts shall in addition to such other jurisdiction as may be conferred upon them by a Law of the State and subject to the provision of the Constitution exercise original jurisdiction in all criminal matters where the defendant is a Muslim.

Jurisdiction of
Sharia Courts
and conflict of
Laws.

(2) Where one or more of the several defendants are non-Muslims and the non-Muslims objected or refused to submit to jurisdiction the Upper Sharia Courts or Sharia Courts the courts shall not have jurisdiction to hear and determine the case in respect of the non-Muslims but may hear and determine the case separately.

(3) where the offence cannot be tried separately the Sharia Court shall transfer the case to the Magistrate Court or such other Court with competent jurisdiction to try the offence.

12. (1) The Judicial Service Commission may appoint any qualified person to the office of a Magistrate.

Appointment,
Qualification
and Classes of
Magistrate.

(2) Magistrates shall be Chief Magistrates of the first and second grades Senior Magistrates of the first and second grades and Magistrates of the first and second grades.

(3) For the purposes of subsection 2 of this section, a qualified person shall mean any qualified legal practitioner who has been in active legal practice for at least 5 years or who has served as Registrar for at least 5 years after his call to bar.

(4) The appointment of Magistrates shall be made in compliance with the provisions of any Law made by the State House of Assembly.

13. (1) The Judicial Service Commission may appoint any qualified person to the office of a Sharia Court.

Appointment
and
Qualification of
Sharia Courts
Judges.

(2) A person shall not be qualified to hold the office of a Judge of either an Upper Sharia Court or a Sharia Court unless:

- (a) he is a Muslim;
- (b) he is an adult with a sound moral character; and
- (c) he obtains a recognized qualification in Islamic Law from an institution acceptable to the Judicial Service

- commission; or
- (d) he is a Legal Practitioner in Nigeria with sound Knowledge of Islamic Law and has been so qualified for a period of not less than 7 years, in the case of an Upper Sharia Judge and 5 years in the case of a Sharia Court Judge.
- (3) For the purposes of subsection (2) (c) of this section "recognized qualification" includes the following:
- (a) a degree in Islamic Law from recognized University; or
 - (b) a diploma in Sharia and Civil Law from a recognized University, College or Institution; or
 - (c) a Certificate from the former Kano Islamic Law School.

Territorial Jurisdiction of Magistrates and Sharia Courts.

14. Subject to the provisions of this Law, every Magistrate and Sharia Court Judge shall have jurisdiction throughout the State unless otherwise specifically limited to the area of any District, or group of Districts.

Power of Chief Magistrate to Direct a subordinate Magistrate

15. Notwithstanding the provisions of section 14, a Chief Magistrate who is assigned to a group of Magisterial Districts may direct a Magistrate in one District within the group to assist another Magistrate in all administrative matters within the group.

Offences Under the Penal Code and Jurisdiction of Sharia Court.

16. (1) Subject to the provisions of this Law, any offence under the Penal Code may be tried by any court by which such offence is shown in the sixth column of Appendix A to be triable or by any Court with greater powers.

(2) Any offence under the Penal Code may be tried by any court by which such offence is shown in the **7th column of Appendix A** to be triable or by any court with greater powers.

(3) The jurisdiction of the Sharia Courts shall be governed by the provisions of the Law establishing them.

Offences Under Other Laws.

17. (1) Any offence other than an offence under the Penal Code may be tried by any court having jurisdiction in that behalf in that Law or by any court with greater powers.

(2) When no court is so mentioned, such offence may be tried by the High Court or any court constituted under this Law. Provided that in trying any such offence:-

- a) a Chief Magistrate of the first grade shall not try such an offence punishable with imprisonment for a term which may exceed fourteen years or with a fine exceeding Three Hundred Thousand Naira (N300,000.00);
- b) a Chief Magistrate of the second grade shall not try an offence punishable with an imprisonment for a term which may exceed twelve years or with a fine exceeding Two Hundred Thousand Naira (N200,000.00);
- c) a Senior Magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed ten years or with a fine exceeding One Hundred Thousand Naira (N100,000.00);
- d) a Senior Magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed eight years or with a fine exceeding Seventy Thousand Naira (N70,000.00);
- e) a Magistrate of the first grade shall not try an offence punishable with an imprisonment for a term which may exceed five years or with fine exceeding Fifty Thousand Naira (N50,000.00);
- f) a Magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed three years or with fine exceeding Forty Thousand Naira (N40,000.00).

(3) Nothing in subsection (2) of this section shall be deemed to confer upon any court any jurisdiction in excess of that conferred upon that court by section 16 to 22.

18. The High Court may pass any sentence authorized by Law.

Jurisdiction of High Court.

19. (1) A Chief Magistrate of the first grade may pass the following sentences:

Jurisdiction of the Magistrate to Pass Sentences.

- a) imprisonment for a term not exceeding fourteen years;

- b) fine not exceeding Three Hundred Thousand Naira (N300,000.00);
- c) caning; and
- (2) A Chief Magistrate of the second grade may pass the following sentences:-
 - a) imprisonment for a term not exceeding twelve years;
 - b) fine not exceeding Two Hundred Thousand Naira (N200,000.00);
 - c) caning; and
- (3) A Senior Magistrate of the first grade may pass the following sentences:-
 - a) imprisonment for a term not exceeding ten years;
 - b) fine not exceeding One Hundred Thousand Naira (N100,000.00);
 - c) caning; and
- (4) A Senior Magistrate of the second grade may pass the following sentences:-
 - a) imprisonment for a term not exceeding eight years;
 - b) fine not exceeding Seventy Thousand Naira (N70,000.00);
 - c) caning; and
- (5) A Magistrate of the first grade may pass the following sentences:-
 - a) imprisonment for a term not exceeding five years;
 - b) fine not exceeding Fifty Thousand Naira (N50,000.00);
 - c) caning; and
- (6) A Magistrate of the second grade may pass the following sentences:-
 - a) imprisonment for a term not exceeding three years;
 - b) fine not exceeding Forty Thousand Naira (N40,000.00); and
 - c) caning.

Power of the
House of
Assembly to
Increase
Jurisdiction.

20. The House of Assembly may on the recommendation of the Chief Judge increase the jurisdiction in criminal matters of any Magistrate to such extent as he may specify.

Kano State Administration of Criminal Justice Law **2019**

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| <p>21. Any court may pass any Lawful sentence combining any of the types of sentences which it is authorized by Law to pass.</p> | <p>Combination of Sentence.</p> |
| <p>22. Any court may award any term of imprisonment in default of payment of a fine which it is authorized by Law. Provided that, the term of imprisonment shall not be in excess of the powers of the court under section 17 of this Law.</p> | <p>Imprisonment in Default of Payment of Fine.</p> |
| <p>23. (1) Where a person is convicted at one trial of two or more distinct offences, the court may sentence him for such offences to the several punishments prescribed thereof which such court is competent to impose to run consecutively or concurrently.</p> <p>(2) In cases falling under this section a court shall not be limited by the provisions of section 17 but shall not impose consecutive sentences exceeding in the aggregate twice the amount of punishment which is in excess of its ordinary jurisdiction.</p> | <p>Sentences in Case of Conviction of Several Offences at One Trial.</p> |
| <p>24. Court may, whether the Defendant is discharged or not, bind over the complainant or Defendant, or both, with or without sureties, to be of good behaviour and may order any person so bound, in default of compliance with the order, to be imprisoned for a term not exceeding three months in addition to any other punishment to which that person is liable.</p> | <p>Power to Bind Parties to Be of Good Behaviour.</p> |

PART 3 – ARREST, BAIL AND PREVENTIVE JUSTICE

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| <p>25. Police may arrest: -</p> <p>1) Any person who commits an offence in his presence notwithstanding any provision in the third column of Appendix A that an arrest may not be made without a warrant;</p> <p>2) With or without a court order or warrant only in the circumstances mentioned in section 41 of this Law;</p> <p>3) The police may when investigating an indictable</p> | <p>Arrest Generally.</p> |
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offence request the Attorney-General to assign a legal officer to assist in the investigation.

- 4) The Attorney-General shall, not later than 3 days of receiving such request assign a Law officer to work with the police in the investigation of indictable offence provided that this provision shall not derogate from the powers of the police to conduct investigation with speed.

Arrest.

26. Any person who is alleged to have committed an offence shall be arrested, investigated, tried or dealt with according to the provisions of this Law, except otherwise provided by the Law creating the offence.

Manner of Arrest.

27. In making an arrest, the police officer or other persons making the arrest shall actually touch or confine the body of the suspect, unless there is a submission to the custody by word or action.

No Unnecessary Restraint.

28. A suspect or Defendant shall not be handcuffed, bound or be subjected to restrain except:

- a) there is reasonable apprehension of violence or an attempt to escape;
- b) restraint is considered necessary for the benefit of the defendant; or
- c) by order of a court.

Notification of Cause of Arrest and Rights of Suspect.

29. (1) Except when the suspect is in the actual course of the commission of an offence or is pursued immediately after the commission of an offence or has escaped from Lawful custody, the police officer or other persons making the arrest shall inform the suspect immediately of the reason for the arrest.

(2) The police officer or the person making the arrest shall inform the suspect of his rights to: -

- a) remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;
- b) consult a legal practitioner of his choice before making endorsing or writing any statement or answering any question put to him after arrest; and

- c) free legal representation by the Legal Aid Council of Nigeria or a probono legal service provider where applicable;

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

30. A person shall not be arrested in place of a suspect.

Arrest in Lieu Prohibited.

31. (1) A suspect shall: -

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

Humane Treatment of Arrested Suspect.

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

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

(4) The arraignment and trial of a suspect for a crime shall be in accordance with the provisions of this Law unless otherwise stated by the Law creating the offence.

32. (1) Where a suspect is arrested by a police officer or a private person, the officer making the arrest or to whom the private person hands over the suspect; may search the suspect, using such force as may be reasonably necessary for the purpose; and shall keep in safe custody all articles other than necessary wearing apparels found on the suspect.

Search of Arrested Suspect.

(2) Where a suspect is admitted to bail, he shall not, subject to the provisions of this section be searched unless there are reasonable grounds for believing that he has on 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.

(3) Where it is necessary to search a suspect, the search shall be made decently and by a person of the same sex.

(4) Notwithstanding the provisions of this section, a police officer or any other person making an arrest may in any case take from the suspect any instrument of violence or poisonous substance which he has on his person.

Inventory of
Property of
Arrested
Suspect.

33. (1) A police officer making an arrest or to whom a private person hands over the suspect, shall immediately record information about the suspect and take an inventory of all items or property recovered from the suspect.

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

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

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

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

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

(7) Where any property has been taken from a suspect

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

34. Where a person is in Lawful custody on a charge of committing an offence of such a nature and under circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, a qualified medical practitioner or any certified professional with relevant skills, acting on the request of a police officer, may make such an examination of the suspect in custody as is reasonably necessary in order to obtain the requisite evidence necessary for his prosecution.

Examination of
Arrested
Suspect.

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

Search of
Place Entered
by Suspect
Sought to be
Arrested.

(2) Where access to a house or place cannot be obtained under subsection (1) of this section, the person or police officer may enter the house or place and search it for the suspect to be arrested, and in order to effect an entrance into the house or place, may break open any outer or inner door or window of any house or place, whether that of the suspect 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 suspect to be arrested enters a house or place in the actual occupancy of another person being a woman who by custom or religious practice does not appear in public, the person making the arrest shall: -

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

Power to Break Out of a House or Place for the Purpose of Liberation.

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

Suspect to be Taken Immediately to Police Station.

37. (1) A suspect who is arrested, whether with or without a warrant, shall be taken immediately to a police station, or any other Lawful place and shall be promptly informed of the allegation against him in the language he understands.

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

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

Recording of Arrests.

38. (1) Where a suspect is arrested, whether with or without a warrant, and taken to a police station or any other agency affecting the arrest, the police officer making the arrest or the officer in charge shall cause to be taken immediately, in the prescribed form, the following record of the suspect arrested:-

- a) the alleged offence;
- b) the date and circumstances of his arrest;
- c) his full name, occupation and residential address; and
- d) for the purpose of identification:

- i. his height,
- ii. his photograph,
- iii. his full fingerprint impressions,
- iv. bank verification number, where available,
- v. telephone number, and
- vi. such other means of his identification.

(2) The process of recording in subsection (1) of this section, shall be concluded within a reasonable time of the arrest of the suspect, but not exceeding 48 hours.

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

(4) Where a suspect who is arrested with or without a warrant volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such other audio-visual means.

(5) Notwithstanding the provision of (4) of this section, an oral confession of arrested suspect shall be admissible in evidence.

(6) A prosecutor who seeks to rely on a confessional statement allegedly made voluntarily by a suspect shall, while presenting the prosecution's case adduce evidence to show the voluntariness of the said statement.

(7) Any objection to the admissibility to such confessional statement shall be recorded and shall be ruled upon by the court while delivering judgment in the substantive case or while delivering ruling in no case submission.

39. (1) There shall be established in the State Command of the Nigerian Police Force a Criminal Records Registry.

Central Criminal
Records
Registry.

(2) The Registry shall maintain in both electronic and manual forms a record of all persons arrested, discharged, acquitted or convicted in the State.

(3) For the purposes of subsection (1) of this section, there shall be established at every Area Command a Criminal Records Registry which shall keep and transmit all such records to the Central Criminal Records Registry at the Police Headquarters.

Recording of
Statement of
Suspect.

(4) The State Police Command shall ensure that the decisions or judgments of the courts in all criminal trials prosecuted by the police are transmitted to the Central Criminal Records Registry within 30 days of the decision or Judgment.

40. (1) Where a suspect is arrested on allegation of having committed an offence, his statement shall be taken, if he so wishes to make a statement.

(2) Such statement may be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council of Nigeria or an official of a Civil Society or any other person of his choice. Provided that the Legal Practitioner or any other person mentioned in this subsection, shall not interfere while the suspect is making his statement, except for the purpose of discharging his role as a legal practitioner.

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

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

(5) The suspect referred to in subsection (1) of this section, shall also endorse the statement with his full particulars.

Arrest by
Police Officer
Without
Warrant.

41. (1) A police officer may, without an order of a court and without a warrant, arrest a person:-

- a) whom he suspects on reasonable grounds of having committed an offence against a Law of the state or against the Law of any other state, unless the Law creating the offence provides that the suspect cannot be arrested without a warrant;
- b) who commits any 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 property or who may reasonably be suspected of having committed an offence with reference to the thing;
 - e) whom he suspects on reasonable grounds of being a deserter from any of the armed forces of Nigeria;
 - f) whom he suspects on reasonable grounds of having been involved in an act committed at a place outside the state which, if committed in the State, would have been punished as an offence, and for which he is, under a Law in force in the state, liable to be apprehended or detained in the state;
 - g) having in his possession without Lawful excuse, the burden of proving same shall lie on such person, any implement of housebreaking, car theft, firearm or any offensive or dangerous weapon;
 - h) whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in Nigeria;
 - 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;
 - j) whose arrest warrant has been issued or whom he is directed to arrest by a Judge, Magistrate, or superior police officer;
 - k) whom he reasonably suspects to be designing to commit an offence for which the police may arrest without a warrant, if it appears to him that the commission of the offence cannot be otherwise prevented;
 - l) required to appear by a public summons issued under this Law or any other Law; or
 - m) whom he reasonably suspects to be damaging any public property.

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

Refusal to
Give Name
and
Residence

42. (1) Where a suspect who, in the presence of a police officer, has committed or has been defendant of committing an offence triable summarily, refuses on demand of the officer to give his name and residential address, or gives a name or residential address which the officer has reason to believe to be false, he may be arrested by the officer in order that his name or residential address may be ascertained.

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

(3) Where the true name and address of the suspect cannot be ascertained within 24 hours from the time of arrest, or if he fails to execute recognizance, or, where so required, to furnish sufficient sureties, he shall forthwith be brought before the nearest Magistrate having jurisdiction.

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

Arrest by
Private
Person and
Arrest by
Property
Owner.

43. (1) A private person may arrest a suspect in, who in his presence commits an offence, or whom he reasonably suspects of having committed an offence for which the police are entitled to arrest without a warrant.

(2) A suspect found committing an offence involving injury to property may be arrested without a warrant by the owner of the property or his servants, agents or any other person.

(3) A private person may arrest any suspect found damaging public property.

44. (1) A private person who arrests a suspect without a warrant shall immediately hand over the suspect so arrested to a police officer, or, in the absence of a police officer, shall take the suspect to the nearest police station, and the police officer shall make a note of the name, address and other particulars of the private person making the arrest.

Handing over
of an Arrested
Suspect by
Private
Person.

(2) Where there is reason to believe that the arrested suspect comes under the provisions of section 41 (1) of this Law, a police officer shall re-arrest him.

(3) Where there is reason to believe that the suspect has committed an offence, and he refuses on the demand of a police officer to give his name and address, or give a name or address which the officer reasonably believes to be false, he shall be dealt with under the provisions of section 41 (3) of this Law.

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

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

(6) Where there is sufficient reason to believe that the suspect handed over has committed an offence, he shall immediately be re-arrested otherwise he shall be released but if there is no sufficient reason to believe that the suspect has committed an offence, he shall be released immediately: Provided that no person shall be liable for any action carried out in good faith.

- (7) The provisions of section 38 of this Law, shall not apply to this section unless the suspect arrested and handed over has been re-arrested in accordance with subsection (2) of this section.
- Arrest For Offence Committed in Presence of Judge or Magistrate.**
- 45.** Where an offence is committed in the presence of a Judge or Magistrate the Judge or Magistrate may himself arrest or order a person to arrest the suspect and may thereupon, subject to the provisions contained in this Law as to bail, commit the suspect to custody.
- (2) A Magistrate may arrest or direct the arrest in his presence of a suspect whose arrest on a warrant he could have lawfully ordered if the facts known to him at the time of making or directing the arrest had been stated before him on oath by some other person.
- (3) Where a suspect is arrested in accordance with the provisions of either subsection (1) or (2) of this section, the Judge or Magistrate making or directing the making of such arrest may deal with the suspect so arrested in the same manner as if the suspect had been brought before him by any other person.
- (4) A Judge or Magistrate may arrest or direct the arrest of a suspect committing an offence in his presence and shall thereupon hand him over to a police officer who shall proceed to take necessary action.
- When Public is Bound to Assist in Arrest.**
- 46.** A person is bound to assist a Judge or Magistrate, police or other person reasonably demanding his aid in arresting or preventing the escape of a suspect whom the Judge, Magistrate, police officer or other person is authorized to arrest.
- Pursuit of Suspect into Other Jurisdictions.**
- 47.** A person authorized to effect the arrest of any suspect may, for the purpose of effecting the arrest, pursue him into any part of the State.
- Quarterly Report of Arrests to the Attorney-General.**
- 48. (1)** The Commissioner of Police and the head of every agency authorized by Law to make arrest within the state shall remit quarterly to the Attorney-General a record of all arrests made with or without warrant in relation to offence or arrests within the State.

(2) The report shall contain the full particulars of arrested suspects as prescribed by Section 38 of this Law.

(3) A register of arrests containing the particulars prescribed in Section 38 of this Law, shall be kept in the prescribed form at every police station or agency authorized by Law to make arrests, and every arrest, whether made with or without warrant, within the local limits of the police station or agency, shall be entered accordingly by the officer in charge of the police station or official in charge of the agency as soon as the suspect is brought to the station or agency.

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

49. (1) Where a suspect has been taken into police custody without a warrant for an offence other than an offence punishable with death, an officer in charge of the police station shall inquire into the case and release the suspect on bail subject to subsection (2) of this section where it is not practicable to bring the suspect before a court having jurisdiction with respect to the offence alleged within 24 hours after the arrest.

Release on Bail of
a Suspect
Arrested Without
Warrant.

(2) The officer in charge of a police station shall release the suspect on bail on his entering into a recognizance with or without sureties upon the execution of a bond to appear before the court or at the police station at the time and place named in the recognizance.

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

50. (1) Where a suspect is taken into custody, and it appears to the officer that the investigation into the case cannot be completed forthwith, he may discharge the suspect on his entering into a recognizance, with or without sureties

Power to
Release on
Bail Before
Charge is
Accepted.

Remedy of
Suspect
Detained in
Custody.

upon the execution of a bond, to appear at the police station at such times as are named in the recognizance.

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

51. (1) Where a suspect taken into custody in respect of a non-capital offence is not released on bail after 24 hours, a court having jurisdiction with respect to the offence may be notified by application on behalf of the suspect.

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

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

Police to
Report
Monthly to
Supervising
Magistrate.

52. (1) An officer in charge of a police station or an official in charge of an agency authorized to make arrest shall, on the last working day of every month, report to the nearest Magistrate or any available Court the cases of all suspects arrested without warrant within the limits of their respective stations or agency whether the suspects have been admitted to bail or not.

(2) The report shall contain the particulars of the suspects arrested as prescribed in a Section of this Law.

(3) The Magistrate shall on receipt of the report, forward them to the Justice Sector Reform Team which shall analyse the reports and advice the Attorney-General as to the mode of arrest, bail and related matters.

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

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

53. (1) The Chief Magistrate, or where there is no Chief Magistrate within the police division, any Magistrate designated by the Chief Judge shall, at least every month, conduct an inspection of police stations or other places of detention within his territorial jurisdiction other than the prison.

Chief Magistrate to Visit Police Stations Every Month.

(2) During a visit, the Magistrate may:-

- a) call for, and inspect, the record of arrests;
- b) direct the arraignment of a suspect; or
- c) where bail has been refused, grant bail to any suspect where appropriate if the offence for which the suspect is held is within the jurisdiction of the Magistrate.

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

- a) the full record of arrest and record of bail;
- b) applications and decisions on bail within the period; and
- c) any other facility the Magistrate requires to exercise his powers under that subsection.

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

(5) Where the Police authority refuses to comply with the provision of subsection (4) of this section, any other body or person may make such report to the Justice Sector Reform Team.

PART 4 – WARRANTS

54. Where under any Law, there is power to arrest a suspect without warrant, a warrant for his arrest may be issued.

General Authority to Issue Warrant.

Form and
Requisites of
Warrant of
Arrest.

55. (1) A warrant of arrest issued under this Law, unless the contrary is expressly provided under any other Law, shall: -

- a) bear the date of the day of issue;
- b) contain all necessary particulars; and
- c) be signed by the Judge or Magistrate by whom it is issued.

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

Warrant to be
Issued on
Complaint
only if on
Oath.

56. A warrant of arrest shall not be issued in the first instance in respect of any complaint or statement unless the complaint or statement is on oath either by the complainant himself or by a material witness.

Warrant May
be Issued on
Any Day.

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

Warrant, to
Whom
Directed and
Duration.

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

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

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

Warrant of
Arrest May in
Exceptional
Cases be
Directed to
Other
Persons.

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

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

(3) Where a Court has reason to believe, whether after evidence or not, that a suspect, against whom a warrant of arrest has been issued by itself or by any Court has absconded or is concealing himself so that the warrant cannot be executed, the court may publish public summons in writing requiring that person to appear at a specific place and a specific time not less than 30 days from the date of publishing the public summons.

60. (1) A public summons shall be published:-

- a) in a newspaper that enjoys wide circulation or circulated in any other medium as may be appropriate;
- b) by affixing it to some conspicuous part of the house or the premises or to some conspicuous place in the town or village in which the persons to be served ordinarily resides; or
- c) by affixing a copy to some conspicuous part of the High Court or Magistrate's court building.

Publication of
Public
Summons for
Persons
Absconding.

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

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

Execution of
Warrant and
Procedure.

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

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

(4) A suspect arrested on a warrant of arrest shall be brought before the court that issued the warrant of arrest.

Power to
Arrest on
Warrant But
Without the
Warrant.

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

Court may
Direct
Particulars of
Security to be
Taken on
Execution of
Warrant

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

(2) The endorsement shall specify:-

- (a) the number of sureties, if any;
- (b) the amount in which they and the suspect named in the warrant are, respectively, to be bound; or are to provide as cash security on the request of the surety or suspect;
- (c) the Court before which the arrested suspect is to attend; and
- (d) the time at which the suspect is to attend, including an undertaking to appear at a subsequent time as may be directed by any court before which he may appear.

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

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

(5) Subject to the provision of section 64 of this Law,

the provision of subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside the State.

64. (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 suspect shall, unless security is taken under section 63 of this Law, be taken before the court within the division or district in which the arrest was made.

Procedure On Arrest of Suspect Outside Division or District of Court Issuing Warrant.

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

- (a) is ready and willing to get bail to the satisfaction of the court within the division or district of which he was arrested; or
- (b) where a direction has been endorsed under section 63 of this Law on the warrant and the suspect is ready and willing to give the security required by the direction, the court shall take bail or security, as the case may be, and shall forward the recognizance, if such be entered into, to the court which issued the warrant.

(3) Nothing in this section is deemed to prevent a police officer from taking security under section 51 of this Law.

65. (1) A warrant of arrest issued by a court sitting anywhere in the State may be executed in any part of Nigeria.

Warrant Issued by Court.

(2) A warrant issued under this section may be executed in accordance with section 63 of this Law.

66. Where a suspect 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 in any place in Nigeria.

Re-arrest of Suspect Escaping.

67. The provisions of sections 33 and 34 of this Law shall apply to arrests under section 66 of this Law, although the person making such arrest is acting under a warrant and is not a police officer having authority to arrest.

Provisions of Sections 33 and 34 to Apply to Arrests Under Section 64.

PART 5-
PREVENTION OF OFFENCES
AND SECURITY FOR GOOD BEHAVIOUR

Police to Prevent
Commission of
Offences and
Injury to Public
Property.

68. (1) A Police Officer may intervene for the purpose of preventing, and shall, to the best of his ability, prevent the commission of an offence.

(2) A Police Officer may on his authority intervene to prevent an injury attempted to be committed in his presence to any public property, whether movable or immovable, or removal of or inquiry to any public landmark or body or other mark used for navigation.

Information of
Design to Commit
Offence.

69. A Police Officer receiving information of a design to commit any offence shall communicate the information to the police to whom he is subordinate, and to any other officer whose duty is to prevent or take cognizance of the commission of the offence.

Arrest by Police
to Prevent
Offences.

70. Notwithstanding the provision of this Law or any other law relating to arrest, a police officer upon a reasonable suspicion of a design to commit an offence may arrest, without orders from a Magistrate and without warrant, the suspect where it appears to the officer that the commission of the offence cannot otherwise be prevented.

Prevention by
Other Public
Officers of
Offences and
Injury to Public
Property.

71. (1) A Judge, Magistrate, or any other public officer charged with responsibility for maintaining law and order may intervene for the purpose of preventing and shall, to the best of his ability, prevent the commission of an offence, for which he is authorized to arrest without a warrant or any damage to any public property, movable or immovable.

(2) A person is bound to assist a Judge or Magistrate or police officer or any other public officer reasonably demanding his aid:-

(a) in preventing, and shall to the best of his ability, prevent the commission of an offence for which he is authorized to arrest without a warrant or any damage to any public property, movable or immovable;

- (b) in the suppression of a breach of the peace or in the prevention of any damage to any property, movable or immovable or to any railway, canal, water supply, telecommunication system, oil pipeline, gas installation, or electrical installation; or
- (c) in the prevention of the removal of any public landmark, buoy or other mark used for navigation.

72. (1) Where a Magistrate is informed on oath that a suspect is likely to:-

- (a) commit a breach of the peace or disturb the public tranquility, or
- (b) do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, the Magistrate may, in the manner provided in this Part, require the suspect to show cause why he should not be ordered to enter into a recognizance, with or without sureties, for keeping the peace for such period, not exceeding one year, as the Magistrate deems fit.

Power of Magistrate to Require Execution of Recognizance for Keeping Peace.

(2) Proceedings shall not be taken under this section unless the suspect is:

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

73. Where a Magistrate is informed on oath that:

- (a) a suspect is taking precautions to conceal his presence within the local limits of the Magistrate's district; and
- (b) there is reason to believe that the suspect is taking steps with a view to committing an offence, the Magistrate may, in the manner provided in this Part, require the suspect to show cause why he should not be ordered to enter into a recognizance, with sureties, for his good behaviour for such period not exceeding 1 year, as the Magistrate deems fit.

Security for Good Behaviour for Suspect.

Security for Good Behaviour for Habitual Offenders.

74. Where a Magistrate is informed on oath that a suspect within the local limits of his jurisdiction:-

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

Order to be Made.

75. Where a Magistrate acting under section 72, 73, or 74 of this Law considers it necessary to require a suspect to show cause under the sections he shall make an order in writing setting out:

- (a) the substance of the information received;
- (b) the amount of the recognizance to be executed;
- (c) the term for which it is to be in force; and
- (d) the number, character, and class of sureties, if any, required.

Procedure in Respect of Suspect Present in Court.

76. Where the suspect in respect of whom an order is made is present in Court, it shall be read over to him or, if he so desires, the substance of the information shall be explained to him.

Summons or Warrant in Case of Suspect Not Present.

77. (1) Where the suspect is not present in Court, the Magistrate shall issue a Summons requiring him to appear, or, where the suspect is in custody, a warrant directing the officer in whose custody he is to bring him before the court.

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

78. A summons or warrant of arrest issued under section 77 of this Law shall be accompanied by a copy of the order made under section 75 of this Law, and the copy shall be delivered by the officer serving or executing the summons or warrant to the suspect served with or arrested under it.

Copy of
Order under
Section 75 to
Accompany
Summons or
Warrant.

79. The Magistrate may, where he sees sufficient cause, dispense with the personal attendance of a suspect called on to show cause why he should not be ordered to enter into a recognizance for keeping the peace, and may permit him to appear by a legal practitioner.

Power to
Dispense
With Personal
Attendance.

80. (1) Where an order under section 75 of this Law has been read or explained under section 76 of this Law to a suspect in court, or where the suspect appears or is brought before a Magistrate in compliance with or in execution of a summons or warrant issued under section 79 of this Law, the Magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

Inquiry as to
Truth of
Information.

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

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

- (a) a breach of the peace or disturbance of the public tranquility; or
- (b) the commission of any offence or for the public safety; may, for reasons to be recorded in writing,

direct the suspect in respect of whom the order under section 75 of this Law has been made, to enter into a recognizance, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain the suspect in custody until the recognizance is entered into or, in default of execution, until the inquiry is concluded.

(4) For the purpose of subsection (3) of this section:

- (a) suspect against whom proceedings are not being taken under section 71 of this Law shall not be directed to enter into a recognizance for maintaining good behaviour;
- (b) the conditions of the recognizance, whether as to the amount or as to the provisions of sureties or the number of sureties or the pecuniary extent of their liability shall not be more onerous than those specified in the order under section 73 of this Law; and a suspect shall not be remanded in custody under the powers conferred by this section for a period exceeding 15 days at a time.

(5) For the purposes of this section, the fact that a suspect comes within the provisions of section 73 of this Law may be proved by evidence of general repute or otherwise.

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

Order to Give
Security.

81. (1) Where in an inquiry it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the suspect in respect of whom the inquiry is made should enter into a recognizance, with or without sureties, the Magistrate shall make an order accordingly, but:

- (a) a suspect shall not be ordered to give security of a nature different from or of an amount larger than or for a period longer than that specified in the order made under section 74 of this Law;
- (b) the amount of a recognizance shall be fixed with due regard to the circumstances of the case and shall not be excessive;

- (c) where the suspect in respect of whom the inquiry is made is a child, the recognizance shall be entered into as provided in section 180 of this Law.

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

82. Where on an inquiry under section 74 of this Law it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the suspect in respect of whom the inquiry is made should enter into a recognizance, the Magistrate shall make an entry on the record to that effect, and shall, if the suspect is:-

Discharge of
Suspect
Informed
Against.

- (a) in custody only for the purpose of the inquiry, release him; or
- (b) not in custody, discharge him.

PART 6 PROCEEDINGS IN ALL CASES SUBSEQUENT TO ORDER TO FURNISH SECURITY

83. (1) Where a suspect in respect of whom an Order requiring security is made under section 73 of this Law 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 the sentence.

Commencement
of Period for
Which Security is
Required.

(2) In other cases, the period shall commence on the date of the order unless the Court, for sufficient reason, fixes a later date.

84. The recognizance to be entered into by a suspect under section 74 of this Law shall bind him to keep the peace or be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the aiding, abetting, counselling, or procuring the commission, anywhere within the state, of an offence punishable with imprisonment, whatever it may be committed, any time during the continuance of the recognizance, shall be a breach of the recognizance.

Conditions of
Recognizance.

- Power to Reject Sureties. **85.** A Court may refuse to accept a surety offered under any of the preceding sections on the ground that the surety is an unfit person, or for reasons to be recorded by the Court.
- Procedure on Failure of Suspect to Give Security. **86.** Where a suspect ordered to give security does not give the security on or before the date on which the period for which the security is to be given commences, he shall, except in the case mentioned in this section, be committed to prison until the period expires or the period he gives the security to the court that made the order requiring it.
- Power to Release Suspect Imprisoned for Failure to Give Security. **87.** Where a court is of the opinion that a suspect imprisoned for failing to give security may be released without hazard to the community, the Court, may if it deems fit, order the suspect to be discharged.
- Power of High Court to Cancel Recognizance. **88.** The High Court may at any time, for sufficient reasons to be recorded in writing, cancel any recognizance for keeping the peace or for good behavior executed under any of the proceeding sections by order of any lower court.
- Discharge of Sureties. **89.** (1) A surety for the peaceful conduct or good behaviour of another suspect may at any time apply to a court to discharge a recognizance executed under any of the preceding sections within the district or division to which the Court is assigned.
(2) On an application being made, the magistrate shall, if satisfied that there is good reason for the application, issue such summons or warrant, as he thinks fit, requiring the suspect for whom the surety is bound to appear or to be brought before him.
(3) Where the suspect appears or is brought before a Magistrate, the Magistrate after hearing the suspect may discharge the recognizance and order the suspect to give, for the unexpired portion of the term of the recognizance, fresh security for the unexpired portion of the same description as the original security.
(4) An order made under subsection (3) of this section shall, for the purposes of sections 83, 84, 85 and 86 of this Law, be deemed to be an order under section 80 of this Law.

PART 7
PUBLIC NUISANCE

90. Where a court considers, on receiving a police report or other information and on taking such evidence, if any, as it deems fit, that an offence relating to public nuisance is being committed, the Court may make a conditional order requiring the suspect:-

Conditional
Order for
Removal of
Nuisance.

- (a) within a time in the order to cease committing the offence and to amend or remove the cause of the nuisance in such manner as is specified in the order; or
- (b) to appear before the Court at a time and place to be fixed by the order and apply to have the order set aside or modified in the manner hereinafter provided.

91. (1) An order made under section 94 of this Law shall, if practicable, be served on the suspect against whom it is made in the manner provided for the service of a summons.

Service of Order.

(2) Where an Order referred to in subsection (1) cannot be served in the manner laid down in that subsection, it may be served by registered courier, addressed to the suspect against whom it is made at his last known address or, where his last address is not known, then by affixing a notice in some conspicuous place in the town or village or near which the nuisance or offence is being committed.

92. A suspect against whom an Order under section 86 of this Law is made shall:

Suspect to
Whom Order
is Addressed
to Obey or
Appear Before
Court.

- (a) perform, within the time and in the manner specified in the order, the act directed by the order; or
- (b) appear in accordance with the Order and apply to have the order set aside or modified.

93. Where a suspect against whom an order under section 86 of this Law is made does not perform the act specified in the order or appear and apply to have the order set aside or modified, he is liable, where the act:-

Consequences
of Failure to
Obey Order or
to Appear.

- (a) offends public safety, to a fine of not less than One Hundred Thousand Naira (₦ 100,000.00) for an individual or imprisonment for a term of six months and not less than One Million Naira (₦1,000,000.00) or imprisonment for a terms of 6 months in case of a corporate body.
- (b) threatens human life, to a fine of not less than Two Hundred Thousand Naira (₦ 200,000.00) or term of 12 months' imprisonment for an individual and not less than Two Million Naira (₦2,000,000.00) or imprisonment for a term of 12 months in case of corporate body.

Procedure
Where
Suspect
Appears.

94. (1) Where a suspect against whom an Order under section 92 of this Law is made to appear, applies to have the Order set aside or modified, the Court shall take evidence in the matter in the same manner as in a summary trial.

(2) Where the Court is:-

- (a) satisfied that the Order, with or without modification, is reasonable and proper, the court shall make it absolute with such modification, if any, as the Court thinks fit; and

(b) not satisfied, it shall cancel the Order.

Consequences
of Disobedience
to Order Made
Absolute.

95. Where the acts directed by an Order under section 89 of this Law which is made absolute under section 92 or 93

(2) (a) of this Law is not performed within the time fixed and in the manner specified in the Order, the Court may cause it to be performed and may recover the cost of performing it either by:-

- (a) the sale of any building, goods or other property removed by its Order; or
- (b) seizure and sale of any other movable property of the person against whom the order under section 89 of this Law was made in the manner prescribed in this Law for the recovery of a fine.

Order Pending
Inquiry.

96. (1) Where the Court makes an Order under section 89 of this Law and considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further Order

to the suspect against whom the Order was made as is required to obviate or prevent the danger or injury pending the determination of the matter.

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

97. A Court may, in any proceeding under this Part or in any criminal proceeding in respect of a public nuisance, order any suspect not to repeat or continue the public nuisance.

Prohibition of Repetition or Continuance of Nuisance.

PART 8 ATTACHMENT WHERE A PERSON DISOBEYS SUMMONS OR WARRANT

98. A Judge or a Magistrate may, at any time after action has been taken under section 64 of this Law or on an application made in that regard after summons or warrant has been issued but disobeyed, order the attachment of any property, movable or immovable or both, belonging to a suspect the subject of the public summons or warrant.

Attachment of Property of Suspect Absconding.

99. (1) An Order under section 98 of this Law shall authorize a public officer named in it to attach any property belonging to a suspect named in the Order as the owner of the property within the area of jurisdiction of the Judge or Magistrate by seizure or in any other manner by which for the time being the property may be attached by way of civil process.

Order to Attach Property.

(2) Where a suspect who is the subject of an Order does not appear within the time specified in the public summons, the property under attachment shall be at the disposal of the Court.

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

Restoration of
Attached
Property.

100. (1) Where within one year from the date of the attachment, a suspect, whose property is or has been at the disposal of the Court under section 99 of this Law, appears voluntarily or on being arrested is brought to the Court and proves to its satisfaction that he:-

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

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

Issue of Warrant
in Lieu of or in
Addition to
Summons.

101. (1) A Court empowered by this Law to issue a summons for the appearance of a suspect may, after recording reasons in writing, issue a warrant for his arrest in addition to or instead of the summons where:-

- (a) before or after the issue of the summons, the Court sees reason to believe that the suspect has absconded or will not obey the summons; or
- (b) at the time fixed for his appearance, the suspect fails to appear and the summons is proved to have been duly served in time to allow for his appearance and no reasonable excuse is offered for his failure to appear.

(2) A Court empowered by this Law to issue a warrant for the arrest of a suspect may issue a summons in place of a warrant where he thinks fit.

Power to Take
Bond for
Appearance.

102. Where a suspect for whose appearance or arrest a summons or warrant may be issued is present before a court, the Court may require him to execute a bond, with or without sureties, for his appearance before a court.

103. The provisions contained in this Part relating to summonses and warrants and their issue, service and execution shall, so far as may, apply to every summons and every warrant issued under this Law.

Provisions of This Part Generally Applicable to Summons and Warrant.

**PART 9-
PROVISIONS RELATING TO CRIMINAL TRIALS
AND INQUIRIES IN GENERAL**

104. The provisions of this part and parts 10 to 30 of this Law shall apply to all criminal trials and proceedings unless express provision is made in respect of any particular Court or form of trial or proceedings.

Application of Parts 9-30.

105. A Court shall have authority to compel the attendance before it of a suspect who is outside the jurisdiction but is charged with an offence committed within the State.

General Authority to Bring Suspect Before a Court.

106. A person may make a complaint against any other person alleged to have committed or to be committing an offence.

Right of Making Complaint.

107. (1) It is not necessary that a complaint shall be in writing, unless it is required to be so by the Law on which it is founded, or by some other Law, and where a complaint is not made in writing, the registrar of the Court where the complaint is lodged shall reduce it into writing.

Form of Complaint.

(2) Subject to the provisions of section 73 of this Law, a complaint may, unless otherwise required, be made without oath.

(3) A complaint may be made by a complainant in person, or by a legal practitioner representing him, or by any person authorized in writing in that behalf. Provided that the complaint shall not be voided by describing the offence, or any material act relating to it in alternative words according to the language of the Law constituting such offence.

(4) All complaints made to the Court directly under this section may first be referred to the police for investigation before any action is taken by the court provided the referral shall include an order not to detain the suspect before investigation.

(5) After the investigation the police shall refer the matter to the Attorney-General.

(6) Any complaint which is based on a civil cause shall not be entertained save such complaints have obvious criminal elements.

(7) In cases involving financial crimes, the investigation authority may apply to a Court having jurisdiction for an Order Ex-parte seeking to freeze an account under investigation. Provided that:-

- (a) the Ex-parte Order shall abate after 14 days and shall only be renewed for a period not exceeding 14 days.
- (b) where the application is to be made by the police, it shall be made through the office of the Attorney-General;
- (c) nothing shall prevent the person affected by the order from applying for the discharge of the said order by way of motion on notice.

Form of Documents in Criminal Proceedings.

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

Rules as to Exception.

109. Any exception, exemption, proviso, condition, excuse, or qualification may be proved by the defendant, but need not be specified or refuted in the complaint, and where so specified or refuted, no proof in relation to the matter so specified or refuted shall be required on the part of the complaint.

Limitation of Period for a Making a Private Complaint.

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

PART 10
PLACE OF TRIAL OR INQUIRY

111. (1) An offence shall ordinarily be inquired into and tried by a Court within the local limits of its jurisdiction if:-

Venue
Generally.

- (a) the offence was wholly or in part committed, or some act forming part of the offence was done within its jurisdiction;
- (b) the consequence of the offence has ensued within its jurisdiction;
- (c) some offences were committed by reference to which the offence is defined; or
- (d) a person against whom, or property in respect of which, the offence was committed is found, having been transported there by the suspect or by a person having knowledge of the offence.

(2) A criminal charge shall be filed and tried in the division or district where the alleged offence was committed unless it can be shown that it is convenient to do otherwise for administrative, security or other reasons.

112. An offence committed while the suspect is in the course of performing a journey or voyage may be tried or inquired into by a Court in the State, division or district in which jurisdiction the suspect or the person against whom or the thing in respect of which the offence was committed resides, is or passed in the course of that journey or voyage.

Offence
Committed on a
Journey.

113. Where an offence:-

- (a) is commenced in the State and completed in another State, or
- (b) is completed in the State after being commenced in another State, the suspect may be tried and punished as if the offence had actually or wholly been committed in the State.

Offences
Commenced
and
Completed in
Different
States.

114. Where a question arises as to which of the two or more Courts of the State ought to inquire into or try any offence, it shall be decided by the Chief Judge.

Chief Judge
to Decide
Question as
to Court of
Inquiry or
Place of Trial.

Chief
Judge/Grand
Kadi May
Transfer
a Case.

115. (1) The Chief Judge or Grand Kadi may, where it appears to him that the transfer of a case will promote the end of justice or will be in the interest of public peace, transfer any case from one Court to another.

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

(3) Where the Chief Judge or Grand Kadi is to exercise this power subsequent to a petition, the Chief Judge or Grand Kadi shall cause the petition to be investigated by an independent body within one week of receipt of such petition.

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

When Cases
May be Remitted
to Another Court.

116. A Court before which a person charged with having committed an offence is brought shall, where:-

(a) the offence ought to be properly inquired into or tried by another court; or

(b) in the opinion of the Court, the offence ought to be conveniently inquired into or tried by another Court, within a reasonable period not exceeding 5 days, send the case and all processes relating to the case to the head of court for re-assignment to that other court, and where appropriate, remand the defendant charged in custody or require him to give security for his attendance before that other court to answer the charges and to be dealt with accordingly.

Removal Under
Warrant.

117. (1) Where a suspect is to be remanded in custody, a warrant shall be issued by the remitting Court and that warrant shall be sufficient authority to any person to whom it is directed:

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

118. Where a suspect is:-

- a) in custody and the court directing a transfer thinks it expedient that the custody should be continued; or
- b) not in custody, that he should be placed in custody;

the Court shall, by its warrant, commit the suspect to prison for a period not exceeding 14 days, subject to such security as it may deem appropriate in the circumstances, until he can be taken before a court wherein the cause of complain arose, or is to be dealt with.

Transfer of Case
Where Cause of
Complaint Has
Arisen Out of
Jurisdiction of
Court.

119. (1) Notwithstanding the provisions of sections 111 and 115 of this Law, a Judge or Magistrate of a division or district in which a suspect:-

- (a) is arrested and charged with an offence, alleged to have been committed in another division or district;
 - (b) is in custody on the charge; or
 - (c) has appeared in answer to summons lawfully issued charging the offence;
- may, where he considers that justice would be better served and having regards to the accessibility and convenience of the witness, proceed to hear the charge, try and punish the suspect 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.

Court may
Assume
Jurisdiction
Under Certain
Condition.

120. Where a case is commenced in any other division or district than that in which it ought to have been commenced, the Court may assume jurisdiction in accordance with the provisions of section 119 of this Law and all acts performed and all decisions given by the court during the trial or any other proceeding shall be deemed to be valid in all respect as if the jurisdiction had been assumed prior to the performance of the acts and the giving of the decisions.

Assumption of
Jurisdiction
After
Commencement
of Proceedings

PART 11-

POWERS OF THE ATTORNEY-GENERAL

Charge by the Attorney-General.

121. (1) The Attorney-General may prefer a charge in any Court in respect of an offence created by a Law of the State House of Assembly.

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

Issuance of Legal Advice and Other Directives to Police.

122. (1) The Attorney-General may issue legal advice or such other directions to the Police in respect of an offence created by a Law of the State House of Assembly.

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

(3) The Attorney-General may request from the Police or any other agency for the case file in any matter and Police or other agency shall immediately send the case file as requested.

Prosecution of Offences.

123. (1) In pursuance of the provisions of the Constitution relating to the powers of prosecution by the Attorney-General, the prosecution of all offences in any Court shall be undertaken by:-

- (a) the Attorney-General or a Law officer in his ministry or department;
- (b) a legal practitioner authorized by the Attorney-General; and
- (c) a legal practitioner authorized to prosecute by this Law or any other Law of the State.

(2) Nothing in this section shall prevent a Police Officer from prosecuting any offence triable by any Magistrate's Court.

**PART 12 –
CONTROL OF CRIMINAL PROCEEDINGS BY THE
ATTORNEY-GENERAL**

124. (1) In any criminal proceedings for an offence created by a Law of the State, and at any stage of the proceedings before judgment, the Attorney-General may discontinue the proceedings either by stating in Court or informing the Court in writing that the Attorney-General intends that the proceedings should be discontinued and, the suspect shall immediately be discharged in respect of the charge or information for which the discontinuance is entered.

Discontinuance
of Criminal
Cases.

(2) Where the suspect:-

- (a) has been committed to prison, he shall be released; or
- (b) is on bail, the recognizance shall be discharged.

(3) Where the suspect is not:-

- (a) before the Court when the discontinuance is entered the Registrar or other officer of the Court shall immediately cause notice in writing of the entry of the discontinuance to be given to the officer in charge of the prison or other place in which the suspect is detained and the notice shall be sufficient authority to discharge the suspect; or
- (b) In custody, the Court shall immediately cause notice in writing to be given to the suspect and his sureties and shall in either case cause a similar notice in writing to be given to any witness bound over to testify.

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

125. (1) In any trial or proceedings before a Court, a Prosecutor may, on the instruction of the Attorney-General at any stage before judgment is pronounced, withdraw the charge against any defendant either generally or in respect of one or more of the offences with which the defendant is charged.

Withdrawals From
Prosecution in
Trials and
Inquiries Before a
Court.

(2) Where the withdrawal is made:-

- (a) before the defendant is called upon to make his defence, he shall be discharged of the offence; and

(b) after the defendant is called upon to make his defence, he shall be acquitted of the offence.

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

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

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

PART 13

INSTITUTION OF PROCEEDINGS

Different
Methods of
Instituting
Criminal
Proceedings.

126. Subject to the provisions of this Law and any other Law, criminal proceedings may be instituted:-

- (a) in a Magistrate Court or Sharia Court, by a complaint whether or not on oath or upon receiving a First Information Report;
- (b) in the High Court, by a charge filed by or on behalf of the Attorney-General subject to Section 121 of this Law;
- (c) by a charge filed in the Court after the defendant has been summarily committed for perjury by a Court under the provisions of this Law;
- (d) by a charge filed in the Court by any other prosecuting authority;
- (e) by a charge filed by a private prosecutor subject to the provisions of this Law; or
- (f) Upon the receipt of complaint by the Attorney General.

Mode of Instituting
Criminal
Proceedings in a
Magistrates'
Court.

127. (1) Criminal proceedings instituted in a Magistrate Court may be:-

- (a) by bringing a suspect arrested without a warrant

before the court on a complaint specifying the name, address, age, sex and occupation of the suspect charged; the charge against him and the time and place where the offence is alleged to have been committed; and the charge sheets shall be signed by any of the persons mentioned in section 123 of this Law;

- (b) upon receiving a First Information Report on the commission of an offence for which the police are authorized to arrest without a warrant and which may be tried by the court within the jurisdiction where the police station is situate; the particulars in the report shall disclose the offence for which the complaint is brought and shall be signed by the police officer in charge of the case; or
 - (c) subject to the provision of section 106 of this Law, by complaint to the Court, whether or not on oath, that an offence has been committed by a suspect whose presence the Magistrate has power to compel, and an application to the Magistrate, in the manner set out in this section for the issue of either a summons directed to, or a warrant to arrest, the suspect.
- (2) The charge sheet filed by the prosecution shall be served on the defendant within seven days of its being filed or such time as the court may allow.
- (3) The trial of a charge preferred under subsection (1) (a) and (b) of this section shall commence not later than 30 days from the date of filing the charge, and the trial of the person brought under the charge shall be completed within a reasonable time.
- (4) Where a charge is preferred under subsection (1) (a) and (b) of this section and the trial does not commence within 30 days of bringing the charge, or trial has commenced but has not been completed after 90 days of remand on that charge, the Court shall forward to the Chief Judge or Grand Kadi, as the case may be, the particulars of the charge and reasons for failure to commence the trial or to complete the trial.
- (5) A Court seized of criminal proceedings shall make quarterly returns of the particulars of all cases, including

charges, remand and other proceedings commenced and dealt with in his Court within the quarter, to the Chief Judge.

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

- (a) criminal matters are speedily dealt with;
- (b) congestion of cases in courts is drastically reduced;
- (c) congestion of prisons is reduced to the barest minimum;
- (d) persons awaiting trial are, as far as possible, not detained in prison custody for a length of time beyond a reasonable period contemplated under this Law.

(7) The Justice Sector Reform Team, shall have power to consider all returns made to the Chief Judge under subsections (4) and (5) of this section for the purpose of ensuring expeditious disposal of cases and the National Human Rights Commission shall have access to the returns on request to the Chief Judge.

128. (1) The Comptroller of Prisons shall make returns every 90 days to the Chief Judge and to the Attorney-General of all persons awaiting trial held in custody in the prisons in the State for a period beyond 90 days from the date of remand.

Returns by
Comptroller of
Prisons.

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

- (a) the name of the suspect held in custody or awaiting trial persons;
- (b) passport photograph of the suspect;
- (c) the date of his arraignment or remand;
- (d) the date of his admission to custody;
- (e) the particulars of the offence with which he was charged;
- (f) the courts before which he was remanded;
- (g) name of the prosecution agency;
- (h) name of the prosecutor; and
- (i) any other relevant information.

(3) upon receipt of such returns, the recipient shall take such steps as are necessary to address the issues raised in the return in furtherance of the purpose of this Law.

PART 14

FIRST INFORMATION REPORT

Procedure for
Receiving
Complaint and
First Information
Report.

129. (1) Where a complaint is brought before a Police Officer in charge of a police station concerning the commission of an offence and is:-

- (a) one for which the police are authorized to arrest without a warrant; and
- (b) triable by a Magistrate Court within which jurisdiction the police station is situate, the police shall, if the complaint is made orally, reduce the complaint or cause it to be reduced into writing in the Police Diary.

(2) The complaint, whether given in writing or orally shall be reduced in writing into the Police Diary and read or cause to be read over to the complainant and shall be signed by the officer receiving the complaint.

(3) where on any other ground the officer in charge of a police station, has reason to suspect the commission of an offence referred to in subsection (1), he shall enter or cause to be entered the grounds of his suspicion in a Police Diary.

(4) Where the officer is satisfied that no public interest may be served by prosecuting, he may refuse to accept the complaint provided that he notifies the complainant of his right to complain to a Court under the provisions of this Law.

(5) Notwithstanding the provision of subsection (2) of this section, the officer in charge of a police station may, if in his opinion the matter might more conveniently be inquired into by an officer in charge of another police station, refer the complaint to such other police station.

(6) After complying with the provisions of this section, the officer in charge of the police station shall:-

- (a) forthwith proceed to the scene and investigate the case and if the suspect is not in custody, take such steps as may be necessary for the discovery and arrest of the suspect or he may direct a police officer subordinate to him to do so and report to him;
- (b) in cases involving death or serious injury to any person, the officer in charge of the police station or any other person shall arrange, if possible, for the person to be taken to the nearest hospital for such further examination as may be necessary;

- (c) where the complaint is given against a person by name and the alleged offence is not of a serious nature, the officer in charge of a police station need not make or direct investigation on the spot;
- (d) in the cases mentioned in paragraph (c) of this subsection, the officer in charge of a police station shall record in the police diary and in the first information report to the court his reason for not entering on an investigation or for not making or directing investigation on the spot or not investigating the case at all;
- (e) where after the investigation, it appears that the complaints against the suspect are unfounded, the investigation shall be terminated and this fact shall be recorded in the Police Diary mentioned in subsection (2) of this section; and
- (f) where the officer considers that the prosecution of the alleged offence will serve the public interest, the officer shall reduce the complaint into the prescribed form called First Information Report and the officer shall take the alleged suspect with the First Information Report before a Magistrate within whose jurisdiction the police station is situate;

Provided that the First Information Report has been directed by the Chief Registrar or designated Chief Magistrate or Upper Sharia Court Judge as the case may be.

(7) Where the suspect appears or is brought before the Magistrate Court, the particulars of the offence of which he is defendant shall be read to him and he shall be asked if he has any cause to show why he should not be tried by the Magistrate.

(8) Where upon hearing the information, the alleged suspect admits the commission of the offence contained in the First Information Report, his admission shall be recorded as near as possible in the words used by him and if he shows no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly and, in that case, it shall not be necessary to frame a formal charge.

Provided that the magistrate is satisfied that the fact disclosed on the First Information Report constitutes an offence.

(9) Where the suspect denies the allegation against him and states that he intends to show cause why he should not be convicted, the Magistrate shall proceed to hear the complainant and take such evidence as may be produced in support of the prosecution and the suspect shall be at liberty to cross-examine the witnesses for the prosecution and if he so does, the prosecutor may re-examine the witnesses where necessary.

(10) Where the evidence referred to in subsection (9) of this section has been taken or at any stage of the case, the Magistrate is of the opinion that there is ground that the suspect has committed an offence triable under this part, which such Magistrate court is competent to try and which, in the opinion of the Magistrate, could be adequately punished the Magistrate shall frame a charge stating the offence and direct that the suspect be tried by the court or direct that the suspect be tried in another Magistrate court.

(11) Where in the proceedings before a Magistrate Court, the Court, at any stage before judgment, is of the opinion that the case is one which ought to be tried by the High Court, he shall transfer the case along with the suspect to a High Court for trial upon a charge in accordance with the provisions of this Law.

PART 15

ENFORCING APPEARANCE OF SUSPECTS

Compelling
Appearance of a
Suspect.

130. (1) Process to compel the attendance of a defendant shall ordinarily be by a summons or a warrant of arrest as may in the opinion of the court be issued according to the fourth column of Appendix 'A' issue in the first instance.

(2) When a summons is issued the court may if it sees reason to do so dispense with the personal attendance of the accused: Provided that:-

- (a) he is represented by counsel; or
- (b) he pleads guilty in writing.

(3) Notwithstanding the provisions of sub-section (2), the

court shall not sentence him without adjourning for his personal attendance.

131. (1) Subject to the provisions of Section 107 of this Law, a person who believes from a reasonable or probable cause that an offence has been committed by another person whose appearance a Magistrate has power to compel, may make a complaint of the commission of the offence to a Magistrate who shall consider the allegation of the complaint and may:-

Making of
Complaint and
Issue of
Process.

(a) in his discretion, refuse to issue process and shall record his reasons for such refusal; or

(b) issue a summons or warrant as he shall deem fit to compel the attendance of the defendant before a Magistrate Court in the district.

(2) The Magistrate shall not refuse to issue a summons or warrant only because the alleged offence is one for which a suspect may be arrested without warrant Provided that where there are two or more Magistrate Courts, the receiving Magistrate, upon receiving an information which he considers to be credible, may direct the appropriate Police Station to investigate and upon making the First Information Report, same shall be taken to a Chief Registrar or any other designated officer for direction.

PART 16-

ISSUE, FORM AND SERVICE OF SUMMONS

132. A summons may be issued or served on any day, including a Sunday or public holiday.

Issue of
Summons and
Service.

133. Where a complaint is made before a Magistrate as provided in section 129 of this Law and the Magistrate decides to issue a summons, the summons shall be directed to the suspect, stating concisely the substance of the complaint and requiring him to appear at a certain time and place not later than 48 hours after the service of the summons before the Court to answer to the complaint and to be further dealt with according to Law.

Issue of
Summons and
its Contents.

134. An application for a summons under this Law shall be made *ex-Parte* to the Court or to such other officer as the Chief Judge may specify, from time to time.

Application for
Summons to be
Made ex- parte.

- Summons to be in Duplicate. **135.** A summons issued by a Court under this Law shall be in writing, made in duplicate, signed by the presiding officer of the Court or by such other judicial officer as the Chief Judge may specify, from time to time.
- Service of Summons. **136.** A summons shall be served by a police officer or by another officer of the Court issuing it or other public officer, by e-mail or through a courier service company duly registered with the Chief Judge as a process service agent of the Court under this Law.
- Normal Methods of Effecting Service. **137.** The person effecting service of a summons shall effect it by delivering it on:-
 (a) an individual, to him personally; or
 (b) a firm or corporation;
 (i) to one of the partners,
 (ii) to a Director,
 (iii) to the Secretary,
 (iv) to the chief agent within the jurisdiction,
 (v) by delivering it at the principal place of business in Nigeria of the firm or corporation, or
 (vi) to anyone having, at the time of service, control of the business of the firm;
 (c) a Local Government Council, in accordance with the Local Government Law;
 (d) the Commissioner of Police of the State; or the Divisional Police Officer within the jurisdiction of the issuing Court;
 (e) any State Government Ministry, Department or Agency, to the Attorney- General or to the Legal Department or Legal Adviser of such Ministry, Department or Agency; and
 (f) any arm of the armed forces, to the Director of Legal Services of the Service or Command concerned.
- Service Where Person Summoned Cannot be Found. **138.** Where service in the manner provided by section 137(a) of this Law 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 or works, and on doing so the summons shall be deemed to have been duly served.

139. (1) Where a public officer is to be served with a summons, the serving officer may send it in duplicate to the officer in charge of the department in which the person is employed for the purpose of being served on the person, if it appears to the court that it may be most conveniently so served.

Service on
Public Officers.

(2) The officer in charge of the department shall, on receiving the summons, cause it to be served in the manner provided by section 137 (a) of this Law and shall return the duplicate to the Court under his signature, with the endorsement required by section 138 of this Law, which signature shall be evidence of the service.

140. Where a Court issues a summons to a person outside its jurisdiction, the summons shall be sent in duplicate to a Court in whose jurisdiction the person resides or works.

Service Outside
Jurisdiction of
the Court.

141. Where the officer who served a summons is not present at the hearing of the case, proof of service may be done by endorsement on a duplicate of the summons and by an affidavit showing when and how the service was effected.

Proof of
Service When
Serving
Officer not
Present.

142. (1) Where a summons has been served on the person to whom it is addressed or is delivered to any other person, the person to whom it is addressed or the person to whom it is delivered, as the case may be, shall acknowledge receipt at the back of the duplicate.

Receipt of
Service of
Summons.

(2) Where service is not effected by delivering the summons to an individual but by some other method under this Law, the person effecting service shall endorse on the

duplicate particulars of the method by which he effected service.

Person Refusing to Sign Receipt May be Arrested.

143. A person who is required to sign a receipt on the back of a duplicate summons to the effect that he has received the summons and fails to sign the receipt may be:-

- (a) arrested by the person with powers of arrest under this Law and taken before the Court which issued the summons; or
- (b) detained in custody or committed to prison for such time not exceeding 14 days as the Court may deem fit.

Proof of Service.

144. An affidavit or declaration made before a Court by the serving officer or by a witness to the service or return slip of a registered courier service company that a summons has been served and a duplicate of the summons endorsed, by the person to whom it was delivered or tendered or with whom it was left is admissible in evidence and the statements made in it is deemed to be correct unless the contrary is proved.

Summons Disobeyed, Warrant May be Issued.

145. Where the Court is satisfied that the suspect has been served with a summons and the suspect does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under this Law, the Court may issue a warrant for his arrest and production before the court.

PART 17 – MISCELLANEOUS PROVISIONS REGARDING PROCESSES

Irregularities in Summons, Warrant, Service or Arrest.

146. Where a defendant is before a Court, whether voluntarily, or on summons, or after being arrested with or without warrant, or while in custody for the same or any other offence, the trial may be held notwithstanding:-

- (a) any irregularity, defect, or error in the summons or warrant, or the issuing, service, or execution of the summons or warrant;

- (b) the want of any complaint on oath; or
- (c) any defect in the complaint, or any irregularity in the arrest or custody of the defendant.

147. (1) If any court or Justice of the Peace not empowered by Law to do any of the following things namely:-

Irregularities
Which Vitiates
Proceedings.

- (a) to issue a search warrant under section 153;
- (b) to direct, the police to investigate an offence under section 131; or
- (c) to take cognizance of an offence, erroneously in good faith does any such thing, the proceedings shall not be set aside merely on the ground that the court or justice of the peace was not so empowered.

(2) If any court or Justice of the Peace not empowered by Law, does any of the following things, namely:-

- (a) attaches and sells property under section 99;
- (b) demands security to keep the peace;
- (c) demands security for good behaviour;
- (d) discharges a person lawfully bound to be of good behaviour;
- (e) cancels a bond to keep the peace;
- (f) makes an order under section 90 as to a public nuisance;
- (g) prohibits, under section 97, the repetition or continuance of a public nuisance;
- (h) tries an offender; or
- (i) decides an appeal, such proceedings shall be void.

148. A variance between the charge contained in the summons or warrant and the offence alleged in the complaint, or between any of them and the evidence adduced on the part of the prosecution, shall not affect the validity of any proceedings.

Variance
Between
Charge and
Complaint.

149. A summons, warrant of any description or other process issued under a Law shall not be invalidated by reason of the fact that the person who signed the summons or warrant is dead, ceases to hold office or no longer has jurisdiction.

Process Valid
Notwithstanding
Death or
Vacation of
Office of Person
Issuing.

PART 18-

SAVING OF VALIDITY OF PROCESS

150. (1) A warrant of committal shall not be held void by reason of any defect in it, where it is alleged that the defendant has been convicted or ordered to do or abstain from doing an act or a thing required to be done or left undone and there is a good and valid order to sustain the warrant.

Validity of
Process:
Warrant of
Commitment
and Warrant of
Distress.

(2) A warrant of distress shall not be held void by reason of any defect, where it is alleged that an Order has been made and there is a good and valid ground to sustain the order, and a person acting under a warrant of distress is not deemed a trespasser by reason of any defect in the warrant or of any irregularity in the execution of the warrant.

(3) This Law shall not prejudice the right of a person to compensation for any special damage caused by defect or irregularity in the execution of a warrant of distress.

151. (1) All summonses, warrant of every description and process of whatever 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) of this section, a warrant or summons may be addressed to a person by name or to an officer by his official designation.

(3) Where a warrant of arrest is addressed to the Sheriff the warrant may be executed by a police officer or officer of a Court or any other Law Enforcement Agent assigned by the Court.

152. The provisions contained in this Law in respect of warrants of arrest, and the provisions contained in this Part relating to summonses, warrants of any description and other process and their issuance, service, enforcement and execution shall, so far as may be, apply to every summons, warrant of any description and other process issued in respect of matters within the criminal jurisdiction of the Court.

Certain
Provisions
Applicable to All
Summonses
and Warrants in
Criminal
Matters.

**PART 19 –
SEARCH WARRANTS**

Application for
Search
Warrant.

153. Where an investigation under this Law is being made by a Police Officer, he may apply to a Court within the local limits of whose jurisdiction he is for the issuance of a search warrant.

Cases in
Which Search
Warrants May
be Issued.

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

- (a) anything upon or in respect of which any offence has been or is suspected to have been committed;
- (b) anything for which there is reasonable ground of believing will provide evidence to the commission of an offence; or
- (c) anything for which there is reasonable ground for believing is intended to be used for the purpose of committing an offence, the Court may at any time issue a warrant authorizing an officer of the Court, a member of the police force, or other person named to act in accordance with subsection (2) of this section.

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

- (a) search such building, ship, carriage, receptacle, motor vehicle, aircraft or place for any such thing, and to seize any such thing until further proceeding before the Court issuing the search warrant or some other Court to be dealt with according to Law; and
- (b) arrest the occupier of the house or place where the thing was found where the Court deems so fit to direct on the warrant.

Discharge of
Suspected
Person.

155. Where the occupier of any building or the person in whose possession a thing named in a search warrant is found and is brought before a Court and a complaint is

not made that he has committed an offence, the Court shall immediately discharge him.

156. (1) A search warrant shall be under the hand of the Judge or Magistrate issuing it.

Search Warrant to be Signed by Judge or Magistrate.

(2) A warrant shall remain in force until it is executed or cancelled by the Court which issued it.

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

Search Warrant to Whom Directed.

158. A search warrant may be issued and executed at any time, on any day, including a Sunday or public holiday.

Time When Search Warrant May be Issued and Executed.

159. (1) Where any building or other thing or place liable to search is closed, a person residing in or being in charge of the building, thing or place shall, on demand of the police officer or other person executing the search warrant, allow him free and unhindered access to it and afford all reasonable facilities for its search.

Person in Charge of Closed Place to Allow Access.

(2) Where access into the building, thing or place cannot be so obtained, the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 35 and 37 of this Law.

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

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

(5) A list of all things found on his person and seized shall be drawn up by the person carrying out the search and shall be signed or sealed by the person to whom the

search warrant is addressed, the person executing the search warrant, the witnesses and a copy thereof shall be delivered to the person searched.

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

(7) In all cases where search is authorized by this section, the person conducting the search or the person to be searched may require that the search be recorded by an electronic retrievable device and such recording may be admitted in evidence.

Occupant of
Place Searched
May Attend.

160. The occupant of a place searched or some person on his behalf shall be permitted to be present at the search and shall, receive a copy of the list of things seized, signed or sealed by the witnesses, if any.

Execution of
Search Warrant
Outside
Jurisdiction.

161. A person executing a search warrant beyond the jurisdiction of the Court issuing it may, if he so requires before doing so, apply to the Court within whose jurisdiction search is to be made and shall act under its directions.

Magistrate May
Direct Search in
His Presence.

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

Detention of
Articles
Recovered.

163. (1) Where upon the execution of a search warrant anything referred to in section 154 of this Law is recovered; it may be detained by the police, taking reasonable care that it is preserved until the trial or any further proceeding.

(2) A list of all things recovered in the course of search and of the places in which they were found shall be drawn up by the person carrying out the search in accordance with section 159 (5) of this Law and a copy of the list forwarded to the Judge, Magistrate who issued the warrant for his information with indication as in the

prescribed form set out in the Appendix D to this Law on the search warrant of the things:-

- (a) seized, detained or caused to be detained; and
- (b) items that were seized but have been released to the owner.

(3) Where a defendant is charged to Court with an offence and he was discharged and no appeal or further proceedings is pending in relation to an item recovered during a search, the police shall:-

- (a) restore to the person who appears to be entitled to them; and
- (b) where he is the defendant, cause to be restored to him or to his legal practitioner or to such other person as the defendant may direct.

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

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

164. Where a thing seized under a search warrant is of a perishable or noxious nature, it may be disposed of in such manner as the Court may direct.

Perishable
Articles May be
Disposed of by
Court.

165. Where 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 has powers and protection as are given by a Law for the time being in force to a person lawfully authorized to search for the thing, the thing shall be disposed of in the same manner as directed by the Law, or in the absence of the direction, as the Court may either generally or in any particular instance order.

Search For and
Disposal of
Gunpowder.

166. Where in consequence of the execution of a search warrant, there is brought before a Court any forged banknote, banknote paper, counterfeit currency,

Disposal of
Counterfeit
Currency and
Other Thing.

instrument, or other thing for forgery or counterfeiting, the possession of which in the absence of lawful excuse is an offence, the Court may cause the thing to be defaced or destroyed.

Transmission
to Court of
Other State.

167. Where a search warrant is issued in respect of an offence against the Law of the State and a summons has been issued for that offence or any person has been charged with that offence before a Court, the Court issuing the search warrant may, except he has disposed of the thing in accordance with section 164(4) of this Law, transmit anything seized and brought before him to that Court and in relation to anything so transmitted, the functions conferred on a Magistrate by this Law shall be exercised by that Court instead of the Magistrate who issued the search warrant.

PART 20-

BAIL AND RECOGNIZANCE GENERALLY

General
Entitlement to
Bail.

168. When a person who is suspected to have committed an offence or is defendant of an offence is arrested or detained, or appears or is brought before a Court, he shall, subject to the provisions of this Part, be entitled to bail.

Power of Court to
Order Person in
Custody to be
Brought Before it.

169. (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.

(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.

Recognizance
by Parent or
Guardian of a
Child.

170. (1) Where a child is arrested with or without warrant and cannot be brought forthwith before a Court, the police officer in charge for the time being of the police station to which the child is brought, shall inquire into the case and shall except:-

- (a) the charge is one of homicide;
- (b) the offence charged is punishable with imprisonment for a term exceeding three years;
- (c) it is necessary in the interest of the child to remove him from association with any reputed criminal or prostitute; and
- (d) release the child on a recognizance entered into by his parent or guardian, with or without sureties.

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

171. (1) A suspect arrested, detained or charged with an offence punishable with death shall not be released on bail. He may, however be admitted to bail by a Judge of the High Court only under exceptional circumstances.

Bail where a
Suspect is
Charged With
Capital Offence.

(2) A Judge of the Upper Sharia Court may also exercise the powers conferred by subsection (1) of this section if the defendant is tried by him.

(3) 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 two years; or
- (c) any other circumstances that the Judge may, in the particular facts of the case, consider exceptional.

172. A defendant charged with an offence punishable with imprisonment for a term exceeding three years may, on application to the Court, be released on bail except in any of the following circumstances:-

Bail 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) attempts to evade his trial;
- (c) attempts to influence, intimidate witness, and/or interfere with the investigation of the case;
- (d) attempts to conceal or destroy evidence;
- (e) undermines or jeopardizes the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.

Bail where a Defendant is Charged With Offence Not Exceeding Three Years Imprisonment.

173. In any circumstance other than those referred to in sections 170 and 172 of this Law, the defendant shall be entitled to bail, unless the Court sees reasons to the contrary.

Bail in Respect of Matters in Other Offences.

174. Where a defendant is brought before a Court on any process in respect of any matter not included within sections 168 to 172 of this Law, the person may, at the discretion of the Court, be released on his entering into recognizance, in the manner provided in this Law, for his appearance before the Court or any other place at the time and place mentioned in the recognizance.

Conditions for Bail.

175. (1) The conditions for bail in any case shall be at the discretion of the Court with due regard to the circumstances of the case and shall not be excessive.

(2) In cases involving financial dishonesty, the Court may require the deposit of a sum of money or other security as the Court may specify from the defendant or his surety before the bail is approved.

(3) The money or security deposited shall be returned to the defendant or his surety or sureties, as the case may be, at the conclusion of the trial or on an application by the surety to the Court to discharge his recognizance.

Recognizance in Respect of a Child.

176. Where in any case the defendant in respect of whom the Court makes an order requiring that a recognizance be entered into is a child shall not execute the recognizance but the Court shall require a parent, legal guardian or other fit person, with or without sureties, to enter into a recognizance that the child shall do what is required under the Court's order.

177. (1) A defendant admitted to bail may be required to produce such surety or sureties as, in the opinion of the Court, will be sufficient to ensure his appearance as and when required. Sureties.

(2) The defendant or his surety or sureties may be required to enter into recognizance, accordingly.

(3) A person shall not be denied, prevented or restricted from entering into a recognizance or standing as surety for any defendant or applicant on the ground only that the person is a woman.

178. A Judge of a High Court may direct that the:-

- (a) bail conditions required by a Magistrate or police officer be reviewed; or
- (b) defendant in custody in the State be admitted to bail.

Judge may vary
Bail Fixed by
Magistrate or
Police.

179. Where a defendant has been admitted to bail and circumstances arise which, in the opinion of the Attorney-General would justify the Court in cancelling the bail or requiring a greater amount, a Court may, on application being made by the Attorney-General of the State, issue a warrant for the arrest of the defendant and, after giving the defendant an opportunity of being heard, may commit him to prison to await trial, or admit him to bail for the same or an increased amount.

Reconsideration
of Bail.

180. (1) The terms of recognizance fixed by the Court in respect to any surety or sureties shall be processed in the Court.

Before Whom
Recognizance
May be
Executed.

(2) The recognizance as mentioned in subsection (1) of this section may be entered into by the parties before any other Court, any registrar, superior police officer, officer in charge of a police station or any official in charge of a prison.

(3) Recognizance entered into as prescribed in subsection (2) of this section shall have the same effect as if they have been entered into before that Court.

Release on
Execution of
Recognizance.

181. (1) As soon as recognizance has been entered into in accordance with the provisions of section 180 of this Law or money or other security deposited in the registry of the Court:-

- a) the defendant for whose appearance it has been entered into or security executed shall be released; and
- b) where he is in prison or police station or other place of detention, the Court admitting him to bail shall immediately issue a written Order of release to the official in charge of the prison or such other place of detention and the official on receipt of the Order shall immediately release him.

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

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

Mode of
Entering into
Recognizance.

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

Continuous Bail.

183. (1) Where a defendant is released on bail, the recognizance may be conditioned for his appearance at every time and place to which, during the course of the proceedings, the hearing may from time to time be adjourned.

(2) The Court may, where the circumstances appear just:-

- (a) vary the Order of release on bail of the defendant at any subsequent hearing; and
- (b) at any subsequent stage of any proceeding, cause a defendant who has been released on bail to be arrested and be committed to custody;

Provided that the Judge shall state in his records the reason for the variation of the Order or Committal of the defendant.

184. Where an application is made before the Court by information on oath by a complaint, surety or other person that a defendant bound by recognizance to appear before a Court or police officer:-

- (a) is about to leave the State; or
- (b) for the purpose of evading justice, is about to leave or has left the division or district of the Court before which he is to appear or in which he normally resides, the Court may cause him to be arrested and may commit him to prison until the trial, unless the Court considers it fit to admit him to bail on further recognizance.

Defendant Bound
by Recognizance
to Appear Before
Court or Police
May be
Committed to
Prison.

185. 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 Court, may:-

- (a) on the circumstances being brought to its notice by Law officer or police, issue a warrant for the arrest of the defendant; and
- (b) after giving him an opportunity of being heard, commit him to prison to await trial or admit to bail for the same or an increased amount as the Court may deem just.

Reconsideration of
Amount of Bail on
Application by Law
Officer or Police.

186. Where at any time after a recognizance has been entered into, it appears to the Court that for any reason the surety or sureties are unsuitable, the Court may:-

Variation of a
Recognizance if
Surety Unsuitable.

- a) issue a summons or warrant for the appearance of the principal; and
- b) on his coming to the Court, order him to execute a fresh recognizance with other surety or sureties, as the case may be.

Discharge of Sureties.

187. (1) All or any of the sureties to a recognizance may at any time apply to the Court which caused the recognizance to be taken to discharge the bond either wholly or so far as relates to the applicant.

(2) On an application under subsection (1) of this section, the Court shall issue a warrant for the arrest of the defendant on whose behalf the recognizance was executed and on his appearance shall discharge the recognizance either wholly or so far as relates to the surety and shall require the defendant to find other sufficient sureties or meet some other conditions and if he fails to do so, may make such order as it considers fit.

Order of Fresh Security Upon Original Order.

188. Where a surety to a recognizance becomes insolvent or dies or where a recognizance is forfeited, the Court may order the defendant from whom the recognizance was demanded to furnish fresh security in accordance with the directions of the original order and, if the security is not furnished, the Court may proceed as if there had been default in complying with the original order.

Forfeiture of Recognizance.

189. (1) Where it is proved to the satisfaction of the Court by which a recognizance has been taken or, when the recognizance bond is for appearance before a Court and it is proved to the satisfaction of the Court that a recognizance has been forfeited, the Court shall record the grounds of proof and may call on any person bound by the bond to pay the penalty thereof or to show why it should not be paid.

(2) Where sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the

penalty from a person bound or from his estate if he is dead, in the manner laid down in this Law for the recovery of fines.

(3) A surety's estate shall only be liable under this section if the surety dies after the recognizance is forfeited.

(4) When the penalty is not paid and cannot be recovered in the manner provided in this Law, the person bound shall be liable to imprisonment for a term not exceeding six months.

(5) The Court may at its discretion remit any portion of the penalty and enforce payment in part only.

190. The Court may at any time cancel or mitigate the forfeiture, on the person liable under the recognizance applying and giving security to the satisfaction of the Court, for the future performance of the condition of the recognizance and paying, or giving security for the payment of the costs incurred in respect of the forfeiture or on such other conditions as the Court may consider just.

Mitigation of
Forfeiture.

191. Where a defendant required by a Court to find sufficient sureties fails to do so, the Court, shall unless it is just and proper in the circumstances, make some other order in the case of a defendant:-

Where
Defendant
Fails to Find
Surety.

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

192. (1) Where a recognizance to keep the peace and be of good behavior or not to do or commit some act or thing, has been entered into by a defendant as principal or as surety before a Court, a Court, on proof that the person bound by the recognizance as principal has been convicted of an offence which is by Law a breach of the condition of the recognizance, may order that the:-

Forfeiture on
Conviction.

- (a) recognizance be forfeited; and
- (b) persons bound by it, whether as principal or as sureties or any of those persons, shall pay the sums for which they are respectively bound.

Where
Recognizance
Forfeited Warrant
May be Issued.

193. Where a recognizance is ordered to be forfeited, the Court having jurisdiction over the matter, may, immediately or at any time after the order, issued a warrant of committal against a person liable, whether as principal or surety under the recognizance, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set out in this Law except the amount due under the recognizance is paid.

Arrest on Failure
to Appear.

194. Where a defendant who is bound by a recognizance or bond to appear before a Court or police station does not so appear, the Court may issue a warrant for his arrest.

Payment on
Recognizance.

195. All sums paid or recovered in respect of a recognizance order by a Court in pursuance of section 189 of this Law to be forfeited shall be paid to the Treasury and a receipt issued which shall be produced in Court as evidence of payment.

Appeal.

196. An Order of forfeiture made under this Law shall be subject to appeal.

PART 21 – PROPERTY AND PERSONS (Redrafted)

Methods of
Stating
Multiple
Ownership of
Property.

197. (1) Where in a complaint, summons warrant of any description, charge sheet, or any document issued by a court in the exercise of its criminal jurisdiction it is necessary to refer to the ownership of any property, whether movable or immovable if:-

- a) the property belongs 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, be described in the name of any one of those persons and another or others;

- b) the property belongs to a company, association, club or society, be described, subject to the provisions of any other Law, as the property of the official of the company, association, club or society, or as belonging to the company, association, club, or society be its legal or registered title;
 - c) the property belongs to, or is provided for the use of a public establishment, service or department, be described as the property of the state, as the case may be;
 - d) it is necessary to state the ownership of a church, chapel, mosque or building or place set apart for religious worship or of anything belonging to or being in the place, be stated as the property of a person in charge of or officiating in the church, chapel, mosque, or building or place, or thing, without naming him or them; and
 - e) it is necessary to state the ownership of any money or other property in the charge, custody, or under the control of a public officer, be stated to be the money or property of the state, as the case may be.
- (2) Where it is necessary to state the ownership of:-
- a) any work or building made, erected or maintained, either wholly or in part, at the expense of the public revenue or of any part of it;
 - b) any town, or village or any Local Government, or of anything belonging to or being in or used in relation to the same;
 - c) anything provided for the use of any part or of any public institution or establishment, or of any materials or tools provided or used for repairing any work or building or any public road or highway; or
 - d) any other property whatsoever, whether movable or immovable, as aforesaid, be sufficient to state as the property of the state or of the town, or village, or of any Local Government, as the case may be, without naming any of the inhabitants of the area or jurisdiction.
- (3) Where the property belongs to a woman who has contracted a marriage under the Marriage Act or a

marriage recognized as a valid marriage under any law in force in Nigeria, be stated as belonging to the married woman.

Description of
Persons in
Criminal
Process.

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

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

(3) Where it is impracticable to give the person's correct and exact description or designation because the name or the description or designation of the person is not known or for any other reason, the description or designation shall be given is reasonably practicable in the circumstances, or the person may, subject to subsection (4) of this section, be described as "Person Unknown".

(4) A defendant who is defendant of an offence shall not be described as "a person unknown" except in the case of a verdict found upon a coroner's inquisition.

Remedies of
Married
Woman
Against her
Husband and
Others in
Respect of Her
Person or
Property.

199. A woman who has contracted a valid marriage shall have in her own name against all persons, including the husband of the marriage, the same remedies and redress by way of criminal proceeding for the protection and security of her person and property.

PART 22 –THE CHARGE

Forms of
Charges in
Appendix B to
be Used and
Adopted.

200. A charge may be as in the forms set out in Appendix B of this Law, with such modification as may be necessary in the circumstances of each case.

201. (1) A charge shall state the offence with which the defendant is charged. Contents of a Charge.

(2) Where the Law creating the offence: -

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

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

202. 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. Legal presumption of Charge.

203. (1) The charge shall contain such particulars as to the time and place of the alleged offence and the victim, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the defendant notice of the offence with which he is charged. Particulars in Charge.

(2) A charge sheet may be filed with the photograph of the defendant print, provided that where the photograph is not available, it shall not invalidate the charge.

204. (1) A charge shall be filed in the registry of the High Court before which the prosecution seeks to prosecute the offence, and shall include:- Proof of Evidence, etc.

(a) the proof of evidence, consisting of:

- i. the list of witnesses,
- ii. the list of exhibits to be tendered,
- iii. summary of statements of the witnesses, and
- iv. copies of statement of the defendant,

(b) any other document, report, or material that the prosecution intends to use in support of its case at the trial where available;

(c) particulars of bail or any recognizance, bond or cash or cash deposit, if the defendant is on bail where available;

- (d) particulars of place of custody, where the defendant is in custody where available;
- (e) particulars of any plea bargain arranged with the defendant if any;
- (f) particulars of any previous interlocutory proceedings, including remand proceedings, in respect of the charge; and
- (g) any other relevant document as may be directed by the court.

(2) The prosecution may, at any time before judgment, file and serve notice of additional evidence.

(3) The charge and all accompanying processes shall be served on the defendant person or his legal representative.

Charge of Criminal Breach of Trust.

205. Where a defendant is charged with criminal breach of trust or fraudulent appropriation of property, it is sufficient to specify the gross sum in respect of which the defence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of a single offence.

Charge of Criminal Falsification of Account.

206 Where a defendant is charged with falsification of accounts, fraudulent falsification of accounts or fraudulent conversion, it shall be sufficient to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed.

Charge May Contain the Manner in Which the Offence was Committed.

207 Where the nature of the offence is such that the particulars required by section 201 and 203 of this Law 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.

208 (1) In a charge, words used in describing an offence are deemed to have been used in the sense attached to them respectively, in the Law creating the offence.

Sense of Words
Used in a
Charge.

(2) Figures, expressions and abbreviation may be used or expressing anything which is commonly expressed by those figures, expression or abbreviation.

209. (1) The description of property in a charge shall be in ordinary language indicating with reasonable clarity the property referred to and where the property is so described it is not necessary, except when required for the purpose of describing an offence depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.

Description of
Property and
Joint Owners.

(2) Where property is vested in more than one person and the owners of that property are referred to in the charge, the property may be described as being owned in accordance with the appropriate provision set out in section 197 of this Law.

(3) Where the owner of any property is a company, association, club or society, proof of the registration of the company, association, club or society shall not be required unless the court decides that proof shall be given, in which case, the further hearing may be adjourned for that purpose or the court may, in its discretion, amend the proceedings by substituting the name of some person or persons for the registered title.

210. (1) Any bank note or currency note may be described as money, and any averment as to money, regarding the description of the property, shall be sustained by proof of any amount of any bank or currency note, although the particular species of currency of which the amount was composed or the particular nature of the bank or currency note need not be proved.

Description of
Bank or
Currency Notes.

(2) In a case of theft and receiving by false pretense, the bank note or currency note may be described by proof that the defendant dishonestly appropriate or obtained any bank or currency note, or any portion of its value, although the bank or currency note may have been delivered to him in order that some part of its value should be returned to

the party delivering it or to any other person, and that part should have been returned accordingly.

Provisions as to
Statutory
Offences.

211. (1) Where a law consisting an offence states the offence to be omission to do any one of different acts in the alternative, or the doing or the omission to do any act in any one of the different capacities, or with any one of the different intentions, or states any part of the offence in the alternative, the act, omission, capacity, or intention, or other matter stated in the alternative in the Law, may be stated in the alternative in the charge.

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

Description of
Persons and
Document.

212. (1) The description or designation of the defendant in a charge or of any other person to whom reference is made therein may be in the manner set out in section 201 of this Law.

(2) Where it is necessary to refer to a document or an instrument in a charge, it is sufficient to describe it by any name or designation by which it is commonly known, or by the purport of the document without setting out the content.

General Rule as
to Description.

213. Subject to any other provision of this Law, it is sufficient to describe any place, time, thing, manner, act, or omission to which it is necessary to refer in a charge in ordinary language in such a manner as to indicate with reasonable clarity the place, time, thing, matter, act or omission referred to.

Statement of
Intent.

214. It is not necessary in stating an intent to defraud, deceive or injure any particular person, where the Law creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.

Defendants Who
May be Charged
Jointly.

215. The following defendants may be charged and tried together for:-

- (a) the same offence committed in the course of the same transaction;

- (b) an offence and another of abetting or being accessory to or attempting to commit the same offence;
- (c) more than one offence of the same or similar character, committed by them jointly;
- (d) different offences committed in the course of same transaction;
- (e) offences which include theft, extortion or criminal misappropriation and another defendant of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named persons, or of abetment of or attempting to commit any of the last-named offences; and
- (f) dishonestly receiving stolen property or assisting in concealment of stolen property, or in respect of stolen property the possession of which has been transferred by one offence, and another defendant of offences committed during a fight or series of fights arising out of another fight, and persons defendant of abetting any of these offences.

216. For every distinct offence with which a person is accused, there shall be a separate charge and every charge shall be tried separately except in the following circumstances:-

Separate
Charges for
Distinct
Offences.

- a) any three offences committed by a defendant within 12 months whether or not they are of the same or similar character or whether or not they are in respect of the same person or persons;
- b) any number of the same types of offence committed by an defendant;
- c) any number of offences committed by a defendant in the course of the same transaction having regard to the proximity of the time and place, continuity of action and of purpose; or
- d) cases mentioned in section 217 to 222 of this Law.

Attempt Same
as Substantive
Offences.

217. An offence is deemed to be an offence of the same kind as an attempt to commit that offence where the attempt is itself an offence.

Trial for More
Than One
Offence.

218. Where in a series of acts or omissions so connected together as to form the same transaction or which form or are of a series of offences of the same character or more offences than one is committed by the same person, charges for the offences may be joined and the defendant tried for the offences at one trial.

Offences
Falling Within
Two
Definitions.

219. Where the acts or omissions alleged constitute an offence falling within two or more separate definitions in any Law for the time being in force under which offences are defined or punished, the person defendant of committing them may be charged with and tried at one trial for each of those offences.

Acts
constituting
One Offence
but
Constituting a
Different
Offence When
Combined

220. Where several acts or omissions, of which one or more would by itself or themselves constitute an offence, constituted when combined with a different offence, the person defendant of committing them may be charged with and tried at one trial for the offence constituted by those acts or omissions when combined or for any offence constituted by any one or more of those acts.

Where it is
Doubtful
Which Offence
Has Been
Committed.

221. Where a single act or omission or series of acts or omissions are of such a nature as is (that it; deleted) doubtful which of several activities, the facts of which can be proved, will constitute the offence with which the defendant may be charged with having committed all or any of those offences and any number of those charges may be tried at once or he may be charged, for all or any number of those offences.

Incidental
Offences in the
Same
Transaction.

222. Where a single act or omission, the fact of or which facts constitutes more than one offence, the defendant may be charged and tried at one trial for one or more of the offences.

**PART 23 –
ALTERATION OR AMENDMENT OF CHARGES**

223. (1) Where a defendant is arraigned on an imperfect charge, a Court shall permit an alteration or amendment to the charge or framing of a new charge at any time before judgment is pronounced.

Alteration and Amendment of Charge by Permission of Court.

(2) The Court may in appropriate cases frame a charge or add or alter the charge as the case may be having regard to the provisions of this Law.

(3) An alteration or amendment of a new charge shall be read and explained to the defendant and his plea to the amended or new charge shall be taken.

224. (1) Where a new charge is framed or alteration made to a charge under the provisions of section 223 of this Law, the Court shall call on the defendant to plead to the new or altered charge as if he has been arraigned for the first time.

Procedure on Alteration of Charge.

(2) The Court shall proceed with the trial as if the new or altered charge had been the original charge.

225. (1) Where the charge as revised under section 223 or 224 of this Law is such that proceeding immediately with the trial is not likely in the opinion of the court, to prejudice the defendant in his defense or the prosecutor, as the case may be, in the conduct of the case, the court may in its discretion forthwith proceed with the trial as if the charge so revised had been the original charge.

When Court May Proceed with Trial Immediately After Altering, Adding to or Framing Charge.

(2) Where a charge is so amended, a note of the order for amendment shall be endorsed on the charge, and the charge shall be treated, for the purpose of all proceedings in connection therewith, as having been filed in the amended form.

226. Where a charge is altered, amended or substituted after the commencement of the trial, the prosecutor and the defendant shall be allowed to recall or re-summon and examine any witness who may have been examined and so call any further witness, provided that such examination shall be limited to the alteration, amendment or substitution made.

Recall of Witnesses When Charge is Revised.

- Effect of Error. **227.** An error in stating the offence or the particulars required to be stated in a charge or an omission to state the offence or those particulars, or any duplicity, misjoinder or non-joinder of the particulars of the offence shall not be regarded at any stage of the case as material unless the defendant was in fact misled by the error or omission.
- Objection to Charge. **228.** Objections shall not be taken or entertained during proceeding or trial on the ground of an imperfect or erroneous charge.
- Effect of Material Error. **229.** (1) Where an appellate Court is of the opinion that a defendant convicted of an offence was misled in his defense by an error in the charge, which has occasioned a miscarriage of justice, it may direct that the trial be recommenced on another charge.
(2) Where the appellate Court is of the opinion that the facts of the case are such that no valid charge could have been preferred against the defendant in respect of the facts proved, it shall quash the conviction.

PART 24 – CONVICTION WHEN CHARGED WITH ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE

- Where Defendant Charged with One Offence May be Convicted of Another. **230.** (1) Where a defendant is charged with one offence and it appears in evidence that he committed a similar offence with which he might have been charged under the provisions of this Law, he may be convicted of the offence, which he is shown to have committed although he was not charged with it.
(2) Before convicting the defendant in the circumstances of subsection (1) of this Law, the court shall be satisfied that the defendant has sufficient notice of the offence disclosed and was not misled in his defence; otherwise it will frame a new charge based on the evidence disclosed at the trial and order the defendant to plead to the new charge after it has been read and explained to him.

231. Where a defendant is charged with an offence but the evidence establishes an attempt to commit the offence, he may be convicted of having attempted to commit that offence although the attempt is not separately charged.

Full offence
Charged,
Attempt Proved.

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

Attempt
Charged-full
Offence Proved.

233. Where a defendant has been convicted of an attempt under either section 231 or 232 of this Law, he shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit.

Liability as to
Further
Prosecution.

234. Where a defendant is charged with an offence and the evidence and the evidence establishes that he is an accessory after the fact to that offence or to some other offence of which a defendant charged with the first-mentioned offence may be convicted by virtue of any of the provisions of this Law, he may be convicted as an accessory after the fact offence or that other offence, as the case may be and be punished accordingly.

On Charge of an
Offence
Convictions
Accessory After
the Fact to that
or Connected
Offence May
Follow.

235. (1) Where on the trial of a defendant for a lesser offence it appears that the facts proved in evidence amount in Law to a higher offence not charged, the defendant shall not by this reason be acquitted of the lesser offence.

Defendant Tried
for Less Offence
but Higher
Offences
Proved.

(2) The defendant referred to in subsection (1) of this section is not liable afterwards to be prosecuted for the higher offence proved, but the Court may in its discretion stop the trial of the lesser offence or direct that the defendant be charged and tried for the higher offence, in which case, the defendant may be dealt with in all respects as if he had not been put to trial for the lesser offence.

(3) Where a charge is brought for the higher offence pursuant to this section, the defendant shall be tried before another Court.

Conviction of Kindred Offence Relating to Property.

236. Where a defendant is charged with an offence relating to property and the evidence establishes the commission by him with respect to the same property of another offence, he may be convicted of that other offence although he was not charged with it.

Defendant Charged With Burglary May be Convicted of Kindred Offence.

237. Where on trial for burglary, housebreaking or related offence, the facts proved in evidence justify a conviction for some other offences and not the offence with which the defendant is charged, the defendant may be convicted of the other offence and be punished as if he had been convicted on a charge with the offence.

On charge of Rape, Defilement, Incest, Unnatural Offence Conviction for Indecent Assault May Follow.

238. Where on a trial for rape, defilement, incest, unnatural or indecent offences against a person, the facts proved in evidence can ground conviction for an indecent assault and not the offence with which the defendant is charged, he may be convicted of the offence of indecent assault, and be punished as if he had been convicted on a charge with the offence of indecent assault.

Procedure for Trial on Charge for Certain Offences.

239. (1) A trial for the offences referred to in subsection (4) of this section may not, where the Court so determines, be held in an open Court.

(2) The names, addresses, telephone numbers and identity of the victims such offences or witnesses shall not be disclosed in any record or report of the proceedings and it shall be sufficient to designate the names of the victims or witnesses with a combination of alphabets.

(3) Where in any proceedings the Court deems it necessary to protect the identity of the victim or a witness, the court may take any or all of the following measures:

(a) receive evidence by video link or other electronic means;

(b) permit the witness to be screened or masked;

(c) receive written deposition of expert evidence; and

(d) any other measure that the court considers appropriate in the circumstance.

(4) The provision of this section shall apply to:-

- (a) offences mentioned under section 238 of this Law;
- (b) offences of Armed Robbery, Kidnapping, abduction and other involving the use of or threat of violence;
- (c) offences under the Terrorism (Prevention) (Amendment) Act;
- (d) offences relating to Economic and Financial Crimes;
- (e) trafficking in persons and related offences; and
- (f) any other offence in respect of which a Law of the State House of Assembly permits the use of such protective measures or as the Judge may consider appropriate in the circumstances.

(5) Any contravention of the provisions of subsection (2) of this section shall be an offence and liable on conviction to a minimum term of one-year imprisonment.

240. Where a defendant is charged and tried for homicide of a child or causing the death of an unborn child and it appears on the evidence that the defendant was not guilty of homicide of a child or causing the death of an unborn child, as the case may be, but was guilty of the offence of concealment of birth, the defendant may be convicted of that offence.

Where Homicide or Death of an Unborn Child is Charged and Concealment of Birth is Proved.

241. (1) Where a defendant is charged and tried for homicide of a newly-born child and it appears on the evidence that the defendant was not guilty of homicide but was guilty of causing the death of an unborn child, the defendant may be convicted of that offence.

Where Homicide is Charged and Death of an Unborn Child is Proved.

(2) Nothing in subsection (1) of this section prevents a defendant who is tried for the homicide of a newly-born child from being:

- a) convicted of homicide not punishable with death;
- b) found guilty of concealment of birth; or
- c) acquitted on the ground that by virtue of an applicable Law he was not criminally responsible, and dealt with accordingly or in accordance with this Law or any other Law.

Where offence
Proved is Not
Included in
Offence Charged.

242. (1) Where a defendant is charged with an offence consisting of several particulars, a combination of some of which constitutes a lesser offence in itself and the combination is proved but the remaining particulars are not proved, he may be convicted of, or plead guilty to the lesser offence although he was not charged with it.

(2) Where a defendant is charged with an offence and facts are proved which reduce it to a lesser offence, he may be convicted of the lesser offence although he was not charged with it.

Withdrawal of
Remaining
Charges on
Conviction on
One of Several
Charges.

243. Where more than one charge is made against a defendant 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 the charge or charges.

(2) A withdrawal has the effect of an acquittal on the charge or charges unless the conviction which has been had is set aside, in which case, subject to any order of the Court setting aside such conviction, the Court before which the withdrawal was made may, on the request of the prosecutor, proceed on the charge or the charges withdrawn.

PART 25 – PREVIOUS CONVICTIONS OR ACQUITTALS

Defendant
Convicted or
Acquitted Not to
be Tried Again
for Same or
Kindred Offence.

244. (1) Without prejudice to section 22 of this law, a defendant charged with an offence is not liable to be tried for that offence where it is shown that he has previously been:-

- a) convicted or acquitted of the same offence by a competent Court;
- b) convicted or acquitted by a competent Court on a charge on which he might have been convicted of the offence charged; or
- c) convicted for or acquitted of an offence by a competent court other than the offence charged, being an offence for which, apart from this section, he might be convicted by virtue of being charged.

(2) Nothing in subsection (1) of this section shall prejudice the operation of a Law giving power to a Court, on an appeal, to set aside a verdict or finding of another Court and order a re-trial.

245. A defendant acquitted or convicted of an offence may afterwards be tried for a distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of section 217 of this Law.

A Defendant May be Tried Again on Separate Charge in Certain Cases.

246. A defendant acquitted or convicted of an offence constituted by an act or omission causing consequences which together with that act or omission constitute a different offence from that for which he was acquitted or convicted, may afterwards be tried for the last-mentioned offence if the consequences had not happened or were not known to the Court to have happened at the time when he was acquitted or convicted when the consequences create the offence of homicide or homicide not punishable with death.

Consequences Supervening or Not Known at Previous Trial.

PART 26 – WITNESSES: COMPELLING ATTENDANCE AND TAKING OF OATH OR MAKING OF AFFIRMATION

247. The Court may, on an application of the prosecution or the defence, issue a summon or writ of subpoena on a witness requiring him to attend Court to give evidence in respect of the case, and to bring with him any specified documents or things and any other document or thing relating to them which may be in his possession or power or under his control.

Issue of Summons for Witness.

248. (1) A Court with criminal jurisdiction shall have a process server specifically assigned to it.

Service of Summons and Other Processes on Witnesses.

(2) The process server has the responsibility to effect efficient service of witness summons, defendant's production orders, writs and all other processes issued in the Court in respect of all criminal matters.

(3) A summons shall be served on the person to whom it is directed in the same manner as is set out in Part 17 of this Law dealing with service of summonses and related matters or, with leave of the Court.

(4) Service of processes may be effected by registered reputable courier companies, recognized and authorized by the Chief Judge in accordance with the provisions of this law, and such registered courier companies may be assigned to the courts with criminal jurisdiction as process servers in accordance with subsection (1) of this section.

(5) The Attorney-General or a person so authorized by him or the police may serve on a person whom the prosecutor wishes to call as witness, a witness summons or writ of subpoena.

(6) Proof of service of a process or document shall be endorsed by the recipient and the person serving the process shall file the endorsed copy together with an affidavit of service.

Warrant for
Witness after
Summons.

249. Where a witness summoned to give evidence does not attend the Court at the time and place indicated on the summons and does not provide any reasonable excuse for his non-attendance, then after proof that the summons was duly served on him, or that the person to be served will fully avoid service, the court may issue a warrant to arrest and bring him before the court.

Issue of Warrant
for Witness.

250. Where the Court is satisfied in the first instance, by proof on oath, that a 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 for the arrest of the person.

Mode of Dealing
with Witness
Arrested Under
Warrant.

251. (1) A witness arrested under a warrant shall, if practicable and where the hearing of the case for which his evidence is required is fixed for a time which is more than 24 hours after the arrest, be taken before a Magistrate and the Magistrate:-

(a) may, on the witness furnishing security by

recognizance to the satisfaction of the Magistrate for his appearance at the hearing, order him to be released from custody; or

- (b) shall, on the witness failing to furnish the security, order him to be detained for production at the hearing.

(2) The provisions of this Law relating to bail, summons and warrants in respect of the defendant shall apply to witnesses.

(3) A witness arrested or detained under this section shall not be kept in the same room or place as the defendant, if the defendant is in custody and the defendant shall not be allowed to make any contact with the witness.

252. (1) A witness who:-

- a) refuses or neglects, without reasonable cause, to attend court in compliance with the requirements of a summons duly served in the manner prescribed by Law; or
- b) departs from the premises of the Court without the leave of the Judge or Magistrate hearing the case; is liable on summary conviction, to a fine not exceeding Ten Thousand Naira ₦10,000.00 or to imprisonment for a term not exceeding two months.

Penalty on Witnesses Refusing to Attend.

(2) A complaint shall not be made for an offence under this section except by the order of the court made during the hearing of the case of which the evidence of the witness is required.

253. A 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 the hearing or further hearing is so adjourned, shall attend any subsequent hearing and if he defaults, he may be dealt with in the same manner as if he had refused or neglected to attend the court in obedience to a witness summons.

Non-Attendance of Witness on Adjourned Hearing.

254. A person present in court and compellable as a witness, whether a party or not in a cause, may be compelled by a 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 the

Persons in Court May be Required to Give Evidence Though Not Summoned.

- document and may be punished the in like manner for any refusal to obey the order of the court.
- Manner of Taking Oath or Affirmation.** **255.** A witness shall take an oath or make a solemn affirmation in such a manner as the court considers binding on his conscience.
- Witness Refusing to be Sworn, or Produce Documents.** **256.** (1) Where a person attending court and who is required to give evidence, without any sufficient excuse or reason: -
- a) refuses to be sworn or to affirm as a witness;
 - b) having been sworn or having taken affirmation refuses to answer any question put to him; or
 - c) refuses or neglects to produce any document or anything which he is required by the court to produce, the court may adjourn the hearing of the case and may in the meantime, by warrant, commit the person to prison or other place of safe custody for a period not exceeding 7 days.
- (2) Nothing in this section shall: -
- a) affect the liability of the person to any other punishment for refusing or neglecting to do what is so required of him; or
 - b) prevent the court from disposing of the case in the meantime according to any other sufficient evidence taken by it.

PART 27- EXAMINATION OF WITNESSES

- Application of the Evidence Act.** **257.** Subject to the provisions of any other Law, the examination of witnesses shall be in accordance with the provisions of the Evidence Act.
- Power to Call or Recall Witnesses.** **258.** The court may, at any stage of the trial, inquiry or other proceedings under this Law, either of its own motion or on application of either party to the proceedings, call a person as a witness or recall and re-examine a person already examined where his evidence appears to the court to be essential to the just determination of the case.

259. A certificate signed by any of the officers named in section 55 of the Evidence Act, shall be admissible in evidence in accordance with the provisions of that Law.

Certificates of Certain Government Technical Officers.

260. In a case where the right of reply depends on 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, but a Law officer for the prosecution shall in all cases have the right of reply.

A Law Officer Shall have the Right of Reply.

261. (1) Subject to the provisions of sections 239 and 262 to 264 of this Law, and of any other Law specifically relating thereto, the room or place in which a trial is to take place under this Law shall be an open court to which the public generally may have access as far as it can conveniently contain them.

Public to Have Access to Hearing.

(2) Notwithstanding the provisions of subsection (1) of this section, the Judge or Magistrate presiding over a trial may, in his discretion and subject to the provisions of section 263 of this Law, exclude the public at any stage of the hearing on the grounds of public policy, decency or expediency.

(3) Where the court is sitting in a place other than in a building, the authority given in subsection (2) of this section to exclude the public shall be construed as being authority to prevent the public approaching so near to where the court is sitting, as in the opinion of the Judge or Magistrate, to be able to hear what is taking place at the trial or be able to communicate with a person allowed to be present.

262. Where a person who, in the opinion of the court has not attained the age of 18 is called as a witness in any proceedings in relation to an offence against or any conduct contrary to decency or morality, the court may direct that all or any person not being:-

Court May Exclude Certain Person While Taking Evidence of a Child or Young Person.

- a) members or officers of the court; or
- b) parties to the case, their legal representatives or persons otherwise directly concerned in the case be excluded from the court during the taking of the evidence of such person.

Order Under
Section 261 or
262 Not Apply to
Press and
Certain Others.

263. (1) An order made under section 261 or 262 of this Law excluding the public from a court shall not unless specifically stated:-

- a) authorize 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 an order is made, the court shall record the grounds on which the order is made.

Prohibition on
Children Being
Present in Court
During the Trial of
Other Persons.

264. An infant, other than an infant in the arms of parent or guardian, or child shall not be permitted to be present in court during the trial of a defendant charged with an offence or during any proceedings preliminary to the trial except:-

- a) he is the defendant charged with the alleged offence; or
- b) his presence is required as a witness or otherwise for the purposes of justice in which event he may remain for so long as his presence is necessary.

Visit to Locus

265. (1) Where it appears to the court that in the interest of justice, the court should have a view of any place, person or thing connected with the case, the court may, where the view relates to a place, either adjourn the court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.

(2) The Defendant shall be present at the viewing of the place, person or thing concerned.

(3) At the locus, the court shall give directions as it may deem fit for the purpose of preventing communication between the witnesses and the Defendant.

(4) A breach of a direction given under subsection (1) of this section, shall not affect the validity of the proceedings unless the court otherwise directs.

266. (1) Where the age of a person is in issue in any criminal proceedings, the court may determine the question by taking into account one or both of the following:-

Determination of Age.

- a) the apparent physical appearance of the person concerned; and
- 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 Children and Young Persons Law, or any other Law in force.

(2) The evidence of a witness, who is not an expert within the meaning of section 68 of the Evidence Act, 2011, shall be admissible for the purpose of this section.

(3) An order or judgment of the court shall not be invalidated by any subsequent proof that the age of the person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of that person shall, for the purpose of this Law, be deemed to be the true age of that person.

267. Where in a charge for an offence, it is alleged that the person by or in respect of whom the offence was committed, was a child under or above a specified age, and he appears to the court to have been at the date of the commission of the alleged offence a child under or above the specified age, as the case may be, he shall, for the purposes of this Law, be presumed at that date to have been a child or to have been under or above that age, as the case may be, unless the contrary is proved.

Age in Relation to Offences.

268. A defendant shall be present in court during the whole of his trial unless:-

Presence of Defendant at Trial.

- a) he misconducts himself in such a manner as to render his continuing presence impracticable or undesirable; or
- b) at the hearing of an interlocutory application.

Conduct of Cases
by Legal
Practitioner for
Complainant or
for Defendant.

269. (1) The complainant and Defendant shall be entitled to conduct their cases by a legal practitioner or in person except in a trial for a capital offence punishable with death.

(2) Where the defendant is in custody or on remand, he shall be allowed access to his legal practitioner at all times.

(3) Where the defendant elects to defend himself in person, the court shall inform him of his rights within the trial and the consequences of his election.

(4) The court shall ensure that the defendant is represented by a counsel in capital offences provided that a defendant who refuses to be represented by counsel shall, after being informed of the risks of defending himself in person, be deemed to have elected to defend himself in person and this shall not be a ground to void the trial.

General Control
of Prosecution by
the Attorney-
General.

270. (1) Where a private legal practitioner prosecutes on behalf of the Attorney-General or a public officer prosecuting in his official capacity in any criminal proceedings, the private legal practitioner or public officer shall prosecute subject to such directions as may be given by the Attorney-General.

(2) Where proceedings in respect of an offence are instituted by a police officer, it shall be in the name of the Commissioner of Police.

(3) Where a proceeding in respect of an offence is instituted on behalf of the Attorney-General, it shall be in the name of the State.

(4) The Attorney-General of the Federation may delegate to the Attorney-General of the State powers conferred on him by this section either generally or with respect to any offence or class of offences and such offence shall be prosecuted in the name of the Federal Republic of Nigeria.

(5) Such powers so delegated to the Attorney-General of a State may be exercised directly by him or any officer in his Ministry or department.

(2) Where proceedings in respect of an offence are instituted by an agency authorized by Law to prosecute, it shall do so in its name.

271. Where a defendant appeared before a court on a summons, he shall be required to enter the dock, to stand or sit in it, except where circumstances do not permit, as may be directed by the Court.

Position in
Court of
Person
Summoned

PART 28-

PLEA AND PLEA BARGAIN

272. (1) Notwithstanding anything in this Law or in any other Law, the Prosecutor may:-

Plea Bargain
Guidelines.

- a) receive and consider a plea bargain from a defendant charged with an offence either directly from the defendant or on his behalf; or
- b) offer a plea bargain to a defendant charged with an offence or from his legal representatives.

(2) The prosecution may enter into plea bargain with the defendant during or after the presentation of the evidence of the prosecution, but before the presentation of the evidence of the defense, provided that in any offence affecting the human body, the consent of the victim must first be sought and obtained before entering into a plea bargain.

(3) Where the prosecutor is of the view that the offer or acceptance of a plea bargain is in the interest of justice, the public interest, public policy and the need to prevent abuse of legal processes, he may offer or accept the plea bargain.

(4) The prosecutor and the defendant or his legal practitioner may, before the plea to the charge, enter into an agreement in respect of:-

- (a) the terms of the plea bargain which may include the sentence recommended within the appropriate range of punishment stipulated for the offence or a 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 where the defendant is convicted of the offence to which he intends to plead guilty.

(5) The prosecutor may only enter into an agreement contemplated in subsection (4) of this section:-

- a) after consultation with the police responsible for the investigation of the case and the victim or his representative; and
- b) with due regard to the nature of and circumstances relating to the offence, the defendant and public interest; Provided that in determining whether it is in the public interest to enter into a plea bargain, the prosecution shall weigh all relevant factors, including:
 - i. the defendant's willingness to cooperate in the investigation or prosecution of others by providing relevant information for the prosecution of other defendants,
 - ii. the defendant's history with respect to criminal activity,
 - iii. the defendant's remorse or contrition and his willingness to assume responsibility for his conduct,
 - iv. the desirability of prompt and certain disposition of the case,
 - v. the likelihood of obtaining a conviction at trial and the probable effect on witnesses,
 - vi. the probable sentence or other consequences if the defendant is convicted,
 - vii. the need to avoid delay in the disposition of other pending cases,
 - viii. the expense of trial and appeal, and
 - ix. the defendant's willingness to make restitution or return the proceeds of the crime or pay compensation to the victim where appropriate.

6) The prosecution shall afford the victim or his legal representative the opportunity to make representations to the prosecutor regarding:-

- a) the content of the agreement; and
- b) the inclusion in the agreement of a compensation or restitution order.

7) An agreement between the parties contemplated in subsection (4) of this section 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, and
 - 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 admission made;
- c) be signed by the prosecutor, the defendant, the legal practitioner and the interpreter, as the case may be; and
- d) a copy of the agreement forwarded to the Attorney-General.

(8) The presiding judge or magistrate before whom the criminal proceedings are pending shall not participate in the discussion contemplated in subsection (4) of this section.

(9) Where a plea agreement is reached by the prosecution and the defense, 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 terms of the agreement.

(10) The presiding Judge or Magistrate shall make an order that any money, asset or property agreed to be forfeited under the plea bargain shall be transferred to and vest in the victim or his representative or any other person as may be appropriate or reasonably feasible.

(11) Notwithstanding the provisions of the Sheriffs and Civil Process Law, the prosecutor shall take reasonable steps to ensure that any money, asset or property agreed to be forfeited or returned by the offender under a plea bargain are transferred to or vested in the victim, his representative or other person Lawfully entitled to it.

(12) Any person who, will fully and without just cause, obstructs or impedes the vesting or transfer of any money, asset or property under this Law, commits an offence and is liable on conviction to imprisonment for 5 years without an option of fine.

(13) Where the defendant has been informed of the heavier sentence, the defendant may:-

- a) abide by his plea of guilty as agreed upon and agree that, subject to the right of the defendant to lead evidence and to present argument relevant to sentencing, the presiding judge or magistrate proceed with the sentence; 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.

(14) Where a trial proceeds as contemplated under subsection (13):-

- (a) no references shall be made to the agreement;
- (b) no admission contained therein or statements relating thereto shall be admissible against the defendant; and
- (c) the prosecutor and the defendant shall not enter into a similar plea and sentence agreement.

(15) Without prejudice to the foregoing subsections, the provision of this section shall not apply to offences relating to culpable homicide punishable with death, rape and other sexual offences, terrorism, unnatural offences, acts of gross indecency, thuggery, qazf, robbery, theft, drinking alcohol and related offences.

Plea to a Charge.

273. (1) Before a defendant takes his plea, the court shall inform him of his rights under the provisions of Plea to a charge under section 269 of this Law.

(2) The defendant to be tried on a charge shall be:- brought before the court unfettered unless the Court sees cause otherwise to order and the charge shall be read over explained to the satisfaction of the Court by the registrar or

- a) officer of the Court; and
- b) b) called upon to plead instantly unless, where the person is entitled to service of the charge, he objects to the non-service and where the court finds that he has not been duly served.

(3) The court shall record the fact that it is satisfied that the defendant understands the charge read over and explained to him in the language he understands, and shall record the plea of the defendant to the charge as nearly as possible in the words used by him.

274. Where the fact of a previous conviction of a defendant is a fact in issue, the prosecution shall prove the same in accordance with the provisions of the Evidence Act.

Proof of
Previous
Conviction.

275. A defendant who pleads not guilty shall be deemed to have put himself to trial.

Effect of Plea of
Not Guilty.

276. (1) Where a defendant pleads guilty to an offence with which he is charged, the court shall:

Effect of Plea of
Guilty.

- a) record his plea as nearly as possible;
- b) invite the prosecution to state the facts of the case; and
- c) enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution.

(2) Where the court is satisfied that the defendant intends to admit the truth of all the essential elements of the offence for which he has pleaded guilty, the court shall convict and sentence him or make such order as may be necessary, unless there shall appear sufficient reason to the contrary.

(3) Where the defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.

277. Without prejudice to the provisions of this Law, where the defendant pleads guilty to an offence not contained in the charge on which he was arraigned, the court shall direct the prosecution to amend the charge accordingly to include the admitted offence, in which case, a fresh plea of the defendant shall be taken on the amended charge.

Amending
Charge Where
Defendant
Pleads Guilty to
Offence Not
Charged.

278. (1) Where the defendant, when called upon to plead remains silent or refuses to answer, the court shall enter a plea of not guilty on his behalf.

Failure to Plead
Due to Malice or
Otherwise.

(2) A plea entered under subsection (1) of this section shall have the same effect as if the defendant actually pleaded to the charge.

(3) The court may inquire into the mental state of the defendant, and if the court is satisfied that the defendant is of sound mind, the court shall proceed with his trial.

(4) Where the court finds that the defendant is of unsound mind, the provisions of this Law in relation to persons of unsound mind shall apply.

Pleas: Autrefois
acquit or Convict,
or Pardon.

279. (1) A defendant against whom a charge or information is filed may plead that:

a) by virtue of section 243 of this Law he is not liable to be tried for the offence with which he is charged; or

b) he has obtained a pardon for his offence.

(2) Where either of the pleas under subsection (1) of this section is raised in any case and denied to be true in fact, the court shall determine whether such plea is true in fact or not.

(3) Where the court holds that the facts alleged by the defendant do not prove the plea, or if it finds that it is false in fact, the defendant shall be required to plea the charge.

(4) Nothing in this section shall prevent a defendant from pleading that, by virtue of some other provision of Law, he is not liable to be prosecuted or tried for an offence with which he is charged.

PART 29 – PERSONS OF UNSOUND MIND

Procedure When
Defendant is
Suspected to be
of Unsound Mind.

280. (1) Where in the course of a criminal trial, the court has reason to suspect the mental capacity or soundness of mind of a defendant, by virtue of which he is unable to stand trial or defend himself, the court shall order the medical examination of the mental state or soundness of mind of the defendant.

(2) An investigation under subsection (1) of this section may be held in the absence of the defendant where the Court is satisfied that owing to the state of mind of the defendant mind it would be in the interest of the defendant or of other persons or in the interests of public decency that he should be absent.

(3) Where the court is not satisfied that the defendant is capable of making his defense, the court shall adjourn the trial or proceedings and shall remand the person for a period not exceeding 1 month to be detained for observation in some suitable place.

(4) A defendant detained in accordance with subsection (3) of this section shall be kept under observation by a medical officer during the period of his remand and before the expiration of that period, the medical officer shall:

- a) give to the Court his opinion in writing as to the state of mind of that person; and
- b) where he is unable within the period to form any definite opinion, he shall so certify to the court and ask for a further remand and such further remand may extend to a period of 3 months.

(5) Where further period of remand is granted under subsection (4) of this section, the case shall be fixed returnable by the court at the expiration of the period granted under subsection 4 (b) of this section.

(6) A Court, before which a defendant suspected to be of unsound mind is defendant of any offence may, on the application of the Attorney-General or a Law officer made at any stage of the proceedings prior to the trial, order that the person be sent to an asylum or such other suitable facility for observation.

(7) The medical officer in charge of the asylum or such other suitable facility shall, within a period not exceeding 1 month in the first instance or on application to the court for a further period of 3 months, submit to the court a report in writing containing his opinion on the soundness of mind of the defendant.

281. Where the medical officer or such officer in charge of the asylum or other suitable facility to which the defendant is referred for observation under the provisions of this section fails to submit a report as provided in section 280 (4) and (7) of this Law within the period stipulated in those subsections, the court may discharge the person, or shall release him on bail in accordance with the provisions of this Law relating to bail

Report from
Medical Officer.

Certificate of
Medical Officer.

282. (1) Where the medical officer certifies that the defendant is of:-

- a) sound mind and capable of making his defense, the court shall, unless it is satisfied by the defence that the defendant is of unsound mind, proceed with the trial; or
- b) unsound mind and incapable of making his defense, the court shall, where it is satisfied of the fact, postpone the proceeding.

(2) The trial of the issue as to whether or not the defendant is of unsound mind and incapable of making his defense shall, where the finding is that he is of sound mind and capable of making his defence, be deemed to be part of his trial before the Court.

(3) The certificate of the medical officer who issued the certificate shall be admissible under this section even in the absence from court of the medical officer provided there is sufficient explanation for his absence.

(4) Where the defendant is certified to be of unsound mind and incapable of making his defense, it shall not be compulsory for him to be present in Court during proceedings under this section.

Release of
Defendant of
Unsound Mind
Pending
Investigation or
Trial.

283. (1) Where a defendant is found to be of an unsound mind incapable of making his defence, if the offence charge is bailable, the Court may in its discretion, release him on sufficient security being given:-

- a) that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person; and
- b) for his appearance when required before the Court appoints in that behalf.

(2) Where a defendant is before a Magistrate charged with an offence which is bailable by a Judge but not by a Magistrate or where the offence is bailable by a Magistrate but the Magistrate refused to grant bail, the Magistrate shall inform the defendant of his right to apply to a Judge for bail.

(3) Where the offence charged is not bailable by the High Court or where a Judge has refused bail under subsection (1) of this section or after an application made under subsection (2) of this section or where sufficient security is not given or where no application is made for bail, the Judge shall report the case to the Attorney-General, who, after consideration of the report may, in his discretion, order the defendant to be confined in a lunatic asylum or other suitable place of safe custody and the Judge shall give effect to the order.

(4) Where the order is not given within 2 months, the court may discharge the defendant or release him on bail on satisfaction that doing so will not endanger the life of the defendant or the life of anyone else.

(5) Pending the order of the Attorney-General, the defendant may be committed to an asylum or other suitable place of custody for safe custody.

284. Where a proceeding or trial is postponed under section 280 or 282 of this Law, the court may at any time re-open the proceeding or re-commence the trial and require the defendant to appear or be brought before the Court.

Resumption of Proceedings or Trial.

285. Where the defendant has been released under section 282 of this Law, the Court may at any time require the defendant to appear or be brought before it and may again proceed with the proceeding or trial.

Resumption of Proceedings After Release Under Section 293.

286. Where the defendant appears to be of unsound mind at the time of any remand or similar pre-trial proceedings before a court, and the issue of the state of soundness of mind of the defendant is in issue, being a defence to the main offence for which he is arrested relating to insanity or intoxication, the court shall proceed to deal with the defendant in accordance with section 280 – 294 of this Law and shall not make any finding of fact in relation to such defense that the defendant is open to plead at his trial for the offence.

Where Defendant Appears to Have Been of Unsound Mind

Safe custody of
Defendant
Discharged.

287. Where the finding states that the defendant committed the act alleged, the court before which the trial has been held shall, where the act would have but for the finding of incapacity constituted an offence, order the person to kept in safe custody in such place and manner as the court thinks fit and shall, within 31 days of the order, report the case for an order of the Attorney-General.

Order of the
Attorney-General
in Pursuant to
Section 281.

288. (1) The Attorney-General may at his discretion order the defendant to be confined pursuant to section 280 (6) in a mental health asylum, prison or other suitable place of safe custody.

(2) In exercising this discretion, the Attorney-General shall ensure that the defendant is placed in such facility as to afford him adequate care at the expense of the State.

Observation of
Prisoners of
Unsound Mind.

289. Where a defendant is confined under sections 283 (3) and (5), 287 or 288 of this Law, the medical officer of the prison, where such defendant is confined in a prison, or the medical officer attached to the asylum or other facility, where he is confined in any asylum or such facility shall keep him under observation in order to ascertain his state of mind and such medical officer shall make a special report for the information of the Attorney-General as to the state of mind of such defendant at that time or times as the Attorney-General shall require.

Procedure When
Defendant of
Unsound Mind is
Reported to be
Able to Make His
Defence.

290. Where a defendant is, under the provisions of section 280 of this Law, confined in a prison, asylum or other facility and is certified by the medical officer to whom the case is referred for his report to be capable of making his defence, the defendant shall be taken before the Court at such time as the court appoints, and the Court shall proceed with the trial or proceeding, as the case may be, and the certificate shall be receivable as evidence.

Procedure Where
Defendant of
Unsound Mind is
Reported Fit for
Discharge.

291. (1) Where the medical officer of a prison or the medical officer attached to an asylum or other facility in which a defendant is confined under sections 283, 287 or 288 of this Law certifies that the defendant in his judgment may be discharged without the danger of him

causing injury to himself or to any other person, the Attorney-General may, on the receipt of that report, order the defendant to be discharged or to be detained in custody or in prison or to be in custody or be transferred to an asylum where he has not already been sent to an asylum.

(2) Where the Attorney-General orders a defendant to be transferred to an asylum, he may appoint two medical officers to report on the state of mind of the defendant and on any other facts the court may require, and on receipt of the report, the court may order his discharge or detention as it thinks fit.

292. Where a defendant is confined in a prison or an asylum, the Attorney-General may direct his transfer from one prison or asylum to any other prison or asylum as often as may be necessary or may at any time order for his release from detention as he may consider necessary.

Transfer From
One Place of
Custody to
Another.

293. (1) Where a relative or friend of a defendant confined to under section 283 or 291 of this Law desires that the defendant be delivered over to his care and custody, the court may, on the application of the relative or friend and on his giving security to the satisfaction of the court that the defendant delivered shall be:

Delivery of
Defendant of
Unsound Mind
to Care of
Relative.

- a) properly taken care of; and
- b) prevented from doing injury to himself or to any other person, in its discretion, order the defendant to be delivered to the relative or friend on condition that the defendant shall be produced for the inspection of such officer and at such times as the Court may direct.

(2) Where a defendant delivered to a relative under subsection (1) of this section is confined under the provisions of section 280 of this Law, the Court may further require the relative or friend to give satisfactory security that if at any time it appears to the Court that the defendant is capable of making his defense, the relative or friend shall produce the defendant for trial.

(3) Section 283 and 289 of this Law shall apply, with necessary modifications, to a defendant delivered to the care and custody of a relative or friend under this section.

Removal to
Another State.

294. Where it is necessary to remove a prisoner to a prison or asylum under the provisions of this Part, an order for the removal given under the provisions of this shall be sufficient authority for the removal and the detention of the prisoner in any prison or such other place of detention in another State.

**PART 30. –
REMAND PROCEEDINGS AND TIME LIMITS**

Application For
Remand or Other
Interlocutory
Proceedings.

295. (1) A Magistrate before whom a suspect is brought within a reasonable time of his arrest may take cognizance of the offence and on application order the remand of the suspect into custody even though he has no jurisdiction to try the offence alleged.

(2) An application for remand under this section shall be made *ex parte* and shall:

- a) be made in the prescribed "Report and Request for Remand Form" as contained in Form 8, in the **Appendix D** to this Law; and
- b) be verified on oath and contain reasons for the remand request.

A court May
Remand in Prison
Custody.

296. (1) Where the Court, after examining the reason for remand in accordance with the provisions of section 295 of this Law, is satisfied that there is probable cause to remand the suspect pending the receipt of a copy of the legal advice from the Attorney-General and arraignment of the suspect before the appropriate court, as the case may be, may remand the suspect in custody.

(2) In considering whether "probable cause" has been established for the remand of a suspect pursuant to subsection (1) of this section, the court may take into consideration the following:

- a) the nature and seriousness of the alleged offence;
- b) reasonable grounds to suspect that the suspect has been involved in the commission of the alleged offence;
- c) reasonable grounds for believing that the suspect may abscond or commit further offence where he is not committed to custody; and

- d) any other circumstance of the case that justifies the request for remand.

297. The Court may, in considering an application for remand brought under section 295 of this Law, grant bail to the suspect brought before it, taking into consideration the provisions of sections 168 – 195 of this Law relating to bail.

Court May
Grant Bail in
Remand
Proceedings.

298. (1) Where an Order of remand of the suspect is made pursuant to section 295 of this Law, the order shall be for a period not exceeding 21 days in the first instance, and the case shall be returnable within the same period.

Time and
Protocol For
Remand Orders.

(2) Where, on application in writing, good cause is shown why there should be an extension of the remand period, the court may make an order for further remand of the suspect for a period not exceeding 14 days and make the proceedings returnable within the same period.

(3) Where the suspect is still in custody on remand at the expiration of the period provided for under subsection (1) or (2) of this section, the Court may, on application of the suspect, grant bail in accordance with the provisions of sections 168 – 195 of this Law.

(4) At the expiration of the remand order made pursuant to subsection (1) or (2) of this section, and where the suspect is still remanded with his trial having not commenced, or charge having not been filed at the relevant Court having jurisdiction, the Court shall issue a hearing notice on:

- a) the Commissioner of Police and the Attorney-General;

any relevant authority in whose custody the suspect is or at whose instance the suspect is remanded, and adjourn the matter within a period not exceeding 14 days of the expiration of the period of remand order made under subsection (1) or (2) of this section, to inquire as to the position of the case and for the Commissioner of Police or the Attorney-General of the State to show cause why the suspect remanded should not be unconditionally released.

(5) Where the Commissioner of police and the Attorney-General show good cause pursuant to subsection (4) of this section and make a request to that effect, the Court:

- a) may extend the remand of the suspect for a final period not exceeding 14 days for the suspect to be arraigned for trial before an appropriate court; and
- b) shall make the case returnable within the said period of 14 days from the date the hearing notice was issued pursuant to subsection (4) of this section.

(6) Where a good cause is not shown for the continued remand of the suspect pursuant to subsection (4) of this section, or where the suspect is still on remand custody after the expiration of the extended period under subsection (5), the court shall, with or without an application to that effect, grant bail to the suspect and the suspect shall be immediately released from custody.

(7) No further application for remand shall be entertained by any Magistrate after the proceeding in subsection (6) of this section pending the time when the suspect is formally charged before the appropriate court.

When Court May
Exercise Power
of Remand.

299. (1) The powers conferred on the court under this Part may be exercised by the court:

- a) whether the suspect remanded is present in Court or not; and
- b) on its own motion or on application, including an application by a person in charge of the prison or other place of custody where the suspect remanded is detained.

(2) The legal advice of the Attorney-General shall in all cases be copied to the Court, and the Court may act only on the copy of the advice to make any order that may be necessary in the circumstances.

(3) Where the legal advice of the Attorney-General indicates that the suspect remanded has no case to answer, the Court shall release the suspect immediately.

300. (1) During remand, the Court may nevertheless order the suspect remanded to be brought before it.

Court May
Bring Upper
Son
Remanded or
Make Any
Order
During
Remand.

(2) The Court may order that the suspect remanded be transferred to a hospital, asylum or any suitable place for the purpose of giving him medical treatment, or may make any order that it considers necessary to make at any time during the remand period.

301. A suspect committed to prison under this Law shall be remanded in prison or other place of safe custody.

Place of
remand.

PART 31 – PRESENTATION OF CASE BY PROSECUTION AND DEFENCE AND CONCLUSION OF TRIAL

302. (1) After a plea of not guilty has been taken or no plea has been made, the prosecutor may open the case against the defendant stating shortly by what evidence he expects to prove the guilty of the defendant.

Presentation of
Case for
Prosecution.

(2) The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the defendant or his legal practitioner and thereafter re-examined by the prosecutor, where necessary.

(3) After the case of the prosecution is concluded, the defendant or the legal practitioner representing him, if any, is entitled to address the Court to present his case and to adduce evidence where so required.

303. The Court may, on its own motion or on application by the defendant after hearing the evidence for the prosecution, where it considers that the evidence against the defendant or any of several defendants is not sufficient to justify the continuation of the trial, record a finding of not guilty in respect of the defendant without calling on him or them to enter his or their defence and the defendant shall accordingly be discharged and the Court shall then call on the remaining defendant, if any, to enter his defence.

No Case
Submission at
the Instance of
the Court.

No case
Submission by
the Defence and
Replies

304. (1) Where the defendant or his legal practitioner makes a no case submission in accordance with the provisions of this Law, the Court shall call on the prosecutor to reply.

(2) The defendant or his legal practitioner shall have the right to apply to any new point of law raised by the prosecutor, after which, the court shall give its ruling.

(3) In considering the application of the defendant under this section, the Court shall, in the exercise of its discretion, have regard to whether:

- a) an essential element of the offence has been proved;
- b) there is evidence linking the defendant with the commission of the offence with which he is charged;
- c) the evidence so far led is such that no reasonable Court or tribunal would convict on it; and
- d) any other ground on which the Court may find that a prima facie case has not been made out against the defendant for him to be called to answer.

Defence and
Prosecutor's
Right of Reply.

305. (1) After the case for the prosecution is concluded, the defendant or the legal practitioner representing him, if any, is 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 then the defendant himself or witnesses solely as to 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 legal practitioner appearing for the defendant introduced a new matter without supporting it by evidence, the court in its discretion may allow the prosecution to reply.

(2) Where any witness, other than the defendant himself or witnesses solely as to the defendant's character, is called or any document is put in as evidence for the defence, the legal practitioner appearing for the defendant is entitled after evidence has been adduced to

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

(3) The provisions of this section shall not affect the right of reply by a Law officer.

306. (1) Where a question as to the interpretation of the Constitution of the Federal Republic of Nigeria 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:

Reference to the Court of Appeal.

- a) adjourn the trial until the question has been considered and decided;
- b) conclude the trial and postpone the verdict until such time as the question has been considered and decided; and in any such case the Court in its discretion shall commit the defendant or convict to prison or admit him to bail in accordance with the provisions of Part 20 of this Law.

(2) When the question referred to in subsection (1) (a) of this section has been decided by the Court of Appeal, the Court shall:

- a) continue the trial or discharge the defendant;
- b) acquit or convict the defendant.

307. An application for stay of proceedings in respect of a criminal matter before the Court shall not be entertained.

Stay of Proceedings.

308. (1) When the case for both sides is closed, the Court shall consider its verdict and for this purpose may retire or adjourn the trial.

Consideration of Case by Court and Announcement Offending.

(2) After the Court has made its finding, the Court shall pronounce that finding in the open court.

309. The Judge or Magistrate shall record his judgment in writing and every judgment shall contain the point or points for determination, the decision and the reasons for the decision and shall be dated and signed by the Judge or Magistrate at the time of pronouncing it.

Judgment to be in Writing.

Defendant to
be Discharged
Where Found
Not Guilty.

310. Where the Court finds the defendant not guilty, it shall immediately discharge him and record an order of discharge and acquittal accordingly.

Procedure on
Finding of Guilty.

311. (1) Where the finding is guilty, the convict shall, where he has not previously called any witness to character, be asked whether he wishes to call any witness and, after the witness, if any, has been heard, he shall be asked whether he desires to make any statement or produce any necessary evidence or information in mitigation of punishment in accordance with section 310 (3) of this Law.

(2) After the defendant has made his statement, if any, in mitigation of punishment the prosecution shall, unless such evidence has already been given, produce evidence of any previous conviction of the defendant.

Sentence and
Sentencing
Hearing.

312. (1) Where the provisions of section 309 of this Law have been complied with, the Court may pass sentence on the convict or adjourn to consider and determine the sentence and shall then announce the sentence in open court.

(2) The Court shall, in pronouncing sentence, consider the following factor:-

- a) the objectives of sentencing, including the principles of reformation and deterrence;
- b) the interest of the victim, the convict and the community;
- c) appropriateness of non-custodial sentence or treatment in lieu of imprisonment; and
- d) previous conviction of the convict.

(3) A Court, after conviction, shall take all necessary aggravating and mitigating evidence or information in respect of each convict that may guide it in deciding the nature and extent of sentence to pass on the convict in each particular case, even though the convict were charged and tried together.

Recommendation
for Mercy.

313. The Court may, in any case in recording sentence, make a recommendation for mercy and shall give the reasons for its recommendation.

314. (1) Where a defendant is found guilty of an offence, the court may, in passing sentence, take into consideration any other charge then pending against him, where the defendant admits the other charge and desires that it be taken into consideration and if the prosecutor of the other charge consents.

Conviction on
Other Charges
Pending.

(2) Where a desire is expressed under subsection (1) of this section and consent is given:-

- a) make an entry to that effect on the record book or file; and
- b) the prosecution shall state the facts of the case in accordance with section 300 of this Law.

(3) Where the charge pending against the defendant is considered in accordance with subsections (1) and (2) of this section and sentence passed on the defendant with consideration or in respect of the other pending charge, the defendant shall not, subject to the provisions of sections 242 and 243 of this Law, or unless the conviction has been set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

315. (1) Notwithstanding the limit of its civil or criminal jurisdiction, a Court has power, in delivering its judgment, to award to a victim commensurate compensation to be paid by the defendant or any other person or the State.

Compensation
to Victim in
Judgment.

(2) The Court in considering the award of compensation to the victim may call for additional evidence to enable it determine the quantum of compensation to award in subsection (1) of this section.

316. Where a Judge or Magistrate having tried a case is prevented by illness or other unavoidable cause from delivering his judgment or sentence, the judgment or the sentence, if it has been signed by the Judge or Magistrate, may be delivered and pronounced in open Court by any other Judge or Magistrate in the presence of the defendant.

Delivery of
Judgment When
Judge or
Magistrate is
Unavoidably
Absent.

317. Where a sentence or conviction does not order the payment of money but orders the convict to be imprisoned, the court shall issue a warrant of commitment accordingly.

Warrant of
Commitment.

Authority for
Carrying Out
Sentence
Other Than of
Death

318. A warrant under the hand of the Judge or Magistrate by whom a convict has been sentenced or committed to prison for non-payment of a penalty or fine grants full authority to the officer in charge of any prison and to all persons for carrying into effect the sentence described in the warrant not being a sentence of death.

Error or Omission
not to Affect
Legality of Act.

319. The court may, at any time, amend any defect in an order or warrant of committal and no:-

- a) omission or error as to time and place; or
- b) defect in form in any order or warrant of committal given under this Law and any other Law, shall be held to render void or unlawful an act done or intended to be done by virtue of the order or warrant if it is mentioned, or may be inferred, that it is founded on a conviction or judgment sufficient to sustain it.

PART 32 COSTS, COMPENSATION, DAMAGES AND RESTITUTION

Power of Court
to Order
Payment of
Expenses or
Compensation.

320. (1) A court may, within the proceedings or while passing judgment, order the Accused person or convict to pay a sum of money:-

- a) as compensation to any person injured by the offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit;
- b) in compensating a bona fide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and
- c) in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

(2) Where the payment-referred to in subsection (1) of this section, is imposed in a case which is subject to appeal, no payment may be made before the period

allowed for presenting the appeal has elapsed or, where an appeal is presented, before the decision on the appeal.

(3) Order for compensation may be made under this section irrespective of the fact that no fine has been imposed on the defendant in the judgment.

321. (1) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into consideration any sum paid or covered as compensation under this section.

Payment to be Taken into Consideration in Subsequent Civil Suit.

(2) The pendency of criminal proceedings shall not be a bar to a civil action in court in respect of the same subject matter.

322. A court after conviction in a trial may adjourn proceedings to consider and determine the sentence appropriate for the convict and

Power of Court to Order Restitution.

a) order for the restitution or compensation for the loss or destruction of the victim's property and in so doing the court may direct the convict:

- i. to return the property to the owner or to a person designated by the owner;
- ii. where the return of the property is impracticable, to pay an amount equal to the value of the property, or
- iii. where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.

b) in addition to or in lieu of any other penalty authorized by Law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate.

323. (1) Where a person causes the arrest, or arrest and charge of a defendant or defendants and it appears to the court that there was no sufficient ground for causing the arrest, or that the accusation is false, vexatious or frivolous, it may for reason recorded, order the person to pay reasonable compensation to the Defendants arrested and charged.

Compensation in Cases of False and Vexatious Accusation.

(2) The court may, in default of payment of such compensation or any part of it, award a term of imprisonment against the person against whom the order was made, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set out in this Law or the court may sentence the person to Community Service in accordance with section 440 of this Law.

(3) Notwithstanding the provision of subsection (2) of this section, the term of imprisonment served by the convict in default of payment of compensation shall not relieve the convict from paying the adjudged compensation.

(4) Subject to the provisions of the Constitution relating to appeals, a person against whom an order for payment of compensation is made under this section may appeal against the order as if he had been convicted after trial by the court that issued the order.

Injured Person
May Refuse to
Accept
Compensation
but Payment of
Compensation is
Bar to Further
Liability.

324. (1) A person to whom compensation is awarded may refuse to accept the compensation.

(2) Before making an order for compensation under this Law, the court shall explain the full effect of this section to the person to whom compensation is payable.

Monies paid as
Compensation,
Recoverable as
Fines.

325. Any compensation ordered to be paid under this Law or any other Law, relating to any criminal proceedings, may be enforced as if it were a fine.

Warrant for Levy
of Fine.

326. (1) Where a convict is ordered to pay a fine, or a defendant is ordered to pay compensation to another person under section 320 of this Law, or a person is subject to recovery of penalty for forfeiture of a bond under this Law, the court passing the sentence or making the order may, notwithstanding that, in default of the payment of the fine or penalty, the convict or defendant may be imprisoned, issued a warrant for the levy of the amount by any means permitted by Law, including:-

- a) the seizure and sale of any movable property belonging to the defendant or convict;
- b) the attachment of any debt due to the defendant or convict; and

- c) subject to the provisions of the Land Use Act and any other Law, the attachment and sale of any immovable property of the convict situated within the jurisdiction of the court.

(2) A warrant for seizure and sale of the movable property of a person under this section shall be addressed to the court within whose jurisdiction it is to be executed.

(3) Where execution of a warrant is to be enforced by attachment of debts or sale of immovable property, the warrant shall be sent for execution to any court competent to execute orders for the payment of money in civil suits and the court shall follow the procedure for the time being in force for the execution of such orders.

327. (1) Where a convict has been ordered by the court to pay a fine with or without a sentence of imprisonment in default of payment of the fine, the court authorized by section 342 of this Law, to issue a warrant may, exercise any of the following powers:-

Powers of Court
When Convict is
Sentenced to
Only Fine.

- a) allow time for payment of the fine;
- b) direct that the fine be paid by instalments;
- c) postpone the issue of a warrant under section 326 of this Law;
- d) without postponing the issue of a warrant under section 326 of this Law, postpone the sale of any property seized under the warrant; or
- e) postpone the execution of the sentence of imprisonment in default of payment of the fine.

(2) An order made in the exercise of the powers referred to in subsection (1) of this section, may be made subject to the convict giving such security as the court may consider fit, by means of a bond with or without sureties, in which case, the bond may be conditioned either for the payment of the fine in accordance with the order or for the appearance of the convict as required in the bond or both.

(3) The court may also, in the exercise of the powers referred to in subsection (1) of this section, order that the execution of the sentence of imprisonment on a convict who has been committed to prison in default of payment of a fine, be suspended and, that he be released but only subject to the convict giving security as specified in subsection (2) of this section.

(4) Where the fine or any instalment of the fine is not paid in accordance with an order under this section, the authority making the order may enforce payment of the fine or of the balance outstanding, by any means authorized in this Law and may cause the offender to be arrested and may commit or recommit him to prison under the sentence of imprisonment in default of payment of the fine.

Wrongful
Conversion or
Detention of
Property and
Award of
Damages.

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

(2) The damages awarded under this section, shall be recovered in like manner, as prescribed in section 325 of this Law.

PART 33 – CUSTODY, DISPOSAL AND RESTORATION OF PROPERTY

Meaning of
"Property".

329. In this part, "**Property**" in the case of property regarding which an offence appears to have been committed, includes not only the property as has been originally in the possession or under the control of a party, but also any property into or for which that same has been converted or exchanged and anything acquired by the conversion or exchange, whether immediately or otherwise.

Order for
Custody and
Disposal of
Property Pending
Trial.

330. Where any property regarding which an offence appears to have been committed or which appears to have been used for the commission of an offence is produced before Court during a trial, the court:

- a) may make such order as it thinks fit for the proper custody of that property pending the conclusion of the proceedings or trial; or
- b) where the property is subject to speedy decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of, and the proceeds dealt with as the court may direct.

331. (1) Where any proceeding or trial in a criminal case is concluded, the court may make such order as it thinks fit, for the disposal by destruction, confiscation or delivery to a person appearing to be entitled to the possession or otherwise, of any movable property or document produced before it or in its custody or regarding which an offence appears to have been committed or which has been used for the commission of an offence.

Order for
Disposal of
Property After
Trial.

(2) Notwithstanding that the trial, proceedings or an appeal is pending in respect of the case, the court may, in any case, make an order under the provisions of subsections (1) of this section for the delivery of any property, to a person appearing to be entitled to the possession of the property, on his executing a bond, with or without sureties, to the satisfaction of the court, undertaking to restore the property to the court.

(3) An order made under this section may be appealed against as if it is a decision in the final judgment of the court giving the direction.

332. (1) Where the court orders the forfeiture or confiscation of any property 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 property, if sold, the proceeds of the sale be held as it directs until some person establishes to the court's satisfaction, a right to the property.

Custody or Sale
of Property.

(2) Where no person establishes a right within six months from the date of forfeiture or confiscation of the property, the proceeds of the sale shall be paid into the Consolidated Revenue Fund of the State, or any other appropriate account, as may be authorized.

(3) Where an order is made under this section in a case from which an appeal lies, the order shall not, except when the property is a livestock or is subject to speedy and natural decay, be carried out until the period allowed for presenting the appeal has passed or when the appeal is entered, until the disposal of the appeal.

**PART 34 –
SEIZURE, FORFEITURE, CONFISCATION AND
DESTRUCTION OF INSTRUMENT OF CRIME**

Seizure of
Things Intended
to be Used in
Commission of
Crime.

333. The Court may:-

- a) order the seizure of any instrument, material or thing which there is reason to believe is provided or prepared, or being prepared, with a view to the commission of an offence triable by the court; or
- b) direct the instrument, material or thing to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 334 of this Law.

Destruction of
Seditious,
Prohibited or
Obscene
Publications and
of Obscene
Objects.

334. (1) Upon a conviction for an offence relating to obscene publication, the court may order the confiscation and destruction of all the copies of the publication or thing, including those that remain in the possession or power of the convict.

(2) Upon arrest on an offence relating to adulterated or unfit food, drink or drug, the court may order the confiscation and destruction of the food, drink or drug, including such other adulterated or unfit items in the possession or power of the defendant.

Search Warrant
May be Used to
Search for
Things.

335. Where a court is satisfied, by information on oath, that there is reasonable ground for believing that there is in the State in any building, carriage, receptacle or place, anything in respect of which an order may be made under section 333 or 334 of this Law, the court may issue a search warrant to search for the thing and where the thing is found, it shall be brought before a court and dealt with as that court may deem proper.

Restoration of
Possession of
Immovable
Property.

336. (1) Where a defendant is convicted of an offence carried out by criminal force, and it appears to the court that by that force a victim has been dispossessed of any immovable property, the court may, where it deems fit, order the possession of the property to be restored to the victim.

(2) An order under this section shall not prejudice any right or interest in the immovable property which a victim, including the convict, may be able to establish in a civil suit.

337. (1) The seizure by the police of property taken during arrest or investigation under this Law, or alleged or suspected to have been stolen or found in circumstances which create a suspicion of the commission of an offence, shall, within a period not exceeding 48 hours of the taking of the property or thing, be reported to a court, and the court shall make an order in respect of the disposal of the property or its delivery to the person entitled to its possession or such other orders as it may deem fit in the circumstances.

Procedure on Seizure of Property Taken During Arrest or Investigation or Stolen.

(2) Where the person entitled to the possession of property referred to in subsection (1) of this section, is unknown, the court may detain it and shall issue a public notice specifying the articles of which the property consists and requiring any person who may have a claim to it, to appear before the court and establish his claim within six months from the date of the notice.

338. (1) Where no person within the period referred to in section 337 (2) of this Law, established his claim to property referred to in that section and where the person in whose possession the property was found is unable to show that it was Lawfully acquired by him, the property shall be at the disposal of the court and may be sold in accordance with the order of the court and proceed forfeited to the State Government.

Procedure Where Owner of Property Seized is Unknown.

(2) At any time within six years from the date of the property coming into the possession of the police, the court may direct the property or the proceeds of the sale of the property to be delivered to any person proving his title to it, on payment by him, of any expenses incurred by the court in the matter.

339. Where the person entitled to the possession of property referred to in section 337 of this Law, is unknown or absent and the property is subject to speedy decay or, for the benefit of the owner, the court may, at any time, direct it to be sold and the provisions of sections 337 and 338 of this Law shall, as nearly as may be practicable, apply to the net proceeds of the sale.

Power to Sell Perishable Property.

Payment to
Innocent Person
of Money Found
on Defendant.

340. Where a defendant is convicted of an offence relating to property and it is proved that a person has bought the stolen property from him without knowing or having reason to believe that the property was stolen, and that money has, on the arrest of the convict been taken out of his possession, the court may:

- a) on the application of the purchaser; and
- b) on the restitution of the stolen property to the person entitled to possession, order that out of the money a sum not exceeding the price paid by the purchaser, shall be delivered to him.

Restitution and
Disposition of
Property Found
on Defendant.

341. Where, on the arrest of a defendant charged with an offence, any property, other than that used in the commission of the offence, is taken from him, the court before which he is charged may order that the property or any part of it be:

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

Restitution of
Stolen Property.

342. (1) Where a defendant is convicted of an offence relating to property, the court convicting him may order that the property or any part of it be restored to the person who appears to it to be the owner, either on payment or without payment by the owner, to the person in possession of the property or any part of it, or of any sum named in the order.

(2) This section does not apply to:-

- a) a valuable security which has been paid or discharged in good faith by a person liable to pay or discharge the instrument; or
- b) a negotiable instrument which has been received in good faith by transfer or delivery by a person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen.

343. Where a defendant is charged with an offence relating to counterfeit currency and in that defendant's possession, actual or constructive, was found a counterfeit currency or thing intended to be used for the purpose of making counterfeit currency, then, whether the charge proceeds to conviction or not, the currency or thing shall not be returned to the defendant charged or to the person from whom it was taken but shall be destroyed in such a manner as the court may order.

Destruction of Articles Relating to Counterfeiting Where Charge is Laid.

344. (1) Where a person comes into possession of a currency, which he believes to be counterfeit or which, in his opinion, is to be used for the purpose of making counterfeit currency, he may hand the currency or thing to any officer of the Central Bank of Nigeria designated by the Bank to receive it, or to any police officer not below the rank of an Inspector, and the officer of the Central Bank of Nigeria, or Police Officer if satisfied that the currency:-

Destruction of Articles Relating to Counterfeiting Where no Charge is Laid.

- (a) is not counterfeit, or is intended to be used for the purpose of making counterfeit currency shall return the currency or thing, as the case may be, to the person purporting to be the owner of it, if known; and
- (b) is counterfeit or is intended to be used for the purpose of making counterfeit currencies and if no charge is to be preferred against a person in connection with the currency or thing, may destroy, or cause to be destroyed the currency or thing in such manner and by such person as may be approved by the Central Bank of Nigeria.

(2) Notice of an action to be taken under subsection (1) (a) of this section, shall have been given to the person who appears to be the owner of a currency, matter or thing, where the person is known and can easily be found, that the coin or thing will be destroyed at the end of a specified number of days unless the owner shows that the currency is not counterfeit or that the thing is not intended to be used for the purpose of making counterfeit currency.

Detention and
Destruction of
Counterfeit
Currency, etc.

(3) A reasonable time shall be allowed for the person to provide proof that the currency is not counterfeit or that the thing is not intended to be used for the purpose of making counterfeit currency and the person who alleges that he is the owner of or otherwise entitled to the currency or thing shall have no claim against the officer of the Central Bank of Nigeria, police officer or the Federal Government in respect of the coin or thing so destroyed.

345. (1) Subject to the provisions of this section, section 343 and 344 of this Law, shall apply in relation to notes purporting to be legal tender in Nigeria as those sections apply in relation to currency.

(2) Any currency, matter or thing shall not be destroyed by virtue of the provisions of this part except:-

- a) a court orders its destruction, in connection with a conviction for an offence; or
- b) it appears to a Magistrate court having jurisdiction in the place where the currency, matter or thing is for the time being situated, on an application made in accordance with rules of court, that the existence of the currency, matter or thing involves a breach of the Law and the court makes an order for its forfeiture and destruction accordingly.

(3) In the absence of a conviction for an offence in respect of the currency, matter or thing and any pending prosecution for the offence, and of an order or pending application for an order for its forfeiture, the currency, matter or thing:

- i. has been voluntarily surrendered by the person having possession of it, to the proper official of the Central Bank of Nigeria or a superior police officer, or
- ii. is discovered in a lodgement made with the Central Bank by a commercial bank.

Mode of Dealing
With Forfeiture
Not Pecuniary.

346. Subject to the provisions of any Law, an article, not pecuniary, forfeited in respect of a summary conviction for an offence, the seizure, forfeiture or disposition of which may be enforced by the court may be sold or disposed of in such manner as the court may direct, and

the proceeds of the sale shall be applied in the like manner as if the proceeds were a penalty imposed under the Law on which the proceedings for the forfeiture is founded.

**PART 35 –
SUMMARY PROCEDURE IN PERJURY**

347 (1) Where it appears to a court that a person has committed perjury in any proceedings before it, the court, subject to the provisions of subsection (2) of this section, and in addition, in the case of a Magistrate, to subsection (3) of this section may:

Summary
Procedure in
Perjury.

- a) commit him for trial on a charge of perjury and bind any person by recognizance to give evidence at his trial; or
- b) Try him summarily for contempt of court and where he is found guilty, commit him to prison for a period not exceeding 6 months or fine him in such sum in accordance with the scale of fine in the Appendix D to this Law.

(2) Where a court decides to try a person summarily, under subsection (1) of this section, for contempt of court, the court shall:-

- a) specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies on which the charge is based; and
- b) require him to give his explanation to the inconsistencies and record the explanation.

(3) Where a court orders a person to be imprisoned or to pay a fine under subsection (1) of this section, it shall:-

- a) not issue a warrant of commitment or make an order for imprisonment for non-payment of the fine but shall either remand the person or release him on a recognizance with or without sureties, to come up before the court when called upon; and
- b) immediately forward to the Chief Judge or such Judge as the Chief Judge may direct, a certified copy of the proceedings.

(4) The Chief Judge or Judge to whom a certified copy of the proceedings is forwarded pursuant to subsection (3) of this section:

a) may, without hearing argument and in the absence of the person concerned, set aside or confirm the order or reduce the sentence of imprisonment or the amount of the fine; and

b) shall inform the court immediately of this decision.

(5) Where the Chief Judge or Judge does not wholly set aside the court's order, the court shall immediately issue its warrant of commitment or make the necessary order for payment of the fine in accordance with the terms of the Chief Judge or Judge's order.

(6) An imprisonment or a fine ordered or imposed under this section is a bar to any other proceeding for the same offence except where the order of the court has been wholly set aside.

PART 36 –

TRIALS AND SUMMARY TRIALS GENERALLY

Trials.

348. (1) Trials shall be held in the High Court on a charge filed:-

- a) by the Attorney-General or a Law officer in his office;
- b) by a Legal Officer of any prosecuting agency;
- c) by a private prosecutor duly authorized by the Attorney-General; or
- d) summarily, in accordance with the provisions of this Law.

(2) Trials shall be held in the Magistrate court or any other court exercising criminal jurisdiction in accordance with the provisions of this Law relating to summary trials

Duty of Court;
Non-Appearance
and Non-
Representation
by Legal
Practitioner.

349.(1) Where a defendant charged before a court is not represented by a legal practitioner, the court shall:

- a) inform him of his rights to a legal practitioner of his choice or of his right to defend himself; or

- b) enquire from him, whether he wishes to engage his own legal practitioner, or a legal practitioner engaged for him by way of legal aid.

(2) Where the legal practitioner who had appeared on behalf of the defendant ceases to appear in court on two consecutive sessions of the court, the court shall enquire from the defendant if he wishes to engage another legal practitioner or a legal practitioner engaged for him by way of legal aid.

(3) Where the defendant wishes to engage a legal practitioner of his choice, the court shall allow him reasonable time but not exceeding 30 days to do so.

(4) Where the defendant fails or is to engage a legal practitioner for himself within a reasonable time, the court may direct that the defendant be represented by a legal practitioner engaged by way of legal aid.

(5) The court may assign to any legal practitioner whose place of practice is within the jurisdiction of the court, any case of a defendant who has no legal representation, and the legal practitioner shall undertake the defence of the defendant with all due diligence, in which case, the legal practitioner shall not pay any filing fee or service fee in respect of the case so assigned.

(6) A legal practitioner so engaged shall be paid such reasonable sum as may be determined by the Attorney-General.

(7) Where the defendant chooses to represent himself, the court shall:-

- a) inform him of his rights under the Constitution of the Federal Republic of Nigeria, 1999 and under this Law;
- b) indicate the fact of having so informed the defendant on the record; and

(8) A legal practitioner, other than a Law officer, engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant until final 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.

(9) Where a legal practitioner intends to disengage from a matter, he shall notify the court, not less than 3 days before the date fixed for hearing and such notice shall be served on the court and all parties.

When Summary Trials shall be Held.

350. (1) Trials shall be held summarily in:-

- a) the High Court in respect of perjury;
- b) respect of an offence which by a law of the state triable summarily; and
- c) respect of a trial for an offence punishable with imprisonment for less than 3 years in the Magistrate Court.

(2) In a trial in any court, the prosecution shall, provide the defendant all materials that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

Non-Appearance of Complainant.

351. (1) When the case is called, the defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing, does not appear in person or in the manner authorized by a written Law, the court may dismiss the complaint.

(2) Where the court receives a reasonable excuse for the non-appearance of the complainant or his representative or for other sufficient reason, it shall adjourn the hearing of the complaint to some future day on such terms as the court may deem just.

Non-Appearance of Defendant.

352. (1) Where 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 where it is:

- a) satisfied that the summons, if any, has been duly served, may issue a bench warrant for his arrest; or
- b) not satisfied that the summons has been duly served or where a warrant had been issued, in the first instance, for the arrest of the defendant. Shall adjourn the hearing of the case to some future day, in order that proper service may be effected or, until the defendant is arrested, as the case may be.

(2) Where the defendant is afterward arrested on a bench warrant, he shall be brought before the court immediately which may then commit him by warrant to prison or to such other place of safe custody as it deems fit, and order him to be brought before the court at a certain time and place.

(3) The complainant shall, by direction of the court, be served due notice of the time and place ordered under subsection (2) of this section.

(4) Where the court, in exercise of its discretion, has granted bail to the defendant and the defendant fails to attend court without reasonable explanation, the court shall continue with the trial in his absence and convict him unless the court sees reasons otherwise, provided that proceedings in the absence of the defendant shall take place after two adjournments or as the court may deem fit.

(5) The court shall impose a sentence only when the defendant is arrested or surrenders to the custody of the court.

353. (1) Where the case is called and neither the prosecutor nor the defendant appears, or the defendant appears and the prosecutor does not appear, the court shall make such order as the justice of the case requires.

Non-Appearance of Both Parties.

(2) The court may, in the order, include such direction as to the payment of costs as the court considers fit.

354. When the case is called and both the complainant and the defendant appear, the court shall proceed to hear and determine the case.

Appearance of Both Parties.

355. Where a complainant, at any time before Judgment is delivered in a case, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the complaint and shall thereupon acquit the defendant.

Withdrawal of Complaint.

356. (1) At the commencement of the hearing, the court shall state, or cause to be stated to the defendant, the substance of the complaint, and shall ask him whether he is guilty or not guilty.

Manner of Hearing.

(2) Where the defendant pleads guilty and the court is satisfied that he has admitted the offence and shown no cause or no sufficient cause why sentence should not be passed, the court shall proceed to sentence him.

(3) Where the defendant pleads not guilty, the court shall direct all witnesses to leave the court and upon the direction, the provisions of section 213 of the Evidence Act, shall apply, but failure to comply with the provisions of this subsection shall not invalidate the proceedings but would affect the weight of evidence given by that witness who fails to leave the court on the direction being given.

(4) Notwithstanding the provision of subsections (1), (2) and (3) of this section, in capital offences the court shall proceed with the trial irrespective of the plea by the defendant.

(5) The court shall then proceed:-

(a) to hear the prosecutor and such witnesses as he may call and such other evidence as he may adduce in support of the charge; and

(b) to hear the defendant and such witnesses as he may call and such other evidence as he may adduce in his defence.

(6) The prosecutor may put questions to each witness called by the defendant and where the defendant gives evidence, he may be cross-examined.

(7) Where the Defendant is not represented by a legal practitioner, the court shall, at the close of the examination of each witness for the prosecution, ask the defendant whether he wishes to put any question to that witness, and shall record the defendant's answer.

(8) The defendant shall take his plea in the dock, except the Judge direct otherwise.

Discharge of
Defendant When
No Case to
Answer

357. Where 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, as to that particular charge, discharge him being guided by the provisions of section 302 of this Law.

358. (1) At the close of the evidence in support of the charge, where it appears to the court that a prima facie case is made out against the defendant sufficiently to require him to make a defence, the court shall call on him for his defence and where the defendant is not represented by a legal practitioner, the court shall inform him of the alternatives open to him that he may:-

Defence.

- a) 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
- b) give evidence in the witness box, after being sworn as a witness, in which case he will be liable to cross-examination; or
- c) call any witness or adduce any other evidence in his defence.

(2) Where the defendant is represented by a legal practitioner, the court shall call on the legal practitioner to proceed with the defence.

(3) Notwithstanding the provisions of subsection (1) of this section, oath of denial shall be administered in accordance with the principles of Sharia by the sharia courts.

359. (1) The defendant may apply to the court to issue a process for compelling the attendance of a witness for the purpose of examination or the production of a document or any other thing.

Process for Compelling Production of Evidence at Instance of Defendant.

(2) On an application by the defendant under subsection (1) of this section, the court shall issue the process unless for reasons to be recorded by it in writing it considers that the application is made for the purpose of vexatious or delay or of defeating the aims of justice.

360. Failure to comply with the requirements of section 358 (1) of this Law, shall not of itself vitiate the trial where the court:-

Saving as to Section 358 (1).

- a) called on the defendant for his defence;
- b) asked the defendant if he had any witness; and
- c) heard the defendant and his witnesses and other evidence, if any.

Evidence in
Reply.

361. Where the defendant adduces in his defence a new matter, which the prosecution could not foresee, the prosecution may, with the leave of the court, adduce evidence to rebut the new matter or evidence.

Power to Take
Deposition in
Certain Cases.

362. (1) In certain exceptional circumstances, where the evidence of a technical, professional or expert witness would not ordinarily be contentious as to require cross-examination, the court may grant leave for the evidence to be taken in writing or by electronic recording device, on oath or affirmation of the witness, and the deposition shall form part of the record of the court.

(2) Where it appears to the court that a person who is seriously ill or hurt may not recover, but is able and willing to give material evidence relating to an offence and it is not practicable to take the evidence in accordance with the provisions of this Law, the Judge or Magistrate shall:-

- a) take in writing the statement on oath or affirmation of the person and subscribe the statement and certify that it contains accurately the whole of the statement made by the person; and
- b) add a statement of his reason for taking the statement, the date and place when and where the statement was taken, and shall preserve the statement and file it for record.

(3) The court shall cause reasonable notice of the application to take the deposition in accordance with subsection (1) and (2) of this section, and of the time and place where it is to be taken to be served on the prosecutor and defendant and if the defendant, is in custody and his presence is required for the deposition, he shall be brought by the person in whose custody he is, to the place where the statement is to be taken, under an order in writing of the court.

When Statement
May be Used in
Evidence.

363. (1) A statement taken under section 362 of this Law, may afterwards be used in evidence on the trial of a defendant to which the statement relates in accordance with the provisions of section 46 of the Evidence Act.

(2) The signature and attestation of the Judge or Magistrate shall be sufficient *prima facie* proof of the content of the statement, and that the statement was taken in all respect according to Law and the attestation and signature shall be admitted without further proof unless the court sees reason to doubt its genuineness.

364. (1) Without prejudice to section 363 of this Law, court proceedings may be recorded electronically and verbatim such that at the end of each day's proceeding a transcript of such recording shall be printed to enable certification or authentication by the Judge or Magistrate who conducted the proceedings.

Notes of
Evidence to be
Recorded
Electronically or
in Writing.

(2) Where court proceedings are not recorded as stated in sub-section (1), the court shall in every case take notes in writing of the oral evidence it considers material, in a book to be kept for that purpose and the book shall be signed by the court at the conclusion of each day's proceedings.

(3) The transcript of the recording of the court shall be signed or otherwise authenticated by the presiding Judge at an adjournment of the case or at the conclusion in a manner authorized from time to time by the Chief Judge in accordance with such condition as may be imposed by rules of court, and the signed transcript shall be taken as part of the record of the proceedings.

(4) A person is not entitled, as of right, to inspection of or to a copy of the record so kept except as may be expressly provided for by the rules of the court or by any other Law.

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

365. A court trying a case summarily shall make or cause to be made such local inspection as the circumstances of the case may require.

Local
Inspection.

366. Where a complaint is made by one or more parties against another party or parties and there is a cross-complaint by the defendant or defendants in the first

Cross
Complaints.

named case, the court may, where it deems fit, hear and determine the complaints in the same proceeding.

Joinder of Complaints.

367. Where two or more complaints are made by one or more parties against another party or parties and the complaints refer to the same matter, the court may, where it deems fit, hear and determine the complaints in the same proceedings.

Giving of Decision Upon Conclusion of Hearing.

368. On the conclusion of the hearing, the court shall either at the same or at an adjourned sitting give its decision on the case either by dismissing or convicting the defendant and may make such other orders as may seem just.

Power to Bind Parties to be of Good Behaviour.

369.(1) In a summary trial, the court may, whether the complaint is dismissed or not, by order bind over either the complainant or defendant, or both, with or without a surety or sureties, to be of good behaviour.

(2) A person who breaches an order made, pursuant to subsection (1) of this section, may be imprisoned of a term not exceeding three months in addition to any other punishment to which the person is liable.

(3) Before a binding order pursuant to subsection (1) of this section, or an order for imprisonment or any other punishment under subsection (2) of this section, is made, the person to be affected by the order shall be given an opportunity to be heard.

Effect of Judgment of Dismissal on Merits, Not on Merit and Without Prejudice.

370. (1) Where a charge is dismissed on merits, the dismissal has the same effect as an acquittal.

(2) Where a charge is dismissed but not on merits, or stated to be dismissal without prejudice, the dismissal does not have the same effect as an acquittal.

Summary Trial of Child by Magistrate.

371. Where a child is proceeded against before a court for an offence, the court may have regard to the provisions of the Children and Young Persons Law.

Power to Remand.

372. Without prejudice to any other power which a Magistrate may possess, he may, for the purposes of

ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged for a period not exceeding 48 hours or release him on bail.

373. (1) A Law officer, in a case where a charge of an indictable offence is being proceeded with summarily by a Magistrate, may, at any time before Judgment, request the Magistrate to deal with the case as one for trial on charge.

Law Officer May Request Case to be Adjourned or Dealt with Specially.

(2) On receipt of the request, the Magistrate shall adjourn the proceeding until such a time as a charge is filed in the High Court, provided that the charge shall be filed within a period of 30 days of the date of the order granting the request.

(3) The Magistrate shall make the case returnable for a period not exceeding 32 days from the date of the grant of the request.

(4) Where at the end of the period of 30 days provided in subsection (2) of this section, the charge against the defendant has not been filed at the High Court, the Magistrate shall proceed on the return date to try the charge summarily where he has jurisdiction, or may make an order releasing the defendant on bail pending his arraignment on the charge as requested by the law officer.

374. (1) Where a charge for an offence is being tried summarily by a Magistrate, he shall, at the request of the person in charge of the prosecution made at any time before judgment, adjourn the hearing of the charge to allow for consultation with a Law officer with a view to obtaining a request to proceed in accordance with section 373 of this Law.

Adjourned for Law Officer's Decision.

(2) The request of the Law officer so consulted shall be filed within 14 days of the date the Magistrate grants the request of the person prosecuting, failing which the Magistrate shall proceed to try and conclude the case summarily.

(3) Where the Magistrate grants an adjournment at request under subsection (1) of this section, the adjournment shall not be for a period exceeding 15 days, and the Magistrate may grant the defendant bail.

Security for
Peace in Cases
Tried Summarily.

375. (1) A defendant convicted of an offence tried summarily may, instead of, or in addition to any prescribed punishment, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit that he shall keep the peace and of good behaviour for a reasonable period fixed by the court.

(2) The convict may be ordered to be imprisoned until the recognizance is entered into, but the imprisonment shall not:-

- a) extend for a term longer than 1 year; and
- b) together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine for the offence which he was convicted.

Case files, Legal
Advice, and
Related
Proceedings.

376. (1) Where an offence for which the Magistrate court has no jurisdiction to try is preferred against a defendant, the police shall at the end of investigation submit the original case file to the office of the Attorney-General.

(2) The Attorney-General shall, within 14 days of receipt of the police case file, issue and serve his legal advice indicating whether or not there is a prima facie case against the defendant for which he can be prosecuted.

(3) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has no prima facie case to answer, he shall serve a copy of the legal advice on the:

- a) court before whom the suspect was remanded in prison, where he is in remand custody, or before whom the suspect was granted bail, where he is on bail; and
- b) Suspect in respect of whom legal advice is preferred through the prison authority, where the suspect is remanded in custody, or through his legal representative, if any.

(4) Where the offence is one for which a Magistrate court has jurisdiction to try, the prosecutor shall file the First Information Report or charge at the Magistrate court, accompanied with:

- a) the list of witnesses;
- b) the list of exhibits;
- c) statement of the witnesses and the defendant; and

any report, document or material that the prosecution intends to rely on at the trial of the offence, but the prosecution may, with the leave of the court, file and serve any additional document

(5) The police or the officer in charge of the prison in which the suspect is remanded in custody shall on receipt of the legal advice, release the suspect immediately from detention where there is no case to answer.

(6) The court referred to in subsection (3) (b) of this section, shall, on receipt of the legal advice, dismiss the charge against the suspect and accordingly discharge the suspect.

(7) The Attorney-General shall send a Law officer in his office to the court where the order of remand was made and ensure the discharge of the remand order and of the suspects.

(8) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has a prima facie case to answer, he shall file and serve the charge in accordance with the provisions of this Law.

(9) A form as prescribed in the Appendix D to this Law, including a desire to be represented by legal practitioner of his choice or by a legal practitioner from the Legal Aid Council or any other organization providing free legal representation to defendants shall be attached to each legal advice for the purpose of endorsement by the person in respect of whom legal advice is preferred and against whom the First Information Report or charge is filed.

(10) Where the defendant indicates in the form referred to in subsection (8) of this section that, he wishes to be represented by a legal practitioner of the Legal Aid Council or any other organization providing free legal representation, he shall forward the Form to the Chief Registrar of the court before whom the Charge for his trial has been filed and the Chief Registrar shall, within 14 days of receipt of the form, ensure that a legal practitioner of the Legal Aid Council as stipulated under this sub-section or

any other organization providing free legal representation for the defendant, and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.

(11) The Chief Registrar shall, upon receipt of the form, forward same to the State Director of the Legal Aid Council or to the nearest Legal Aid Council office where the court is located.

PART 37 RULES RELATING TO CHARGES

Filing of Charge.

377. A charge may be filed by: -

- a) the Attorney-General or officers in his office;
- b) a Legal officer acting in his official capacity;
- c) a private legal practitioner authorized by the Attorney-General.

Assignment of Charge and Notice of Trial.

378. (1) Where a charge has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the charge filed is assigned to a court for trial within 7 days of its filing.

(2) On assigning the charge, the court to which the charge is assigned shall within 5 days of the assignment issue notice of trial to the witnesses and defendants and a production warrant properly endorsed by the Judge in respect of the defendant charged, where he is in custody, for the purpose of ensuring his appearance on the date of arraignment, and the Registrar of the Court shall ensure the prompt service of the notice and charge not more than 3 days from the date they are issued.

(3) Where the defendant named in the charge is in custody, the notice of trial and the charge shall be delivered to him through the officer in charge of the prison in which he is detained, and the warrant for his production shall be served on the officer of the prison.

(4) Where the defendant is not in custody, the notice of trial and the charge shall be served on him personally.

(5) Where it is impossible or impracticable to effect personal service of the notice of trial and charge on the defendant, they may be served on him, with leave of

court, through his legal practitioner, if any, or on his surety or sureties, or on an adult in his household or in such other manner as the court shall deem fit and the charge or the hearing notice shall be deemed to be duly served on the defendant.

(6) Nothing in this section shall prevent the defendant from being tried by reason only that the notice of trial and the charge were served on him less than 3 days before the date of trial, where he consents to being so tried.

379. The place of trial shall be determined in accordance with the provisions of this Law. Venue.

380. Notwithstanding the provisions of section 379 of this Law: Change of Venue.

- a) where a case is commenced in any other division than that in which it ought to have been commenced, it may, notwithstanding, be tried in that division in which it was commenced; and
- b) the prosecutor or the defendant may, whenever he considers that the ends of justice so require in any case, apply to the court either to transfer the hearing from one division to another or from one part of the division to another part of the same division.
- c) no appeal shall lie from any order of transfer made under this section.

381. Where a case is transferred from one place in a division to another place in the same division or to another division, the case shall be tried and determined at the place or in the division to which it has been transferred; and all recognizance, subpoenas, and proceedings in or relation to the case are deemed to be returnable at the latter place or division and all witnesses who are or summoned to attend the trial shall be informed accordingly and shall attend at such latter place or division. Effect of Change of Venue.

382. The Registrar or any other person directed by the court, shall endorse on, or annex to, every charge delivered to the sheriff or proper officer, for service, a Form of Notice of Trial to Accompany Charges.

notice of trial and such notice shall specify the particular sessions at which the party is to be tried on the charge and shall be in the appropriate form or as near to it as may be.

Copy of Charge and Notice of Trial to be Delivered to Sheriff.

383. The Registrar or other proper officer shall deliver, or cause to be delivered, to the sheriff or proper officer serving the charge, a copy, with the notice of trial endorsed on or annexed to it, and where there are more parties charged than one, then as many copies as there are parties, together with a similar notice for service on each witness bound to attend the trial.

Time and Mode of Summoning Parties on a Charge.

384. The Sheriff or other proper officer shall, on receipt of the charge and notice of trial, serve the person named in the notice at least 7 days before the date specified on the notice.

Service of Notice of Trial on Witnesses.

385. Notice of trial at the same time shall be served on all witnesses, and the service of the notice on the witnesses shall be in the like manner as service on a defendant who is not in custody.

Registered Courier Companies May Serve Processes.

386. The Chief Judge may engage the service of a reputable courier company for the purpose of undertaking service of criminal processes, and such company shall serve processes in accordance with this Law.

Return of Service.

387. The officer of such courier company serving the copy of the charge and notices shall immediately make to the registrar or other proper officer a return of the mode of service with the necessary endorsement of service on the person named for service on the notice or charge.

Warrant Where Defendant Does Not Appear.

388. Where the defendant against whom a charge has been duly preferred, and on whom the charge and notice of trial have been duly serve, does not appear to plead to the charge, whether he is under recognizance to appear or not, the court may issue a warrant for his arrest.

389. Where a defendant is defendant of a capital offence or offence punishable by life imprisonment, the state shall be represented by a Law officer, or a legal practitioner, and where the defendant is not defended by a legal practitioner, the court may assign a legal practitioner for his defence.

Law Officer or
Legal
Practitioner for
State and
Defence in
Capital Cases.

390. (1) The defendant to be tried on a charge shall be arraigned in accordance with the provisions of this Law relating to the taking of pleas and the procedure.

Time for Raising
Certain
Objection, Day-
to-Day Trial and
Adjournment.

(2) After the plea has been taken, the defendant may raise any objection to the validity of the charge at any time before judgment provided that such objection shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgment.

(3) Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

(4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 days.

(5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days inclusive of weekends.

(6) In all circumstances, the court may award reasonable costs in order to discourage frivolous adjournments.

(7) Where a Judge or Magistrate conducting a trial is transferred to another jurisdiction, he shall be given a dispensation by the Chief Judge to conclude any part heard matters in his last jurisdiction within a reasonable time after assuming office in the new jurisdiction.

(8) Notwithstanding the provision of any other Law to the contrary, a Judge of the High Court, Sharia Court or a Magistrate Court who has been transferred or elevated shall have dispensation to continue to sit in his previous Court, only for the purpose of concluding any part-heard criminal matter pending before him at the time of his

elevation and shall conclude the same within a reasonable time:

Provided that this subsection shall not prevent him from assuming his new post.

(9) Where a Judge or Magistrate in a part-heard matter either retires, dies, dismissed or in any way incapacitated, a Judge or Magistrate assigned to take over the case, may continue with the case from where the former stopped subject to the provision of the Evidence Act.

Attendance of
Witness Bound
by
Recognizance to
Attend.

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

Warrant for
Arrest of
Witness Not
Attending on
Recognizance.

392. Where a person who has been summoned to attend as a witness, whether for the prosecution or for the defence, does not attend the court on the day fixed for the trial of the case or on any further adjourned date, and he offers no reasonable excuse for his absence, despite the fact that he was duly served with the notice of the trial, the court may issue a bench warrant that the person be arrested and be brought before the court, at a time to be mentioned in the warrant, in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant for
Arrest of a
Witness
Disobeying
Summons.

393. Where a person named on a summons or writ of subpoena willfully refused to accept service of the summons or writ of subpoena, the court shall issue a warrant for the person to be arrested and be brought before the court at a time to be mentioned in the warrant in accordance with the summons or writ of subpoena.

Fine for non-
Attendance of
Witness.

394. A person who fails to attend as witness in either of the cases mentioned in sections 408 and 409 of this Law is liable, on the summary order of the court, to a fine in a reasonable sum to be fixed by the court, but not less than

N5,000.00 and, in default of payment, to imprisonment for a term corresponding to the fixed sum, but the period of imprisonment shall not exceed a period of one month.

**PART 39 –
PROVISIONS RELATING TO SENTENCE OF DEATH,
IMPRISONMENT, FINE AND NON-CUSTODIAL
SENTENCES.**

395. (1) Subject to the provisions of any Law relating to a specific offence or class of offences and to the jurisdiction conferred on any court or on a person presiding over the court, the provisions in this part shall apply to sentences of death, imprisonment, fine, and non-custodial sentences.

Construction of Provisions Relating to Punishments, and Objectives of Sentencing.

(2) In determining a sentence, the court shall have the following objectives in mind, and may decide in each case the objectives that are more appropriate or even possible:-

- a) prevention, that is, the objective of persuading the convict to give up committing offence in the future, because the consequences of crime is unpleasant;
- b) restraint, that is, the objective of keeping the convict from committing more offence by isolating him from society;
- c) rehabilitation, that is, the objective of providing the convict with treatment or training that will make him into a reformed citizen;
- d) deterrence, that is, the objective of warning others not to commit offence by making an example of the convict;
- e) education of the public, that is, the objective of making a clear distinction between good and bad conduct by punishing bad conduct;
- f) retribution, that is, the objective of giving the convict the punishment he deserves, and giving the society or the victim revenge; and
- g) restitution, that is, the objective of compensating the victim or family of the victim of the offence.

Death Penalty.	396. The punishment of death shall be inflicted by a method pronounced by the Court.
How Sentence of Death is to be Carried Out.	397. Where sentence of death has been passed, the sentence shall only be carried out in accordance with the provisions of this part.
Sentencing in the Case of Pregnancy.	398. Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her but its execution shall be suspended until the baby is delivered and weaned.
Authority for Detention of Convict.	399. A certificate under the hand of the registrar, or other officer of the court, that a sentence has been passed, and naming the convict against whom it has been passed, shall be sufficient authority for the detention of the convict.
Judge's Certificate of Death Sentence to be Sufficient and Full Authority for Execution of Convict, unless he is Pardoned or Reprieved.	400. A Judge who pronounces a sentence of death shall issue, under his hand and the seal of the court, a certificate to the effect that sentence of death has been pronounced upon the convict named in the certificate, and the certificate shall be sufficient and full authority in Law for the detention of the convict in safe custody until the sentence of death pronounced upon him can be carried into effect in accordance with the provisions of this part.
Steps to be Taken by the Registrar.	<p>401. The Registrar of the court that sentenced the convict to death shall, as soon as practicable after the sentence has been pronounced:-</p> <ol style="list-style-type: none"> a) hand a copy each of the certificate issued by the Judge under the provision of section 400 of this Law to the Commissioner of Police, and the superintendent or other officer in charge of the prison in which the convict is to be confined; b) transmit to the Sheriff one copy of the certificate; and c) file one copy of the certificate with the record of the proceedings in the case.

402. (1) Where a convict desires to have his case considered by the Committee on Prerogative of Mercy, he shall forward his request through his legal practitioner or officer in charge of the prison in which he is confined to the Committee on Prerogative of Mercy.

Convict may Send Request to the Committee on Prerogative of Mercy.

(2) The committee on Prerogative of Mercy shall consider the request and make its recommendation to the Governor.

403. The Governor after considering the recommendation made under section 402 of this Law, may, decide to confirm the sentence or commute the sentence to imprisonment for life, or that the sentence should be commuted to any specific period, or that the convict should be otherwise pardoned or reprieved.

State at Which Governor is to Consider Report.

404. (1) Where the Governor decides that the sentence should be commuted or that the convict should be otherwise pardoned or reprieved, he shall issue an order, one copy of which shall be sent to the superintendent or other officer in charge of the prison in which the convict is confined, and another copy of which shall be sent to the Sheriff, directing that the execution shall not be carried out.

Where a Pardon or Reprieved is Granted.

(2) The order may be that the convict shall be imprisoned or be released, subject in either case to such conditions, if any, as may be specified therein.

(3) The Sheriff and the superintendent or other officer in charge of the prison in which the convict is confined shall comply with, and give effect to every order issued under the provisions of subsections (1) and (2) of this section.

405. The Attorney-General shall communicate the decision referred to in section 406(1) and (2) of this Law to the Judge who presided over the trial.

Copy of Order to be Sent to Judge.

406. (1) Where the Governor decides that the sentence should not be commuted or that the convict should not be pardoned or reprieved, the order of the Governor shall be

Where Pardon or Reprieve is Not Granted.

duly signed by him and sealed in accordance with Appendix D to this Law or as near to it as circumstances permit.

(2) The order of the Governor:-

a) shall state the date and time the execution is to be carried out, and give directions as to the place of the burial; or

b) may direct that the execution shall take place at such time and such place and the body of the convict executed shall be buried at such place as shall be appointed by some officer specified in the order.

(3) When the place or time of execution or the place of burial is appointed by some person and is not stated in the order of the Governor, the specified officer shall endorse on the order his signature the place and time of execution and place of burial.

Copy of order to be Sent to Prison Official.

407. A copy of the order issued by the Governor shall be forwarded to the official in charge of the prison in which the person sentenced is confined, and the official in charge of the prison shall give effect to the order of execution.

PART 39

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

Provision Where Woman Convict of Capital Offence Alleged to be Pregnant.

408. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, the court shall, before sentence is passed on her, determine the question whether or not she is pregnant.

(2) The question whether the woman is pregnant or not shall be determined by the court on such evidence as may be presented to the court by the woman or on her behalf or by the prosecutor.

(3) Where in proceedings under this section the court finds that the woman in question is not pregnant, the court shall pronounce sentence of death upon her.

(4) Where in the proceedings under this section the court finds that the woman in question to be pregnant, the

court shall sentence her to death subject to her delivery and observing weaning period of two years.

PART 40
SENTENCING GENERALLY OTHER THAN CAPITAL
SENTENCE

409. (1) On conviction, a court may sentence the convict to a term of imprisonment as prescribed by the Law.

Factors to be
Consider while
Sentencing.

(2) In exercising its discretion of sentencing or review of sentence, the court shall take into consideration the following factors; in addition to the provisions of section 395 of this Law:

- a) each case shall be treated on its own merit;
- b) the objectives of sentencing including the principles of reformation, shall be borne in mind in sentencing a convict;
- c) an appeal court may, in a proper case, reduce the sentence imposed by the trial court, especially where it is excessive or based on wrong principles, or an appeal court may increase the sentence imposed by the trial court especially where it is inadequate;
- d) a trial court may not pass the maximum sentence on a first offender;
- e) the period spent in prison custody awaiting or undergoing trial may be considered and subtracted from the sentence of the convict;
- f) trial court may conduct an inquiry into the convict's antecedents before sentencing;
- g) it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with the provisions of this Law;
- h) where there is doubt as to whether the defendant or convict has attained the age of 18, the court should resolve the doubt in his favour;

- i) a defendant may not be given consecutive sentences for two or more offences committed in the same transaction;
- j) an appellate court may not increase the sentence of a lower court beyond the maximum number of years the lower court has power to impose; and
- k) sentencing to a term of imprisonment shall apply only to those offenders who should be isolated from society and with whom other forms of punishment have failed or is likely to fail.

Power to Order Detention for One Day in Precincts of the Court.

410. (1) Where the court has power to pass a sentence of imprisonment, it may, in lieu of such sentence, order the convict to be detained within the precincts of the court or at a police station till such hour not later than eight in the evening on the day on which he is convicted, as the court may direct.

(2) The court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the convict's abode, where his abode is known to or ascertained by the court, the court shall not make an order of detention under this section as will deprive the convict of a reasonable opportunity of returning to his abode on the day on which the order of detention is made.

(3) Where a sentence of imprisonment is passed on a convict by a court, it may order that the sentence shall commence at the expiration of any term of imprisonment to which that convict has been previously sentenced by a competent court in Nigeria.

(4) Where two or more sentence passed by a Magistrate Court are ordered to run consecutively, the aggregate term of imprisonment shall not exceed 4 times of the limit of jurisdiction of the adjudicating Magistrate.

Date From Which Sentence Commences.

411. Sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

412. (1) In the case of conviction in the High Court, where no amount of fine is stipulated, 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 2 years.

Default in payment of fine.

(2) In the case of a conviction by a Magistrate:

- a) the amount of the fine shall be at the discretion of the court but shall not exceed the maximum fine authorized by this Law to be imposed by the Magistrate or under the Law by virtue of which he was appointed a Magistrate; and
- b) a term of imprisonment imposed in default of payment of the fine shall not exceed the maximum fixed in relation to the amount of the fine by the scale specified in the Appendix E of this Law.

(3) 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) of this section, exceed the maximum term authorized as a punishment for the offence by the Law.

(4) The provisions of this section do not apply in a case where a Law provides a minimum period of imprisonment to be imposed for the commission of an offence.

413. Where sentence of imprisonment is passed on an escaped convict, the sentence shall take effect after he has served imprisonment for a further period equal to that which at the time of his escape remained unexpired of his former sentence.

Execution of Sentence on Escape Convict.

414. A defendant convicted of an offence punishable by:

- a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment; or
- b) imprisonment or fine, and sentenced to pay a fine, may be ordered to serve imprisonment, in default of payment of the fine, for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

Fine in Default of Imprisonment.

General Provision
on Review of
Sums of Amount.

415. (1) The Chief Judge may, from time to time, review the provisions for the amounts of fines, compensation or other sums of money prescribed under this Law.

(2) Such provisions as may be reviewed shall be published in the Gazette.

General Power
of Awarding
Imprisonment in
Default of
Payment of
Penalty.
Appendix E.

416. Where by any Law, the court is empowered to impose a penalty for an offence for which it can convict summarily, it may, in the absence of express provisions to the contrary, order a defendant who has been so convicted, in default of payment of the sum of money adjudged to be paid under the order, either immediately or at the time specified in the order, as the case may be, to be imprisoned, in accordance with the scale set out in the Appendix E to this Law.

Scale of
Imprisonment for
Non-payment of
Money Ordered to
be Paid.

417. Subject, in every case, to the provisions of the Law on which the order is founded, the period of imprisonment, which is imposed by the court in respect of the non-payment of a sum of money ordered 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 scale set out in the Appendix E to this Law.

Limitation of
Imprisonment in
Default of
Payment of Fine.

418. A committal for non-payment of a fine shall not exceed two years, except where the Law under which the conviction is made, allows a longer period.

Payment and
Allocation of
Fines and Fees.

419. (1) A Court, in fixing the amount of fine to be imposed on a convict, may take into consideration, amongst other things, the means of the convict.

(2) Where a fine is imposed, the payment of the Court fees and other legal expenses payable in the case, up to, and including conviction, shall not be taken into consideration in fixing the amount of 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:-

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

420. In a case where an Order is made against a defendant for the payment of a sum of money and the defendant is in default of payment and liable to be imprisoned, the Court may:

Power to
Commit
Defendant in
Certain Cases

- (a) issue a warrant of committal;
- (b) allow time for the payment of the said sum; and
- (c) direct that the defendant liable to pay the said sum shall be at liberty to give, to the satisfaction of the Court, security, either with or without a surety or sureties, for the payment of the said sum or any installment.

421. (1) Where time has been allowed for the payment of a sum adjudged to be paid upon conviction or order, further time may, on an application by or on behalf of the convict liable to pay the sum, be allowed by a Court having jurisdiction to issue a warrant of committal in respect of the non-payment of that sum, the Court may, subject as aforesaid, direct payment by installments of the sum so adjudged to be paid.

Allowance for
Time and
Payment by
Installment.

(2) Where a sum of money is directed to be paid by instalments and default is made in the payment of any one installment, proceedings may be taken as if default has been made in the payment of all the installments remaining unpaid.

(3) Where before the expiration of the time allowed, the convict surrenders himself to the Court having jurisdiction to issue a warrant of committal in respect of the non-payment of the sum and states that he prefers immediate committal, the Court may, if it thinks fit, issue a warrant committing him to prison.

	(4) A warrant of committal issued under the provisions of this section may be executed on any day, including a Sunday or a public holiday.
Payment of Penalty to Person Executing Warrant.	422. In all cases where a convict, against whom a warrant of committal for non-payment of a sum of money adjudged to be paid by an order is issued, pays or tenders to the person having the execution of the warrant the sum or sums mentioned in the warrant together with the amount of the expenses of the warrant up to the time of the payment or tender, the person having the execution of the warrant shall not execute the warrant.
Commencement of Imprisonment Pursuant to a Warrant.	423. Where a convict is brought to a prison to be imprisoned by virtue of a warrant of committal, there shall be endorsed on the warrant the day on which the convict was arrested by virtue of it and the imprisonment shall be computed from that day.
Varying or Discharging Order for Sureties.	424. Where a 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 the person or by some person acting on his behalf, inquire into the case, and if new evidence is produced in proof of a change of circumstances the Court, having regard to such circumstances may:- <ul style="list-style-type: none"> a) reduce the amount for which it was ordered that the surety sureties should be bound; b) dispense with the surety or sureties; or c) otherwise deal with the case as it deems fit.
Right of Person Imprisoned in Default to be Released on Paying Sum and Effect of Part Payment.	425. (1) Where a person has been committed to prison by a Court for non-payment of a sum of money adjudged to be paid by an order, the person may pay or cause to be paid to the court the sum mentioned in the warrant of committal together with the amount of the costs, charges and expenses, if any, and the officer in charge of the prison shall discharge the person, unless he is in custody for some other matter. (2) In a case where under subsection (1) of this section a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the Court, the sum shall be applied:-

- a) firstly, towards the payment in full or in part of any cost or fine which the Court may have ordered to be paid to the complainant; and
 - b) secondly, towards the payment of the fine, if any, imposed on the prisoner.
- (3) Subject to the provisions of subsection (2) of this section, where an amount is paid towards a fine:-
- 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 the person is committed as the sum so paid towards the fine bears to the amount of the fine for which the person is liable; and
 - b) the superintendent or other officer in charge of a prison in which a person who has made the part payment is confined shall, as soon as practicable thereafter, take the person before a Court which shall:
 - i. certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction, and
 - ii. make such order as the circumstances require.
- (4) Where, in the opinion of the superintendent or other officer, the delay occasioned by taking the person before a Court is such that the person will be detained beyond the date on which he should, by reason of the part payment, be released, the superintendent or other officer may release the person on the day which appears to the superintendent or other officer to be the correct day, endorse the warrant accordingly and shall, as soon as practicable thereafter, inform the Court of the action taken and the Court shall make such Order it may consider to be appropriate in the circumstances.
- (5) In determining:-
- a) the number of days by which a term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account; and
 - b) the sum which will secure the reduction of a term of imprisonment, fractions of a naira shall be omitted.

Fines May be
Ordered to be
Recoverable by
Distress.

426. Where, under the authority of a Law, the Court imposes a fine or a 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 the fine or penalty, the Court may:-

- (a) order the fine or penalty to be recovered by distress; and
- (b) in default of the distress satisfying the amount of the fine or penalty, order that the convict be imprisoned, in accordance with the scale set out in the Appendix E to this Law.

Warrant of
Distress.

427. Where the Court orders a sum to be recovered by distress, it shall issue a warrant which shall be in writing the signed by the Court authorized the person charged with the execution of the warrant to take any money as well as any goods of the person against whom distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

Procedure on
Execution of
Distress
Warrant.

428. 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) where the person charged with the execution of the warrant is prevented in manner from executing the warrant, the Magistrate may, by writing under his hand endorse on the warrant, authorizing him to use such force as may be necessary to enable him execute the warrant;
- (c) the wearing apparel and bedding of the person and of his family, the tools and implements of his trade, shall not be taken;
- (d) except as provided in paragraph (e) of this subsection and so far as the person on whose movable property the distress is levied consents in writing to an earlier sale, the goods distrained on, shall be sold at a public auction not later than 5 days and not more than 14 days after the

making of the distress, but where consent in writing is so given, the sale may be in accordance with the consent;

- (e) subject to paragraph (d) of this section, the goods distrained shall be sold within the time fixed by the warrant, unless the sum or charges, if any, of taking and keeping the goods distrained, for which the warrant was issued are paid;
- (f) Where a person charged with the execution of a warrant of distress:
 - i. willfully retains from the proceeds any property sold to satisfy the distress; or
 - ii. 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 is liable, on conviction, to a penalty not exceeding Twenty Thousand Naira (N20,000.00) or imprisonment for a term not exceeding six months.
- (g) a written account of the costs and charges incurred in respect of the execution of a warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the Court, and the convict on whose movable property the distress was levied.

429. 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, and the warrant of commitment under the provisions of section 418 of this Law, shall apply.

Part Payment to
Reduce Period
of Imprisonment

430. (1) Where the offender is sentenced to a Haddi lashing the sentence shall be executed at such time as the Court may direct and the sentence shall be inflicted with such instrument and such manner and place as ordered.

Execution of
Sentence of
Haddi lashing.

(2) Nothing herein contained shall be deemed to authorize the infliction of a Haddi lashing upon any person other a Muslim and in accordance with the provisions of the Penal Code.

Execution of
Sentence of
Caning.

431. (1) where a defendant is sentenced to a caning, the sentence shall be executed as such place and time as the Court may direct.

(2) No sentence of caning shall be executed by installments.

(3) No sentence of caning shall be inflicted on:-

- a) females;
- b) males sentenced to death; or
- c) males whom the Court considers to be more than forty-five years of age.

(4) The sentence shall be inflicted with an ordinary horse whip.

Stay of
Execution of
Sentence of
Caning.

432. (1) Where before the execution of sentence of caning it appears to the registrar of the Court that the offender is not in a fit state of health to undergo the sentence, he shall notify the Court which passed the sentence and the Court may either:

- (a) after taking a medical opinion, again order the execution of the sentence; or
- (b) substitute for it any other sentence which it could have passed at the trial.

(2) Where during the execution of caning it appears to the Registrar of the Court that the offender is not in a fit state of health to undergo the remainder of the sentence, the caning shall immediately be stopped and the remainder of the sentence be remitted.

(3) In either case the Court shall be informed of the stay of execution.

Stay of execution
of sentence of
caning to allow
time for appeal.

433. (1) Where the offender is sentenced to caning, the Court shall forthwith ask him whether he intends to appeal and if he expresses such an intention the caning shall not be inflicted until fifteen days after the date of the sentence or, where an appeal is made within that time, unless and until the appellate Court confirms the sentence.

(2) Where the offender is sentenced to caning only and

states to the Court his intention to appeal in accordance with the provision of subsection (1), the Court shall release him pending the expiration of fifteen days or, where an appeal is made within that time, disposal of the appeal by the appellate Court on his furnishing bail to the satisfaction of the Court for his appearance at such time or place as the Court may direct for the execution of the sentence, the Court shall release him pending such appearance.

(3) Where the offender is sentenced to caning only and furnishes bail to the satisfaction of the Court for his appearance at such time or place as the Court may direct for the execution of the sentence the Court shall release him pending such appearance.

PART 41 – DETENTION IN A SAFE CUSTODY OR SUITABLE PLACE OTHER THAN PRISON OR MENTAL HEALTH ASYLUM

434. (1) Where a person is ordered to be detained in a safe custody or suitable place other than prison or mental health asylum, he is notwithstanding anything in this Law or in any other Law, liable to be detained in a prison or asylum or such other place as provided under this Law or any Law as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

Conditions Attached to Detention in a Safe Custody or Suitable Other Than Prison or Mental Asylum.

(2) A person detained in a safe custody or suitable place other than prison or mental health asylum may at any time be discharged by the Governor on license.

(3) The Governor may at any time revoke or vary a license and the person to whom the license relates shall proceed to such place as the Governor may direct and if he fails to do so may be arrested without warrant and taken to the place.

PART 42 – CHILD OFFENDERS

435. (1) Where a child is alleged to have committed an offence, the provisions of the Children and Young Persons Law may apply.

Procedure for Trying Child Offenders.

(2) Notwithstanding subsection (1) of this section, the provisions of this Law relating to bail shall apply to bail proceedings of a Child.

PART 43 – PROBATION AND NON-CUSTODIAL ALTERNATIVES

Meaning of Probation Order.

436. In this Part, “probation order” means an order containing a condition specified in section 437 of this Law.

Probation orders on Conditions of Recognizance.

437. (1) A recognizance ordered to be entered into under this Part shall, where the Court so ordered, contain a condition that the defendant be under the supervision of such person or persons of the same sex, to be called a probation officer, and may, with his consent, be named in the Court during the period specified in the Order.

(2) A recognizance under this Part may contain such additional conditions with respect to residence, abstention from intoxicating substance and any other matter as the Court may, having regard to the circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

(3) The Court making a Probation Order shall furnish to the defendant a notice in writing stating in simple terms the conditions he is required to observe.

Relieving Probation Officer of His Duties.

438. A Probation Officer may, at any time, be relieved of his duties or in case of the death of the probation officer, another person may with his consent be substituted by the Court before which the defendant is bound by his recognizance to appear for conviction or sentence.

Duties of Probation Officers.

439. (1) A probation officer shall, subject to the directions of the Court:-

- a) where the person on probation is not actually with the probation officer, visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order or as the probation officer may think fit;
- b) ensure that he observes the conditions of his recognizance;

- c) report to the Court as to his behaviour; and
- d) advise and assist him if, and when necessary.

(2) The Chief Judge shall make regulations with respect to the appointment of probation officers, including designation of persons of good character as probation officers from which a Court within the district or division where the probation officer resides may make its appointment.

440. The Court before which a defendant is bound by a recognizance under this Part to appear for conviction and sentence or for sentence may:-

Variation of
Terms and
Conditions of
Probation.

- (a) at any time where it appears to it on the application of the probation officer that it is expedient that the terms or condition of the recognizance should be varied, summon the defendant bound by the recognizance to appear before it and if he fails to show cause why the variation should not be made:
 - (i) vary the terms of the recognizance by extending or reducing the duration, which shall not exceed 3 years from the date of the original order; or
 - (ii) alter the conditions or insert additional conditions; or
- (b) on application being made by the probation officer, and on being satisfied that the conduct of the defendant bound by the recognizance has been such as to make it unnecessary for him to be under supervision, discharge the recognizance.

441. (1) Where the Court before which a defendant is bound by his recognizance under this part to appear for conviction or sentence is satisfied by information on oath that the defendant has failed to observe any of the conditions of his recognizance, it may issue a warrant for his arrest or may, where it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the defendant and his sureties, if any, requiring him or them to appear in Court at such time as may be specified in the summons.

Provisions in
Case of Convict
Failing to
Observe
Conditions of
Release.

Suspended
Sentence and
Community
Service.

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

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

(4) A defendant so remanded in custody may be committed during remand to a prison to which the Court having power to convict or sentence him has power to commit prisoners.

(5) A Court before which a defendant is bound by his recognizance to appear for conviction and sentence on being satisfied that he has failed to observe a condition of his recognizance may, without further proof of his guilt, convict and sentence him for the original offence.

442. (1) Notwithstanding the provision of any other Law creating an offence, where the Court sees reason, the Court may order that the sentence it imposed on the convict be, with or without conditions suspended, in which case the convict shall not be required to serve the sentence in accordance with the conditions of the suspension.

(2) The Court may, with or without conditions, sentence the convict to perform specified service in his community or such community or place as the Court may direct.

(3) A convict shall not be sentenced to suspended sentence or to community service for an offence involving the use of arms, offensive weapon, sexual offences or for an offence which the punishment exceeds imprisonment for term of 3 years.

(4) The Court, in exercising its power under subsection (1) or (2) of this section shall have regard to the need to:-

- (a) reduce congestion in prisons;
- (b) rehabilitate prisoners by making them to undertake productive work; and
- (c) prevent convicts who commit simple offences from mixing with hardened criminals.

443. (1) The Chief Judge shall establish in every Judicial Division a Community Service Centre to be headed by a Registrar who shall be responsible for overseeing the execution of Community Service Orders in that Division.

(2) The Registrar shall be assisted by suitable personnel who shall supervise the implementation of Community Service Orders that may be handed down by the Courts.

(3) The functions of the Community Service Centre shall include:-

(a) documenting and keeping detailed information about convicts sentenced to Community Service including the:

- i. name of the convict;
- ii. sentence and the date of the sentence;
- iii. nature, duration and location of the community service;
- iv. residential address of the convict;
- v. height, photograph, full fingerprint impressions;
- vi. bank verification number, where necessary;
- vii. telephone number; and
- viii. other means of identification as may be appropriate;

(b) providing assistance to the Court in arriving at appropriate Community Service Order in each case;

(c) monitoring the operation of Community Service in all its aspects;

(d) counseling offenders with a view to bringing about their reformation;

(e) recommending to the Court a review of the sentence of offenders on Community Service who have shown remorse;

(f) proposing to the Chief Judge measures for effective operation of Community Service Orders; (g) ensuring that supervising officer perform their duties in accordance with the Law; and

- (h) performing such other functions as may be necessary for the smooth administration of Community Service Orders.
- (4) Where the Court has made an order committing the convict to render community service, the community service shall be in the nature of:-
 - (a) environmental sanitation, including cutting grasses, washing drainages, cleaning the environmental and washing public places;
 - (b) assisting in the production of agricultural produce, construction, or mining; and
 - (c) any other type of service which in the opinion of the Court would have a beneficial and reformative effect on the character of the convict.
- (5) The Community Service sentence shall be performed as close as possible to the place where the convict ordinarily resides to ensure that the community can monitor his movement.
- (6) Before passing a Community Service Order, the Court shall consider the circumstances, character, antecedents of the convict and other factors that may be brought to its attention by the Registrar of the Community Service Centre.
- (7) A convict sentenced to community service shall not at the same time be sentenced to a term of imprisonment for the same offence, but may, in default of performing his community service diligently and to the satisfaction of the Court, be sentenced to a term of imprisonment for the remaining part of his community service to which he is in default or neglect.
- (8) Upon sentence to community service, a convict shall be required to produce a guarantor who shall undertake to produce the convict if he absconds from community service.
- (9) The guarantor shall be a relation of the convict or any other responsible person of adequate means or substance who shall produce the convict when required by the Court, failing which the guarantor shall be liable to a fine of One Hundred Thousand Naira (N100, 000.00) or more as the circumstances of each case may require.

444. (1) The Community Service Order shall be performed for a period of not more than 6 months and the convict shall not work for more than 5 hours a day.

Performance of
Community
Service Order.

(2) The convict shall be under the supervision of a supervising officer or officers or Non-Governmental Organizations as may be designated by the Community Service Centre.

(3) The Community Service Order may contain such directives as the Court may consider necessary for the supervision of the convict.

(4) The Registrar of the Court making the community service order shall forward to the Registrar of the Community Service Centre a copy of the Order together with any other document and information relating to the case.

445. (1) Where at any time during the community service period, the Registrar of the Community Service Centre informs the Court of the default of the convict in complying with the directives of the Community Service Order, the Court may issue a summons requiring the convict to appear before it.

Default of
Convict in
Complying with
Community
Service Order.

(2) Where the convict fails, refuses or neglects to appear in obedience to the summons, the Court may issue a warrant of arrest.

(3) Where it is proved to the satisfaction of the Court that the convict has failed to comply with any of the requirements of the Community Service Order, the Court may:-

(a) vary the order to suit the circumstances of the case; or
(b) impose on him a fine not exceeding One Hundred Thousand Naira (N100,000.00) or cancel the order and sentence the convict to any punishment which could have been imposed in respect of the offence, but the period of community service already performed may count in the reduction of the sentence.

(4) A supervising officer shall not employ the convict for his or her personal benefit.

(5) Where a supervising officer employs the convict for his or her personal benefit, the officer is liable to a fine of Fifty Thousand Naira (N50,000.00) or more, or such other punishment as the Court considers fit.

Commission of
Further Offence.

446. Where a convict has been ordered to undergo community service on conviction by an original Court but has committed another offence during the period of community service, the following rules shall apply:-

- (a) the subsequent Court may add to the sentence or impose a term of imprisonment which might have been passed by the original Court and cancel the order of community service;
- (b) the subsequent Court may take into account the period of community service served in reduction of the term of imprisonment;
- (c) where the original Court is a High Court and the subsequent court is a subordinate Court, the subordinate court shall send the copy of the proceedings to the High Court and, on receipt of the proceedings from the subordinate Court, High Court shall proceed under paragraphs (a) and (b) of this section; and
- (d) where the original court is a subordinate Court and the subsequent is a High Court dealing with the matter at first instance or on appeal, the High Court shall proceed under paragraphs (a) and (b) of this section.

Amendment,
Review and
Discharge of
Community
Service Orders.

447. (1) A convict undergoing community service who intends to change his or her place of residence shall inform the supervising officer of his intention to do so.

(2) On receipt of the information, the supervising officer shall furnish the Registrar of the Community Service Centre with the information giving the details of the case.

(3) On application by the Registrar of the Community Service Centre, the Centre shall make appropriate amendment in the community service order and inform the Court having jurisdiction in the area where the convict intends to reside.

(4) The Court shall give the convict a copy of the amended community service order which the convict shall present to the subsequent Community Service Centre.

Discharge of
Community
Service Order.

448. (1) Where the convict has been ordered to undergo community service for a period of more than 4 months, the supervising officer shall, from time to time, give a

report to the Registrar on the convict's performance and general conduct.

(2) The supervising Court based on the report made by the Registrar, may reduce the period of the community service specified in the community service order by not more than one-third where the convict is of good conduct.

(3) The Registrar shall make a report to the supervising court on the termination of a community service Order.

(4) The supervising officer who is to be responsible for the supervision of a convict shall be the officer designated by the Registrar of the Community Service Centre and if that supervising officer dies or is unable for any reason to carry out his duties, another supervising officer shall be appointed by the Registrar of the Community Service Centre.

(5) Where the convict is a female, the supervising officer shall be a female.

449. (1) A defendant convicted of an offence triable summarily may be sentenced to a Rehabilitation and Correctional Centre established by the State or that of the Federal Government in lieu of imprisonment.

Confinement in Rehabilitation and Correctional Centre.

(2) A Court in making an order of confinement at a Rehabilitation and Correctional Centre shall have regard to:-

- (a) the age of the convict;
- (b) the fact that the convict is a first offender; and
- (c) any other relevant circumstance necessitating an order of confinement at a Rehabilitation and Correctional Centre.

(3) A Court may make an Order directing that a child standing criminal trial be remanded at Rehabilitation and Correctional Centre.

PART 44 – PAROLE

Court may Direct
Release of
Prisoner Before
Completion of
Sentence.

450. (1) Where the Comptroller of Prisons is of the opinion that a prisoner:-

- (a) sentenced and serving his sentence in prison is of good behavior; and
- (b) has served at least one-third of his prison term, or where he is sentenced to life imprisonment, he may make a recommendation to the Committee on Prerogative of Mercy for their consideration.

(2) A prisoner released under subsection (1) of this section shall undergo a rehabilitation programme in a government facility where available or any other appropriate facility to enable him to be properly reintegrated into the society.

**PART 45 –
TRIAL OF CORPORATION**

Interpretation
Under this Part.

451. (1) In this Part "representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this Part authorized to do, but a person so appointed shall not, by virtue only of his being appointed, be qualified to act on behalf of the corporation before any Court for any other purpose.

(2) A representative for the purposes of this Part need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this Part, shall be admissible without further proof as *prima facie* evidence that the person has been so appointed.

Plea by
Corporation.

452. Where a corporation is called upon to plea to any charge including a new charge under the provisions of this Law to a charge added to or altered under the

provision of this Law, it may enter in writing by its representative a plea of guilty or not and if either the corporation does not appear by a representative or, though it does so appear, fails to enter a 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.

453. A charge may be preferred against a corporation after the preparation of the proofs of evidence relating to the charge.

Charge
Against a
Corporation

454. A charge under section 453 may include, either in substitution for or in addition to counts of charge, such offence for which proofs of evidence have been prepared, counts which may be lawfully joined in the same charge if they are founded on facts or evidence disclosed in the proofs of evidence.

Joinder of
Counts in Same
Charge.

455. A representative may, on behalf of a corporation:

Power of
Representative.

- (a) state, whether the corporation is ready to be tried on a charge or altered charge to which the corporation has been called on to plead;
- (b) consent to the hearing and determination of a complaint before the return date of a summons; and
- (c) express assent to the trial of the corporation on a charge, notwithstanding that a copy of the charge and notice of trial has not been served on the corporation 3 days or more before the date on which the corporation is to be tried.

456. Where a representative appears, any requirement of this Law that anything shall be done in the presence of the defendant, or shall be read or said or explained to the defendant, shall be construed as a requirement that, that thing shall be done in the presence of the representative or read or said or explained to the representative.

Matters to be
Read, Said or
Explained to
Representative.

457. Where a representative does not appear, any such requirement as is referred to in section 454 of this Law, shall not apply.

Non- appearance
of
Representative.

Kano State Administration of Criminal Justice Law 2019

Saving Under
this Part and
Joint Charge
Against
Corporation.

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

(2) A corporation may be charged jointly and tried with an individual for any offence

PART 46 – APPEALS

Appeals from
Sharia Courts.

459. Appeals from Sharia Courts in criminal matters shall be in accordance with the Sharia Courts Law, High Court Law or under this Law or any other Law, or any rules made under any such Laws.

Appeals from
Other Courts.

460. Where a defendant has been acquitted or an order of dismissal made by a Magistrate the prosecutor may appeal to the High Court from such acquittal or dismissal on the ground that it is erroneous in law or that the proceedings or any part thereof were in excess of the jurisdiction of the Magistrate.

Appeals from
Magistrate's
Courts.

461. (1) Appeals from a magistrate's court to the High Courts of the State in criminal matters shall be in accordance with the High Court Law or under this Law.

(2) An appeal, in accordance with the provisions of this Part, shall be commenced by the appellant by giving notice to the Registrar of the court from which the appeal is brought and such notice of appeal shall be signed by the appellant.

(3) The notice of appeal shall be given in every case before the expiration of the 30th day after the day on which the court has made the decision appealed against.

(4) An appellant shall file many copies of his notice of appeal as there are parties to be served, in addition to the copies for the Court.

(5) An appellant, in an appeal brought in accordance with the provisions of this Part, shall, within 30 days of the pronouncing of the decision appealed against, file with the registrar of the court from which the appeal is brought a brief setting forth the grounds of his appeal which shall be signed by the appellant or the legal practitioner representing him.

(6) An appellant, shall file as many copies of his

brief on grounds of appeal, as there are parties to be served, in addition to the copies for the Court.

(7) In his grounds of appeal, the appellant shall set forth in separate ground, each error, omission, irregularity or other matter on which he relies or of which he complains with particulars sufficient to give the respondent due notice thereof.

(8) Without prejudice to the generality of subsection (7), the grounds of appeal may set forth all or any of the following:-

- (a) that the lower Court has no jurisdiction in the case;
- (b) that the lower Court has exceeded its jurisdiction in the case;
- (c) that the decision has been obtained by fraud;
- (d) that the case has already been heard or tried and decided by or forms the subject of a hearing or trial pending before a competent Court;
- (e) that admissible evidence has been rejected, or in admissible evidence has been admitted by the lower Court and that in the latter case there is no sufficient admissible evidence to sustain the decision after rejecting such in admissible evidence;
- (f) that the decision is unreasonable or cannot be supported having regard to the evidence;
- (g) that the decision is erroneous in Law;
- (h) that some other specific illegality, not mentioned and substantially affecting the merits of the case, have been committed in the course of the proceedings; or
- (i) that the sentence passed on conviction is excessive or inadequate, unless the sentence is one fixed by Law.

(9) Where the appellant relies upon the grounds of appeal mentioned in subsection (8) (d), the name of the Court shall be stated and, if it is alleged that a decision has been made, date of such decision.

(10) Where the appellant relies upon the grounds of appeal mentioned in subsection (8) (g), the nature of the error shall be stated and, where he relies upon the

grounds of appeal mentioned in subsection (8) (h), the illegality complained of shall be clearly specified.

(11) A sentence by a Magistrate Court shall take effect notwithstanding an appeal unless:-

- (a) a warrant has been issued under section 324 of this Law when no sale of property shall take place until the sentence has been confirmed; or
- (b) that the sentence passed on the convict is excessive or inadequate, unless the sentence is one fixed by Law.

(12) Where the appellant relies upon the grounds of appeal mentioned in subsection (8) (d), the name of the court shall be stated and, if it is alleged that a decision has been made, the date of such decision.

(13) Where the appellant relies upon the grounds of appeal mentioned in subsection (8) (g), the particulars of the error shall be stated and where he relies upon the grounds of appeal mentioned in subsection (8) (h), the illegality complained of shall be clearly specified.

(14) A sentence by a Magistrate Court shall take effect notwithstanding an appeal unless:-

- (a) a warrant has been issued under section 324 of this Law when no sale of property shall take place until the sentence has been confirmed or the appeal decided; or
- (b) an Order for release on bail pending any further proceeding has been made by a competent Court when the time during which the convicted person had been so released shall be excluded in computing the period of any sentence which he shall ultimately undergo.

(15) A High Court exercising appellate jurisdiction shall not, in the exercise of such jurisdiction, interfere with the finding or sentence or order of the lower court on the ground only that evidence has been wrongly admitted or that there has been a technical irregularity in procedure, unless it is satisfied that a failure of justice has been occasioned by such admission or irregularity.

PART 47
SUPPLEMENTARY PROVISIONS ON
COMPOUNDING OF OFFENCES

- 462.** (1) The offences punishable under the Penal Code described in the first and second columns of Appendix C part one may, subject to the subsequent provisions of this section, be compounded by the persons mentioned in the third column of that Appendix. Compounding
of Offence.
- (2) When any offence is compoundable under this section, the abetment of such offence or attempt to commit such offence, when attempt is itself an offence, may be compounded in a similar manner.
- (3) Where a person who would otherwise be competent to compound an offence is under eighteen years of age, an idiot or a lunatic, any person competent to contract on his behalf may compound the offence.
- (4) The offence mentioned in Part I of Appendix C may be compounded without the leave of the Court at any time before conviction or committal for trial at the High Court.
- (5) The offences in Part II of Appendix C may be compounded before the defendant is convicted by a Court or committed for trial only with the leave of the Court which has jurisdiction to try the defendant for the offence or commit him for trial.
- (6) After a committal for trial an offence shall not be compounded except with the leave of the:-
- (a) magistrate Court where trial has not commenced;
or
 - (b) the Court trying the case where the trial has commenced and has not been concluded.
- (7) After a trial has been concluded, an offence shall not be compounded except with the leave of the court to which an appeal would lie.
- (8) The compounding of an offence under this section shall have the effect of an acquittal of the defendant.
- (9) No offence shall be compounded except as provided under this section.

**PART 48 –
FEES AND MISCELLANEOUS PROVISIONS**

- Payment of Fees. **463.** Subject to the provisions of this Law, such fees as may be prescribed under this Law shall be paid in any proceedings before a Court.
- Suspension to Payment of Fees. **464.** A Court may, in any proceeding in which good cause appears to the Court for so doing, suspend payment of any fee payable until the conclusion of the proceedings and the court may then direct the fees to be paid as costs by a party to the proceedings on whom the court has power to order costs to be paid or remit the payment of the fees.
- State not Required to Pay Fees. **465.** The provisions of this Law relating to fees and to giving of security shall not apply to the State or to a public officer acting in his official capacity.
- Use of Forms in the Appendix. **466.** Subject to the provisions of this Law or any of the Rules of Court, the forms and precedents contained in the Appendixes to this Law may, in accordance with any instructions contained in the forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply.
- Power to Make Rules of Court. **467.** The Chief Judge may make rules in respect of any or all of the following matters:-
(a) fees, costs or compensations to be paid under this Law and periodic review of the same;
(b) forms to be used for the process and procedure of the Courts;
(c) accounts to be rendered of monies received by any person under this Law;
(d) the method of issue of process under this Law; and the manner of receipt of and accounting for fees in respect of such process;
(e) prescribing anything or any person required to be prescribed under the provisions of this Law;
(f) regulation and management of non-custodial punishments provided under this Law; and

- (g) generally carrying into effect the purposes of this Law. Where there are no express provisions in this Law, the Court may apply any procedure that will meet the justice of the case.

468. Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or review on account of any error, omission or irregularity in the complaint, summons, warrant, charge, public summons, order, judgment or other proceedings before or during trial or other proceedings under this Law unless the appeal court or reviewing authority thinks that a failure of justice has in fact been occasioned by such error, omission or irregularity.

Finding or Sentence When Reversible by Reason of Error or Omission in Charge or Other Proceedings.
N.N. 3 of 1963.

469. (1) Nothing in this Law shall affect the use or validity of any form in respect of a procedure for an offence specified under the provisions of a Law or the validity of any other procedure provided by any other Law.

Non-compliance.

(2) Nothing in this Law shall affect the validity of any investigation, prosecution, charge, or proceedings initiated or commenced under the Criminal Procedure Code or any other Law before the coming into force of this Law.

470. Nothing in this Law shall affect the status, appointment or tenure of office of:-

Savings.

- a) any Magistrate appointed within the state before the commencement of this Law; accordingly, every Magistrate shall be deemed to have been appointed under this Law and shall exercise his duties the district in which he was serving before the commencement of this Law;
- b) any officer performing duties in connection with a court constituted under any Law before the commencement of this Law shall be deemed to have been appointed as such under this Law.

Kano State Administration of Criminal Justice Law **2019**

- c) any Order, ruling, or Judgement made or given by a Court of competent jurisdiction under any Law before the commencement of this Law shall be deemed to have been given under this Law.

Part heard issues matters and cases started under any other Law and pending before any court to which this Law applies, shall continue and be determined under that Law.

Repeal.

471. The Criminal Procedure Code Cap 37 Laws of Kano State, 1991 and Criminal Procedure (amendment) Law, 2000, are hereby repealed.

Appendix A

(472) TABULAR STATEMENT OF OFFENCES

Explanatory Notes:

1. The entries in the second and fifth columns of this Appendix, headed respectively "offence" and "Punishment under the Penal Code", are not intended as definitions of offences and punishment described in the several corresponding sections of the Penal Code or even as abstracts in these sections, but merely as references to the subject of the section, the number of which is given in the first column.

2. By virtue of section 16 of the Administration of Criminal Justice Law any offence may be tried by any court with greater powers than those of the court mentioned in column 6 and 7.

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section (54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts with least powers by which triable
85	Abetment of any offence, if the act abetted is committed in consequence and where no express provision is made for its punishment.	May arrest without warrant for the offence abetted may be made without but not otherwise.	According as a warrant or summons may issue for the offence abetted	The same punishment as the offence abetted	Same court as offence abetted	Same Court as the offence abetted

Kano State Administration of Criminal Justice Law

86	Abetment when person abetted does act with different intention from that of abettor.	Ditto	Ditto	The same punishment as the offence abetted	Same court as offence abetted	Same Court as the offence abetted
87	Liability of abettor when one act abetted and different act done.	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto	Ditto
88	Abettor when liable to cumulative punishment for the act abetted and the act done.	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto	Ditto
89	Liability of abettor for an effect is caused by the act abetted different from that intended by the abettor	Ditto	Ditto	Punishment for each offence as under section 85 and section 87 of the penal code	Ditto	Ditto
90	Abettor present when offence committed liable as principal	Ditto	Ditto	The same punishment as for the offence intended to be abetted.	Ditto	Ditto
91	Abetment of any offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment	Ditto	Ditto	Imprisonment for seven years and fine of not less than N200,000 or both	Ditto	Ditto
92	Abetment of offence punishable	Ditto	Ditto	Imprisonment extending to a quarter of the	Ditto	Ditto

Kano State Administration of Criminal Justice Law

	with imprisonment if offence not committed.			longest term provided for offence or fine or both		
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92 (2)	If the abettor is a public servant whose duty it is to prevent the offence	Ditto	Ditto	Imprisonment extending to half of the longest term provided for the offence or fine or both	Ditto	Ditto
93	Abetting the commission of an offence by the public or by more than ten persons	Ditto	Ditto		Ditto	Ditto
94	Administering unlawful oath	Shall not arrest without warrant	Ditto	a) imprisonment for a term which may extend to seven years or fine or with both, b) if the offence is punishable with death, with imprisonment for life, or for any less term or with fine or with both.	Ditto High Court	Ditto

CHAPTER VI-ATTEMPTS TO COMMIT OFFENCES

95	Attempting to commit offence punishable with imprisonment and in such attempt doing any act toward the commission	According as the offence is one in respect of which the police may arrest without warrant or	According as the offence is one in respect of which a summons or warrant shall ordinarily	Imprisonment extending to half of the longest term provided for the offence or fine or both	The same court as the offence attempted	The same court as the offence attempted
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Kano State Administration of Criminal Justice Law

	of the offence	not	issue			
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CHAPTER VII-PUNISHABLE FOR CRIMINAL CONSPIRACY

96	Punishment for criminal conspiracy: - (1) To commit offence punishable with death or life imprisonment (2) a party to criminal conspiracy	Shall not arrest without warrant Ditto	Warrant Ditto	The same punishment as for abetment of offence Imprisonment for one year or fine of not less than N25,000	Magistrate of the second Grade	Sharia Court Sharia Court
97A	Punishment for participating in unlawful society	Ditto	Ditto	Imprisonment for seven years or fine or both	Ditto	Sharia Courts
97B	Offence	Whether the police may arrest without warrant or not (see section 54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts with least powers by which triable
99	Breach of official trust	Shall not arrest without warrant Ditto	Warrant Summons	Imprisonment which may extend to fourteen years and fine Imprisonment for two years or fine or both	Chief Magistrate of the first grade Magistrate of the Second Grade	Sharia Court Sharia Court

Kano State Administration of Criminal Justice Law

CHAPTER IX – OFFENCES AGAINST THE PUBLIC PEACE

102	Punishment for membership of an unlawful society	May arrest without warrant	Summons	Imprisonment for two years or both	Magistrate of the Second Grade	Sharia Court
103	Joining unlawful assembly armed with offensive weapon	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Ditto
104	Joining or continuing in unlawful assembly knowing that it has been commanded to disperse	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Ditto
105	Punishment for rioting	Ditto	Ditto	Imprisonment for six years or fine or both	Senior Magistrate of the Second Grade	Ditto
107	Rioting armed with deadly weapons.	Ditto	Ditto	Imprisonment for five years or fine or both	Senior Magistrate of the First Grade	Ditto
110	Joining or remaining in unlawful assembly	Ditto	Ditto	Imprisonment for one year or fine or both	Magistrate of the Second Grade	Ditto

Kano State Administration of Criminal Justice Law

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section (54))	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts with least powers by which triable
111	Wearing and carrying of emblem flag, etc	May arrest without warrant	Summons	Imprisonment for six month or fine or both and forfeiture of emblem, flag, etc	Magistrate of the Second Grade	Sharia Courts
112	Assaulting or obstructing public servant when suppressing riot, etc	Ditto	Warrant	Imprisonment for five years or fine or both	Magistrate of the First Grade	Sharia Courts
113	Disturbance of public peace	Ditto	Summons	Imprisonment for three years or fine or both	Magistrate of the Second Grade	Sharia Courts
114	Inciting disturbance	Ditto	Ditto	Imprisonment for two years or fine or both.	Magistrate of Second Grade	Ditto

CHAPTER X- OFFENCES BY OR RELATING TO PUBLIC SERVANTS

115(I)	Public servant taking bribe in respect of official act	Shall not arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Senior Magistrate of the First Grade	No jurisdiction
115.(II)	If such public servant acting in judicial capacity or carrying out duties of police officer	Ditto	Ditto	Imprisonment for fourteen years or fine or both	Chief Magistrate of the first grade	Ditto
116	Taking a bribe in order to influence a public servant	Ditto	Ditto	Imprisonment for three years or fine	Magistrate of the Second Grade	Ditto
117	Abetment by public servant of an offence under section 116 with reference to himself	Ditto	Ditto	Ditto	Ditto	Ditto
118	Offering or giving bribe to public servant	Ditto	Ditto	Ditto	Ditto	Ditto
119	Public servant obtaining any valuable thing without consideration from a person concerned in any proceeding or business transacted by such public servant	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade.	Ditto
120	Offering or giving valuable item without consideration	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade.	
121	Second person profiting by gratification	Ditto	Ditto	Imprisonment for one year or fine or both	Magistrate of the Second Grade	Ditto
122	Public servant dishonesty	Ditto	Ditto	Imprisonment for five years	Magistrate of the First	Ditto

Kano State Administration of Criminal Justice Law

2019

	receiving money or property not due			or fine or both.	Grade	
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123	Public servant disobeying a direction of law with intent to cause injury or save person from punishment or property from forfeiture	Ditto	Summons	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Ditto
124	Public servant preparing incorrect document with intent to cause injury	Ditto	Warrant	Imprisonment for three years or fine or both	Senior Magistrate of the Second Grade	Ditto
125	Public servant in judicial proceedings acting contrary to law	Ditto	Ditto	Imprisonment for seven years or fine or both	Senior Magistrate of the Second Grade	Ditto
126	Wrongful committal or confinement by public servant	Ditto	Ditto	Imprisonment for seven years or fine or both	Ditto	Ditto
127	Public servant international omitting to arrest or aiding escape; (a) if offender is under sentence of death (b) If offender is under sentence of imprisonment for ten years or upwards; or is charged with an offence punishable with death; (c) if such person is under sentence of imprisonment for term not extending ten years or liable	Ditto	Ditto	(a) Imprisonment which may extend to fourteen years with or without fine	(a) Chief Magistrate Court of the First Grade	Sharia Court
		Ditto	Ditto	(b) Imprisonment which may extend to seven with or without fine;	(b) Senior Magistrate Court of the Second Grade.	Ditto
				(c) Imprisonment which may extend to three years or with fine or with both.	(c) Magistrate of the Second Grade	Ditto

	to be arrested for an offence for punishable with imprisonment for a term which may extend to ten years; or (d) in any case not above specified.			(d) Imprisonment which may extend to two years or with fine or with both.	(d) Magistrate the Second Grade.	Ditto
128	Public servant omitting to arrest or permitting escape.	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Ditto
129	Public servant causing danger by omitting to perform his duty.	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto
130	Abandonment of duty by public servant	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto
131	Public servant unlawfully purchasing property	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto
132	Impersonating a public servant	Ditto	Warrant	Imprisonment which may extend to three years or fine or both.	Ditto	Ditto
133.	Wearing dress or carrying token used by public servant.			Imprisonment for six months or fine or both	Magistrate of the Second Grade	

CHAPTER XI – CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

134	Absconding to avoid service of notice or order.	Shall not arrest without warrant	Summons	Imprisonment for six months or fine of N25,000 or both	Magistrate of the Second Grade	Sharia Courts
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Kano State Administration of Criminal Justice Law

	If summons or notice requires attendance, in person, etc., in a court of justice	Ditto	Ditto	Imprisonment for six months or fine of N25,000 or both	Ditto	Ditto
1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section (54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts with least powers by which triable
135	Preventing the service or Affixing of any summons or notice of the removal when it has been affixed or preventing a public summons, if summons, etc., requires attendance in person, etc., in a court of justice	Shall not arrest without warrant Ditto	summons Ditto	Imprisonment for six months or fine of N10,000 or both Imprisonment for six months or fine of N25,000 or both	Magistrate of the Second Grade Magistrate of the Second Grade.	Sharia Courts Grade II Ditto
136	Failure to attend in obedience to an order from a public servant If the summons, etc., requires	Ditto Ditto	Ditto Ditto	Imprisonment for six months or fine of N10,000 or both. Imprisonment for six months	Magistrate of the Second Grade Magistrate of the Second	Ditto Ditto

Kano State Administration of Criminal Justice Law

2021

	personal attendance, or attendance by agent in a court of justice			or fine of N25,000 or both	Grade	
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137	Failure to produce document to public servant If the document is required to be produced in or delivered to a court of justice	Ditto Ditto	Ditto Ditto	Imprisonment for one month or fine or both Imprisonment for six months or fine or both	The court in which the offence is committed, Magistrate of the Second Grade	Ditto Ditto
138	Failure to give notice or information to public servant If the notice or information enquired respects the commission of an offence, etc.	Ditto Ditto	Ditto Ditto	Imprisonment for one months or fine or both Imprisonment for two years or fine or both	Magistrate of the Second Grade Magistrate of the Second Grade	Ditto Ditto
139	Furnishing false information If the information required is in respect of the commission of an offence, etc.	Ditto Ditto	Ditto Ditto	Imprisonment for two years or fine or both Imprisonment for six months or fine of N25,000 or both	Magistrate of the Second Grade Magistrate of the Second Grade	Ditto Ditto

Kano State Administration of Criminal Justice Law

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section (54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts.
140	Giving false information with intend to mislead a public servant	Shall not arrest without warrant	Summons	Imprisonment for one year or fine or both	Magistrate of the Second Grade	Sharia Courts
141	Refusing oath or affirmation when duly required by a public servant	Ditto	Ditto	Imprisonment for six months or fine or both	Magistrate of the Second Grade	Ditto
142	Refusing to answer public servant authorized to question	Ditto	Ditto	Imprisonment for six months or fine or both	Ditto	Ditto
143	Refusing to sign statement	Ditto	Ditto	Imprisonment for six months or fine or both	Ditto	Ditto
144	Resistance to seizure of property by lawful authority of a public servant	Ditto	Ditto	Imprisonment for six months or fine or both	Ditto	Ditto
145	Obstructing sale of property offered for sale by authority of a public servant	Ditto	Ditto	Imprisonment for one months or fine or both	Ditto	Ditto

Kano State Administration of Criminal Justice Law 2019

146	Removing property under lawful seizure	Ditto	Ditto	Imprisonment for three years or fine or both	Magistrate of the Second Grade	Ditto
147	Illegal purchase or bid for property offered for sale by authority of public servant	Ditto	Ditto	Imprisonment for one months or fine or both	Magistrate of the Second Grade	Ditto
148	Obstructing public servant in discharge of his public functions	Ditto	Ditto	Imprisonment for three months or fine or both	Ditto	Sharia Courts
149	Obstructing public servant in the discharge of his functions.	Ditto	Ditto	Imprisonment for six months or fine of N10,000 or both	Ditto	Ditto

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section (54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts with least powers by which triable
150	Failure to assist public servant when legally bound to give such	Ditto	Ditto	Imprisonment for six months or fine or both	Magistrate of the Second Grade	Ditto

Kano State Administration of Criminal Justice Law

2019

	assistance.				Ditto	
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153	Threat of injury to a public servant	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts
154	Threat of injury to induce a person to refrain from applying protection to public servant	Ditto	Ditto	Imprisonment for one year or fine or both	Magistrate of the Second Grade	Sharia Courts
155	Intentional insult or interruption to public servant sitting in judicial proceeding	Ditto	Ditto	Imprisonment for six months or fine or both	The court in which the offence is committed, subject to the provisions of Chapter XXV, or a Magistrate of the Second Grade	Ditto

CHAPTER XII – FALSE EVIDENCE AND OFFENCES RELATING TO THE ADMINISTRATIVE OF JUSTICE

158	Punishment for false evidence giving or fabricating false evidence any other case	Ditto	Ditto	Imprisonment for fourteen years and fine	Chief Magistrate of the First Grade	Upper Sharia Court
		Ditto	Ditto	Imprisonment for seven years and fine.	Senior Magistrate of the Second Grade	Ditto
159	Giving false evidence to procure conviction in a capital offence	Ditto	Ditto	Imprisonment for life	High Court	Upper Sharia
	If innocent person be thereby convicted and executed	Ditto	Ditto	Death	Ditto	Ditto

Kano State Administration of Criminal Justice Law

2019

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts with least powers by which triable
160	Giving false evidence to procure conviction for an offence punishable with imprisonment	Shall not arrest without warrant	Warrant	Punishment as the offender	Magistrate of the First Grade	Ditto
161	Using evidence known to be false	Ditto	Ditto	The same as for giving or fabricating false evidence	The same court as may try giving or fabricating the false evidence	As column 6
162	Issuing or signing false evidence	Ditto	Ditto	The same as for giving false evidence	The same court as may giving false evidence	Ditto
163	Using as true a certificate known to be false	Ditto	Ditto	Ditto	Ditto	Ditto
164	False statement in a declaration which by law is receivable as evidence Using as true such declaration known to be false	Ditto Ditto	Ditto Ditto	Ditto Ditto	Ditto Ditto	Ditto Ditto

Kano State Administration of Criminal Justice Law

165	False translation	Ditto	Ditto	Ditto	Ditto	Ditto
166	Destruction of document to prevent its production as evidence	Ditto	Warrant	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts

SCREENING OF OFFENDERS

167	Causing disappearance of evidence or giving false information to screen an offender	Shall not arrest without warrant	Warrant	Imprisonment for five years and fine or both	Chief Magistrate of the First Grade	Sharia Courts
168	Taking gratification to screen an offender from punishment	Ditto	Ditto	Ditto	Ditto	Ditto
169	Offering bribe in consideration of screening an offender	Shall not arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Senior Magistrate of the Second Grade	Sharia Courts

FRAUDULENT DEALING WITH PROPERTY

170	Penalty for harbouring robbers or brigands	May arrest without warrant	Ditto	Imprisonment for seven years or fine or both	Ditto	Ditto
171	(a) Resistance or obstruction to the lawful arrest of another person (b) If under sentence of death	Ditto Ditto	Ditto Ditto	a) Imprisonment for seven years or fine or both (b) Imprisonment for life and fine	Senior Magistrate of the Second Grade High Court	Ditto Ditto

Kano State Administration of Criminal Justice Law

172	Resistance or obstruction by a person to his lawful arrest or escape	Ditto	Ditto	Imprisonment for seven years or fine or both	Senior Magistrate of the Second Grade	Sharia Court
173	Resistance or obstruction to arrest or escape in cases not provided for by section 172	Ditto	Ditto	Imprisonment for two years or fine of or both	Magistrate of the second grade	Sharia Courts

FRAUDULENT DEALING WITH PROPERTY

174	Fraudulent removal of property to prevent lawful seizure or execution	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts
175	Fraudulently suffering a decree or order for sum not due	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Ditto
176	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied	Ditto	Ditto	Ditto	Ditto	Ditto
177	Dishonest or fraudulent execution of deed of transfer containing false statement or consideration	Ditto	Ditto	Ditto	Ditto	Ditto

Kano State Administration of Criminal Justice Law

178	Giving false information respecting an offence	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts
179	False personation	Ditto	Ditto	Imprisonment for three years or fine of or both	Magistrate of the Second Grade	Upper Sharia Court
180	(a) False charge of offence made with intent to injure (b) Where the charge involves an offence punishable with death	Ditto	Ditto	(a) Imprisonment for two years or fine. (b) imprisonment for seven years	Senior Magistrate of the Second Grade. Ditto	Sharia Court
181	Taking gift to help to recover stolen property.	Ditto	Ditto	Imprisonment for seven years or with fine or with both.	Senior Magistrate of the Second Grade.	Ditto
182	Influencing course of justice	Ditto	Ditto	Imprisonment for two years or fine.	Magistrate of the Second Grade	Ditto

CHAPTER XIII- PUBLIC NUISANCE

184	Adulteration of food or drink intended for sale	Shall not arrest without warrant	Summons	Imprisonment for one year or fine.	Magistrate of the Second Grade	Sharia Courts
185	Sale of food or drink not corresponding to description	Ditto	Ditto	Fine	Magistrate of the Second Grade	Ditto

Kano State Administration of Criminal Justice Law

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts
186	Sale of adulterated food or drink.	Ditto	Ditto	Imprisonment for two years or with fine or both.	Magistrate of the Second Grade	Ditto
187	Sale of noxious food or drink.	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts
188	Adulteration of drug	Ditto	Ditto	Imprisonment for six month or fine or both.	Magistrate of the Second Grade	Ditto
189	Sale of adulterated drugs	Ditto	Ditto	Imprisonment for six month or fine or both	Ditto	
190	Sale of drug as different drug or prescription	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts
191	Fouling of public well or reservoir	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	
192	Making atmosphere noxious to health	Ditto	Ditto	Imprisonment for six months or fine or both	Magistrate of the Second Grade	Sharia Courts
193	Exhibition of a false light, mark or buoy	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Senior Magistrate of the Second Grade	Sharia Courts

Kano State Administration of Criminal Justice Law

2019

194	Obstruction on public way or line of navigation	Ditto	Summons	Imprisonment for two years or fine or both	Magistrate of the Second grade	Sharia Courts
195	Employee engaged on work of public utility ceasing work without notice	Shall not arrest without warrant	Ditto	Imprisonment for six months or fine or both	Magistrate of the Second Grade	Sharia Courts
196	Negligent conduct causing danger to person or property	May arrest without warrant	Ditto	Imprisonment for six months or fine or both	Magistrate of the Second Grade	Ditto
197	Negligent conduct with respect to animals	Ditto	Ditto	Imprisonment for six months or fine or both	Ditto	Ditto

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Courts with least powers by which triable
198	Punishment for public nuisance in cases not provided for	Shall not arrest without warrant	Summons	Imprisonment for one year or fine or both	Magistrate of the Second Grade	Sharia Courts

199	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Ditto	Imprisonment for three years or fine or both	Magistrate of the Second Grade	Sharia Courts
200	Obscene or indecent acts	Ditto	Warrant	Imprisonment for two years or with fine or both.	Ditto	Ditto
201	Keeping a brothel	Ditto	Summons	Imprisonment for one year or fine or both.	Magistrate of Second Grade	Sharia Courts.
202	Sale of obscene books	Ditto	Warrant	Imprisonment for three months/ or fine or both	Magistrate of the Second Grade	Sharia Courts
203	Obscene songs, etc.	Ditto	Ditto	Imprisonment for three months or fine or both	Magistrate of the Second Grade	Sharia Courts

CHAPTER XIV – LOTTERIES AND GAMING HOUSES

205	Keeping a gaming-house or lottery office	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts
206	Offences relating to lotteries	Ditto	Ditto	Imprisonment for six months or fine or both.	Magistrate of the Second Grade	Ditto

CHAPTER XV – CRUELTY TO ANIMALS

207	Ill-treating domestic animals	May arrest without warrant	Summons	Imprisonment for one year or fine or both	Ditto	Sharia Courts
208	Over-riding and neglect of animal	Ditto	Ditto	Imprisonment for one year or fine or both	Ditto	Ditto
209	Power to order temporary custody or destruction of animals	May arrest without warrant	Summons	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Sharia Courts
210	Insulting or inciting contempt of religion	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Ditto
211	Injuring or defiling a place of worship	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto
212	Disturbing religious assembly	Ditto	Ditto	Imprisonment for one years or fine or both	Ditto	Ditto
213	Committing trespass on a place of worship or funeral ceremony	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto
214	(a) Trial by ordeal (b) Where such trial results to death	Ditto	Ditto	(a) Imprisonment for ten years or fine or both (b) Punishable with death	Senior Magistrate of the First Grade High Court	Ditto
216	Offences relating to witchcraft and Juju	Ditto Ditto	Ditto Ditto	Imprisonment for two years or fine or Both.	Senior Magistrate of the First Grade High Court	Ditto Ditto

Kano State Administration of Criminal Justice Law

2019

217	Criminal Charms	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Sharia Court
218	Cannibalism	Ditto	Ditto	Imprisonment for ten years or fine or both.	Senior Magistrate of the First Grade	Sharia Court
219	Unlawful possession of human part	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Ditto

CHAPTER XVIII – OFFENCES AFFECTING THE HUMAN BODY

221	Culpable homicide Punishable with death	May arrest without warrant	Warrant	Death	High Court	Sharia Court
222	Culpable homicide not punishable with death	Ditto	Ditto	Imprisonment for life or fine or both	Ditto	Ditto
223	Culpable homicide by causing death of a person other than person whose death was intended	Ditto	Ditto	Death	Ditto	Ditto
224	Culpable homicide not punishable with death	Ditto	Ditto	Imprisonment for life or less term with fine.	Ditto	Ditto

Kano State Administration of Criminal Justice Law 2019

225	Death caused when intention is to cause hurt only	Ditto	Ditto	Imprisonment for fourteen years or fine or both	Chief Magistrate of the First Grade	Ditto
226	Death caused in act of committing offence	Ditto	Ditto	Imprisonment for ten years or fine or both	Senior Magistrate of the First Grade	Ditto
227	Abetment of suicide of a child or insane.	Ditto	Ditto	Death	Ditto	Ditto
228	Abetting of suicide	Ditto	Ditto	Imprisonment for ten years or fine or both.	Senior Magistrate of the First Grade	Ditto
229	(a) Attempt to commit culpable homicide.	Ditto	Ditto	(a) Imprisonment for life or any less term or fine or both.	High Court	Ditto
	(b) If under sentence of imprisonment for life and hurt is caused	Ditto	Ditto	(b) Punishable with death.	Ditto	Ditto
230	(a) Attempt to commit culpable homicide not punishable with death	Ditto	Ditto	(a) Imprisonment for three years and fine or both.	Magistrate of the Second grade	Ditto
	(b) If harm is caused	Ditto	Ditto	(b) Imprisonment for five years and fine or both	Magistrate of the First Grade	Ditto

Kano State Administration of Criminal Justice Law 2019

231	Attempt to commit suicide.	Ditto	Ditto	Imprisonment for one year or fine or both.	Magistrate of the Second Grade	
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Causing Miscarriage, Injuries to Unborn Children, Exposure to Infants, Cruelty to Children and the Concealment of Birth

232	Causing miscarriage	Shall not Arrest without warrant	Warrant	Imprisonment for fourteen years or fine of or both.	Chief Magistrate of the First Grade	Sharia Court
233	(a) Death caused by an act done with intent to cause miscarriage. (b) If act done without the consent of the woman	Ditto	Ditto	(a) Imprisonment for fourteen years and fine or both (b) Imprisonment for life and fine or both	Ditto High Court.	
234	(a) Causing miscarriage Unintentionally (b) If offender knew woman to be with child	Ditto Ditto	Ditto Ditto	(a) Imprisonment for three years or fine or both (b) Imprisonment for five years or fine or both	Magistrate of the Second Grade Magistrate of the First Grade	Ditto Ditto

Kano State Administration of Criminal Justice Law 2019

235	Act done with intent to prevent a child being born alive or to cause it to die after his birth	Ditto	Ditto	Imprisonment for fourteen years or fine or both	Chief Magistrate of the First Grade	Ditto
236	Causing death of an unborn child by an act amounting to culpable homicide	Ditto	Ditto	Imprisonment for life or fine or both	High Court	Ditto
237	Abandonment of a child Under twelve years.	May arrest without warrant	Ditto	Imprisonment for seven years or fine of or both	Senior Magistrate of the Second Grade	Ditto
238	(a) Cruelty to children. (b) Where the ill-treatment or neglect results in serious injury to the health of the child	Shall not arrest without warrant	Summons	(a) Imprisonment for two years. (b) Imprisonment for five years or fine or both.	Magistrate of the Second Grade Magistrate of the First Grade	Sharia Courts
245	Voluntarily causing grievous hurt on provocation	Ditto	Ditto	Imprisonment for one month or both	Magistrate of the Second Grade	
246	Voluntarily causing hurt without provocation.	Shall not arrest without warrant	Summons	Imprisonment for one year or fine of N10,000 or both	Magistrate of the Second Grade	Sharia Courts

Kano State Administration of Criminal Justice Law, 2019

247	Voluntarily causing grievous hurt without provocation	May arrest without warrant	Ditto	Imprisonment for seven years or fine or both	Senior Magistrate of the First Grade	Sharia Courts
248	(a) Voluntarily causing harm by dangerous weapons or means (b) If the harm be grievous by any of the means in (1).	Ditto	Ditto	(a) Imprisonment for three years or fine or both	Magistrate of the Second Grade	Sharia Courts
		Ditto	Warrant	(b) Imprisonment for fourteen years or fine or both	Chief Magistrate First Grade.	Ditto
249	Causing hurt by means of poison with intent to commit an offence	Ditto	Ditto	Imprisonment for ten years and fine.	Senior Magistrate of the First Grade	Ditto
250	Voluntarily causing hurt to extort property or constrain to commit an illegal act.	Ditto	Ditto	Imprisonment for ten years and fine or both	Senior Magistrate of the First Grade	Sharia Courts
	If the hurt be grievous	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade	Sharia Court.
251	(a) Voluntarily causing hurt to extort confession or compel restoration of property	Ditto	Ditto	(a) Imprisonment for seven years and fine.	Senior Magistrate of the Second Grade	Sharia Courts
	(b) If the harm be grievous	Ditto	Ditto	(b) Imprisonment ten years and fine.	Ditto	Ditto

Kano State Administration of Criminal Justice Law **2019**

252	(a) Voluntarily causing harm or grievous harm to deter public servant from his duty.	Ditto	Ditto	(a) Imprisonment for three years or fine or both	Magistrate of the Second Grade	Sharia Court
	(b) If the harm be grievous	Ditto	Ditto	(b) Imprisonment for ten years and fine or both	Senior Magistrate of the First Grade.	Sharia Court
253	(a) Causing hurt by act endangering life or personal safety of others.	Ditto	Ditto	(a) Imprisonment for one year and fine.	Magistrate of the Second Grade.	Sharia Court
	(b) Where grievous hurt is caused			(b) Imprisonment for two years and fine.	Magistrate of the Second Grade	

WRONGFUL RESTRAINED AND WRONGFUL CONFINEMENT

256	Wrongful restrain	May arrest without warrant	Summons	Imprisonment for one month or fine or both	Magistrate of the Second Grade	Sharia Court
257	(a) Wrongful confinement	Ditto	Ditto	(a) Imprisonment for one year or fine or both.	Ditto	Ditto
	(b) If wrongfully confinement continues for more than three days	Ditto	Ditto	(b) Imprisonment for three years or fine or both.	Magistrate of the Second Grade	Sharia Court
258	Wrongful confinement after warrant or order or writ issued for production or liberation.	Ditto	Ditto	Imprisonment for one year in addition to imprisonment under any other section or fine or both	Magistrate of the Second Grade	Ditto

Kano State Administration of Criminal Justice Law 2019

259	Wrongful confinement in secret	Ditto	Ditto	Imprisonment for two years or fine.	Magistrate of the Second Grade	Ditto
260	Wrongful confinement to extort property or constrain to commit an illegal act	Ditto	Ditto	Imprisonment for three years and fine	Magistrate of the Second Grade	Sharia Court
261	Wrongful confinement to extort confession or compel restoration of property	Ditto	Ditto	Ditto	Ditto	Ditto

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 33)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 128)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Court with least powers by which triable
265	(a) Punishment for assault or criminal force without provocation (b) If hurt is grievous	May arrest without warrant Ditto	Summons Ditto	(a) Imprisonment for one year or fine or both (b) Imprisonment for three years or fine or both.	Magistrate of the Second Grade Magistrate of the Second Grade	Sharia Court Sharia Court
266	Punishment for assault or criminal force with provocation	Ditto	Ditto	Imprisonment for three months or fine or both	Magistrate of the Second Grade	Sharia Court

Kano State Administration of Criminal Justice Law **2019**

267	Assault or criminal force to deter a public servant from discharge of his duty	Ditto	Warrant	Imprisonment for three years or fine or both	Magistrate of the Second Grade	Sharia Court
268	Assault or use of criminal force to a woman with intent to outrage her modesty	Ditto	Ditto	Imprisonment for three years or fine.	Ditto	Ditto
269	Assault or use of criminal force in attempt to commit theft of property worn or carried by a person	Ditto	Ditto	Imprisonment for three years or fine or both	Ditto	Ditto
270	Assault or use of criminal force in attempt wrongfully to confine a person	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the Second Grade	Ditto
273	Kidnapping	May arrest without warrant	Warrant	Imprisonment for ten years and fine.	Senior Magistrate of First Grade.	Sharia Court
274	Kidnapping or abduction in order to commit culpable homicide.	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of First Grade	Sharia Court
275	Procurator of minor girl	Ditto	Ditto	Imprisonment for ten years and fine	Senior Magistrate of the First Grade	Ditto
276	Importation of girl from foreign country.	Ditto	Ditto	Imprisonment for ten years and fine.	Ditto	Ditto
277	Concealing or keeping in confinement a kidnapped or abducted person	May arrest without warrant	Warrant	The same punishment as for kidnapping or abducting	High court	Sharia Court.

Kano State Administration of Criminal Justice Law **2019**

278	Buying or selling minor for immoral purposes.	Ditto	Ditto	Imprisonment for ten years and fine.	Senior Magistrate of the First Grade	Ditto
279	Buying or disposing of slave	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade	Ditto
280	Unlawful compulsory labour.	Ditto	Ditto	Imprisonment for one year and fine	Magistrate of Second Grade	Ditto
281	Traffic in women.	Ditto	Ditto	Imprisonment for seven years and fine.	Senior magistrate of the Second Grade.	Ditto

RAPE, AND UNNATURAL AND INDECENT OFFENCES AGAINST THE PERSON

283	Rape	May arrest without warrant	Summons	Imprisonment for life or lesser term not below fourteen years and fine of N200,000.00 and may pay compensation	High Court	Sharia Court.
284 Amendment Law No. 4 of 2004.	(a) Unnatural offence	Ditto	Ditto	(a) Imprisonment fourteen years and fine of N50,000.00.	Chief Magistrate of the First Grade	Ditto
	(b) Lesbianism	Ditto	Ditto	Ditto	Ditto	Ditto
285 Amendment Law No. 9 of 2014.	Acts of gross indecency	Ditto	Ditto	(a) Imprisonment for seven years.	Senior Magistrate of the Second Grade.	Ditto
	(a) First offence, (b) Second and subsequent offence			(b) Imprisonment for fourteen years and fine of N50,000.00 and may be required to Pay compensation to victim.	Chief Magistrate of the First Grade	Ditto

CHAPTER XIX –
OFFENCES AGAINST PROPERTY THEFT

287	Theft	May arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the Second Grade	Sharia Court
288	Theft in dwelling house etc	Ditto	Ditto	Imprisonment for seven years or fine or both	Senior magistrate of the Second Grade	Sharia Court.
289	Theft by clerk or servant of property in possession of master or employer	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Senior Magistrate of the Second Grade	Sharia Court
290	Theft by preparing to cause death, bodily harm or restraint in order to commit theft	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade.	Ditto

EXTORTION

292	Extortion	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both.	Magistrate of the First Grade	Sharia Court
293	Putting a person in fear of injury in order to commit extortion	Ditto	Ditto	Imprisonment for two years or fine or both.	Magistrate of the Second Grade	Sharia Court
294	Extortion by putting a person in fear of death or grievous hurt	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade	Sharia Court.
295	Extortion by threat of accusation of an offence punishable with death or imprisonment for ten years	Ditto	Ditto	Imprisonment for fourteen years and fine	Ditto	Ditto

ROBBERY AND BRIGANDAGE

298	Robbery If committed by person armed with dangerous or offensive weapon or instrument	May arrest without warrant Ditto	warrant Ditto	Imprisonm ent for ten years and fine Punishable with death	Magistrate of the First Grade High Court.	Sharia Court
299	Punishment for attempted robbery	Ditto	Ditto	Imprisonme nt for seven years and fine.	Senior Magistrate of the Second Grade	Ditto
300.	Voluntarily causing hurt in committing robbery	May arrest without warrant	Warrant	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade.	Sharia Court.
301	Brigandage	Ditto	Ditto	Ditto	Ditto	Ditto
302	Brigandage with culpable homicide	Ditto	Ditto	Death	High Court	Ditto
303	Robbery or brigandage with attempt to cause death or grievous hurt.	Ditto	Ditto	Imprisonment for not less than seven years.	Senior Magistrate of the Second Grade	Ditto
304	Making preparation to commit brigandage	Ditto	Ditto	Imprisonment for ten years and fine.	Senior Magistrate of the First Grade	Ditto
305	Belonging to a gang of wandering brigands	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade	Ditto

306	Belonging to gang of thieves.	Ditto	Ditto	Imprisonment for up to seven years.	Senior Magistrate of the Second Grade	Ditto
307	Assembling for the purpose of committing brigandage	May arrest without warrant	Warrant	Imprisonment for seven years and fine.	Ditto	Sharia Court

CRIMINAL MISAPPROPRIATION

309.	Criminal misappropriation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both in addition to forfeiture	Magistrate of the Second Grade	Sharia Court
310	(a) Criminal misappropriation of property possessed by deceased person at the time of his death (b) If by clerk or servant of deceased	Ditto Ditto	Ditto Ditto	(a) Imprisonment for three years and fine. (b) Imprisonment for seven years and fine.	Ditto Senior Magistrate of the Second Grade	Ditto Sharia Court

Kano State Administration of Criminal Justice Law 2019

CRIMINAL BREACH OF TRUST

312	Criminal breach of trust	May without arrest Warrant	Warrant	Imprisonment for seven years or fine or both	Senior Magistrate of the Second Grade	Sharia Court
313	Criminal breach of trust by a carrier, etc.	Ditto	Ditto	Imprisonment for ten years and fine.	Senior Magistrate of the First Grade.	Ditto
314	Criminal breach of trust by a clerk or servant	Ditto	Ditto	Imprisonment for ten years and fine.	Ditto	Ditto
315	Criminal breach of trust by public servant or by banker, merchant or agent, etc	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the Grade	Ditto

RECEIVING STOLEN PROPERTY

317	Dishonesty receiving stolen property.	May arrest without warrant	Warrant	Imprisonment for fourteen years or fine or both.	Chief Magistrate of the First Grade	Ditto
318	Dishonestly receiving property stolen in the commission of brigandage.	May without warrant	Warrant	Imprisonment for life or any less term and fine.	High Court	No Jurisdiction
319	Assisting in concealment of stolen property, knowing it to be stolen	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Sharia Court

Kano State Administration of Criminal Justice Law 2019

319A	Having possession of reasonably suspected to be stolen.	Ditto	Ditto	Imprisonment for six months or fine or both.	Magistrate of the Second Grade	Sharia Court.
322	Cheating	Shall not arrest without warrant	Warrant	Imprisonment for three years or fine or both	Magistrate of the Second Grade	Sharia Court
323	Cheating a person whose interest the offender was bound to protect.	Ditto	Ditto	Imprisonment for five years or fine or both.	Chief Magistrate of the First Grade	Ditto
325	Cheating and thereby dishonestly inducing delivery of property.	Ditto	Ditto	Imprisonment for seven years and fine.	Senior Magistrate of the Second Grade	Ditto

MISCHIEF

327	Mischief	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both.	Magistrate of the Second Grade	Sharia Court
328	Repealed by section 7 of the Penal code (amendment) Law, 1960					
329	Mischief by killing or maiming animals	May arrest with warrant	Ditto	Imprisonment for three years or fine or both.	Magistrate of the Second Grade	Ditto
330	Mischief by killing or maiming of cattle etc	Ditto	Ditto	Imprisonment for five years or fine or both.	Magistrate of the First Grade.	Ditto

Kano State Administration of Criminal Justice Law 2019

331	Mischief in relation to Water Supply	Ditto	Ditto	Imprisonment for five years or fine or both.	Magistrate of the Second Grade	Ditto
332	Mischief by injury to the public road, bridge, river or channel	Ditto	Ditto	Imprisonment for life or less term or fine or both.	High Court	Ditto
333	Mischief by inundation or obstruction to public drainage	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Ditto
334	Mischief in relation to electricity and telecommunication	Ditto	Ditto	Imprisonment for five years or fine or both	Ditto	Sharia Court
335	Mischief by destroying a public landmark	Ditto	Ditto	Imprisonment for one year or fine or both	Magistrate of the Second	Ditto
336	Mischief by fire or explosive with intent to cause damage	Ditto	Ditto	Imprisonment for Seven years and fine.	Senior Magistrate of the second Grade	Ditto
337	Mischief by fire or explosive with intent to destroy house	Ditto	Ditto	Imprisonment for life or less term and fine	High Court	Sharia Court.
338	Mischief to vessels	Ditto	Ditto	Imprisonment for fourteen years or fine or both	Chief Magistrate of the First Grade	Sharia Court
339	Mischief by fire vessels	Ditto	Ditto	Imprisonment for life or less term and fine. imprisonment	High Court	Sharia Court.
340	Running vessel aground or ashore with intent to commit theft	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade	Sharia Court
341	Mischief committed after preparations made for causing death or hurt.	ditto	ditto	Imprisonment for five years and fine.	Magistrate of the First Grade	Sharia Court

Kano State Administration of Criminal Justice Law 2019

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 33)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 128)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Court with least powers by which triable
348	Punishment for criminal trespass	Shall not arrest without warrant	Warrant	Imprisonment for one year or fine or both.	Magistrate of the Third Grade	Ditto
349	Punishment for house trespass	Ditto	Ditto	Imprisonment for one year, or fine or both.	Ditto	Ditto
350	House trespass to commit offence punishable with death	Shall not arrest without warrant	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade	Sharia Court
351	House trespass to commit offence punishable with fourteen years imprisonment	Shall not arrest without warrant	Ditto	Imprisonment for ten years and fine	Senior Magistrate of the First Grade	Ditto
352	House trespass to commit offence punishable with imprisonment	Shall not arrest without warrant	Ditto	Imprisonment for seven years and fine	Senior Magistrate of the Second Grade	Ditto

Kano State Administration of Criminal Justice Law 2019

353	Lurking house trespass or house breaking.	May arrest without warrant	Ditto	Imprisonment for two year and fine.	Magistrate of the Second Grade	Sharia Court
354	Lurking house trespass or house breaking in order to commit offence punishable with imprisonment.	Ditto	Ditto	Imprisonment for Fourteen years and fine.	Chief Magistrate of the first grade.	Sharia Court
355	Lurking house trespass or house breaking by night.	Ditto	Ditto	Imprisonment for three years and fine.	Magistrate of the Second Grade.	Ditto
356.	Lurking house trespass or house breaking by night to commit offence punishable with imprisonment.	Ditto	Ditto	Imprisonment for life or less term and also fine.	High Court	Ditto
357	Joint liability for lurking house, trespass or house breaking by night where death grievous hurt is caused	Ditto	Ditto	Imprisonment for life or less term and also fine	High Court	Sharia Court.
358	Breaking open a receptacle containing property	Ditto	Ditto	Imprisonment for three years or fine or both.	Magistrate of the Second Grade	Sharia Court.

Kano State Administration of Criminal Justice Law 2019

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 33)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 128)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Court with least powers by which triable
359	Breaking open a receptacle by person entrusted with custody	May arrest without warrant	Warrant	Imprisonment for three years or fine or both.	Magistrate of the Second Grade	Sharia Court
360	Lurking with housebreaking implements	Ditto	Ditto	Imprisonment for three years and fine.	Ditto	Ditto
361	Fabrication of false key or instrument	Ditto	Ditto	Imprisonment for two years and fine.	Ditto	Ditto

CHAPTER XX- FORGERY

364	Forgery	Shall not arrest without warrant	Warrant	Imprisonment for fourteen years or fine or both.	Chief Magistrate of the First Grade	Sharia Court.
365	Forgery of public seals,	Ditto	Ditto	Imprisonment for life or less term and also fine	High Court	Ditto
366	Using as genuine a forged document which is known to be forged	Ditto	Ditto	Ditto	Same court as that by which the forgery is triable	Ditto

Kano State Administration of Criminal Justice Law 2019

367	Making or possessing counterfeit seal with intent to commit forgery	Ditto	Ditto	Imprisonment for fourteen years and fine.	Chief Magistrate of the First Grade	Ditto
368	Possession of forged record	Ditto	Ditto	Ditto	Ditto	Ditto
369	Counterfeiting a device or mark used for authenticating documents	Ditto	Ditto	Ditto	Ditto	Ditto
370	Fraudulent cancellation or destruction of document of title	Ditto	Ditto	Ditto	Ditto	Ditto
371	Falsification of accounts	Ditto	Ditto	Imprisonment for seven years and fine.	Senior Magistrate of the Second Grade	Ditto

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 33)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 128)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Court with least powers by which triable

PROPERTY AND OTHER MARKS

374	Using a false property mark	Shall not arrest without warrant	Warrant	Imprisonment for one year or fine or both.	Magistrate of the Third Grade	Sharia Court
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Kano State Administration of Criminal Justice Law 2019

375	Counterfeiting a property mark used by another.	Ditto	Ditto	Imprisonment for two years or fine or both.	Magistrate of the Second Grade	Sharia Court
376	Counterfeiting a mark used by a public servant.	Ditto	Summons	Imprisonment for three years and fine.	Magistrate of the Second Grade	Ditto
377	Making or possession of any instrument for counterfeiting a property mark.	Ditto	Ditto	Imprisonment for three years or fine or both.	Ditto	Ditto
378	Making a false mark upon any receptacle, goods etc.	Ditto	Ditto	Ditto	Ditto	Ditto
379	Making use of any such false mark	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER XXI – CRIMINAL BREACH OF CONTRACTS OF SERVICE

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 54)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 131)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Court with least powers by which triable
380	Tempering with property mark.	Shall not arrest without warrant	Summons	Imprisonment for one year	Magistrate of the Third Grade	Sharia Court.

Kano State Administration of Criminal Justice Law 2019

381.	Breach of Contract of Service during voyage or journey.	Ditto.	Ditto	Imprisonment for one month or fine or both	Magistrate of the Third Grade	Sharia Court.
382	Breach of contract to attend on and supply wants of helpless person	Shall not arrest without warrant	Summons	Imprisonment for three months or fine or both.	Magistrate of the Third Grade	Sharia Court
383	Deceitfully inducing belief of lawful marriage	Shall not arrest without warrant	Warrant	Imprisonment for ten years and fine.	Senior Magistrate of the First Grade	Sharia Court
384	Marrying again during the life time of husband or wife.	Ditto	Ditto	Imprisonment for seven years and fine.	Senior Magistrate of the Second Grade	Ditto
385	Remarriage with concealment of former marriage	Ditto	Ditto	Imprisonment for seven years and fine.	Ditto	Ditto
386	Marriage ceremony fraudulently gone through without lawful marriage	Ditto	Ditto	Imprisonment for seven years and fine.	Senior Magistrate of the Second Grade	Ditto

Kano State Administration of Criminal Justice Law 2019

387	Adultery by a man	Ditto	Ditto	Imprisonment for two years or fine or both.	Magistrate of the Seconds Grade	Sharia Court
388	Adultery by a woman.	Ditto	Ditto	Ditto	Ditto	Ditto
389	Enticing or taking away or detaining with criminal intent a woman.	Ditto	Ditto	Ditto	Ditto	Ditto
390	Incest	Ditto	Ditto	Imprisonment for seven years and fine.	Senior Magistrate of the Second Grade	Sharia Court.

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 33)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 128)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Sharia Court with least powers by which triable

CHAPTER XXIII – DEFAMATION

392.	Defamation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both.	Magistrate of the Second Grade	Sharia Court
393.	Injurious falsehood	Ditto	Ditto	Imprisonment for two years or fine both.	Magistrate of the Second Grade	Ditto

Kano State Administration of Criminal Justice Law 2019

394	Printing or engraving, matter known to be defamatory	Ditto	Ditto	Ditto	Ditto	Sharia Court
395	Sale of printed or graved substance containing defamatory matter, knowing it to contain such matter	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER XXIV – CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE AND DRUNKENNESS

397	(a) Criminal intimidation (b) If threat be to cause death or grievous hurt, etc.	Shall not arrest without warrant Ditto	Warrant Ditto	(a) Imprisonment for two years or fine or both. (b) Imprisonment for seven years or fine	Magistrate of the Second Grade Senior Magistrate of the Second Grade	Sharia Court Ditto
398	Criminal intimidation by anonymous communication	Ditto	Ditto	Imprisonment for two years in addition to the punishment of the offence in 397.	Magistrate of the Second Grade	Sharia Court
399	Intentional insult with intent to provoke breach of the Peace	Ditto	Ditto	Imprisonment for two years or fine or both.	Magistrate of the Second Grade	Ditto
400	Word gesture or act intended to insult the modesty of a woman.	Ditto	Ditto	Imprisonment for one year or fine or both.	Magistrate of the Third Grade	Ditto
402	Drunkenness in private place.	Shall not arrest without warrant	Warrant	Imprisonment for six months with fine or both	Magistrate of the Third Grade	Sharia Court

Kano State Administration of Criminal Justice Law 2019

404 Amendment Law No. 4 of 2004	(a) Manufacture and use of intoxicants, sections 401	Ditto	Ditto	(a) imprisonment for one year or fine of N50,000.00 or both and forfeiture of materials used	Magistrate of Second Grade	Sharia Court
	(b) Cultivation of weed under section 403	Ditto	Ditto	(b) imprisonment for six months or fine of 25,000.00 or both and destruction of the offending crops	Senior Magistrate of the Third Grade	Ditto
406	Conviction as Idle Person	Shall not arrest without warrant	Warrant	Imprisonment for one month or fine or both.	Magistrate of the Third Grade	Ditto
407	Conviction as a Vagabond	Ditto	Ditto	Imprisonment for two years or fine of N50,000.00 or both	Magistrate of the Second Grade	Sharia Court
408	Incorrigible Vagabond	Ditto	Ditto	Imprisonment for two years or fine of N50,000.00 or both	Magistrate of the Second Grade	Sharia Court

APPENDIX B

SECTION 206

FORM OF CHARGES A – SINGLE CHARGE

1. (a) I (name of Presiding Officer of Court) hereby charge you..... (name of defendant) as follows:
- (b) That you on or about the day of20..... at..... being a public servant in the Ministry of directly accepted from A,B. for yourself (or for another person name C.D.) a gratification other than lawful remuneration as a motive for forbearing to do an official act and thereby committed an offence punishable under section 79 of the Penal Code and triable by the High Court.
- (c) And I hereby direct that you be tried by such Court on the said charge.

Signature or Seal of the presiding Officer of Court

To be substituted for (b):

- (2) That you on or about day of 20 at in the course of the trial of A, B before stated in evidence that which statement you either knew or believed to be false or did not believe to be true and thereby committed an offence punishable under section 89 of the Penal Code and triable

by the High Court.

- (3) That you on or about the day of 20
..... at committed culpable
homicide not punishable with death by causing the death of A, B
and thereby committed an offence punishable under section 190
of the Penal Code and triable by the High Court.
- (4) That you on or about the day of 20
..... at abetted the commission of suicide
by A, B while the said A, B was in a state of intoxication and
thereby committed an offence punishable under section 196 of the
Penal Code and triable by the High Court.
- (5) That you on or about the day of 20
..... at voluntarily caused
grievous harm hurt to A, B, by (state
details of grievous harm) and thereby committed an offence
punishable under section 217 of the Penal Code and triable by the
High Court.
- (6) That you on or about the day of 20
..... at day of
being entrusted with did commit
criminal breach of trust by dishonestly misappropriating a sum of
N..... and thereby committed an offence punishable
under section 297 of the Penal Code and triable by the High
Court.
- (7) That you on or about the day of 20
..... at cheated A, B falsely
pretending to be in the Government Service and thereby
dishonestly induced him to deliver (as
the case may be) and thereby committed an offence punishable

Kano State Administration of Criminal Justice Law 2019

under section 309 of the Penal Code and triable by the High Court.

Note: In cases tried by a magistrate substitute "the Court of a Chief Magistrate" or "the Court of a Magistrate of the grade" for "the High Court".

B – TWO OR MORE CHARGES

(I) (a) I
(name of Presiding Officer of Court) hereby charge you
..... (name of defendant) as
follows:-

(b) First – That you on or about the day of
..... 20 at
..... committed culpable homicide
punishable with death by causing the death of A. B. and
thereby committed an offence punishable under section
189 of the Penal Code and triable by the High Court.

Secondly – That you on or about the day of
20 at committed culpable
homicide not punishable with death by causing the death of A. B. and
thereby committed an offence punishable under section 190 of the Penal
Code and triable by the High Court.

(c) And I hereby direct that you be tried by such Court on the said
charges.

Signature or Seal of the Presiding officer of Court

To be substituted for (b):

- (2) That you on or about the day of 20 at in the course of the inquiry into before stated in evidence that and that you on or about the day of 20 at in the course of the trial of before stated in evidence that one of which statements you either knew or believed to be false or did not believe to be true, and thereby committed an offence punishable under section 79 of the Penal Code and triable by the High Court.
- (3) That you on or about the day of 20 at committed theft by stealing cattle the property of A. B. and thereby committed an offence punishable under section 272A of the Penal Code and triable by the High Court. (or)
- (4) That you on or about the day of 20 at being entrusted with the said cattle committed criminal breach of trust of by dishonestly misappropriating it and thereby committed an offence punishable under section 297 of the Penal Code and triable by the High Court (or)
- (5) That you on or about the day of 20 at dishonestly received the said cattle knowing or having reason to believe that it was stolen property and thereby committed an offence punishable under section 302 of the Penal Code and triable by the High Court.

Note: In cases tried by a magistrate substitute "the Court of a Chief Magistrate" or "the Court of a Magistrate of the grade" for "the High Court".

APPENDIX C

Offences Which May Be Compounded

Offence	Section of Penal Code Applicable	Person by Whom the Offence May be Compounded
	PART I	
Causing harm	219,220	The person to whom the harm is caused.
Assault or use of criminal force	239,240	The person assaulted or to whom criminal force is used.
Mischief, when the only loss or damage caused is loss or damage to a private person	313	The person to whom the loss or damage is caused.
Criminal trespass	333	The person in possession of the property trespassed upon
House trespass	334	
Criminal breach of contract of service	362	The person with whom the offender has contracted.
Adultery	358	The husband of a married woman or the parent or guardian of a unmarried

		woman
Enticing or taking away or detaining with a criminal intent a married woman Defamation	369	The husband of the woman
Defamation	372	
Printing or engraving, etc., matter knowing it to be defamatory.	374	The person defamed
Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	375	
Criminal intimidation except when the offence is punishable with imprisonment for seven years	377	The person intimidated
Insult intended to provoke a breach of the peace	379	The person insulted.
	PART II	
Grievous harm on provocation	219	

Grievous harm without provocation.	220	
Harm, not grievous, by dangerous weapon	222	The person to whom harm is caused
Harm, or grievous harm, by act endangering life or safety	227	
Wrongfully restraining or confining any person	230,231	The person restrained or confined
Unlawful compulsory labour	280	The person compelled to labour.
Mischief in relation to water supply, when the only loss or damage caused is loss or damage to a private person.	316	The person to whom loss or damage is caused
House trespass to commit an offence (other than theft) punishable with imprisonment.	334	The person is possession of the house trespassed upon
Uttering words or making gestures intending to insult the modesty of a woman.		The woman who it is intended to insult.

FORMS FOR REMAND PROCEEDINGS

APPENDIX D

SECTION 305

REPORT AND REQUEST FOR REMAND

BETWEEN

COMMISSIONER OF POLICE

Director Of Public Prosecutions

Applicant

And

XYZ

Respondent

To: The Registrar of the Court

The Court is hereby informed that there is a probable cause to order the remand of XYZ (state particulars of the Respondent, namely age, sex, occupation) of (state details of the Respondent's street address or where there is no precise street address, as near and close description as possible of the location of the Respondent last known place of abode) in remind custody in _____ (state the exact place of custody in which the applicant proposes to remand the Respondent such as the name and location of the prison or other detention place) who is reasonably suspected to have committed the offence of

Kano State Administration of Criminal Justice Law **2019**

..... contrary to section within
..... about High
Division/Magisterial District on or of commission on the alleged offence) on
grounds stated.

Below:

.....
.....
.....
.....

Dated this day of 20

GROUND FOR THE REQUEST FOR REMAND

1. Place, time and circumstance of arrest:

.....
.....
.....
.....

2. Arrested with Exhibit(s) Yes No
(Tick appropriately)

(disregard (3) and (4) below if the Respondent was not arrested with
Exhibit(s))

3. If arrested with Exhibit(s), state clearly the
particulars of the Exhibit(s)

.....
.....

4. If arrested with Exhibit(s), state clearly how the items are related to or linked with the committal of the alleged offence

5. State particulars of other evidence or report linking the Respondent to the commission of the offence such as forensic evidence, marks or finger prints, etc.

6. Confessional statement _____ Yes _____
 No _____

7. Any previous conviction for the same or similar offence _____ Yes _____
 No _____

8. If (7) above is Yes, state the particulars of previous conviction(s)
 Found in custody or possession of offensive
 weapon, object or substance: _____ Yes _____
 No _____

9. Identification by victim(s) or witness(es) _____ Yes _____
 No (State the particulars of such victim(s) or witness(es))

- (i) Name: _____
 Age: _____
 Sex: _____
 Address: _____
 Occupation: _____

Kano State Administration of Criminal Justice Law 2019

(ii) Name: _____

Age: _____

Sex: _____

Address: _____

Occupation: _____

(iii) Name: _____

Age: _____

Sex: _____

Address: _____

Occupation: _____

(iv) Name: _____

Age: _____

Sex: _____

Address: _____

Occupation: _____

(v) Name: _____

Age: _____

Sex: _____

Address: _____

Occupation: _____

Need for further investigation _____ Yes _____ No

Kano State Administration of Criminal Justice Law **2019**

10. Period/duration required for further investigation _____
(state approximate days/weeks/months required to complete investigation)

11. Any further relevant information.....
.....
.....
.....

Signed

(Commissioner of Police/Director of Public Prosecution/Law
Officer/Police Officer)

APPENDIX E

SCALE OF FINES

SECTIONS 358,430, 431 & 440

A. B on the day of 20
in the division of knowingly and fraudulently
uttered a certain forged will purporting to be the will of C. D

STATEMENT OF PREVIOUS CONVICTION:

Prior to the commission of the said offence, the said A.B. has been
 previously convicted of burglary on the day of v 20
 at the Sessions held at

APPENDIX E

**IMPRISONMENT FOR NON-PAYMENT OF
 MONEY ORDERED TO BE PAID (SECTION 425)**

where the fine does not;	The period of imprisonment shall not exceed
Exceed N2,000.00	7 days
Exceed N2,000.00 and does not exceed N5,000.00	14 days;
Exceed N5,000.00 and does not exceed N20,000.00	1 month;

Kano State Administration of Criminal Justice Law **2019**

Exceed N20,000.00 and does not exceed N60,000.00	2 months;
Exceed N60,000.00 and does not exceed N100,000.00	3 months;
Exceed N100,000.00 and does not exceed 200,000.00	3 months
	4 months;
Exceed N200,000.00 and does not exceedsN400,000.00	5 months;
Exceed N400,000.00 but does not exceed N600,000.00	6 months;
exceed N600,000.00 and does not exceed N1,000,000.00	7 months;
exceed N1,000,000.00 and does not exceed N2,000,000.00	8 months;
exceed N2,000,000,000.00 and does not exceed N5,000,000.00	9 months
exceed N5,000,000.00 and does not	10 months
exceed N10,000,000.00	
exceed N10,000,000.00	To the discretion of the Judge from 18 months and above

APPENDIX F

INFORMATION ON LEGAL REPRESENTATION

Section 387 (9)

The office of the Director of Public Prosecutions has determined that proceeding shall continue against you as per the attached legal advice. Indicate whether you wish to be represented by a legal practitioner arranged by you or by the Legal Aid Council or any organisation providing free legal representation.

- (1) If you wish to be represented by a legal practitioner arranged by you, please indicate below the particulars of such legal practitioner:

Name of Legal Practitioner: _____

Address of Legal Practitioner: _____

Telephone Number of Legal Practitioner: _____

E-mail of Legal Practitioner: _____

Signature of the Defendant: _____

Signature of the Prison official or Police official in charge of place of custody of Defendant: _____

- (2) If you wish to be represented by a legal practitioner arranged by way

Kano State Administration of Criminal Justice Law 2019

of legal aid, please provide the relevant information below. If you do not know any organisation you to apply to provide legal practitioner to represent you, kindly enter the "**Legal Aid Council**" as the name of organization:

Name of the Organization: _____

Address of the Defendant (or Place of custody is on remand)-

Signature of the Defendant: _____

Signature of the Prison official or police official in charge of place of custody of Defendant: _____

(3) be represented by a legal practitioner arranged by way of legal



APPENDIX G
ORDER FOR EXECUTION
SECTION 410

WHEREAS at the

holding at on the day of
..... 20 one
was duly convicted of a capital offence and was sentenced to death:

AND WHEREAS information derived from the record of the case or elsewhere, having been duly taken into consideration at a meeting of the council of State designated for the purpose in his own deliberate judgment thereafter has decided to recommend to me that i should exercise my powers in relation to the person so convicted:

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

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

AND FOR SO DOING this shall be your warrant.

Kano State Administration of Criminal Justice Law **2019**

GIVEN under my hand and the Public Seal of the Kano state of Nigeria

This day of 20

Governor

To the Sheriff at

APPENDIX H

SECTION 420

ORDER FOR COMMUTATION OF SENTENCE

WHEREAS on the day of 20
....., one was
duly convicted of a capital offence and was sentenced to death by the
..... holding at
.....

AND WHEREAS information derived from the record of the case or
elsewhere, having been duly taken into consideration at a meeting of the
Council of State thereafter has decided to recommend to me that I should
exercise my powers in relation to the person so convicted:

AND WHEREAS I have decided in accordance with the advice of the
appropriate authority to confirm the sentence:

NOW THEREFORE I do hereby commute the sentence and direct that the

said sentence be not carried out, and that in lieu thereof the said
 be
 imprisoned for

..... **GIVEN** under my
 hand and the Public Seal of the Federal Republic of Nigeria.

This day of 20

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

ENDORSMENT ON WARRANT OF ARREST

Whereas proof has this day been made before me that the name
 subscribed to the within warrant is in the handwriting of the
 within mentioned I hereby authorize,
 who brings me this warrant and all other
 persons to whom this warrant was originally directed and also all police
 Officers of the to execute this warrant within
 and to within and to bring
 the said if arrested within
 before me or before some Magistrate of the to be dealt
 with according to law.

GIVEN under my hand this day of 20

Magistrate

ENDORSMENT ON WARRANT OF DISTRESS

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

.....you.....are hereby ordered forthwith to make distress of the goods of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of.....Naira the tools and implements of his trade); and if within the space of the 5 clear days next after making of such distress unless he consents in writing to an earlier sale, the sum stated in the within warrant, together with the reasonable cost and charges of making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of this Court, and if no such distress can be found, to certify the same to this Court.

Dated the.....,20.....

Kano State Administration of Criminal Justice Law 2019

Judge (or Magistrate).

FOR ME

WARRANT TO ARREST A PERSON FAILING TO APPEAR PURSUANT
TO RECOGNIZANCE

TITLE OF PROCEEDINGS

To and
..... Whereas
..... of
..... is
bound by recognizance to appear before this Court

AUTHENTICATION BY THE CLERK

This Printed impression has been carefully compare by me with **Kano State
Administration of Criminal Justice Law 2019 (1440A.H)** which was
passed by the Kano State House of Assembly and found by me to be a true
and correctly printed copy of the said Law.