



**KOGI STATE**  
**ADMINISTRATION**  
*of* **CRIMINAL**  
**JUSTICE LAW**  
**2017**

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**ADMINISTRATION OF CRIMINAL JUSTICE LAW, 2017**

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## **KOGI STATE ADMINISTRATION OF CRIMINAL JUSTICE LAW, 2017**

A Law to provide for the Administration of Criminal Justice in the High Courts, Magistrates' Courts and Area Courts of Kogi State and for related matters.

BE IT ENACTED by the Kogi State House of Assembly and by the Authority of same as follows: **Enactment**

### **PART 1- PRELIMINARY**

1. This law may be cited as the Kogi State Administration of Criminal Justice Law, 2017 and it shall be deemed to have come into force on the 29th day of December, 2017 **Citation and commencement**
2. (1) The overriding objective of this Law is to ensure that the system of administration of criminal justice in Kogi 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. **Overriding Objectives**  
  
(2) The courts, law enforcement agencies and other authorities or persons involved in criminal justice administration within the State shall ensure compliance with the provisions of this Law for the realisation of its purposes.
3. (1) Without prejudice to section 84 of this Law, the provisions of this Law shall apply to criminal trials for offences established by a Law of the Kogi State House of Assembly and any Act of the National Assembly in force in Kogi State. **Application of Law, Constitution and Jurisdiction of Courts**  
  
(2) There shall be the following classes of Criminal Courts in Kogi State, namely:
  - (a) the High Court;
  - (b) Courts of the Chief Magistrates of the First grade;
  - (c) Courts of the Chief Magistrates of the Second grade;
  - (d) Courts of the Senior Magistrates of the First grade;
  - (e) Courts of the Senior Magistrates of the Second grade;
  - (f) Courts of the Senior Magistrates of the Third grade;
  - (g) Courts of the Magistrates of the First and Second grades;
  - (h) Upper Area Court;

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- (i) Area Court; and
- (i) Family Court.

(3) The Chief Judge may:

- (a) divide Kogi State into Magisterial Districts for the purpose of establishing Magistrate Courts;
- (b) constitute any part of Kogi State as a Magisterial District for the purpose of establishing Magistrate Courts;
- (c) distinguish such Magisterial Districts by such names or numbers as he may deem appropriate;
- (d) vary the limit 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.

(4) In exercising the powers conferred in subsection (3) above, the Chief Judge shall be guided by Section 2(1) of this Law.

(5) (a) In each Magisterial District there shall be, and accordingly, there is hereby established a Court, to be called the Magistrates' Court.

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

(6) 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 wherein he shall have and exercise all the jurisdiction and powers conferred upon him by his appointment; and accordingly;
- (b) no Magistrate shall exercise any jurisdiction or powers in excess of those conferred upon him by the provisions of this law or any other law or Act.

(7) 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.

(8) (a) Magistrates shall be the Chief Magistrates of the First and Second grades, Senior Magistrates of the First, Second and Third grades and Magistrates of the First and Second grades.

(b) The Kogi State Judicial Service Commission may appoint any qualified legal practitioner to the office of Magistrate.

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

(9) Every Magistrate shall have jurisdiction throughout the State unless his appointment is specifically limited to a Magisterial District, or group of Magisterial Districts.

(10) Notwithstanding the provisions of sub-section (9), a Chief Magistrate who is assigned to a group of Magisterial Districts may direct a Magistrate in one of the Districts within the group to assist another Magistrate within the said group, and may direct to the best of his ability the movements of any additional Magistrate within the group.

(11) (a) Subject to other 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 the seventh schedule of this Law to be triable or by any Court other than an Area Court with greater powers.

(b) Any offence under the Penal Code may be tried by any Area Court by which such offence is shown in the seventh column of the Seventh Schedule to be triable or by any Area Court with greater powers.

PROVIDED that any such Area Court shall try such offence only if jurisdiction so to do has been conferred upon it by its court warrant.

(c) Subject to the provisions of subsection (11)(b), the jurisdiction of the Area Courts and Family Courts shall be governed by the provisions of the Law establishing them.

(12) (a) Any offence under any Law or Act other than the Penal Code may be tried by any Court given jurisdiction in that behalf in that Law or Act or by any Court with greater powers.

(b) 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:

- (i) 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 Five Hundred Thousand Naira;
- (ii) 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 Four Hundred Thousand Naira;
- (iii) 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 Three Hundred Thousand Naira;
- (iv) 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 Two Hundred Thousand Naira;
- (v) a Senior Magistrate of the Third grade shall not try an offence punishable with imprisonment for a term which may exceed six years or with a fine exceeding One Hundred Thousand Naira;
- (vi) a Magistrate of the First grade shall not try an offence punishable with imprisonment for a term which may exceed four years or with fine exceeding Seventy Thousand Naira;
- (vii) a Magistrate of the Second grade shall not try an offence punishable with imprisonment for a term not exceeding two years or with a fine not exceeding Fifty Thousand Naira;

(c) Nothing in (b) above shall be deemed to confer upon any Court any jurisdiction in excess of that conferred upon that Court by subsections (14) to (20) of this section

(d) An offence which is contrary to the provisions of an Act of the National Assembly other than the Penal Code (Northern Region) Federal Provisions Act, 1960 may be tried by any Court on which jurisdiction in that behalf is conferred by any Act whether that jurisdiction is conferred on the Court in question expressly or by reference to a class of Courts in which that Court is comprised or by any Court with greater powers; and if the jurisdiction exercisable by any Court or magistrate is increased in relation to any such offence by any Act, the increased jurisdiction may be exercised by that

Court or magistrate notwithstanding anything contained in this Law.

(e) Where, in the case of any such offence as is mentioned in (d) above, no provision is made in any Act as to which Court or class of Courts has jurisdiction to try it, the offence may be tried by the High Court or any Court constituted under this Law, subject to the limitations imposed by subsection (12) (b) proviso and subsections (14) to (20) of this section

(13). The High Court may pass any sentence authorized by Law.

(14). (a) A Chief Magistrate of the First grade may pass the following sentences:

- (i) imprisonment for a term not exceeding fourteen years;
- (ii) fine not exceeding Five Hundred Thousand Naira;
- (iii) caning;
- (iv) detention under Section 71 of the Penal Code; and
- (v) other sentences prescribed by this Law or any other Law.

(b) A Chief Magistrate of the Second grade may pass the following sentence:

- (i) imprisonment for a term not exceeding twelve years;
- (ii) fine not exceeding Four Hundred Thousand Naira
- (iii) caning;
- (iv) detention under Section 71 of the Penal Code; and
- (v) other sentences prescribed by this Law or any other Law.

(c) A Senior Magistrate of the First grade may pass the following sentences:

- (i) imprisonment for a term not exceeding ten years;
- (ii) fine not exceeding Three Hundred Thousand Naira
- (iii) caning;
- (iv) detention under Section 71 of the Penal Code; and
- (v) other sentences prescribed by this Law or any other Law.

(d) A Senior Magistrate of the Second grade may pass the following sentences:

- (i) imprisonment for a term not exceeding eight years;
- (ii) fine not exceeding Two Hundred Thousand Naira;
- (iii) caning;
- (iv) detention under Section 71 of the Penal Code; and
- (v) other sentences prescribed by this Law or any other Law.

(e) A Senior Magistrate of the Third grade may pass the

following sentences:

- (i) imprisonment for a term not exceeding six years;
- (ii) fine not exceeding One Hundred Thousand Naira;
- (iii) caning;
- (iv) detention under Section 71 of the Penal Code; and
- (v) other sentences prescribed by this Law or any other Law.

(f) A Magistrate of the First grade may pass the following sentences:

- (i) imprisonment for a term of not exceeding four years;
- (ii) fine not exceeding Seventy Thousand Naira;
- (iii) caning;
- (iv) detention under Section 71 of the Penal Code; and
- (v) other sentences prescribed by this Law or any other Law.

(g) A Magistrate of the Second grade may pass the following sentences:

- (i) imprisonment for a term not exceeding two years;
- (ii) fine not exceeding Fifty Thousand Naira;
- (iii) caning;
- (iv) detention under Section 71 of the Penal Code; and
- (v) other sentences prescribed by this Law or any other Law.

(15) (a) The House of Assembly may on the recommendation of the Chief Judge expand the jurisdiction in criminal matters of any Magistrate to such extent as he may specify.

(b) The House of Assembly may authorise such increased jurisdiction under (a) above in respect of –

- (i) Offences under a named Law or Act;
- (ii) Offences specifically referred to under a named Law or Act; or
- (iii) A particular offence for which a person is then charged or a particular offence of which a court has taken cognizance.

(16) Any Court may pass any lawful sentence combining any of the types of sentences which it is authorized by Law to pass.

(17) Any Court may award any term of imprisonment in default of payment of a fine which it is authorized by Section 74 of the Penal Code.

PROVIDED that, the term of imprisonment shall not be in excess of the term prescribed in the Fourth Schedule of this Law.



(18) (a) Where a person is convicted at one trial of two or more distinct offences, the Court may, subject to the provisions of Section 76 of the Penal Code, sentence him for such offences to the several punishments prescribed therefor which such Court is competent to impose to run consecutively or concurrently.

(b) In cases falling under this subsection a Court shall not be limited by the provisions of Section 3(14) to (16) of this Law but shall not impose consecutive sentences exceeding in the aggregate twice the amount of punishment which is in excess of its ordinary jurisdiction.

(19) A 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.

(20) Nothing in this Law shall affect the status, appointment or tenure of office of 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 in the District in which he was serving before the commencement of this Law.

4. In this Law, unless the context otherwise requires, the following expressions shall have the meanings assigned to them respectively:- Interpretation

**"adult"** means a person who has attained the age of 18 years or above;

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

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

**"chief Judge"** means the Chief Judge of Kogi State;

**"child"** means a person who has not attained the age of 18 years;

**"committee"** means the Administration of Criminal Justice Monitoring Committee established under section 454 (1) of this 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 the High Court, Magistrates' Court, Area Courts and all other Courts with criminal jurisdiction established by the law of the Kogi State House of Assembly presided by a legal practioners.

**"currency"** means coins, notes and other legal tender;

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

**"district"** means a district into which the State is divided for the purposes of any Law under which a Magistrate's court is established;

**"division"** means a judicial division of the High Court within the meaning of the Law establishing that Court;

**"federation"** means the Federal Republic of Nigeria;

**"federal law"** means any Act enacted by the National Assembly having effect with respect to the Federation or any part thereof and any Law enacted prior to 1<sup>st</sup> October, 1960, which under the Constitution of the Federal Republic of Nigeria has effect with respect to the Federation or any part thereof;

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

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

**"functions"** includes powers and duties;

**"future enactment"** means any enactment passed after the commencement of this Law;

**"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;

**"high Court"** means the High Court established for Kogi 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 an information against a person in the High Court;

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

**"judge"** includes a Judge of a High Court and Judges of the Area Court who are Legal Practitioners;

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

**"legal guardian"** in relation to an infant, child, young person, or juvenile offender, means a person appointed, according to

law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

**"magistrate"** means a Magistrate appointed in accordance with the provision of the Administration of Criminal Justice Law, Kogi State 2017 and where the context so admits shall include a Judge of the Area Court who is a legal practitioner;

**"magistrates' Court"** means Magistrates' Court established by the Administration of Criminal Justice Law, Kogi State 2017 and where the context so admits shall include all other Courts presided over by legal practitioners established by a law of the Kogi State House of Assembly and conferred with criminal jurisdiction.

**"medical officer"** means a medical doctor attached to an asylum or a medical doctor from whom a court requires an opinion;

**"misdemeanour"** is 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;

**"member"** means a member of the Committee and includes the Chairman;

**"offence"** means an offence against any enactment in force in Kogi State.

**"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 offence;

**"part-heard criminal matter"** means a trial in which the prosecution has closed his case;

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

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

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

**"police"** means the Nigeria Police established by the Constitution or where the context so admits, shall include any officer of any law enforcement agency established by any law or Act;

**"police officer"** includes any member of the Nigeria Police Force established by the Police Act or where the context so admits, shall include any officer of any law enforcement agency established by any law or 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 in section 35 (5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

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

**"rules" or "the rules"** means rules of court relating to the practice and procedure of 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;

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

"**summary conviction offence**" means an offence punishable by a High Court, magistrates' court and other courts with criminal jurisdiction presided over by a legal practitioner and includes any matter in respect of which those courts can make orders in the exercise of their summary jurisdiction;

"**summary court**" means unless the same is expressly or by necessary implication qualified:

- (a) a Judge of the High Court when sitting in court and presiding over a summary trial, and
- (b) all other courts with criminal jurisdiction presided over by a legal practitioner when sitting in court to hear and determine any matters within their powers and jurisdiction either under the provisions of this Law or any other written law, and the Judge when so sitting and presiding, and the person presiding when so sitting, shall be deemed to be a "court" or "summary court" within the meaning of this Law;

"**summary trial**" means any trial by a High Court, a Magistrate Court, and all other courts with criminal jurisdiction in a trial commenced without filing an information;

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

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

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

"**young person**" means a person who has attained the age of 14 and has not attained the age of 17 years.



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**PART 2 -ARREST, BAIL AND PREVENTIVE JUSTICE**

5. A suspect or a defendant alleged or charged with committing an offence established by an Act of the National Assembly and a law of the Kogi State House of Assembly shall be arrested, investigated, inquired into, tried or dealt with according to the provisions of this law or any Act of the National Assembly. **Arrest generally.**
6. A private person may arrest a suspect in Nigeria who in his presence commits an offence, or whom he reasonably suspects of having committed an offence for which the police is entitled to arrest without a warrant. **Arrest by private person.**
7. 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, agent or persons authorised by him. **Arrest by owner of property.**
8. A private person may arrest any suspect found damaging public property. **Arrest of suspect doing damage to public property.**
9. 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. **Handing over of an arrested suspect by private person.**
10. Where an offence is committed in the presence of a Judge or Magistrate within the division or district in which the Judge is sitting or to which the Magistrate is assigned, 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. **Offence committed in presence of Judge or Magistrate.**
- 11.(1) A Judge or 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. **Arrest by Magistrate or Judge.**
- (2) Where a suspect is arrested in accordance with the provisions of either section 10 or 11 of this Law, 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 or under the directions of any other person.

12. 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. **Arrest for offence committed in presence of Judge or Magistrate.**
13. A person is bound to assist a Judge, Magistrate, police officer 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 authorised to arrest. **When a person is bound to assist in arrest.**
14. A person authorised to effect the arrest of any suspect may, for the purpose of effecting the arrest, pursue him into any part of Nigeria. **Pursuit of suspect into other jurisdictions.**
15. 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. **Arrest, how made**
16. A suspect or defendant may not be handcuffed, bound or be subjected to restraint except:  
(a) there is reasonable apprehension of violence or an attempt to escape;  
(b) the restraint is considered necessary for the safety of the suspect or defendant; or  
(c) by order of a court. **No unnecessary restraint**
17. (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. **Notification of cause of arrest and rights of suspect.**  
  
(2) The police officer or the person making the arrest or the police officer in charge of a police station 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 Legal Aid Council of Nigeria 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.

18. A person shall not be arrested in place of a suspect. **Arrest in lieu prohibited**
19. (1) A Suspect shall-
- (a) be accorded humane treatment having regard to his right to the dignity of his person; and **Humane treatment of arrested suspect.**
- (b) not be subjected to any form of torture, cruel, inhuman or degrading treatment.
- (2) A suspect 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 written law or otherwise released conditionally or unconditionally.
- (4) The arraignment and trial of a suspect for a crime shall be in accordance with the provision of this law unless otherwise stated in this law.
20. (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: **Search of arrested suspect.**
- (a) may search the suspect, using such force as may be reasonably necessary for the purpose; and
- (b) shall place in safe custody all articles other than necessary wearing apparel found on the suspect
- (2) Where an arrested suspect is admitted to bail and bail is furnished, he shall not, subject to the provisions of

section 22 of this law, 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 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 unless the urgency of the situation or the interest of due administration of justice makes it impracticable for the search to be carried out by a person of the same sex.

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

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

**Inventory of property of arrested suspect.**

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

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

(4) Where any property has been taken under this section from an arrested 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 arrested 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 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(s) 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 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 offence.

22. Where a suspect is in lawful custody on a charge of committing an offence of such a nature and alleged to have been committed in such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, a qualified medical practitioner or any certified professional with relevant skills, acting at the request of a police officer may make such an examination of the suspect in custody as is reasonably necessary in order to ascertain the facts which may afford the evidence, and to use such force as is reasonably necessary for that purpose.

**Examination  
of arrested  
suspect.**

23. (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

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obtained under subsection (1) of this section, the person or police officer may enter the house or place and search 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 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.

24. A police officer or any other person authorised 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.

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

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

**Arrested suspect to be taken immediately to police station.**

(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.

(4) Where a law requires arrest to be made with warrant,



the appearance of the suspect at the police station upon an invitation or otherwise shall not replace the need for the warrant.

(5) An arrest without warrant where a law provides for arrest with warrant for an offence shall be wrongful except where the suspect is caught in the act of committing the offence.

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

Recording of arrest.

- (a) the alleged offence(s);
- (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; or
- (iv) 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 forty-eight 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 subsection (4) of this section, an oral confession of the arrested suspect shall be admissible in evidence.



27. (1) There shall be established in the State Command of the Nigeria Police Force a State 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 State Criminal Records Registry, Lokoja and the Central Criminal Records Registry at the Police Headquarters, Abuja.
- (4) The State Police Command shall ensure that the decisions of the Court in all criminal trials are transmitted to the State and Central Criminal Records Registries within 30 days of the judgment.
28. (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. **Records of statement of suspect.**
- (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 Organization 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.

29. (1) A Police officer may, without an order of a court and without a warrant, arrest a suspect:

**Arrest by  
police officer  
without  
warrant.**

(a) whom he suspects on reasonable grounds of having committed an offence against a law in Nigeria or against the Law of any other country, unless the law creating the offence provides that the 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 of Nigeria which, if committed in Nigeria, would have been punished as an offence, and for which he is, under a law in force in Nigeria, liable to be apprehended and detained in Nigeria;

(g) Having in his possession without lawful excuse, the burden of proving which excuse 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 Nigeria 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 a 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; or

(1) required to appear by a public summons issued under this law or any law.

(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 offences committed in the officer's presence notwithstanding that the law creating the offence provides that the suspect cannot be arrested without a warrant.

30. (1) Where a suspect who in the presence of a police officer has committed or has been accused of committing an offence triable summarily, refuses on demand of the officer to give his name and 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. **Refusal to give name and residence.**

(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 Nigeria, a surety or sureties resident in Nigeria shall secure the recognizance.

(3) Where the true name and address of the suspect cannot be ascertained within twenty-four 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 under this law.

- 31 (1) The Commissioner of Police in the State and head of every agency authorised by law to make arrest within the State shall remit quarterly to the Attorney-General of the State a record of all arrests made with or without warrant in relation to State offences or arrests within the State. **Quarterly report of arrests to the Attorney-General.**

(2) The report shall contain the full particulars of arrested suspects as prescribed by section 26 of this law.

(3) A register of arrests containing the particulars prescribed in section 26 of this law shall be kept in the prescribed form at every police station or agency authorised by law to make arrests, and every arrest, whether made with or without warrant, within the local limits of the police station or agency, or within the State, shall be entered accordingly by the officer in charge of the police station or official in charge of the agency as soon as the arrested suspect is brought to the station or agency.

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

32. (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 a police station shall inquire into the case and release the suspect arrested on bail subject to subsection (2) of this section, and where it will not be practicable to bring the suspect before a Court having jurisdiction with respect to the offence alleged, within twenty-four 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 for a reasonable amount of money to appear before the court or at the police station at the time and place named in the recognizance.

(3) Where a 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 may refer the matter to the Attorney-General of the State for legal advice and cause the suspect to be taken before a court having jurisdiction with respect to the offence within a reasonable time.

33. (1) Where a suspect is taken into custody, and it appears to the officer that the inquiry into the case cannot be completed forthwith, he may discharge the suspect on his entering into a recognizance, with or without sureties for a reasonable amount, to appear at the police station and at such times as are named in the recognizance, unless he previously receives notice in writing from the police officer in charge of that police station that his attendance is not required.
- (2) A recognizance under section (1) of this section may be enforced as if it were a recognizance conditional for the appearance of the said suspect before a Magistrate's court or the place in which the police station named in the recognizance is situate.
34. (1) Where a suspect taken into custody in respect of a non-capital offence is not released on bail after twenty-four 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 he deems fit, admit the suspect detained to bail.
- (3) An application for bail under this section may be made orally or in writing.
35. (1) An officer in charge of a police station or an official in charge of an agency authorised to make arrest shall on the last working day of every month report to the nearest Magistrate 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 section 26 of this Law.
- (3) The Magistrate shall on receipt of the reports, forward them to the Criminal Justice Monitoring Committee which shall analyse the reports and advise the Attorney-General of the State as to the trends of arrests, bail and related matters.

**Power to release on bail before charge is accepted.**

**Remedy of suspect detained in custody**

**Police to report to supervising Magistrates.**

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

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

36. (1) The Chief Magistrate, or where there is no Chief Magistrate within the police division, any Magistrate designated by the Chief Judge for that purpose, 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  
station every  
month**

(2) During a visit, the Magistrate may:

- (a) call for, and inspect the record of arrests;
- (b) direct the arraignment of the suspect;
- (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 authorised to make arrests 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 made within the period; and
- (c) any other facilities the Magistrate requires to exercise his powers under that subsection.

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

(5) Where there is default by an officer in charge of a police station or official in charge of an agency



authorised to make arrest to comply with 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.

### **PART 3-WARRANTS.**

37. Where under a law, there is power to arrest a suspect without warrant, a warrant for his arrest may be issued. **General Authority to issue Warrant.**
38. (1) A warrant of arrest issued under this Law, unless the contrary is expressly provided under any other law, shall: **Form and Requisites of Warrant of Arrest.**
- (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 officer or 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.
39. 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 to be issued on complaint only on oath.**
40. A warrant of arrest may be issued on any day, including a Sunday or public holiday. **Warrant may be issued on any day.**
41. (1) A warrant of arrest may be directed to a police officer by name or to all police officers. **Warrant to whom directed and Duration.**



(2) It 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 be valid authority for re-arresting the suspect.

42. (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.
- Warrant of arrest may in exceptional cases be directed to other persons.**

(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 law on a police officer.

43. Where a court has reason to believe, whether after receiving 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 a 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.
- Public summons for Persons Absconding**

44. (1) A public summons shall be published:
- Publication of Public Summons.**
- (a) in a newspaper that enjoys wide circulation or circulation in any other medium as may be appropriate;
  - (b) by affixing it to some conspicuous part of the house or premises or to some conspicuous place in the town or village, in which the person ordinarily resides; or
  - (c) by affixing a copy to some conspicuous part of the High Court or Magistrate's court building.

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

45. (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 any State other than within the actual court room in which a court is sitting.
- (3) Any person 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, subject to the provisions of the Constitution of the Federal Republic of Nigeria, sections 46 and 47 of this Law, be brought before the court that issued the warrant of arrest.
46. A warrant of arrest may be executed notwithstanding that it is not in the possession at the time of the person executing the warrant but the warrant shall, on the demand of the suspect, be shown to him as soon as practicable after his arrest. **Power to Arrest on Warrant but without the Warrant.**
47. (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. **Court may Direct particulars of security to be taken on Execution of Warrant.**
- (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 provisions of section 48 of this Law the provisions of subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside Nigeria.

48. (1) Where a warrant of arrest is executed in a State outside the division or district of the court by which it was issued, the suspect shall, unless security is taken under section 47 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 give bail to the satisfaction of the court within the division or district of which he was arrested; or

(b) where a direction had been endorsed under section 47 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 any Law or Act.

49. (1) A warrant of arrest issued by a High Court sitting anywhere in Kogi State may be executed in any part of Kogi State.
- Warrant Issued by the State High Court.**
- (2) A warrant issued under this section may be executed in accordance with section 46 of this Law.
50. 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.**

#### **PART 4 - PREVENTION OF OFFENCES AND SECURITY FOR GOOD BEHAVIOUR**

51. (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 authorised to arrest without a warrant or any damage to any public property, movable or immovable.
- Prevention by other public officers of Offences and Injury to Public Property.**
- (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 authorised 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 or oil installation, or electrical installation; or
- (c) in the prevention of the removal of any public landmark, buoy or other mark used for navigation.
52. (1) Where a Magistrate is informed on oath that a suspect is likely to:
- Power of Magistrate to require Execution of Recognizance for Keeping Peace.**
- (a) commit a breach of the peace or disturb the public tranquillity, or



(b) do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity, 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.

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

(a) within Kogi 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.

53. Where a Magistrate is informed on oath that:

**Security for  
good  
behaviour for  
Suspected  
persons.**

(a) a suspect is taking precautions to conceal his presence within the local limits of the Magistrate's jurisdiction: and

(b) there is reason to believe that the suspect is taking the precautions 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.

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

**Security for  
good  
behaviour for  
habitual  
offenders.**

(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 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.

55. Where a Magistrate acting under sections 52, 53 or 54 of this Law considers it necessary to require a suspect to show cause under the section, he shall make an order in writing setting out:

**Order to be Made.**

(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.

56. 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.

**Procedure in respect of suspect present in court.**

57. (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.

**Summons or warrant in case of suspect not present.**

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

58. A summons or warrant of arrest issued under section 57 of this Law shall be accompanied by a copy of the order made under section 55 of this Law, and the copy shall be delivered by the officer serving or executing the

**Copy of order under Section 55 to accompany summons or warrant.**

summons or warrant to the suspect served with or arrested under it.

59. 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.**

60. (1) Where an order under section 55 of this Law has been read or explained under section 56 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 57 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, the manner prescribed in this section for conducting trials, and recording evidence, except that the standard of proof shall be that of preponderance of evidence.

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

(a) a breach of the peace or disturbance of the public tranquillity; 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 55 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 purposes of subsection (3) of this section:



(a) a suspect against whom proceedings are not being taken under section 52 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 55 of this Law; and

(c) 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 53 of this Law may be proved by evidence of general repute or otherwise inquiries as the Magistrate thinks fit.

(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.

61. (1) Where on an inquiry it is proved that it is necessary for **Order to give Security.** 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 55 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; and

(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 162 of this Law.

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

62. Where on an inquiry under section 57 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: (a) is in custody only for the purpose of the inquiry, release him; or (b) is not in custody, discharge him.
- Discharge of Suspect informed Against.

**PART 5-PROCEEDING IN ALL CASES SUBSEQUENT TO ORDER TO FURNISH SECURITY**

63. (1) Where a suspect in respect of whom an order requiring security is made under section 55 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.
- (2) In other case, the period shall commence on the date of the order unless the Court, for sufficient reason, fixes a later date.
- Commence ment of period for which security is required.
64. The recognizance to be entered into by a suspect under section 55 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 Nigeria, of an offence punishable with imprisonment, wherever it may be committed, any time during the continuance of the recognizance, shall be a breach of the recognizance.
- Conditions of recognizance
65. A court may refuse to accept a surety offered under any of the preceding sections on the ground that, for reasons to be recorded by the Court, the surety is an unfit person.
- Power to reject sureties.
66. 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 until within the period he gives the security to the court that made the order requiring it.
- Procedure on failure of suspect to give security.

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| 67. | 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 to release suspect imprisoned for failure to give security. |
| 68. | The High Court may at any time, for sufficient reasons to be recorded in writing, cancel any recognizance for keeping the peace or for good behaviour executed under any of the preceding sections by order of any lower court.   | Power of High Court to cancel recognizance.                       |
| 69. | <p>(1) A surety for the peaceable conduct or good behaviour of another suspect may at any time apply to the court to discharge a recognizance executed under any of the preceding sections within the district or division to which the Court is assigned.</p> <p>(2) On an application being made, the Magistrate shall, if he is satisfied that there is good reason for the application, issue such summons or warrant, as he thinks fit, requiring the suspect for whom the surety is bound to appear or to be brought before him.</p> <p>(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.</p> <p>(4) An order made under subsection (3) of this section shall, for the purposes of sections 63, 64, 65 and 66 of this Law, be deemed to be an order under section 55 of this Law.</p> | Discharge of Sureties.  |

## PART 6 - PUBLIC NUISANCE

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| 70. | 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 fixed in the order to cease committing the offence and to amend or remove the cause of the  |   |

nuisance in such manner as is specified in the order; or  
(b) to appear before the court at a time and place which will be fixed by the order and apply to have the order set aside or modified in the manner hereinafter provided.

71. (1) An order made under section 70 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 letter through the post, 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.

72. A suspect against whom an order under section 70 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 Law directed by the order; or  
(b) appear in accordance with the order and apply to have the order set aside or modified.

73. Where a suspect against whom an order under 71 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 N100,000.00 for individual and not less than N1,000,000.00 in case of a corporate body or imprisonment for a term of six months; or

(b) threatens human life, to a fine of not less than N200,000.00 for individual and not less than N2,000,000.00 in case of a corporate body or imprisonment for a term of 12 months.

74. (1) Where a suspect against whom an order under section 70 of this Law is made to appear applies to have the order set aside or modified, the court shall take **Procedure where suspect appears**

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.

75. Where the acts directed by an order under section 70 of this Law which is made absolute under section 73 or 74 (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:
- Consequence of disobedience to order made absolute**

(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 70 of this Law was made in the manner prescribed in this Law for the recovery of a fine.

76. (1) Where the court making an order under section 70 of this Law considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further order to the suspect against whom the order was made as is required to obviate or prevent the danger or injury pending the determination of the matter.
- Order pending inquiry**

(2) In the event of the suspect referred to in subsection (1) of this section immediately 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 injury.

77. 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**

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

78. A Judge or a Magistrate may, at any time after action has been taken under section 44 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**
79. (1) An order under section 78 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 cause it to be sold whenever he thinks fit.
30. (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 78 of this Law, appears voluntarily or after being arrested is brought before the Court and proves to its satisfaction that he: **Restoration of attached property**
- (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 or Federal Government as the case may be.

81. (1) A court empowered by this Law to issue a summons for the issue of warrant in 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: **Issue of warrant in lieu of or in addition to summons**

(a) whether 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.

82. 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. **Power to take bond for appearance**

83. The provisions contained in this Part relating to summonses and warrants and their issue, service and execution shall, so far as may be, apply to every summons and every warrant issued under this Law. **Provisions of this Part generally applicable to Summons and Warrant**

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

84. The provisions of this Part and Parts 9 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 proceeding. **Application of Part 8**



85. A court has authority to compel the attendance before it of a suspect who is within the jurisdiction and is charged with an offence committed within the State, Federation or the Federal Capital Territory, Abuja, as the case may be, or which according to law may be dealt with as if the offence had been committed within the jurisdiction and to deal with the suspect according to law. **General authority to bring suspect before a court**
86. A person may make a complaint against any other person alleged to have committed or to be committing an offence. **Right of making complaint**
87. (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 court or Registrar shall reduce it into writing. **Form of complaint**
- (2) Subject to the provisions of section 52 of this law, a complaint may, unless some law otherwise requires, be made without oath.
- (3) A complaint may be made by the complainant in person, or by a legal practitioner representing him, or by any person authorized in writing in that behalf.
- (4) A complaint shall be for one offence only or for a number of offences disclosed in one transaction or events, it shall as much as practicable contain particulars of the offence(s) complained of and the circumstances in which committed; provided that a complaint shall not be voided by describing the offence, or any material law relating to it in alternative words according to the language of the law constituting such offence.
- (5) Upon the receipt of a Complaint by the Court, a Summons to the Defendant as in Form No. 4 shall be issued against the named defendant(s).
- (6) 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 that the Court may admit the defendant to bail pending investigation; whereas, the referral to the police may include an order to or not to detain the defendant during the period of investigation.

(7) Where the complaint is referred to the Police for investigation in accordance with subsection (6) above, the Court shall specify the period within which such investigation shall be carried out and report forwarded to the Court; provided that the period stipulated may be extended by the Court as the justice of the case demands.

(8) In cases where it appears to the Court that no police investigation is required for proceeding with a complaint, the Court shall proceed with the trial of the offence in like manner as a First Information Report.

(9) Where upon hearing the complaint the defendant admits the commission of the offence contained therein, 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 Court may convict him accordingly and in that case it shall not be necessary to frame a formal charge.

(10) Upon the conclusion of the investigation referred to in subsection (6) above, the police or a private prosecutor shall charge the suspect to Court where the punishment for the offence is less than 3 years or refer the matter to the Attorney-General for prosecution where the offence attracts more than 3 years imprisonment.

88. 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. **Form of documents in criminal proceedings**
89. Any exception, exemption, proviso, condition, excuse, or qualification, whether it does or does not in any enactment creating an offence accompany in the same section, the description of the offence, may be proved by the defendant, but need not be specified or 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 complainant. **Rule as to statement of exception**

90. In every case where no time is specially limited for making a complaint for a summary conviction of 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. **Limitation of period for making a private complaint**

## PART 9 - PLACE OF TRIAL OR INQUIRY

91. (1) An offence shall ordinarily be inquired into and tried by a court within the local limits of whose jurisdiction: **Venue generally**
- (a) the offence was wholly or in part committed, or some law forming part of the offence was done;
- (b) the consequence of the offence has ensued;
- (c) an offence was committed by reference to which the offence is denied; 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 knowing of the offence.
- (2) A criminal charge shall be filed and tried in the division where the alleged offence was committed unless it can be shown that it is convenient to do otherwise for security reasons.
- (3) The court shall ensure that one or more armed policemen are posted to provide security during every criminal trial.
92. An offence committed at River Niger or Benue or any other river within the State, may be tried or inquired into at any place in the State to which the suspect is first brought, or to which he may be taken thereafter. **Offence at River Niger or River Benue**
93. 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 or division or district of whose 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**

94. Where an offence:  
  
(a) is commenced in Kogi State and completed in another State, or  
  
(b) is completed in Kogi State after being commenced in another State including the Federal Capital Territory, the suspect may be reported, investigated, tried, convicted and sentenced as if the offence had been partially or wholly committed in Kogi State.  
  
**Offence commenced and completed in different States**
  
95. Where a question arises as to which of the two or more courts of Kogi State ought to inquire into or try any offence, it shall be decided by the Chief Judge of Kogi State whose decision on this point shall be final.  
  
**Chief Judge to decide questions as to court of inquiry or place of trial.**
  
96. (1) The Chief Judge may, where it appears to him that the transfer of a case will promote the ends of justice or will be in the interest of the public peace, transfer any case from one court to another.  
  
**Chief Judge may transfer case.**  
  
(2) The power of the Chief Judge referred to in subsection (1) of this section shall not be exercised where the prosecution has called witnesses.  
  
(3) Where the Chief Judge is to exercise this power subsequent to a petition, the Chief Judge shall cause the petition to be investigated by an independent body of not more than three reputable legal practitioners within one week of receipt of such petition.  
  
(4) The investigating body shall submit its report within two weeks of appointment except otherwise specified.
  
97. 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 7 days, send the case and all processes relating to the case to the head of court for re-assignment to that other court, and  
  
**When cases may be remitted to another**

where appropriate, remand the suspect 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.

98. (1) Where a suspect is to be remanded in custody, a **Removal** warrant shall be issued by the remitting court and that **under** warrant shall be sufficient authority to any person to **Warrant** whom it is directed to:

(a) receive and detain the suspect named in the warrant; and

(b) produce him to the court to which the suspect charged is remitted.

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

99. 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, subject to such security as it may deem appropriate in the circumstances, until he can be taken before a court wherein the cause of complaint arose.

**Transfer of  
case where  
cause of  
complaint  
has arisen  
out of  
jurisdiction**

100. (1) Notwithstanding the provisions of sections 68 and 73 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 witnesses, proceed to hear the charge, try and punish the suspect as if the offence had been committed in the division or district.

**Court may  
assume  
jurisdiction  
under certain  
conditions**

(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.

101. Where a case is commenced in any other division or district other than that in which it ought to have been commenced, the court may assume jurisdiction in accordance with the provisions of section 99 of this Law and all laws 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 10 - POWERS OF THE ATTORNEY-GENERAL**

102. (1) The Attorney-General of the State may prefer information or charge in any court in respect of an offence created by a law of Kogi State House of Assembly.
- Information or charge by the Attorney-General**

(2) The Attorney-General of the state may prefer information or charge in any court in respect of an offence created by an Act of the National Assembly provided that a fiat in that regard has been given by the Attorney General of the Federation.

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

103. (1) The Attorney-General of the State may issue legal advice or such other directives to the Police or any other law enforcement agency in respect of an offence created by a law of the House of Assembly.
- Issuance of legal advice and other directives to Police.**

(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 of the State or the Director of Public Prosecutions to the court before whom the proceeding is pending.



(3) The Attorney-General of the State may request from the Police or any other agency for the case file in any matter in respect of an offence created by a law of the State House of Assembly (where such offence or part of it was committed within the State) and the Police or other agency shall immediately send the case file as requested.

104. (1). Subject to the provisions of the Constitution, relating to the powers of prosecution by the Attorney-General of the State, prosecution of all offences in any court shall be undertaken by: **Prosecution of Offences.**

(a) the Attorney-General of the State or a Law Officer in his Ministry or Department;

(b) a legal practitioner authorised by the Attorney-General of the State; or

(c) a legal practitioner authorized to prosecute by this law or any other law of the House of Assembly or an Act of the National Assembly.

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

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

105. (1) In any criminal proceeding for an offence created by or under a law of the House of Assembly, and at any stage of the proceeding before judgment, the Attorney-General of the State may discontinue the proceeding either by himself or through officers of his Chambers and based on the notice 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 proper officer of the court shall immediately cause notice in writing of the entry of the discontinuance to be given to the officer in charge of the prison or other place in which the suspect may be 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 prosecute.

(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 proceeding against him on account of the same facts.

106. (1) In any trial or proceeding before a court, a prosecutor may with the consent of the Court, or on the instruction of the Attorney-General of the State, in case of offence against any law of the House of Assembly or an Act of the National Assembly, 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) On the withdrawal, where it 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 a prosecution for 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 does not operate as a bar to subsequent proceedings against him on account of the same facts, except as otherwise provided under this section.

## PART 12 - INSTITUTION OF PROCEEDINGS

107. Subject to the provisions of any other law, criminal proceedings may, in accordance with the provisions of this law, be instituted:

**Different methods of instituting criminal proceedings**

(a) in a Magistrates or Area court as the case may be, by a charge or a complaint whether or not on oath or upon receiving a First Information Report;

(b) in the High Court, by information or charge filed by or on behalf of the Attorney-General of the State, subject to section 102 of this law;

(c) by information or 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 information or charge filed in the court by any other prosecuting authority; or

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

108. (1) Criminal proceedings instituted in a Magistrate or Area court may be:

**Mode of instituting criminal proceedings in a Magistrate or Area Courts.**

(a) by bringing a suspect arrested without a warrant before the court on a charge contained in a charge sheet specifying the name, address, age, sex and occupation by 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 104 of this Law;

(b) upon receiving a First Information Report for the commission of an offence for which the police are authorised 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 87 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 court has power to compel, and an application to the court, 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 180 days of arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.

(5) A court 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; and
- (d) persons awaiting trial are, as far as possible, not detained in prison custody for a length of time beyond that prescribed in section 291 of this Law.

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

109. (1) The State Comptroller of Prisons shall make returns every ninety days to the Chief Judge of the State in which the prison is situated and to the Attorney-General of the State of all persons awaiting trial held in custody in prisons in the state for a period beyond one hundred and eighty days from the date of arraignment.

**Returns by  
Comptroller-  
General 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(s) of his arraignment or remand;
- (d) the date(s) of his admission to custody;
- (e) the particulars of the offence with which he was charged;
- (f) the courts before which he was arraigned;
- (g) name of the prosecuting agency; and
- (h) any other relevant information.

(3) Upon receipt of such return, the recipient shall take such steps as are necessary to address the issues raised in the return in furtherance of the, objectives of this law.

### **PART 13 - FIRST INFORMATION REPORT**

110. (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 authorised to arrest without a warrant, and
  - (b) triable by a magistrate or Area court within which jurisdiction the police station is situated, the police shall if the complaint is made orally, reduce the complaint or cause it to be reduced into writing in the police Diary.

**Procedure for  
receiving  
complaint  
and first  
information  
report.**

(2) The complaint, whether given in writing or orally must be reduced in writing into the Police Diary and read or caused to be read over to the complainant and every

such complaint 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 section 107 (a) 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 provision of subsection (3) of this section, the officer in charge of the police formation shall act as follows:

(a) he shall 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 case involving death or serious injury to any person, the officer in charge of the police station 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 formation 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 the police station shall record in the book referred to in subsection (2) 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;

(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 situated.

(7) Where the suspect appears or is brought before the Magistrate court, the particulars of the offence of which he is accused 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 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.

(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. 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 for which the suspect will



either be tried by the court or direct that the suspect be tried in another Magistrate court.

(11) Where in the proceeding before a Magistrate court, the court at any stage before judgement, 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 or information in accordance with the provisions of this Law.

#### **PART 14 - ENFORCING APPEARANCE OF SUSPECT**

111. A court may issue a summons or warrant as provided in this Law to compel the appearance before it of a suspect accused of having committed an offence in any place within the State. **Compelling appearance of a suspect**
112. In every case, the court may proceed either by way of summons to the defendant or by way of warrant for his arrest in the first instance according to the nature and circumstances of the case. **Summons and Warrants**
113. (1) Subject to the provisions of section 87 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 allegations of the complainant 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 Court in the district.
- (2) The court 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.

#### **PART 15 - ISSUE, FORM AND SERVICE OF SUMMONS**

114. A summons may be issued or served on any day, including a Sunday or public holiday. **Issue and service**

- |      |   |  |
|------|---|--|
| 115. | Where a complaint is made before a Magistrate as provided in section 113 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 less than 48 hours after the service of the summons before the court to answer to the complaint and to be further dealt with according to law. | <b>Issue of summons and its contents</b>                           |
| 116. | The court may, if it deems fit and with the consent of the parties, hear and determine a complaint notwithstanding that the time within which the defendant was required to appear may not have elapsed.  | <b>Hearing by consent before return date of summons</b>            |
| 117. | Where, on a complaint being made before a Magistrate as provided in section 113 of this Law, the Magistrate decides to issue a summons, the defendant may be directed to appear immediately in cases where an affidavit is made by the complainant either at the time of making the complaint or subsequently that the defendant is likely to leave the district within 48 hours.   | <b>Summons with immediate return date in special circumstances</b> |
| 118. | Nothing contained in sections 115, 116, and 117 shall oblige any magistrate to issue and such summons in any case where the application for an order may by law be made ex-parte.   | <b>Discretion in ex parte application</b>                          |
| 119. | 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 officer as the Chief Judge may specify, from time to time.   | <b>Summons to be in duplicate</b>                                  |
| 120. | A summons shall be served by a police officer or by an officer of the court issuing it or other public officer, or through a courier service company duly registered with the Chief Judge as a process service agent of the court under this Law.   | <b>Service of summons</b>  |
| 121. | The person effecting service of a summons shall effect it by delivering it on:<br><br>(a) an individual, to him personally; or<br>(b) a firm or corporation;  | <b>Normal methods of effecting service</b>                         |

- (i) to one of the partners,
- (ii) to a director,
- (iii) to the secretary,
- (iv) to the chief agent within the jurisdiction or the head of a branch office,
- (v) by leaving it at the principal place of business in Nigeria of the firm or corporation, or
- (vi) to anyone having, at the time of service, control of the business of the firm;
- (c) a Local Government Council, then in accordance with the Local Government Law;
- (d) the Nigeria Police Force, or the office of the Inspector-General of Police or the Commissioner of Police of the State;
- (e) any Federal Government Ministry, Department or Agency, to the Attorney-General of the Federation or to the Legal Department of such Ministry, Department or Agency;
- (f) any state Government Ministry, Department or Agency, to the Attorney-General of the State or to the Legal Department of such Ministry, Department or Agency; or
- (g) any arm of the armed forces, to the Director of Legal Services of the Service or Command concerned.

122. Where service in the manner provided by section 121 (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. **Service where persons summoned cannot be found.**
123. (1) Where a public officer is to be served with a summons, the court issuing the summons 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 121 (a) of this Law and shall return the duplicate to the court under his signature, with the endorsement required by section 126 of this Law, which signature shall be evidence of the service.

124. 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 court.**
125. 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.**
126. (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 approved by this Law, the person effecting service shall endorse on the duplicate particulars of the method by which he effected service.
127. 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: **Persons refusing to sign receipt may be arrested**
- (a) arrested by the person serving the summons or any other person with powers of arrest under this Law and taken before the court which issued the summons; and
- (b) detained in custody or committed to prison for such time not exceeding 14 days as the court may deem fit.
128. 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. **Proof of service**
129. 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 **Summons disobeyed, warrant may be issued**

with under section 133 of this Law, the court may issue a warrant for his arrest and production before the court.

130. Where a complaint is before a Magistrate as provided in this Law, and the Magistrate decides to issue a warrant, he shall issue a warrant to arrest the suspect and bring him before the court to answer the complaint and be dealt with according to law. **Issues of warrant for suspect in the first instance.**
131. Where a warrant of arrest is issued in consequence of a complaint on oath as provided under section 130 of this Law, the provisions of sections 37 to 49 of this Law shall apply to such warrant. **Application of sections 37 to 49 to such warrant.**
132. Notwithstanding the issue of a summons as in section 174 of this Law, a warrant may be issued at any time before or after the time appointed for the appearance of the suspect. **Warrant may be issued before or after return date of summons.**
133. (1) Where a Magistrate issues a summons in respect of an offence for which the penalty is a fine not exceeding N10,000.00 or imprisonment for a term not exceeding six months or both, the Magistrate, on application of the defendant: **Power to dispense with personal attendance of defendant in certain cases**
- (a) may dispense with the personal attendance of the defendant where the offence is punishable by fine or imprisonment or both; and
- (b) shall dispense with personal attendance of the defendant where the offence is punishable by fine only if the defendant pleads guilty in writing or appears and so pleads by his legal practitioner.
- (2) The Magistrate trying a case in which the presence of the defendant has been dispensed with, may in his discretion, at any subsequent stage of the proceedings, direct the personal attendance of the defendant and where necessary, enforce the attendance by means of the issuance of a warrant to arrest the defendant and bring him before the court.
- (3) Where a Magistrate imposes a fine on a defendant whose personal attendance has been dispensed with under this section, the Magistrate may at the same time direct that if the fine is not paid within a stated time, the

amount shall be recovered by distress or that the defendant shall be imprisoned for a period calculated in accordance with the provisions contained in this Law for the non-payment of a fine.

(4) Where the attendance of a defendant is dispensed with and previous convictions alleged against him are not admitted in writing or through his legal practitioner, the court, may adjourn the proceedings and direct the personal attendance in the same manner as provided in subsection (2) of this section.

(5) Where the attendance of a defendant has been dispensed with, and his attendance is subsequently required, the cost of any adjournment for that purpose shall be borne by the defendant.

#### **PART 16 - MISCELLANEOUS PROVISIONS REGARDING PROCESS**

134. 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:
- Irregularities in summons, warrant, service or arrest**
- (a) any irregularity, defect, or error in the summons or warrant, or
  - (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.
135. Where a court that is not empowered by Law does any of the following things:
- Irregularities which vitiate proceedings**
- (a) attaches and sells property under section 78 of this Law
  - (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 70 of this Law as to a public nuisance;
  - (g) prohibits, under section 77 of this Law, the repetition or continuance of a public nuisance-
  - (h) tries an offender; or
  - (i) decides an appeal, the proceedings shall be void.



136. 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 proceeding. **Variance between charge and complaint**
137. A summons, warrant of any description or other process issued under a law shall not be invalidated by reason of the person who signed the summons or warrant being dead, ceasing to hold office or have jurisdiction. **Process valid not with standing death or vacation of office of person issuing**

### **PART 17 -SAVING OF VALIDITY OF PROCESS**

138. (1) A warrant of commitment 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 from the beginning by reason of any defect in the warrant or of any irregularity in the execution of the warrant.
- (3) This Law shall not prejudice the right of a person to compensation for any special damage caused by defect or irregularity in the execution of a warrant of distress.
139. (1) In addition to the provisions of sections 38 and 42 of this Law in respect of warrants of arrest, 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 addresses 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.

140. 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 18 - SEARCH WARRANTS**

141. 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 issue of a search warrant.
- Application for search warrant.**
142. (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:
- Cases in which search warrants may be used.**
- (a) anything upon or in respect of which any offence has been or is suspected to have been committed,
  - (b) anything which there is reasonable ground for believing will provide evidence as to the commission of an offence, or
  - (c) anything 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 authorising an officer of the court, member of the police force, or other person named to act in accordance with subsection (2) of this section.
- (2) A search warrant issued under subsection (1) of this section shall authorize the officer of the court, a police officer, or other person named 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 trial 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 fit to direct on the warrant.

143. 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. **Discharge of suspected person.**
144. (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.
145. 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.**
146. 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.**
147. (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 20, 21, 23 and 24 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 owing to the nature of the case otherwise directs, be made in the presence of two witnesses and the person to whom the search warrant is addressed may also provide a witness within the neighbourhood.

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

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

148. The occupant of a place searched or some person on his behalf shall be permitted to be present at the search and shall, if he so requires, receive a copy of the list of things seized there, signed or sealed by the witnesses, if any. **Occupant of place searched may attend**
149. A person executing a search warrant beyond the jurisdiction of the court issuing it shall, before doing so, apply to the court within whose jurisdiction search is to be made and shall act under its directions. **Execution of search warrant outside jurisdiction**
150. A court may direct a search to be conducted in his presence of any place for the search of which he is competent to issue a search warrant. **Court may direct search in his presence**
151. (1) Where upon the execution of a search warrant anything referred to in section 142 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. **Detention of articles recovered.**

(2) A list of all things recovered in the course of search and of the places in which they are found shall be drawn up by the person carrying out the search in accordance with section 147 (5) of this Law and a copy of the list forwarded to the Judge or Magistrate who issued the warrant for his information with indication as in the prescribed form set out in the First Schedule to this Law on the search warrant of the things:

(a) seized that are detained or caused to be detained; and

(b) that were seized but have been released to the owners.

(3) Where a defendant is charged to court with an offence or no appeal or further proceedings is pending in relation to an item recovered during a search, the executor of the warrant 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 by an order or the provision of Law, items seized in the execution of a warrant are disposed in accordance with the provisions of this section proceeds of such disposals shall be released 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.

152. 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.**

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

**Search for and disposal of gunpowder.**

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

**Disposal of counterfeit currency and certain other things.**

155. Where a search warrant is issued in respect of an offence against the law of any State of Nigeria and a summons has been issued for that offence by, or any person has been charged with that offence before a court of that State, the Court issuing the search warrant may, except he has disposed of the thing in accordance with section 151 of this Law, transmit anything seized and brought before him to that court and in relation to anything so transmitted, the functions conferred on a Magistrate by this Law shall be exercised and performed by that court instead of the Magistrate who issued the search warrant.
- Transmission to court of other State**

#### **PART 19-BAIL AND RECOGNIZANCES: GENERALLY**

156. When a person who is suspected to have committed an offence or is accused 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.
- General entitlement to bail**
157. (1) Where a suspect or defendant is detained in a prison, police station or any other place of detention, the court may issue an order to the officer in charge of the prison, police station or other place to produce the suspect or defendant at the time and date specified in the order before the court.
- Power of court to order person in custody to be brought before it.**
- (2) The court may, on production of the person or subsequently, make such order or give such directives, as it consider appropriate in the circumstance in accordance with the provisions of this Law.
158. Where in any case, a person to be required by the Court to enter into a recognizance is a child, the child shall not execute the recognizance but the Court shall require a parent, legal guardian or other fit person, with or without sureties, to enter into a recognizance that the child shall do what is required under the Court's order.
- Recognizance by parent or guardian of a child.**
159. (1) A suspect arrested, detained or charged with an offence punishable with death shall only be admitted to bail by a Judge of the High Court, under exceptional circumstances.
- Bail where a defendant is charged with offence.**

- (2) For the purpose of exercise of discretion in subsection



(1) of this section, "exceptional circumstance" includes:

- (a) ill health of the applicant which shall be confirmed and certified by a qualified medical practitioner employed in a Government hospital, provided that the suspect is able to prove that there are no medical facilities to take care of his illness by the authority detaining him;
- (b) extraordinary delay in the investigation, arraignment and prosecution for a period exceeding one year; or
- (c) any other circumstances that the Judge may, in the particular facts of the case, consider exceptional.

160. A defendant charged with an offence punishable with imprisonment for a term exceeding three years shall, on application to the court, be released on bail except in any of the following circumstances:
- 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 or same offence;
  - (b) attempt to evade his trial;
  - (c) attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case;
  - (d) attempt to conceal or destroy evidence;
  - (e) prejudice the proper investigation of the offence; or
  - (f) undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.
161. In any other circumstance other than those referred to in sections 159 and 160 of this Law, the defendant shall be entitled to bail, unless the court sees reasons to the contrary.
- Bail where a defendant is charged with offence not exceeding three years' imprisonment.**
162. Where a defendant is brought before a court on any process in respect of any matter not included within Sections 156 to 161 of this Law, the person may, at the discretion of the court, be released on his entering into recognizance, in the manner provided in this Law, for his appearance before the court or any other court at the time and place mentioned in the recognizance.
- Bail in respect of matters in other offences.**
163. (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.
- Conditions for bail.**

(2) 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.

164. 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, the child shall not execute the recognizance but the court shall require a parent, legal guardian or other fit person, with or without sureties, to enter into a recognizance that the child shall do what is required under the court's order. **Recognizance in respect of a child.**

165. (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.

166. A Judge of a High Court may direct that the: **Judge may vary bail fixed by magistrate or Police.**
- (a) bail conditions required by a Magistrate's court or police officer be reviewed; or
- (b) defendant in custody be admitted to bail.

167. Where a defendant has been admitted to bail and circumstances arise which, in the opinion of the Attorney-General of the State 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**

168. (1) The terms of recognizance fixed by the court in respect to any surety or sureties shall be processed in that 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.
169. (1) As soon as recognizance has been entered into in accordance with the provisions of section 162 of this Law or money or other security deposited in the registry of the court: **Release on execution of recognizance.**
- (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 that in respect of which the recognizance was entered into or to which the bail relates.
170. 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 recognizance of the principal, and if so taken, the recognizance of the principal and sureties shall be as binding as if they had been taken together and at the same time. **Mode of entering into recognizance**

171. (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 be adjourned. **Continuous bail.**

(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 record the reason for the variation of the order or committal of the defendant.

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

172. Where an application is made before the Court by information on oath by a complainant, surety or other person that a defendant bound by recognizance to appear before a court or police officer: **Defendant bound by recognizance to appear before a court or police may be committed to prison.**

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

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

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

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

174. 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 of 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.
175. (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. **Discharge of sureties**
- (2) On an application under subsection (1) of this section, the court shall issue a warrant for the arrest of the defendant on whose behalf the recognizance was executed and on his appearance shall discharge the recognizance either wholly or so far as relates to the applicant and shall require the defendant to find other sufficient sureties or meet some other conditions and if he fails to do so, may make such order as it considers fit.
176. 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. **Order of fresh security upon original order.**
177. (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 cause why it should not be paid. **Forfeiture of recognizance**

(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.

178. 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.**

179. 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 order in the case of a defendant: **Where defend ant 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 behaviour, an order committing him to prison for the remainder of the period for which he was originally ordered to give security or until he finds sufficient sureties.

180. (1) Where a recognizance to keep the peace and be of good behaviour 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 **Forfeiture on conviction**



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:

(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.

(2) A certified copy of the judgment of the court by which the defendant was convicted of the offence may be used as evidence in proceedings under this section and, where the certified copy is so used, the court shall presume the defendant committed the offence until the contrary is proved.

181. Where a recognizance is ordered to be forfeited, the court having jurisdiction over the matter, may, immediately or at any time after the order, issue a warrant of commitment 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. **Where recognizance forfeited warrant may be issued**
182. 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. **Arrest on failure to appear**
183. All sums paid or recovered in respect of a recognizance order by a court in pursuance of section 176 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. **Payment on recognizance**
184. An order of forfeiture made under this Law shall be subject to appeal. **Appeal**
185. (1) The Chief Judge may make regulation for the registration and licensing of corporate bodies or persons to act as bonds persons within the jurisdiction of the court in which they are registered. **Registration of bonds persons**
- (2) A person shall not engage in the business of bail bond services without being duly registered and licensed in accordance with subsection (1) of this section.

(3) A person who engages in bail bond services without registration and licence or in contravention of the regulation or terms of his licence is liable to a fine of five hundred thousand naira or imprisonment for a term not exceeding 12 months or to both fine and imprisonment.

(4) On conviction under this section, the court shall forward a report to the Chief Judge and in instances of gross violation of the terms of the licence and revoke the licence.

(5) A bondsperson registered under subsection (1) of this section may undertake recognizance, act as surety, or guarantee the deposit of money as required by the bail condition of a defendant granted bail by the court within the division or district in which the bondsman is registered.

(6) A person or organisation shall not be registered as a bondsperson unless the person is, or the organisation is composed of persons of unquestionable character and integrity and deposits with the Chief Judge sufficient bank guarantee in such amount as may be determined by the Chief Judge in the regulation, having regard to the registered class or limit of the bondsman's recognizance.

(7) A registered bondsperson shall maintain with a bank or insurance company designated in his licence, such fully paid deposit to the limit of the amount of bond or recognizance to which his licence permits him to undertake.

(8) The Chief Judge may withdraw the registration of a bondsperson who contravenes the terms of his licence.

186. Where a bondsperson arrests a defendant or suspect who is absconding or who he believes is trying to evade or avoid appearance in court he shall:

**Bondsperson  
may arrest  
absconding  
defendant or  
suspect.**

(a) immediately hand him over to the nearest police station; and

(b) the defendant arrested shall be taken to the appropriate court within 12 hours.

**PART 20 - PROPERTY AND PERSONS.**

187. Where in a complaint, summons, warrant of any description, charge sheet, information 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, which belongs to or is in the possession of more than one person, the following provisions shall apply:
- Methods of stating multiple ownership of property.**
- (a) where the property belongs to, or is in the possession of more than one person whether as partner 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 persons;
  - (b) where the property belongs to a company, association, club or society, be described, subject to the provisions of any other Law, as the property of the official of the company, association, club or society, or as belonging to the company, association, club or society by its legal or registered title;
  - (c) where the property belongs to, or is provided for the use of a public establishment; service or department, be described as the property of the State or Local Government, as the case may be;
  - (d) where 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;
  - (e) where 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 or Local Government, as the case may be;
  - (f) where it is necessary to state the ownership of:
    - (i) any work or building made, erected or maintained, either wholly or in part, at the expense of the public revenue or of any part of it,
    - (ii) any township, town, or village or any Local Government, or of anything belonging to or being in or used in relation to the same,

- (iii) anything provided for the use of any part or of any public institution or establishment, or of any materials or tools provided or used for repairing any work or building or any public road or highway, or
- (iv) 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;
- (g) the property belongs to a woman who has contracted a marriage under the Marriage Law or a marriage recognised as a valid marriage under any law in force in Nigeria, be stated as belonging to the married woman.

188. (1) Where in a complaint, summons warrant of any description, charge sheet, information or any document issued by a court in the exercise of its criminal jurisdiction, it is necessary to refer to a person, the description or designation of that person shall be such as is reasonably sufficient to identify him except as provided under section 230 of this Law.
- (2) It shall not be necessary to state the person's correct name, or his residence, degree, or occupation, so far as the person has been reasonably described to identify him.
- (3) Where it is impracticable to give the person's correct and exact description or designation because the name or the description or designation of the person is not known or for any other reason, the description or designation shall be given as is reasonably practicable in the circumstances, or the person may, subject to subsection (4) of this section, be described as "Person Unknown".
- (4) A defendant who is accused of an offence shall not be described as "a person unknown" except in the case of a verdict found on a coroner's inquisition.

**Description  
of persons in  
criminal  
process**

189. 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

**Remedies of  
married woman  
against her  
husband and  
others in respect  
of her person or  
property**

and security of her person or her own separate property as if such property belonged to her as an unmarried woman.

190. In any proceeding taken under the provisions of section 189 of this Law, the husband and wife shall be competent and compellable witnesses in accordance with the provisions of the Evidence Act, 2011.

**Husband and wife competent as witnesses**

## PART 21-THE CHARGE

191. A charge may be as in the forms set out in the Second Schedule of this Law, with such modification as may be necessary in the circumstances of each case.

**Forms of charges in second schedule to be used and adapted.**

192. (1) A charge shall state the offence with which the defendant is charged.

**Offence to be stated in 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.

193. 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**

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

**Particulars of charge**

(2) A charge sheet shall be filed with the photograph of

the defendant and his finger print impression, provided that where the photograph and finger print impression are not available, it shall not invalidate the charge.

195. 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 offence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of a single offence.

**Charge of criminal breach of trust.**

196. When 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 of criminal falsification of accounts**

197. Where the nature of the offence is such that the particulars required by sections 192 and 194 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.

**Charge may contain the manner in which the offence was committed**

198. (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 charge**

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

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

**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 187 of this Law.

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

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

201. (1) Where a law constituting an offence states the offence to be the omission to do any one of different acts 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.

**Provision as  
to Statutory  
Offences**

(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.

202. 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 188 of this Law. **Description of persons**
203. 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 or attaching a copy of such document to the charge. **Description of persons**
204. Subject to any other provision of this Law, it is sufficient to describe any place, time, thing, matter, act, or omission to which it is necessary to refer in a charge in ordinary language in such a manner as to indicate with reasonable clarity the place, time, thing; matter, act or omission referred to. **General rule as to description**
205. It is not necessary in stating an intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the law creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence. **Statement of intent**
206. The following defendants accused of the following offences may be charged and tried together: **Defendants who may be charged jointly**
  - (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 the same transaction;
  - (e) offences which include theft, extortion or criminal misappropriation and another accused of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named 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 accused of offences committed during a fight or series of fights arising out of another fight, and persons accused of abetting any of these offences.

207. For every distinct offence with which a defendant 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 type of offence committed by a defendant;
  - (c) any number of offence committed by a defendant in the course of the same transaction having regard to the proximity of the time and place, continuity of action and community of purpose; or
  - (d) cases mentioned in sections 208 to 213 of this Law
208. 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. **Attempt same as substantive offences**
209. Where in one series of acts or omissions so connected together as to form the same transaction or which form or are part of a series of offences of the same or a similar character, more offences than one are committed by the same defendant, charges for the offences may be joined and the defendant accused tried for the offence at one trial. **Trial for more than one offence**
210. 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 defendant accused of them may be charged with and tried at one trial for each of those offences. **Offences falling within two definitions**
211. Where several acts or omissions, of which one or more than one would by itself or themselves constitute an offence, constituted when combined with a different offence, the defendant accused of them may be **Acts constituting one offence but constituting a different offence when combined**

charged with and tried at one trial for the offence constituted by those acts or omission when combined or for any offence, constituted by any one or more of those acts.

212. Where a single act or omission or series of acts or omissions is of such a nature that it is doubtful which of several offences, the facts of which can be proved, will constitute the 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 in the alternative with having committed any of those offences.

**Where it is doubtful which offence has been committed**

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

**Incidental offences in the same transaction**

## **PART 22- ALTERATION OR AMENDMENT OF CHARGES**

214. (1) A court may permit an alteration or amendment to a charge or framing of a new charge at any time before judgment is pronounced.
- (2) 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.
- (3) Where a defendant is arraigned for trial on an imperfect or erroneous charge, the court may permit or direct the framing of a new charge, or an amendment to, or the alteration of the original charge.
- (4) Where any defendant is committed for trial without a charge or with an imperfect or erroneous charge, the court may frame a charge or add or alter the charge as the case may be having regard to the provisions of this Law.
215. (1) Where a new charge is framed or alteration made to a charge under the provisions of section 214 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.

**Alteration and amendment of charge by permission of court**

**Procedure on alteration of charge**

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

216. (1) Where the charge as revised under section 214 or 215 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 defence 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.
217. 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 to 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**
218. 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, mis-joinder or non-joinder of the particulars of the offence shall not be regarded at any stage of the case as material unless the defendant was in fact misled by the error or omission.
- Effect of error**
219. Objections on the ground of an imperfect, erroneous or formal defect of a charge shall not be taken or entertained during proceeding or trial but same shall be taken before plea.
- Objection to a charge**
220. (1) Where an appellate court is of the opinion that a defendant convicted of an offence was misled in his defence by the absence of a charge, or by an error in the charge, which has occasioned a miscarriage of justice, it may direct that the trial be recommenced on another charge.
- Effect of material error and objections cured by verdict**

(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.

(3) No judgment shall be stayed or reversed on the ground of any Objection which if stated before the charge was read over to the defendant might have been amended by the court because of:

(i) any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the time at which the cause of complaint is alleged to have arisen if it is proved that such complaint was in fact made within the time, if any, limited by law for making the same; or

(ii) any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the place in which the cause of complaint is alleged to have arisen; or

(iii) any alleged defect in substance or in form in any complaint, warrant or other process relating to the charge and the evidence adduced in respect of the charge.

### **PART 23 - CONVICTION WHEN CHARGED WITH ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE.**

221. 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. **Where defendant charged with one offence may be convicted of another**
222. 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. **Offence charged, attempt proved**
223. 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 attempt and punished accordingly. **Attempt charged, offence proved**



224. Where a defendant has been convicted of an attempt under either section 222 or 223 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**
225. Where a defendant is charged with an offence 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 to that offence or that other offence, as the case may be and be punished accordingly. **On charge of an offence, conviction as accessory after the fact to that or connected offence may follow**
226. (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 lesser offence but a higher offence is proved**
- (2) The defendant referred to in subsection (1) of this section is not liable afterwards to be prosecuted for the higher offence proved, but the court may in its discretion stop the trial of the lesser offence or direct that the defendant be charged and tried for the higher offence, in which case, the defendant may be dealt with in all respects as if he had not been put to trial for the lesser offence
- (3) Where a charge is brought for the higher offence pursuant to this section, the defendant shall be tried before another court.
227. 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. **Conviction of kindred offences relating to property**
228. 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, he may be convicted of the other offence and be punished as if he had been convicted on a charge or an information charging him with the offence. **Defendant charged with burglary may be convicted of kindred offence**

229. 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 or an information charging him with the offence of indecent assault.
- On charges of rape conviction under defilement, incest, unnatural or indecent assault may follow.
230. (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.
- Procedure for trial on charge for certain offences
- (2) The names, addresses, telephone numbers and identity of the victims of such offences or witnesses shall not be disclosed in any record or report of the proceedings and it shall be sufficient to designate the names of the victims or witnesses with a combination of alphabets.
- (3) Where in any proceeding the court deems it necessary to protect the identity of the victim or a witness, the court may take any or all of the following measures:
- (a) receive evidence by video link;
  - (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 under section 229 of this Law;
  - (b) offences under the Terrorism (Prevention) (Amendment) Act;
  - (c) offences relating to Economic and Financial Crimes;
  - (d) Trafficking in Persons and related offences; and
  - (e) any other offence in respect of which a Law of the Kogi State House of Assembly or an Act of the National Assembly in force in Kogi State 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.

231. Where on a trial for an offence of defilement, the facts proved in evidence warrant a conviction for an indecent assault and not the offence with which the defendant is charged, the defendant may be convicted of indecent assault although he was not charged with that offence. **On charge of Defilement Conviction of Indecent Assault may follow**
232. Where a defendant is charged and tried for culpable homicide punishable with death of a child or for infanticide and it appears on the evidence that the defendant was not guilty of culpable homicide punishable with death or of infanticide, as the case may be, but was guilty of the offence of concealment of birth, the defendant may be convicted of that offence. **Where culpable homicide punishable with death or infanticide is charged and concealment of birth is proved.**
233. (1) Where a defendant is charged and tried for culpable homicide punishable with death of a newly-born child and it appears on the evidence that the defendant was not guilty of culpable homicide punishable with death but was guilty of infanticide, the defendant may be convicted of infanticide. **Where culpable homicide punishable with death is charged and infanticide proved**
- (2) Nothing in subsection (1) of this section prevents a defendant who is tried for culpable homicide punishable with death of a newly-born child from being:
- (a) convicted of culpable 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.
234. (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. **Where offence proved is not included in offence charged**
- (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.

235. (1) 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.

Withdrawal of remaining charges on conviction on one of several charges

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

#### PART-24- PREVIOUS ACQUITTALS OR CONVICTION

236. (1) Without prejudice to section 224 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:

Defendant convicted or acquitted not to be tried again for same or kindred offence

(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 with the offence charged.

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

237. 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 209 of this Law.

A defendant may be tried again on separate charge in certain cases.

238. 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 culpable homicide punishable with death or culpable homicide not punishable with death.
- consequences supervening or not known at previous trial

**PART 25 -WITNESSES: COMPELLING ATTENDANCE AND TAKING OF OATH OR MAKING OF AFFIRMATION.**

239. (1) 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.
- Issuance of summons for witnesses
- (2) Where the prosecutor is not a public officer the person to whom the summons is addressed is not bound to attend unless his travelling expenses are paid to him.
240. (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 due efficient service of witness summons, defendant's production orders, writs and all other processes issued in the court in respect of all criminal matters.
- (3) A summons shall be served on the person to whom it is directed in the same manner as is set out in section 120 or 121 of this Law or, with leave of the court, section 122 and sections 124 to 128 of this Law shall apply to the summons.
- (4) Service of processes may be effected by registered reputable courier companies, recognised and authorised by the Chief Judge in accordance with the provisions of this Law, and the registered courier

companies may be assigned to a court with criminal jurisdiction as a process server in accordance with subsection (1) of this section.

(5) The Attorney-General of the State 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 process server effecting the service, and shall be filed in the court's file.

241. Where a witness summoned to give evidence does not:

**Warrant for  
witness after  
summons**

(a) attend court at the time and place indicated on the summons, and

(b) provide any reasonable excuse for his non-attendance, then after proof that the summons was duly served on him, or that the person to be served wilfully avoids service, the court may issue a warrant to arrest and bring him before the court.

242. 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.

**Issuance of  
warrant for  
witness**

243. (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 Court and the Court:

**Mode of  
dealing with  
witness  
arrested under  
warrant**

(a) may, on the witness furnishing security by recognizance to the satisfaction of the Court 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.

244. (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 N10,000.00 or to imprisonment for a term not exceeding two months.

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

245. 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.

246. 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 document and may be punished in like manner for any refusal to obey the order of the court.

247. A witness shall take an oath or make a solemn affirmation in such a manner as the court considers binding on his conscience.

248. (1) When a person attending court and who is required to give evidence, without any sufficient excuse or reason:

**Penalty on witnesses refusing to attend**

**Non-attendance of witnesses on adjourned hearings**

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

**Manner of taking oath or affirmation**

**Witnesses refusing to be sworn or produce documents**

(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 30 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-26- WITNESSES: EXPENSES**

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| 249. | Where a person attends court as a state witness, the witness shall be entitled to payment of such reasonable expenses as may be prescribed.  | <b>Expenses of witnesses for prosecution.</b>                 |
| 250. | Where a person attends court as a witness to give evidence for the defence, the court may in its discretion on application, order payment by the Registrar to such witness of court such sums of money, as it may deem reasonable and sufficient to compensate the witness for the expenses he reasonably incurred in attending the court.   | <b>Expenses of witnesses for the defence</b>                  |
| 251. | The court may permit on application of a party for an adjournment of the proceedings and in so doing, may order the party seeking the adjournment to pay to a witness present in court and whose evidence it has not been possible to take owing to the adjournment, such sum in the amount payable to a witness in accordance with section 249 and 250 of this Law, or such sum as the court may fix. | <b>Adjournment may be granted subject to witnesses' costs</b> |
| 252. | The amount of the expenses payable to a witness pursuant to sections 249 and 250 of this Law shall be  | <b>Ascertainment of witnesses' expenses</b>                   |

processed and paid by the Registrar of the Court to the witness out of the relevant vote as appropriated by the Judiciary.

## PART 27 - EXAMINATION OF WITNESSES

253. Subject to the provisions of any other law, the examination of witnesses shall be in accordance with the provisions of the Evidence Act. **Application of the Evidence Law**
254. The court may, at any stage of a trial, inquiry or other proceedings under this Law, either of its own motion or on application of either party to the proceeding, call a person as a witness or recall and re-examine a person already examined where his evidence appears to the court to be essential to the just decision of the case. **Power to call or recall witnesses**
255. 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 Act. **Certificate of certain Government technical officers.**
256. 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 charged has been called as a witness shall not of itself confer on the prosecution the right of reply, but a law officer for the prosecution shall in all cases have the right of reply. **Right of reply.**
257. (1) Subject to the provisions of sections 230 and 258 to 260 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 258 of this Law, exclude the public at any stage of the hearing on the grounds of public policy, decency or expedience.
- (3) Where the court is sitting in a place other than in a building, the authority given in subsection (2) of this section to exclude the public shall be construed as being

authority to prevent the public approaching so near to where the court is sitting, as in the opinion of the Judge or Magistrate, to be able to hear what is taking place at the trial or be able to communicate with a person allowed to be present.

258. Where a person who, in the opinion of the court has not attained the age of 18 is called as witness in any proceeding 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 persons**

(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.

259. (1) An order made under section 257 or 258 of this Law excluding the public from a court shall not unless specifically stated:

**Order under section 257 or 258 not to apply to press and certain others**

(a) authorise the exclusion of bona fide representatives of a newspaper 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 taken.

260. 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 proceeding preliminary to the trial except:

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

(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.

261. (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

**Visit by court to locus**

court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.

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

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

(4) A breach of a direction given under subsection (3) of this section shall not affect the validity of the proceedings unless the court otherwise directs.

**Determination  
of age**

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

(a) the apparent physical appearance of the person concerned;

(b) any evidence, in relation to the age of the person concerned, received by the court in accordance with the provisions of the Evidence Act, the Child Rights Law, or any other 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.

**Age in  
relation to  
offences**

263. 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

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| 264. | <p>age, as the case may be, unless the contrary is proved.</p> <p>A defendant shall, subject to the provisions of section 133 of this Law, be present in court during the whole of his trial unless:</p> <p>(a) he misconducts himself in such a manner as to render his continuing presence impracticable or undesirable; or</p> <p>(b) at the hearing of an interlocutory application.</p>   | <p><b>Presence of defendant at trial</b></p>                         |
| 265. | <p>(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 or an offence punishable with life imprisonment.</p> <p>(2) Where the defendant is in custody or on remand, he shall be allowed access to his legal practitioner at all reasonable times.</p> <p>(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.</p> <p>(4) The Court shall ensure that the defendant is represented by a counsel in capital offences provided that a defendant who refuses to be represented by counsel shall, after being informed under section 347 (6) of this Law of the risks of defending himself in person, be deemed to have elected to defend himself in person and this shall not be a ground to void the trial.</p> |  |
| 266. | <p>(1) Where a private legal practitioner prosecutes on behalf of the Attorney-General of the State or where a public officer prosecutes in his official capacity in any criminal proceeding, such prosecution shall be subject to such direction as may be given by the Attorney-General of the State.</p> <p>(2) Where proceedings in respect of an offence are instituted by a police officer, it shall be in the name of the Inspector-General of Police or Commissioner of Police, as the case may be.</p> <p>(3) Where a proceeding in respect of an offence is instituted by or on behalf of the Attorney-General of the State, it shall be in the name of the State.</p>   | <p><b>General control of prosecution by the Attorney-General</b></p> |



(4) Where a proceeding in respect of an offence is instituted by or on behalf of the Attorney General of the Federation, it shall be in the name of the Federal Republic of Nigeria.

267. Where a defendant appears 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  
persons  
summoned**

#### **PART 28 - PLEA BARGAIN AND PLEA GENERALLY**

268. (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 that defendant or on his behalf; or  
(b) offer a plea bargain to a defendant charged with an offence.

(2) The prosecution may enter into plea bargaining with the defendant, with the consent of the victim or his representative during or after the presentation of the evidence of the prosecution, but before the presentation of the evidence of the defence, provided that all of the following conditions are present:

(a) the evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt;  
(b) where the defendant has agreed to return the proceeds of the crime or make restitution to the victim or his representative; or  
(c) where the defendant, in a case of conspiracy, has fully cooperated with the investigation and prosecution of the crime by providing relevant information for the successful prosecution of other offenders.

(3) Where the 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 process, 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 term of the plea bargain which may include the sentence recommended within the appropriate range of punishment stipulated for the offence or a plea of guilty by the defendant to the offence charged or a lesser offence of which he may be convicted on the charge; and

(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 (3) 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,

(ii) the significance of the (alleged) criminal conduct of the other party in relation to which the suspect or defendant is agreeing to provide cooperation;

(iii) the probative value to the prosecution of the evidence that the suspect or defendant is agreeing to provide; and

(iv) the relative seriousness of the charge against the cooperating suspect or defendant in the light of the proposed charges against the other party;

(v) the defendant's history with respect to criminal activity,

(vi) the defendant's remorse or contrition and his willingness to assume responsibility for his conduct.

(vii) the desirability of prompt and certain disposition of the case,

- (viii) the likelihood of obtaining a conviction at trial and the probable effect on witnesses,
- (ix) the probable sentence or other consequences if the defendant is convicted,
- (x) the need to avoid delay in the disposition of other pending cases,
- (xi) the expense of trial and appeal, and
- (xii) the defendant's willingness to make restitution or pay compensation to the victim where appropriate.

(6) The prosecution shall afford the victim or his representative the opportunity to make representations to the 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 (3) 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 of the State.

(8) The presiding judge or magistrate before whom the criminal proceedings are pending shall not participate in the discussion contemplated in subsection (3) of this section.

(9) Where a plea agreement is reached by the prosecution and the defence, the prosecutor shall inform the court that the parties have reached an agreement and the presiding judge or magistrate shall then inquire from the defendant to confirm the terms of the agreement.

(10) The presiding judge or magistrate shall ascertain whether the defendant admits the allegation in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence and may where:

(a) he is satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant on his plea of guilty to that offence, and shall award the compensation to the victim in accordance with the term of the agreement which shall be delivered by the court in accordance with section 308 of this Law; or

(b) he is for any reason of the opinion that the defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the defendant has pleaded guilty or that the agreement is in conflict with the defendant's right referred to in subsection (6) of this section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.

(11) Where a defendant has been convicted under subsection (10) (a), the presiding judge or magistrate shall consider the sentence as agreed upon and where he is:

(a) satisfied that such sentence is an appropriate sentence, impose the sentence;

(b) of the view that he would have imposed a lesser sentence than the sentence agreed, impose the lesser sentence; or

(c) of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he

considers to be appropriate.

(12) 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.

(13) Notwithstanding the provisions of the Sheriffs and Civil Process Act, 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.

(14) Any person who, wilfully and without just cause, obstructs or impedes the vesting or transfer of any money, asset or property under this Law, commits an offence and is liable on conviction to imprisonment for 7 years without an option of fine.

(15) Where the defendant has been informed of the heavier sentence as contemplated in subsection (11) (c) of this section, the defendant may:

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

(b) withdraw from his plea agreement, in which event the trial shall proceed de novo before another presiding judge or magistrate, as the case may be.

(16) Where a trial proceeds as contemplated under subsection (15) (a) or de novo before another presiding judge or magistrate as contemplated in subsection (15) (b):

(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 may not enter into a similar plea and sentence agreement.

(17) Where a person is convicted and sentenced under the provisions of subsection (1) of this section, he shall not be charged or tried again on the same facts for the greater offence earlier charged to which he had pleaded to a lesser offence.

(18) The judgment of the court contemplated in subsection 10 (a) of this section shall be final and no appeal shall lie in any court against such judgment, except where fraud is alleged.

269. (1) Before a defendant takes his plea, the court shall inform him of his rights under the provisions of section 268 of this Law.

**Plea to  
information  
or charge**

(2) The defendant to be tried on a charge or an information shall be:

(a) brought before the court unfettered unless the court sees cause otherwise to order, and the charge or information shall be read over and explained to him to the satisfaction of the court by the Registrar or other officer of the court; and

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

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

270. 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 Law.

**Proof of  
previous  
conviction**

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

**Effect of plea  
of not guilty**

272. (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 fact 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.

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

**Amending charge where defendant pleads guilty to offence not charged**

274. (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.

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

**Pleas: autrefois acquit or convict pardon.**

- (a) by virtue of section 236 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 plead to the charge or information.

(4) Nothing in this section shall prevent a defendant from pleading that, by virtue of some other provisions 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**

276. (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 defendant's mental state or soundness of mind.

**Procedure  
when  
defendant is  
suspected to  
be of  
unsound  
mind**

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

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

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

medical officer shall:

(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 accused of any offence may, on the application of the Attorney-General or a law officer made at any stage of the proceedings prior to the trial, order that the person be sent to an asylum or such other suitable place for observation.

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

277. Where the medical officer or such officer in charge of the asylum or other suitable place to which the defendant is referred for observation under the provisions of this section fails to submit a report as provided in section 276 (4) and (7) of this Law within the period stipulated in those sub sections, 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.**

278. (1) Where the medical officer certifies that the defendant is of: **Certificate of medical officer**

(a) sound mind and capable of making his defence, the court shall, unless it is satisfied by the defence that the defendant is of unsound mind, proceed with the trial; or

(b) unsound mind and incapable of making his defence, the court shall, where it is satisfied of the fact, postpone the proceeding.

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

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

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

279. (1) Where a defendant is found to be of unsound mind and incapable of making his defence, if the offence charged is bailable by the court, it may in its discretion, release him on sufficient security being given:
- Release of  
defendant of  
unsound  
mind  
pending  
investigation  
or trial**
- (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 or such officer as the court appoints in that behalf.

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

(3) Where the offence charged is not bailable by the High Court or where a Judge of the High Court 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 of the State, 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 of the State, the defendant, may be committed to an asylum or other suitable place of custody for safe custody.

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| 280. | Where a proceeding or trial is postponed under section 276 or 277 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.   | <b>Resumption of proceedings or trial</b>                         |
| 281. | Where the defendant has been released under section 279 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.   | <b>Resumption of proceedings after release under section 279</b>  |
| 282. | 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 sections 276 to 289 of this Law and shall not make any finding of fact in relation to such defence that the defendant is open to plead at his trial for the offence. | <b>Where defendant appears to have been of unsound mind</b>       |
| 283. | 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 be kept in safe custody in such place and manner as the court thinks fit and shall, within 31 days of the order, report the case for an order of the Attorney-General of the State.  | <b>Safe custody of defendant discharged</b>                       |
| 284. | (1) The Attorney-General of the State may at his discretion order the defendant to be confined pursuant to section 283 in a mental health asylum, prison or other suitable place of safe custody   | <b>Order of the Attorney-General in pursuance to section 283.</b> |

(2) In exercising this discretion, the Attorney-General of the State shall ensure that the defendant is placed in such facility as to afford him adequate care at the expense of the State.

285. Where a defendant is confined under sections 279(3) and (5), 283 or 284 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 of the State as to the state of mind of such defendant at that time or times as the Attorney-General of the State shall require.

Observation  
of prisoners of  
unsound  
mind.

286. Where a defendant is, under the provisions of section 277 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  
when  
defendant of  
unsound mind  
is reported to  
be able to  
make his  
defence

287. (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 279, 283 or 284 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 of the State 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.

Procedure  
where  
defendant of  
unsound mind  
is reported fit  
for discharge

(2) Where the Attorney-General of the State 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.



288. Where a defendant is confined in a prison or an asylum, the Attorney-General of the State 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**

289. (1) Where a relative or friend of a defendant confined under section 279 or 284 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 or friend under subsection (1) of this section is confined under the provisions of section 283 of this Law, the court may further require the relative or friend to give satisfactory security that if at any time it appears to the court that the defendant is capable of making his defence, the relative or friend shall produce the defendant for trial.

(3) Sections 279 and 285 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.

290. 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 Part shall be sufficient authority for the removal and the detention of the prisoner in any prison or such other place of detention within the Federation.

**Removal to another State**

### PART 30-DETENTION TIME LIMITS

291. (1) A suspect arrested for an offence which a magistrate or Area court has no jurisdiction to try shall, within a reasonable time of arrest, be brought before the court

**Application for remand or other interlocutory proceedings**

for remand.

(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 First Schedule to this Law; and

(b) be verified on oath and contain reasons for the remand request.

292. (1) Where the court, after examining the reason for the arrest and for the request for remand in accordance with the provisions of section 291 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 of the State and arraignment of the suspect before the appropriate court, as the case may be, may remand the suspect in custody. **A court may remand in prison 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.

293. The court may, in considering an application for remand brought under section 291 of this Law, grant bail to the suspect brought before it, taking into consideration the provisions of sections 156 to 186 of this Law relating to bail. **Court may grant bail in remand proceedings**

294. (1) Where an order of remand of the suspect is made pursuant to section 291 of this Law, the order shall be for a period not exceeding 14 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 156 to 186 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 Inspector-General of Police or Commissioner of Police of the state or of the Attorney-General of the State as the case may be.

(b) 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 Inspector-General of Police or 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 Inspector-General of Police or the Commissioner of Police or the Attorney-General of the State 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 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, discharge the suspect and the suspect shall be immediately released from custody.

(7) No further application for remand shall be entertained by any court after the proceeding in subsection (6) of this section.

295. (1) The powers conferred on the court under this Part may be exercised by the court:

**When court  
may  
exercise  
power of  
remand**

(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 of the State 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 of the State indicates that the suspect remanded has no case to answer, the court shall release the suspect immediately.

296. (1) During remand, the court may nevertheless order the suspect remanded to be brought before it.

**Court may  
bring up  
person  
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.

297. 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**

298. (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 guilt 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.
299. 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. **Defendant's case**
300. 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**
301. (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. **No case submission by the defence and replies**
- (2) The defendant or his legal practitioner has the right to reply to any new point of law raised by the prosecutor, after which, the court shall give its ruling.
- (3) In this considering the application of the defendant under 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  
(e) 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 upon to answer.

302. (1) After the case for the prosecution is concluded, the defendant or the legal practitioner representing him, if any, is entitled to address court at the commencement or conclusion of his case, as he deems fit, and if no witnesses have been called for the defence than the defendant himself or witnesses solely as to character of the defendant and no document is put in 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.

**Defence and  
prosecutor's  
right of 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 whole 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.

303. (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  
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, or

(c) conclude the trial and pass sentence but suspend execution until such time as the question has been



considered and decided, and in any such case the court in its discretion shall commit the defendant or convict to prison or admit him to bail in accordance with the provisions of Part 19 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; or
- (c) order the execution of the sentence as the circumstance may require.

304. An application for stay of proceedings in respect of a criminal matter before the court shall not be entertained by any Court in Kogi State. **Stay of proceedings**
305. (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 of finding**
- (2) After the court has made its findings and reached a verdict, the court shall pronounce that finding and its verdict in the open court.
306. (1) The Judge or Magistrate shall record his judgment in writing and every judgment shall contain point or points for determination, the decision and shall be dated and signed by the Judge or Magistrate at the time of pronouncing it. **Judgment to be in writing**
- (2) The Magistrate, instead of writing the judgment, may record briefly in the book his decision or finding and his reason for the decision or finding, and then deliver an oral judgment.
307. Where the court finds the defendant not guilty, it shall immediately discharge him and record an order of discharge and acquittal accordingly. **Defendant to be discharged where found not guilty**
308. (1) Where the finding is that of guilt, the convict shall, where he has not previously called any witness to character, be asked whether he wishes to call any witness he desires to make any statement or produce

any necessary evidence or information in mitigation of punishment in accordance with section 309 (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.

309. (1) Where the provisions of section 308 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. **Sentence and sentencing hearing**

(2) The court shall, in pronouncing sentence, consider the following factors in addition to sections 237 and 238 of this Law.

(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 convicts were charged and tried together.

310. The court may, in any case in recording sentence, make a recommendation for mercy and shall give the reasons for its recommendation. **Recommendation for mercy**

311. (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 given, the court shall:

(a) make an entry to that effect on the record book;  
(b) the prosecution shall state the facts of the case in accordance with section 298 of this Law.

(3) Where the other charge pending against the defendant is considered in accordance with subsections (1) and (2) of this section and sentence passed on the defendant with consideration or in respect of the other pending charge, the defendant shall not, subject to the provisions of sections 234 to 235 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.

312. (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 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.

313. **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 reduced into writing and 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**

314. 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**

315. **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 other persons for carrying into effect the sentence described in the warrant not being a sentence of death.** **Authority for carrying out sentence other than of death**

316. The court may, at any time, amend any defect in an order or warrant of commitment and no:
- Error or omission not to affect legality of Act**
- (a) omission or error as to time and place; or
  - (b) defect in form in any order or warrant of commitment given under this Law, shall be held to render void or unlawful an act done or intended to be done by virtue of the order or warrant if it is mentioned, or may be inferred, that it is founded on a conviction or judgment sufficient to sustain it.

### **PART 32 - COSTS, COMPENSATION, DAMAGES AND RESTITUTION**

317. (1) A court may, within the proceedings or while passing judgment, order the defendant or convict to pay a sum of money:
- Power of court to order payment of expenses or compensation**
- (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 fine referred to in subsection (1) of this section is imposed in a case which is subject to appeal, **no payment additional to the fine shall be made before the period allowed for presenting the appeal has elapsed or, where an appeal is presented, before the decision on the appeal.**
- (3) **Order for cost or compensation may be made under this section irrespective of the fact that no fine has been imposed on the defendant in the judgment.**
318. (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
- Payment to be taken into consideration in subsequent civil suit**

recovered as compensation under this section.

(2) The pendency of criminal proceedings shall not be a bar to a civil action in respect of the same subject matter.

319. A court after conviction may adjourn proceedings to consider and determine the sentence appropriate for each convict: **Power of court to order restitution**

(a) in addition to or in lieu of any other penalty authorised by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate or

(b) 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 impossible or impracticable, to pay an amount equal to the value of the property, or

(iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.

320. (1) The court may, in a proceeding instituted by a private prosecutor or on a summons or complaint of a private person, on acquittal of the defendant, order the private prosecutor or person to pay to the defendant such reasonable costs as the court may deem fit. **Cost against private prosecutor**

(2) In this section, "private prosecutor" does not include a prosecuting on behalf of the State, a public officer who is a Legal Practitioner prosecuting in his official capacity and a police officer who is a Legal Practitioner.

321. (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 reasons recorded, order the person to pay reasonable compensation to the defendant or 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 445 of this Law.

(3) Subject to the provisions of the Constitution relating to appeals, a person against whom an order for payment of compensation is made under this section may appeal against the order as if he had been convicted after trial by the court that issued the order.

322. (1) A person to whom compensation is awarded may refuse to accept the compensation. **Injured person may refuse to accept compensation, but payment of compensation is bar to further liability**
- (2) Where the person receives the compensation or where the convict, having been ordered to pay compensation, suffers imprisonment for non-payment, the receipt of the compensation, or the undergoing of the imprisonment, as the case may be, shall act as a bar to any further action for the same injury.
- (3) Before making an order for compensation under this Law, the court shall explain the full effect of this section to the person to whom compensation is payable.
323. Any compensation ordered to be paid under this Law or any other Law, relating to any criminal proceeding, may be enforced as if it were a fine. **Monies paid as compensation recoverable as fines**
324. (1) Where a convict is ordered to pay a fine, or a defendant is ordered to pay compensation to another person under section 317 of this Law, or a person is subject to recovery of penalty for forfeiture of a bond under this Law, the Court passing the sentence or making the order may, notwithstanding that, in default of the payment of the fine or compensation or penalty, the convict or defendant may be imprisoned, issue a warrant for the levy of the amount by any means permitted by law, including:
- (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, 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.

325. (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 authorised by section 324 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 324 of this Law;

(d) without postponing the issue of a warrant under section 324 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 authorised in this Law and may cause the offender to be arrested and may commit or recommit him to prison under the sentence of imprisonment in default of payment of the fine.

326. (1) Where in a charge of an offence relating to property; 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. **Wrongful conversion or detention of property and award of damages**

(2) The damages awarded under this section, shall be recovered in like manner, as prescribed in section 323 of this Law

### **PART 33 - CUSTODY, DISPOSAL, RESTORATION OF PROPERTY**

327. 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. **Meaning of property.**

328. 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 a court during an inquiry or a trial, the court: **Order for custody and disposal of property pending trial**

(a) may make such order as it thinks fit for the proper custody of that property pending the conclusion of the proceedings or trial; and

(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.

329. (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, proceeding or an appeal is pending in respect of the case the court may, in any case, make an order under the provisions of subsection (1) of this section for the delivery of any property, to a person appearing to be entitled to the possession of the property, on his executing a bond, with or without sureties, to the satisfaction of the court, undertaking to restore the property to the court.

(3) An order made under this section may be appealed against as if it is a decision in the final judgment of the court giving the direction.

330. (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 shall be kept or sold and that the property, if sold, the proceeds of the sale be held as it directs until some person establishes to the court's satisfaction, a right to the property. **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 the case may be.

(3) Where an order is made under this section in a case which an appeal lies, the order shall not, except when the property is livestock or is subject to speedy and natural decay, be carried out until the period allowed for presenting the appeal has passed or when the appeal is entered, until the disposal of the appeal.

#### **PART 34- SEIZURE, FORFEITURE, CONFISCATION AND DESTRUCTION OF INSTRUMENTALITY OF CRIME**

331. 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; and

Seizure of things intended to be used in commission of crime

(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.

332. (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.

Destruction of seditious, prohibited or obscene publications and of obscene objects

(2) Upon arrest for an offence relating to adulterated or unfit food, drink or drug, the court may order the confiscation and destruction of the food, drink or drug, including such other adulterated or unfit items in the possession or power of the defendant.

333. Where a court is satisfied, by information on oath, that there is reasonable ground for believing that there is within the State, in any building, ship, carriage, receptacle or place, anything in respect of which an order may be made under section 331 or 332 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.

Search warrant may be used to search for things subject to section 331 or 332

334. (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

Restoration of possession of immovable property

immovable property, the court may, where it deems fit, order the possession of the property to be restored to the victim.

(2) Any order under this section shall not prejudice any right or interest to or in the immovable property which a victim, including the convict, may be able to establish in a civil suit.

335. (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.

336. (1) Where no person within the period referred to in section 335 of this Law establishes 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 Kogi 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.

337. Where the person entitled to the possession of property

**Power to sell perishable property.**

referred to in section 335 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 335 and 336 of this Law shall, as nearly as may be practicable, apply to the net proceeds of the sale.

338. 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:
- Payment to innocent person of money found on defendant.**

(a) on the application of the purchaser; and  
(b) on the restitution of the stolen property to the person entitled to the possession, order that out of the money a sum not exceeding the price paid by the purchaser, shall be delivered to him.

339. 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:
- Restitution and disposition of property found on defendant**

(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.

340. (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 of it, either on payment or without payment by the owner, to the person in whose possession the property or any part of it then is, of any sum named in the order.
- Restitution of stolen property.**

(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.

341. 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.**
342. (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 not intended to be used for the purpose of making counterfeit currency shall return the currency or thing, as the case may be, to the person purporting to be the owner of it, if known, and
- (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 persons 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.

(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 state or Federal Government in respect of the coin or thing so destroyed.

343. (1) Subject to the provisions of this section, sections 341 and 342 of this Law shall apply in relation to notes purporting to be legal tender in Nigeria as those sections apply in relation to currency.

**Detention  
and  
destruction  
of counterfeit  
currency,  
etc.**

(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;

(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; or

(c) 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.

344. Subject to the express provisions of any law, an article, not pecuniary, forfeited in respect of a summary conviction offence or the seizure, forfeiture or disposition of which may be enforced by the court may be sold or disposed of in such manner as the court may direct, and the proceeds of the sale shall be applied in like manner as if the proceeds were a penalty imposed under the law on which the proceedings for the forfeiture is founded. **Mode of dealing with forfeiture not pecuniary**

#### **PART 35 - SUMMARY PROCEDURE IN PERJURY**

345. (1) Where it appears to a court that a person has committed perjury in any proceeding 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 information 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 Fourth Schedule to this Law.
- (2) Where a court decides to try a person summarily, under subsection (1) of this section, for contempt of court, the court shall:
- (a) specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies on which the charge is based; and
  - (b) require him to give his explanation to the inconsistencies and record the explanation.
- (3) Where a court orders a person to be imprisoned or to pay a fine under subsection (1) of this section, it shall:
- (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 his decision.

(5) Where the Chief Judge or Judge does not wholly set aside the court's order, the court shall immediately issue its warrant of commitment or make the necessary order for payment of the fine in accordance with the terms of the Chief Judge or Judge's order.

(6) An imprisonment or a fine ordered or imposed under this section is a bar to any other proceeding for the same offence except where the order of the court has been wholly set aside.

#### **PART 36 - TRIALS AND SUMMARY TRIALS GENERALLY**

346. (1) Trials shall be held in the High Court on an information or charge filed by **Trials**

(a) the Attorney-General of the State or a law officer in his office;

(b) an information filed by a Legal Officer of any prosecuting agency;

(c) an information filed by a private prosecutor who is a Legal Practitioner or

(e) an information filed summarily, in accordance with the provisions of this Law.

(2) Trials shall be held in the Magistrate or Area Court or any other court or tribunal presided over by a legal practitioner and exercising criminal jurisdiction in accordance with the provisions of this Law relating to summary trials.

347. (1) Where a defendant charged before the court is not represented by a legal practitioner, the court shall:
- Non-appearance and non-representation of legal practitioner.**
- (a) inform him of his rights to a legal practitioner of his choice; and
  - (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 in two consecutive sessions of the Court, the Court shall enquire from the defendant if he wishes to engage on his own another legal practitioner or a legal practitioner engaged for him by way of legal aid.
- (3) Where the defendant wishes to engage another legal practitioner of his choice, the court shall allow him reasonable time but not exceeding 30 days to do so.
- (4) Where the defendant fails, or is unable to secure a legal practitioner arranged by him after a reasonable time, the Court may direct that a legal practitioner arranged by way of legal aid to represent the defendant.
- (5) The Court may assign to any legal practitioner whose place of practice is within the jurisdiction of the court, any case of a defendant who has no legal representation, and the legal practitioner shall undertake the defence of the defendant with all due diligence, in which case, the legal practitioner shall not pay any filing fee or service fee in respect of the case so assigned.
- (6) Where the defendant chooses to represent himself, the court shall:
- (a) inform him of all his rights under the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and under this Law; and
  - (b) indicate the fact of having so informed the defendant on the record, but a defendant charged with a capital

offence or an offence punishable with life imprisonment shall not be allowed to represent and defend himself.

(7) A legal practitioner, other than a law officer, engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant until final 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.

(8) Where a legal practitioner intends to disengage from a matter, he shall notify the court, not less than 3 days before the date fixed for hearing and such notice shall be served on the court and all parties.

348. (1) Trial shall be held summarily:

**When  
summary  
trials shall be  
held**

(a) in the High Court in respect of perjury;

(b) in respect of an offence which by a Law of the State House of Assembly or an Act of the National Assembly is triable summarily; and

(c) in respect of a trial for an offence punishable with less than 3 years imprisonment in the Magistrate or Area Court or any other court or tribunal presided over by a legal practitioner and exercising criminal jurisdiction in accordance with the provisions of this Law relating to summary trials.

(2) In a trial in the Magistrate or Area Court or Tribunal, the prosecution shall, provide the defendant all materials that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

349. (1) When the case is called, where 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 authorised by a written law, the court may dismiss the complaint.

**Non-  
appearance  
of  
complainant.**

(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.

350. (1) Where a case is called in which summons has been issued and the defendant does not appear, or pleads guilty under the provisions of section 133 of this Law, and no sufficient excuse is offered for his absence, then the court where it is:

Non-  
appearance of  
defendant.

(a) satisfied that the summons, if any, has been duly served, may issue a warrant, called 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, in disregard for the court orders, fails to surrender to the order of court or 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.

351. (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, and the payment of the costs may be as if it were a fine.

352. 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.**

353. Where a complainant, at any time before a final order is made in a case, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the complaint and shall thereupon acquit the defendant. **Withdrawal of complaint.**

354. (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 intends to admit the offence and shows no cause or no sufficient cause why sentence should not be passed, the court shall proceed to sentence.

(3) Where the defendant pleads not guilty, the court shall direct all witnesses to leave the court and upon the direction, the provisions of section 212 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 upon the direction being given.

(4) Notwithstanding the provision of subsections (1), (2) and (3), 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;

(b) also to hear the defendant and such witnesses as he may call and such other evidence as he may adduce in his defence; and

(c) also, where the court deems fit, to hear such witnesses as the prosecutor may call in reply if the defendant has called any witness or given any evidence.

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

(7) Where the defendant is not represented by a legal practitioner, the court shall, at the close of the examination of each witness for the prosecution, ask the defendant whether he wishes to put any question to that witness, and shall record the defendant's answer.

(8) The defendant shall take his plea in the dock, except the Judge directs otherwise.

355. 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 300 of this Law.

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

356. (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.

357. (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 if it considers that the application is made for the purpose of vexation or delay or of defeating the aims of justice.

358. Failure to comply with the requirements of section 356 (1) (a) of this Law shall not of itself vitiate the trial where the court:

**Saving as to Section 356(1) (a)**

(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.

359. 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.

**Evidence in reply**

360. (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.

**Power to take deposition in certain cases**

(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 to statement of his reason for taking the statement, the date and place when and where the statement was taken, and shall preserve the statement and file it for record.

(3) The court shall cause reasonable notice of the application to take the deposition in accordance with subsections (1) and (2) of this section and of the time and place where it is to be taken to be served on the prosecutor and defendant and if the defendant, is in custody and his presence is required for the deposition, he shall be brought by the person in whose custody he is, to the place where the statement is to be taken, under an order in writing of the court.

361. (1) A statement taken under section 360 of this Law may afterwards be used in evidence on the trial of a defendant accused of an offence to which the statement relates in accordance with the provisions of sections 46 of the Evidence Act. **When statement may be used in evidence.**

(2) The signature and attestation of the Judge or Magistrate shall be sufficient prima facie proof of the content of the statement, and that the statement was taken in all respects according to law and the attestation and signature shall be admitted without further proof unless the court sees reason to doubt the genuineness.

362. (1) Without prejudice to section 346(2) 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 recordings of the court shall be signed or otherwise authenticated by the presiding Judge at an adjournment of the case or at the conclusion in a manner authorised from time to time by 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 and statements made by the witnesses.

363. 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.**
364. 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 named case, the court may, where it deems fit, hear and determine the complaints in the same proceeding. **Cross complaints.**
365. 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. **Joinder of complaints.**
366. 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. **Giving of decision upon conclusion of trial.**
367. (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. **Power to bind parties to be of good behaviour.**



(2) A person who breaches an order made, pursuant to subsection (1) of this section, may be imprisoned for a term not exceeding three months in addition to any other punishment to which the person is liable.

(3) Before a binding 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.

368. (1) Where a charge is dismissed on merits, the dismissal has the same effect as an acquittal. **Effect of judgment of dismissal on merits, not on merits and without prejudice.**
- (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.
369. Where a child is proceeded against before a court for an offence, the court shall have regard to the provisions of the Child Rights Law or any other Law or Act relevant in that regard. **Summary trial of child by a court.**
370. 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. **Power to remand.**
371. (1) A law officer, in a case where a charge of an indictable offence is being proceeded with summarily before a Magistrate or Area Court, may, at any time before judgment, request the Court to deal with the case as one for trial on information or charge. **Law officer may require case to be adjourned or dealt with specially.**
- (2) On receipt of there request, the court shall adjourn the proceeding until such a time as information or charge is filed in the High court, provided that the information shall be filed within a period of 30 days of the date the order granting the request.
- (3) The Court shall make the case returnable for a period not exceeding 32 days from the date of the grant of the request.

(4) Where at the end of the period of 30 days provided in subsection (2) of this section, the information or charge against the defendant has not been filed at the High Court, the Magistrate or Area Court Judge shall proceed on the return date to try the charge summarily where he has jurisdiction, or may make an order releasing the defendant on bail pending his arraignment on the information or charge as requested by the law officer.

372. (1) Where a charge for an offence is being tried summarily before a Magistrate or Area Court, he shall, at the request of a person in charge of the prosecution made at any time before judgment, adjourn the hearing of the charge for consultation with a law officer with a view to obtaining a request to proceed in accordance with section 371 of this Law.

**Adjournment  
for law  
officer's  
decision.**

(2) The request of the law officer so consulted shall be filed within 14 days of the date the Court grants the request of the person prosecuting, failing which the Court shall proceed to try and conclude the case summarily.

(3) Where the Court grants an adjournment at a request under subsection (1) of this section, the adjournment shall not be for a period exceeding 15 days, and the Court may grant the defendant bail.

373. (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 be of good behaviour for a reasonable period fixed by the court.

**Security for  
peace in  
cases tried  
summarily.**

(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.

374. (1) Where an offence for which the magistrate or Area 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 of the State.

Case files,  
legal advice  
and related  
proceedings

(2) The Attorney-General of the State shall, within 14 working 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 of the State 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) police or the head of the police legal unit through whom the police case file was sent to the Attorney-General of the State;

(b) 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

(c) 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 or Area court has jurisdiction to try, the prosecutor shall file the charge at the magistrate court, accompanied with:

(a) the list of witnesses;

(b) the list of exhibits;

(c) statements of the witnesses and of the defendant; and

(d) any report, document or material that the prosecution intends to rely on at the trial of the offence, but the prosecution may, with leave of the court, file and serve any additional document.

(5) The police or the officer in charge of the prison in which the 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 of the State 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 suspect.

(8) Where the Attorney-General of the State 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 or information in accordance with the provisions of this Law.

(9) A form as prescribed in the First Schedule to this Law, indicating a desire to be represented by legal practitioner of his choice or by a legal practitioner from the Legal Aid Council or any other organisation providing free legal representation to defendants shall be attached to each legal advice for the purpose of endorsement by the person in respect of whom legal advice is preferred and against whom the information is filed.

(10) Where the defendant indicates in the form referred to in subsection a of this section that, he wishes to be represented by a legal practitioner of the Legal Aid Council or any other organisation providing free legal representation, he shall forward the form to the Chief Registrar of the court before whom the charge or information 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 subsection 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 Register shall, upon getting the form, forward same to the Director-General of the Legal Aid Council or to the nearest Legal Aid Council office where the court is located.

### **PART 37 - TRIALS BY WAY OF INFORMATION**

375. An information shall be in the form set out in Form No.11 in the First Schedule to this Law with such modifications as may be necessary to adapt it to the circumstances of each case. **Form of information**

376. (1) An information shall contain: **Contents of information**

(a) a description of the offence charged in the information or, where more than one offence is so charged, of each offence so charged, and each offence charged shall be set out in a separate paragraph known as count;

(b) a count of an information shall commence with a statement of offence charged.

(c) the statement of offence which shall, briefly describe the offence charged in ordinary language, avoiding where possible the use of technical terms and all the essential elements of the offence, and, where the offence charged is one created by a law, shall contain a reference to that law;

(d) the particulars of offence, which shall be set out in ordinary language;

(e) the law and section of the law against which the offence is alleged to have been committed; and

(f) where the law that creates the offence does not give it any specific name, such definition of the offence may be made to give the defendant notice of the offence with which he is charged.

(2) A charge is presumed to have fulfilled every condition required by law to constitute an offence but, where a law limits the particulars of an offence which are required to be given in an information, nothing in this subsection

shall require any more particulars to be given than those so required.

(3) Where an information contains more than one count, the counts shall be numbered consecutively.

(4) The forms set out in the Third Schedule to this Law or forms conforming to them as nearly as possible may be used in the cases to which they are applicable.

(5) In other cases, forms to the like effect or conforming to them as nearly as possible may be used, where applicable.

(6) A statement of offence and the particulars of the offence may be varied according to the circumstances of each case.

377. (1) An information shall be filed in the registry of the High Court before which the prosecution seeks to prosecute the offence, and shall include:

Contents of information, 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,
- (iv) copies of statement(s) of the defendant,
- (v) any other document, report, or material that the prosecution intends to use in support of its case at the trial,
- (vi) particulars of bail or any recognizance, bond or cash deposit, if defendant is on bail,
- (vii) particulars of place of custody, where the defendant is in custody,
- (viii) particulars of any plea bargain arranged with the defendant;
- (ix) particulars of any previous interlocutory proceedings, including remand proceedings, in respect of the charge, and
- (x) any other relevant document as may be directed by the court; and

(b) a copy of the form for information on legal representation as provided under section 374(9) of this Law.



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

(3) The information and all accompanying processes shall be served on the defendant or his legal representative, if any.

378. The provisions relating to charges in this Law shall apply to the counts of an information. **Application of rules relating to charges.**

379. An information may be filed by:

**Filing of information**

(a) The Attorney-General of the State or officers in his office;

(b) a public officer who is a Legal Practitioner acting in his official capacity;

(c) a private legal practitioner authorised by the Attorney-General of the State; or

(d) a private Legal Practitioner, provided the information is endorsed by a law officer that he has seen such information and declined to prosecute at the public instance and the private person enters into a bond to prosecute diligently and to a logical conclusion.

380. (1) Where an information has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to a court for trial within 15 working days of its filing. **Assignment of information and issuance of notice of trial**

(2) On assigning the information, the court to which the information is assigned shall within 10 working days of the assignment issue notice of trial to the witnesses and defendants and a production warrant properly endorsed by the Judge in respect of the defendant charged, where he is in custody, for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information not more than 3 days from the date they are issued.

(3) Where the defendant named in the information is in custody, the notice of trial and the information shall be delivered to him through the officer in charge of the prison in which he is detained, and the warrant for his

production shall be served on the officer of the prison.

(4) Where the defendant is not in custody, the notice of trial and the information shall be served on him personally.

(5) Where it is impossible or impracticable to effect personal service of the notice of trial and information on the defendant, they may be served on him, with leave of court, through his legal practitioner, if any, or on his surety or sureties, or on an adult in his household or in such other manner as the court shall deem fit and the service shall be deemed to be duly served on the defendant.

(6) Nothing in this section shall prevent the defendant from being tried by reason only that the notice of trial and the information were served on him less than 3 days before the date of trial, where he consents to being so tried.

381. (1) The Registrar shall receive an information from a private legal practitioner where: **Information by private person.**

(a) the information is endorsed by the Attorney-General of the State or a law officer acting on his behalf stating that he has seen the information and has declined to prosecute the offence set out in the information; and

(b) the private legal practitioner shall enter into a recognizance in:

(i) such sum as may be fixed by the court, with a surety, to prosecute the information to conclusion from the time the defendant shall be required to appear,

(ii) pay such costs as may be ordered by the court, or

(iii) deposit in the registry of the court, such sum of money as the court may fix.

(2) Where an application for consent to prosecute is made to the Attorney-General of the State by a private legal practitioner and the Attorney-General declines to grant such consent, he shall give his reasons for doing so in writing within 15 working days from the date of the receipt of the application.

382. Where a private legal practitioner has complied with the provisions of section 381 of this Law, the information shall be signed by such private legal practitioner who shall be entitled to prosecute the information. **Conditions for private prosecutors.**
383. The place of trial shall be determined in accordance with the provisions of this Law. **Venue.**
384. Notwithstanding the provisions of section 383 of this Law: **Change of venue.**
- (a) where a cause is commenced in any other division than that in which it ought to have been commenced, it may, notwithstanding, be tried in that division in which it was commenced, but where the defendant objects, the court may, where it considers the objection reasonable, transfer the case to the proper division in which it ought to have been commenced; and
- (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.
385. 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 relating to the case are deemed to be returnable at the latter place or division and all witnesses who are or summoned to attend the trial shall be informed accordingly and shall attend at such latter place or division. **Effect of change of venue.**
386. The Registrar or any other person directed by the court, shall endorse on, or annex to, every information delivered to the Sheriff or proper officer, for service, a notice of trial and such notice shall specify the particular sessions at which the party is to be tried on the information and shall be in the following form or as near to it as may be: **Form of notice of trial.**

387. The Registrar or other proper officer shall deliver, or cause to be delivered, to the Sheriff or proper officer serving the information, 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. **Copy of information and notice of trial to be delivered to Sheriff.**
388. The Sheriff or other proper officer shall, on receipt of the information and notice of trial, serve the person named in the notice at least 7 working days before the date specified on the notice. **Time and mode of summoning parties on information.**
389. Notice of trial at the same time shall be served on all the 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. **Service of notice of trial on witnesses.**
390. The Chief Judge may engage the services 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. **Registered courier companies may serve processes.**
391. The officer of such courier company serving the copy of information and notices shall immediately make to the Registrar or other proper officer a return of the mode of service with the necessary endorsement of service on the person named for service on the notice or information. **Return of service.**
392. Where a defendant against whom an information has been duly preferred, and on whom the information and notice of trial have been duly served, does not appear to plead to the information, whether he is under recognizance to appear or not, the court may issue a warrant for his arrest. **Warrant where defendant does not appear.**
393. Where a defendant is accused 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 shall assign a legal practitioner for his defence. **Law officer or legal practitioner for State and defence in capital cases.**

394. (1) The defendant to be tried on an information or charge shall be arraigned in accordance with the provisions of this Law relating to the taking of pleas and the procedure on it. **Time for raising certain objections day-to-day trial and adjournments.**
- (2) After the plea has been taken, the defendant may raise any objection to the validity of the charge or the information at any time before judgement provided that such objection shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgement.
- (3) Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.
- (4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournments from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 working days.
- (5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournments 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) Notwithstanding the provision of any other law to the contrary, a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part-heard criminal matter pending before him at the time of his elevation and shall conclude the same within a reasonable time:
- Provided that this subsection shall not prevent him from assuming duty as a Justice of the Court of Appeal.
395. 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 **Attendance of witness bound by recognizance to attend.**

he has been discharged by the court from further attendance.

396. 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 witness not attending on recognizance.**
397. Where a person named on a summons or writ of subpoena wilfully 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. **Warrant for arrest of witness disobeying summons.**
398. A person who fails to attend as witness in either of the cases mentioned in sections 395 and 396 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. **Fine for non-attendance of witness**

### **PART 38 - PROVISIONS RELATING TO SENTENCE OF DEATH**

399. (1) Subject to the provisions of a law relating to a specific offence or class of offence 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.**
- (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.

400. (1) Punishment of death is inflicted by hanging the convict by the neck till he is dead or by lethal injection. **Death**

(2) Sentence of death shall be pronounced by the court in the following form:

"The sentence of the court upon you is that you be hanged by the neck until you are dead or by lethal injection."

401. Where sentence of death has been passed, the sentence shall only be carried out in accordance with the provisions of this Part. **How death sentence is to be carried out.**

402. 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. **Sentencing in the case of pregnancy.**

403. Where a convict who, in the opinion of the court, had not attained the age of 18 years at the time the offence was committed is found guilty of a capital offence, sentence of death shall not be pronounced or recorded but in lieu of it, the court shall sentence the child to life imprisonment or to such other term as the court may deem appropriate in consideration of the principles in section 399 of this Law. **Sentencing in the case of a child offender.**
404. 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. **Authority for detention of convict.**
405. 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 and for carrying the sentence of death into effect in accordance with and subject to the provisions of this Part. **Judge's certificate of death sentence to be sufficient and full authority for execution of convict unless he is pardoned or reprieved.**
406. The Registrar of the Court by which the convict is sentenced to death shall, as soon as practicable after the sentence has been pronounced: **Steps to be taken by the Registrar.**
- (a) hand two copies of the certificate issued by the Judge under the provisions of section 405 of this Law to the Commissioner of Police, one copy of which shall be retained by the Commissioner of Police and the other handed to the superintendent or other officer in charge of the prison in which the convict is to be confined;
- (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.
407. (1) Where a convict: **Convict may send request to committee on prerogative of mercy**
- (a) has been sentenced to death and has exercised his

legal rights of appeal against the conviction and sentence, and the conviction and sentence have not been quashed or the sentence, has not been reduced, or has failed to exercise his legal rights of appeal or having filed an application for leave to appeal, or an appellant has failed to perfect or prosecute the application or appeal within the time prescribed by law; or

(b) desires to have his case considered by the Committee on Prerogative of Mercy, he shall forward his request through his legal practitioner or officer in charge of the Prison in which he is confined to the Committee on Prerogative of Mercy.

(2) The Committee on Prerogative of Mercy shall consider the request and make their report to the State Executive Council which shall advise the Governor.

408. (1) The Governor shall, after considering the report made under section 407 of this Law, if any, and after obtaining the advice of the State Executive Council, decide whether or not to recommend that the sentence should be commuted 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.**

(2) Where, for the purposes of subsection (1) of this section, the State Executive Council is required to advise the Governor in relation to any person sentenced to death, the Attorney-General of the State shall cause a record of the case to be prepared and submitted to the State Executive Council, and the State Executive Council shall, in giving its advice, have regard to the matters set out in that record.

409. (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 reprieve is granted.**

(2) The recommendation may be that the convict shall be imprisoned or be released, subject in either case to such conditions, if any, as may be specified.

(3) The Sheriff and the superintendent or other officer in charge of the prison in which the convict is confined shall comply with, and give effect to every order issued under the provisions of subsections (1) and (2) of this section.

410. The Attorney-General of the State shall communicate the decision referred to in section 409 (1) and (2) of this Law to the Judge who presided over the trial or to his successor in office sending to such Judge a copy of his order and such Judge shall cause the order to be entered in the record of the court. **Copy of order to be sent to Judge.**

411. (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 duly signed by him and sealed as in one of the forms set out in the Fourth Schedule to this Law or as near to it as circumstances permit. **Where pardon or reprieve is not granted.**

(2) The order of the Governor:

(a) shall state the place and time, where and when the execution is to be and give directions as to the place of burial of the body; or

(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 over his signature the place and time of execution and place of burial.

412. 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. **Copy of order to be sent to prison official.**

**PART 39 - PROCEDURE WHERE WOMAN CONVICTED OF  
CAPITAL OFFENCE IS ALLEGED TO BE PREGNANT**

413. (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 the woman in question to be pregnant, the court shall sentence her to death subject to the provision of section 402 of this Law.

**Procedure where woman convicted of capital is alleged to be pregnant or who becomes pregnant**

**PART 40 - SENTENCING GENERALLY OTHER THAN  
CAPITAL SENTENCE**

414. (1) On conviction, a court may sentence the convict to a term of imprisonment as prescribed by the Law.
- (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 399 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;

**Court to determine term of imprisonment**

(d) a trial court shall not pass the maximum sentence on a first offender;

(e) the period spent in prison custody awaiting or undergoing trial shall be considered and computed in sentencing a convict;

(f) trial court shall 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 section 309 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 appeal court may not increase the sentence of a lower court beyond the maximum number of years the lower court has power to impose; and

(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.

415. (1) Where the court has power to pass a sentence of imprisonment, it may, in lieu of passing sentence of imprisonment, 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.

**Power to  
order  
detention for  
one day in  
precincts of  
the court**

(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.

416. (1) 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. **Consecutive sentence of imprisonment**

(2) Where two or more sentences passed by a magistrate or Area court are ordered to run consecutively, the aggregate term of imprisonment shall not exceed 4 years or the limit of jurisdiction of the adjudicating Magistrate or Area court.

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

418. (1) In the case of a 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 in a magistrate or Area court:

(a) the amount of the fine shall be at the discretion of the court but shall not exceed the maximum fine authorised to be imposed by the court or under the law by virtue of which he was appointed a Magistrate or Area court; 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 Fourth Schedule 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 authorised 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.
419. 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 escaped convict**
420. 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**
421. (1) The Chief Judge of Kogi State and the Attorney-General of the State shall jointly review, the provisions for the amount of fines, compensation or other sums of money prescribed under this Law. **General provision on review of sums of amount**
- (2) Such provisions as may be reviewed and effective date shall be published in the Gazette.
422. Where by any law, the Court is empowered to impose a penalty for a summary conviction offence, it may, in the absence of express provisions to the contrary in the same or any other law, order a defendant who is convicted of such offence, in default of payment of the sum of money adjudged to be paid 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 Fourth Schedule to this Law. **General power of awarding imprisonment in default of payment of penalty.**
423. 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 **Scale of imprisonment for non-payment of money ordered to be paid.**

maximum fixed in the scale set out in the Fourth Schedule to this Law.

424. A commitment for non-payment of a fine shall not be for a longer period than two years, except where the law under which the conviction has taken place prescribes or allows a longer period. **Limitation of imprisonment in default of payment of fine.**
425. (1) A Court, in fixing the amount of a fine to be imposed on a convict, shall take into consideration, amongst other things, the means of the convict. **Payment and allocation of fines and fees.**
- (2) Where a fine is imposed, the payment of the court fees and other legal expenses payable in the case, up to and including conviction; shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine or of such part as may be paid or recovered, shall be applied as follows:
- (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 account of the State.
426. 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 commitment;
- (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 instalment.

427. (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 commitment in respect of the non-payment of that sum, the Court may, subject as aforesaid, direct payment by instalments of the sum so adjudged to be paid. **Allowance of further time and payment by instalments.**

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

(3) Where before the expiration of the time allowed, the convict surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of the sum and, states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may, if it thinks fit, issue a warrant committing him to prison.

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

428. In all cases where a convict, against whom a warrant of commitment 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. **Payment of penalty to person executing warrant.**

429. Where a convict is brought to a prison to be imprisoned by virtue of a warrant of commitment, 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 and inclusive. **Commencement of imprisonment pursuant to a warrant.**

430. 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 of the person, and if on new evidence produced to the court or proof of a change of circumstances the court deems fit, having regard to all the circumstances of the case that it is just to do so, the court may:

**Varying or discharging order for sureties.**

(a) reduce the amount for which it was ordered that the surety or sureties should be bound;

(b) dispense with the surety or sureties; or

(c) otherwise deal with the case as the court may think just.

431. (1) Where a person has been committed to prison by the 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 officer in charge of the prison the sum mentioned in the warrant of commitment together with the amount of the costs, charges and expenses, if any, and the officer in charge of the prison shall receive the sums and discharge the person, unless he is in custody for some other matter.

**Right of person imprisoned in default to be released on paying sum and effect of part payment.**

(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 damages or compensation 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 or record as the court may consider to be required in the circumstances.

(5) In reckoning:

(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.

432. 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:

**Fines may be ordered to be recoverable by distress.**

(a) order the fine or penalty to be recoverable 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 Fourth Schedule to this Law.



433. Where the court orders a sum to be recoverable by distress, it shall issue a warrant which shall be in writing and signed by the court authorising the person charged with the execution of the warrant to take any money as well as any goods of the person against whom distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant. **Warrant of distress.**
434. In the execution of a distress warrant the following provisions shall have effect: **Procedure on the execution of distress warrant.**
- (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 from executing the warrant by the fastening of doors or otherwise, the Magistrate or Area Court Judge may, by writing under his hand endorsed on the warrant, authorize 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, and to the value of N20,000.00, 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 public auction not less than 5 days and not more than 14 days after the making of the distress, but where consent in writing is so given, the sale may be in accordance with the consent;
  - (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 sooner paid;
  - (f) where a person charged with the execution of a warrant of distress:
    - (i) wilfully retains from the proceeds any property sold to satisfy the distress, or
    - (ii) otherwise 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 summary conviction before a Magistrate, to a penalty not exceeding N20,000.00, but nothing in this paragraph shall affect the liability of the person to be prosecuted and punished for extortion, or for the return of the sum of money or value of the item extorted, by the person;

(g) a written account of the costs and charges incurred in respect of the execution of a warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the court, and the convict on whose movable property the distress was levied may, at any time within one month after the making of the distress, inspect the account, without payment of any fee or reward, at any time during office hours and to take a copy of the account;

(h) a person charged with the execution of a warrant of distress shall sell the distress or cause the distress to be sold, and may deduct out of the amount realized by the sale all costs and charges actually incurred in effecting the sale, and shall pay to the court or to some person specified by the court, the remainder of the amount, in order that:

- (i) the amount may be applied in payment of the sum for which the warrant was issued, and of the proper costs and charges of the execution of the warrant, and
- (ii) the surplus, if any, may be rendered to the person on whose movable property the distress was levied.

435. 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 426 of this Law, shall apply.
- Part payment to reduce period of imprisonment in proportion**

**PART 41 - DETENTION IN A SAFE CUSTODY OR SUITABLE PLACE OTHER THAN PRISON OR MENTAL HEALTH ASYLUM**

436. (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 Attorney-General of the State may direct and whilst so detained shall be deemed to be in legal custody.
- (2) A person detained in a safe custody or suitable place other than prison or mental health asylum may at any time be discharged by the Attorney-General of the State on licence.
- (3) The Attorney-General of the State may at any time revoke or vary a licence and where a licence has been revoked, the person to whom the licence relates shall proceed to such place as the Attorney-General of the State may direct and if he fails to do so may be arrested without warrant and taken to the place.
- Conditions attached to detention in a safe custody or suitable place other than prison or mental asylum**

**PART 42 - CHILD OFFENDERS**

437. (1) Where a child is alleged to have committed an offence, the provisions of the Child Rights Law shall apply.
- (2) Notwithstanding subsection (1) of this section, the provisions of this Law relating to bail shall apply to bail proceedings of a child offender.
- Procedure for trying child offenders.**

**PART 43 - PROBATION AND NON-CUSTODIAL ALTERNATIVES**

438. In this Part, "probation order" means an order containing a condition specified in section 440 of this Law.
439. (1) Where a defendant is charged before a court with an offence punishable by law and the court thinks that the charge is proved but is of opinion that having regard to:
- (a) the character, antecedents, age, health, or mental condition of the defendant charged,
- Meaning of Probation Order**
- Conditional release of defendant and payment of compensation for loss of injury and of costs.**

- (b) the trivial nature of the offence, or
- (c) the extenuating circumstances under which the offence was committed,

it is inexpedient to inflict a punishment or any order than a nominal punishment or that it is expedient to release the defendant on probation, the court may, without proceeding to conviction, make an order specified in subsection (2) of this section.

(2) The court may make an order under subsection (1) of this section:

(a) dismissing the charge; or

(b) discharging the defendant conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear at any time during such period not exceeding 3 years as may be specified in the order.

(3) The court may in addition to an order under subsection (2) of this section, order:

(a) the defendant to pay such damages for injury or compensation for any loss suffered by a person by reason of the conduct or omission of the defendant, and to pay such costs of the proceedings as the court thinks reasonable; and

(b) the parent or guardian of the defendant to pay the damages and costs specified in paragraph (a) of this subsection, where the defendant has not attained the age of 18 years and it appears to the court that the parent or guardian of the defendant has conduced to the commission of the offence.

(4) Where an order is made under this section, the order:

- (a) for the purpose of reinvesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner, and
- (b) as to the payment of money upon, or in connection with, such restitution or delivery, shall have the like effect as a conviction.

440. (1) A recognizance ordered to be entered into under this Part shall, where the Court so orders, contain a condition that the defendant be under the supervision of such person or persons of the same sex, called a probation officer, as may, with the consent of the probation officer, be named in the order during the period specified in the order.

**Probation  
Orders and  
conditions of  
recognizance**

(2) A recognizance under this Part may contain such additional conditions with respect to residence, abstention from intoxicating substance and any other matter as the Court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

(3) The court by which a probation order is made shall furnish to the defendant a notice in writing stating in simple terms the conditions he is required to observe.

441. A probation officer may at any time be relieved of his duties or in case of the death of the probation officer named, another person may by consent be substituted by the court before which the defendant is bound by his recognizance to appear for conviction or sentence.

**Relieving  
probation  
officer of his  
duties**

442. (1) A probation officer shall, subject to the directions of the court:

**Duties of  
probation  
officers**

(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

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

(c) report to the court as to his behaviour; and

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

(2) The Chief Judge of Kogi State shall make regulations with respect to the appointment of probation officers, including designation of persons of good character as probation officers from which list a court within the district

or division where the probation officer resides may make its appointment under section 440 of this Law.

443. 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 conditions of the recognizance should be varied, summon the defendant bound by the recognizance to appear before it and if he fails to show cause why the variation should not be made:

(i) vary the terms of the recognizance by 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.

444. (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**

(2) The defendant where arrested shall, if not brought before the court before which he is bound by his recognizance to appear for conviction or sentence, be brought before another court.

(3) The court before which a defendant on arrest is brought or before which he appears in pursuance of the summons may, where it is not the court before which he is bound by his recognizance to appear for conviction or sentence remand him to custody or on bail until he can



be brought before the last-mentioned court.

(4) A defendant so remanded in custody may be committed during remand to a prison to which the court having power to convict or sentence him has power to commit prisoners.

(5) A court before which a defendant is bound by his recognizance to appear for conviction and sentence on being satisfied that he has failed to observe a condition of his recognizance may, without further proof of his guilt, convict and sentence him for the original offence.

445. (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.

**Suspended  
sentence and  
community  
service**

(2) The court may, with or without conditions, sentence the convict to perform specified service in his community or such community or place as the Court may direct.

(3) A convict shall not be sentenced to suspended sentence or to community service for an offence involving the use of arms, offensive weapon, sexual offences or for an offence which the punishment exceeds imprisonment for a term of 3 years.

(4) The court, in exercising its power under subsection (1) or (2) of this section shall have regard to the need to:

- (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.

446. (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. **Arrangements for community service**

(3) the functions of the Community Service Centre 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, and
- (vi) 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) counselling 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 officers 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 environment 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 reformatory effect on the character of the convict.

(5) The community service sentence shall be performed as close as possible to the place where the convict ordinarily resides to ensure that the community can monitor his movement.

(6) Before passing a community service order, the court shall consider the circumstances, character, antecedents of the convict and other factors that may be brought to its attention by the Registrar of the Community Service Centre.

(7) A convict sentenced to community service shall not at the same time be sentenced to a term of imprisonment for the same offence, but may, in default of performing his community service diligently and to the satisfaction of the court, be sentenced to a term of imprisonment for the remaining part of his community service to which he is in default or neglect.

(8) Upon sentence to community service, a convict shall be required to produce a guarantor who shall undertake to produce the convict if he absconds from community service.

(9) The guarantor shall be a relation of the convict or any other responsible person of adequate means or substance who shall produce the convict when required by the court, failing which the guarantor shall be liable to a fine of N100,000.00 or more as the circumstances of each case may require.

447. (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.

(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.

Performance of  
community  
service order

(3) *The community service order shall contain such directives as the court may consider necessary for the supervision of the convict.*

(4) The Registrar of the court making the community service order shall forward to the Registrar of the Community Service Centre a copy of the order together with any other document and information relating to the case.

448. (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 N100,000.00 or cancel the order and sentence the convict to any punishment which could have been imposed in respect of the offence, but the period of community service already performed may count in the reduction of the sentence.
- (4) A supervising officer shall not employ the convict for his or her personal benefit.
- (5) Where a supervising officer employs the convict for his or her personal benefit, the officer is liable to a fine of N100,000.00 or more, or such other punishment as the court considers fit.

449. 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: **Commission of further offence.**

(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, the 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 court is a High Court dealing with the matter at first instance or on appeal, the High Court shall proceed under paragraphs (a) and (b) of this section.

450. (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. **Amendment, review and discharge of community service orders**

(2) On receipt of the information, the supervising officer shall furnish the Registrar of the Community Service Centre with the information giving the details of the case.

(3) On application by the Registrar of the Community Service Centre, the court shall make appropriate amendment in the community service order and inform the court having jurisdiction for the area where the convict intends to reside.

(4) The court shall give the convict a copy of the amended community service order which the convict shall present to the subsequent Community Service Centre.

451. (1) Where a 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. **Discharge of community service order**
- (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.
452. (1) A defendant convicted of an offence triable summarily may be sentenced and ordered to serve the sentence at a Rehabilitation and Correctional Centre established by the State Government or other agencies 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

453. Where the State Comptroller of Prisons or his representative not below the rank of a Director makes a report to the court recommending that a prisoner: **Court may direct release of prisoner before completion of sentence**
- (a) sentenced and serving his sentence in prison is of good behaviour, and
- (b) has served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment, the court may, after hearing the prosecution and the prisoner or his legal representative, order that the remaining term of his imprisonment be suspended, with or without conditions, as the court considers fit, and the prisoner shall be released from prison on the order.
- (2) A prisoner released under subsection (1) of this section shall undergo a rehabilitation programme in a government facility or any other appropriate facility to enable him to be properly reintegrated to the society.
- (3) The State Comptroller of Prisons or his representative not below the rank of a Director shall make adequate arrangement, including budgetary provision, for the facility.

**PART 45- THE ADMINISTRATION OF CRIMINAL JUSTICE  
MONITORING COMMITTEE**

454. (1) There is established the Administration of Criminal Justice Monitoring Committee (in this Law referred to as "the Committee"). **Establishment of the Administration of criminal Justice Monitoring Committee**
- (2) The Committee shall consist of:
- (a) the Chief Judge of Kogi State who shall be the Chairman;
  - (b) Attorney-General of the State or his representative not below the rank of a Director in the Ministry;
  - (c) a Judge of the High Court;
  - (d) a Chief Magistrate;
  - (d) the Commissioner of Police or his representative not below the rank of Chief Superintendent of Police;
  - (e) a Director of Prisons;
  - (f) the Chairman of any of the local branch of the Nigeria Bar Association in the Kogi State to serve for two years only;
  - (g) A representative of the Director-General of the Legal Aid Council in the State; and
  - (h) a representative of any Civil Society Organization working on human rights and access to justice or women rights to be appointed by the Committee to serve for a period of two years only.
- (3) A member not being a public officer may resign his appointment by a letter to the Chairman.
- (4) Members of the Committee shall be paid such allowances as are applicable to State Boards, Commissions and Agencies.
455. (1) The Committee shall be charged with the responsibility of ensuring effective and efficient **Functions of the Committee**

application of this Law by the relevant agencies.

(2) Without prejudice to the generality of subsection (1) of this section, the Committee shall ensure that:

(a) criminal matters are speedily dealt with;

(b) of criminal cases in courts is drastically reduced; (c) congestion in prisons is reduced to the barest minimum;

(d) persons awaiting trial are, as far as possible, not detained in prison custody;

(e) the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in the State;

(g) submit quarterly report to the Governor to keep him abreast of developments towards improved criminal justice delivery and for necessary action; and

(h) carry out such other activities as are necessary for the effective and efficient administration of criminal justice.

456. (1) The Committee shall meet and perform its functions at a place to be designated by the Chairman and shall maintain a secretariat with such number of ad-hoc staff as it considers necessary for the efficient running of its affairs. **Secretariat of the Committee**

(2) A Secretary, who shall be a legal practitioner and civil servant not below the rank of Deputy Director, shall be appointed by the Attorney-General of the State for the Committee.

457. (1) There is established for the Committee a fund into which shall be paid: **Fund of the Committee**

(a) budgetary allocation to it through the Office of the Attorney-General of the State;

(b) such monies as may, be provided to the Committee by any public, private or international organisation by way of a grant, support or assistance on such terms as are

consistent with its functions; and

(c) such monies as may be received by the Committee in relation to the exercise of its functions under this Law.

(2) The Secretary of the Committee shall be the accounting officer for the purpose of controlling and disbursing monies from the Fund established under this section.

458. (1) The Secretary shall submit to the Attorney-General of the State not later than 30th September in each financial year, an estimate of its expenditure and income during the next financial year. **Annual estimates and accounts.**

(2) The Committee shall keep proper accounts and records in respect of each financial year and shall cause its accounts to be audited not later than 2 months from the end of each financial year.

459. The Committee shall prepare and publish an annual report of its activities. **Annual report.**

460. (1) For the purpose of carrying out the functions conferred on the Committee under this Law, it: **Power to obtain information.**

(a) shall have a right of access to all the records of any of the organs in the administration of justice sector to which this Law applies; and

(b) may, by notice in writing served on any person in charge of any such organs require that person to furnish information on such matters as may be specified in the notice.

(2) A person required to furnish information under subsection (1) of this section shall comply with the notice within a stipulated time.

461. (1) The Committee may make standing orders regulating its proceedings. **Proceedings and quorum of the Committee**
- (2) The quorum at a meeting of the Committee shall consist of the Chairman or his representative (who shall be a Judge of the High Court) and three other members of the Committee.

(3) Subject to the provisions of the applicable standing order, the Committee shall meet at least once a quarter.

(4) At a meeting of the Committee, the Chairman, or in his absence, his representative shall preside at that meeting.

(5) The validity of proceedings of the Committee is not affected by:

- (a) a vacancy in the membership of the Committee; or
- (b) a defect in the appointment of a member of the Committee.

(6) A member of the Committee who has a personal interest in any arrangement entered into or proposed to be considered by the Committee shall disclose his interest to the Committee and shall not vote on any question relating to the arrangement.

#### PART 46 - TRIAL OF CORPORATIONS

462. (1) In this Part "corporation" means anybody corporate, incorporated in Nigeria or elsewhere. **Interpretation under this Part**

(2) 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 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.

(3) 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.
463. Where a corporation is called upon to plead to any charge or information including a new charge or information framed under the provisions of this Law or charge or information added to or altered under the provisions of this Law, it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under this Law and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty. **Plea by corporation**
464. An information may be preferred against a corporation after the preparation of the proofs of evidence relating to the charge. **Information against a corporation.**
465. An information under section 464 may include, either in substitution for or in addition to counts charging the offence for which proofs of evidence have been prepared, counts which may be lawfully joined in the same information and are founded on facts or evidence disclosed in the proofs of evidence. **Joinder of counts in same information.**
466. A representative may, on behalf of a corporation:
- (a) state, whether the corporation is ready to be tried on a charge or information or altered charge or, information to which the corporation has been called on to plead;
  - (b) consent to the hearing and determination of a complaint before the return date of a summons;
  - (c) express assent to the trial of the corporation on information notwithstanding that a copy of the information and notice of trial has not been served on the corporation 3 days or more before the date on which the corporation is to be tried.
- Power of representative**
467. 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**



468. Where a representative does not appear, any such requirement as is referred to in section 463 of this Law, shall not apply. **Non-appearance of representative**
469. (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. **Saving under this part and joint charge against corporation and individual**
- (2) A corporation may be charged jointly and tried with an individual for any offence.

#### **PART 47 -APPEALS FROM MAGISTRATE COURTS TO HIGH COURTS**

470. (1) Appeals from a magistrate or Area court to the High Court of Kogi State in criminal matters shall be in accordance with the High Court Law of Kogi State or any rule made under any such Law. **Appeals from magistrate or Area courts**
- (2) Where a defendant has been acquitted or an order of dismissal made by a magistrate or Area court, the prosecutor may appeal to the High Court from such acquittal or dismissal on the ground that it is erroneous in law or that the proceedings or any part thereof were in excess of the jurisdiction of the court.
- (3) 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.
- (4) 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.
- (5) An appellant shall file many copies of his notice of appeal as there are parties to be served, in addition to the copies for the court
- (6) An appellant, in an appeal brought in accordance with 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.

(7) An appellant, shall file as many copies of his brief of grounds of appeal, as there are parties to be served, in addition to the copies for the court.

(8) In his brief of grounds of appeal the appellant shall set forth in separate ground of appeal each error, omission, irregularity or other matter on which he relies or of which he complains with particulars sufficient to give the respondent due notice thereof.

(9) Without prejudice to the generality of subsection (8), the brief of ground of appeal may set forth all or any of the following grounds:

- (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 inadmissible evidence has been admitted by the lower court and that in the latter case there is no sufficient admissible evidence to sustain the decision after rejecting such inadmissible evidence;
- (f) that the decision is unreasonable or cannot be supported having regard to the evidence
- (g) that the decision is erroneous in point of law;
- (h) that some other specific illegality, not mentioned and substantially affecting the merits of the case, has been committed in the course of the proceedings in the case; or
- (i) that the sentence passed on conviction is excessive or inadequate, unless the sentence is one fixed by law.

(10) Where the appellant relies upon the grounds of appeal mentioned in subsection (9) (d), the name of the court shall be stated and, if it is alleged that a decision has been made, date of such decision.

(11) Where the appellant relies upon the ground of appeal mentioned in subsection (9) (g), the nature of the error shall be stated and, where he relies upon the ground of appeal mentioned in subsection (9) (h), the illegality complained of shall be clearly specified.

(12) A sentence by a magistrate court shall take effect notwithstanding an appeal unless:

(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 has ultimately to undergo.

(13) A High Court exercising appellate jurisdiction shall not, in the exercise of such jurisdiction, interfere with the finding or sentence or other order of the lower court on the ground only that evidence has been wrongly admitted or that there has been a technical irregularity in procedure, unless it is satisfied that a failure of justice has been occasioned by such admission or irregularity.

#### **PART 48 - FEES AND MISCELLANEOUS PROVISIONS**

471. Subject to the provisions of this Law, such fees as may be prescribed under this Law shall be paid in any proceeding before a court. Payment of fees
472. 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 by whom the court has power to order costs to be paid or remit the payment of the fees. Suspension of payment of fees
473. The provisions of this Law relating to fees and to the giving of security shall not apply to the State or to a public officer acting in his official capacity. State not required to pay fees
474. Subject to the express provisions, if any, of the Rules of

Schedules to this Law may, in accordance with any instructions contained in the forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply. **Use of forms in Schedules**

475. The Chief Judge of Kogi State may make rules in respect of any or all of the following matters: **Power to make Rules of Court**
- (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.
476. The Attorney-General of the State may make regulations and guidelines in respect of matters pertaining to Public Prosecutions and the Criminal Justice System except Practice Directions. **Power of Attorney-General to make**
477. The Prosecutor's Guidelines in the Fifth Schedule and the Whistle-blowing Programme in the Sixth Schedule in this law shall be applicable in the State. **Fifth and Sixth Schedules.**
478. Where no other sanction is provided for in this Law, failure on the part of a person to discharge his responsibility under this Law without reasonable cause shall be treated as misconduct by the appropriate authority. **Non-compliance**

479. (1) Nothing in this Law shall affect the use or validity of any form in respect of a procedure or an offence specified under the provisions of a written law or the validity of any other procedure provided by any other written law. **Saving as to other forms and procedure**
- (2) Nothing in this Law shall affect the validity of any charge, information, complaint or proceeding initiated or commenced under any other law in so far as the proceeding was initiated or commenced before this Law came into force.
- (3) In the absence of any provision in this Law with respect to any procedure or rule, the provisions of the Criminal Procedure Code(Northern Nigeria) 1960 shall be applicable.
- (4) Subject to the provisions of subsection (3) above, where there are no express provisions in this Law, the Court may apply any procedure that will meet the justice of the case.
480. The Criminal Procedure Law Cap. C41 Laws of the Federation of Nigeria, 2004, Criminal Procedure (Northern States) Law Cap. C42 Laws of the Federation of Nigeria, 2004, and the Administration of Justice Commission Law Cap. A3 Laws of the Federation of Nigeria, 2004 shall not apply to criminal proceedings in Kogi State. **Inapplicability of Certain Federal Legislations In Kogi State.**

**FIRST SCHEDULE**

Section(151(2))

FORMS

FORM NO.1

**GENERAL FORM OF TITLE OF PROCEEDINGS**

(For use in the High Court)

In the High Court of .....

In the.....Judicial Division

Holden at.....

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

Between

..... Complainant, and

And

..... Defendant.

Complaint.....

(For use in Magistrates' Court or other Courts)

**IN THE MAGISTRATES' COURT**

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

In the.....Magisterial District

Holden at.....

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

Between

..... Complainant, and

And

..... Defendant.

Complaint.....



FORM NO. 2 (Section 52)

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

(General Title-Form No. 1)

Before the ..... High/Magistrate Court of the .....

In the Judicial Division/Magisterial District sitting at .....

The ..... day of ..... 20 .....

A.B., having made a complaint that C.D., hereinafter called the defendant, on the ..... day of ..... 20 ..... at ..... in the ..... above-mentioned, ..... did ..... It is ordered that the defendant do forthwith to the satisfaction of ..... enter into a recognizance in the sum of ..... with ..... surety in the sum of ..... [each] to keep the peace and be of good behaviour towards the State and all persons, and especially towards the complainant, for the term of ..... now next ensuing:

And it is ordered that if the defendant fails to comply with this order he shall be imprisoned in the prison at ..... for the space of ..... unless he complies with the order.

If costs are ordered, add-

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

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

.....  
Judge (or Magistrate)

**FORM No. 3**(Section 87)

**COMPLAINT**

(General Title-Form NO. 1)

The complaint of C.D (address and description), who upon oath (or affirmation) states that A B of (address and description) on the..... day of..... 20 ..... at..... in the above-mentioned, did .....

.....taken before  
me this .....day of.....

.....  
Judge [or Magistrate]

**FORM No. 4**(Section 87, 215)  
**SUMMONS TO DEFENDANT**

(General Title-Form No. 1)

To A, B of.....

Complaint has been made this day by.....that you on the  
.....day of.....20.....at in the  
..... above-mentioned did

\*State concisely the substance of the complaint

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

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

.....  
Judge [or Magistrate]

**FORM NO. 5**(Section 129)

**WARRANT FOR ARREST OF DEFENDANT WHO HAS DISOBEYED SUMMONS**

(General Title-Form NO. 1)

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

Complaint has been made on the ..... day of .....20 ..... that AB hereinafter called the defendant on the ..... day of ..... 20 .....In .....the above-mentioned did

.....

.....

"State concisely the substance of the complaint"

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

.....

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

You are hereby commanded to bring the defendant before High/Magistrate's Court of the..... in the Judicial Division/Magisterial District sitting at..... forthwith to answer to the said complaint or be further dealt with according to law

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

.....  
**Judge [or Magistrate]**

**FORM NO. 6** (Section 130)

**WARRANT FOR ARREST OF DEFENDANT IN FIRST INSTANCE**

(General Title-Form No. 1)

To.....,

Police Officer.....

Complaint on oath has been made on the.....day of.....

by.....that A.B., hereinafter called the defendant on the.....

day of.....at.....in the.....above-

mentioned did.....

.....  
"State concisely the substance of the complaint"

You are hereby commanded to bring the defendant before High/Magistrate Court of the..... in the Judicial Division/ Magisterial Division sitting at..... to forthwith answer the said complaint and be dealt with according to law.

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

.....  
**Judge [or Magistrate]**

**FORM NO. 7 (Section 142)**

**FORM D SEARCH WARRANT (TITLE OF PROCEEDING)**

In the Magistrate Court of ..... Magistrate District

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

Whereas information on oath and in writing this day has been made that there is reasonable ground for believing that there is in (state the place to be searched and state what is to be searched for in the terms of (a), (b) or (c) of 121(1) of this Law.)

You are hereby commanded in the name of the Federal Republic of Nigeria, with proper assistance, to enter the above-named (state the place to be searched) and there diligently search for the things aforesaid and where the same or any part thereof found on search, to bring the things found, and also the said (name the occupier of the place to be searched) before this Court to be dealt with according to law.

This warrant may be executed at any time on any day, including a Sunday or public holiday and may also be executed at any hour during day or night.

Issued at .....this..... day of..... 20.....

.....  
Magistrate



**INVENTORY OF ITEMS RECOVERED DURING EXECUTION OF SEARCH WARRANT  
IN TERMS OF SECTION 142**

**A. LIST OF ITEMS DETAINED AND PLACE OF SUCH DETENTION**

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

**B. LIST OF ITEMS RELEASED TO THE OWNER(S)**

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

**WITNESSES**

.....  
NAME/RANK/FORCE No. OF OFFICER  
EXECUTING THE WARRANT.

.....  
NAME/TITLE OF THE OCCUPIER  
OF THE PLACE SEARCHED

.....  
NAME/RANK/FORCE No. OF  
OF ACCOUNTING OFFICER

.....  
NAME/TITLE OF AN INDEPENDENT  
WITNESS

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

Form No. 8(Section 291)

REPORT AND REQUEST FORM 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's last known place of abode) in remand custody in.....(state the exact place of custody in which the applicant proposes to remand the Respondent such as the name and location of the prison or other detention place) who is reasonably suspected to have committed the offence of .....contrary to section .....of the.....within .....High Court Division/Magisterial District on or about .....(state the date or approximate date or the period of commission of 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 committing of the offence such as forensic evidence; marks or finger prints, etc.

6. Confessional statement .....Yes..... No

7. Any previous conviction for the same or similar offence Yes.....No.....

8. If (7) above is Yes, state the particulars of previous conviction(s)  
.....  
.....

Found in custody or possession of offensive weapon, object or substance:..... Yes.....NO.....

9. Identification by victim(s) or witness (es) Yes..... NO.....

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

Name:

Age

Sex

Address:

Occupation:

(ii) Name:

Age

Sex

Address:

Occupation:

(iii) Name:

Age

Sex

Address:

Occupation:

(iv) Name:

Age

Sex

Address:

Occupation:

(v) Name:

Age

Sex

Address:

Occupation:

(vi) Name:

Age

Sex

Address:

10. Need for further investigation ..... Yes ..... No.....

11. Period/duration required for further investigation..... (State approximate days/weeks/months required to complete investigation)

12. Any further relevant information.....  
.....

Signed: .....

(Commissioner of Police/Director of Public Prosecution/  
Law officer/ Police officer)

**INFORMATION ON LEGAL REPRESENTATION**

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,

(2) 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 way of legal aid, please provide the relevant information below. If you do not know any organisation you wish to apply to provide legal practitioner to represent you, kindly enter the "Legal Aid Council" as the name of the organisation:

Name of the Organisation.....

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 the defendant:

.....

**FORM NO. 10**(Section 239)

**SUMMONS TO WITNESS**

(General Title-Form No. 1)

To E.F.....

A.B has been charged by.....for that he on the  
..... day of ..... 20 .....at in the.....l.....

above-mentioned, \*did .....

\*State concisely the substance of the complaint.

and it appears to me by the oath of.....that you are likely to  
give material evidence therein on behalf of the informant [or complainant  
or defendant], and will not voluntarily appear for that purpose.

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

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

.....  
Judge [or Magistrate]



**FORM OF INFORMATION**

**FORM NO. 11** (Section 375)

The Federal Republic of Nigeria v C.D

In the High Court of.....

In the Judicial Division of.....

The Federal Republic of Nigeria v. CD

The ..... day of ..... 20 .....

At the sessions holding at .....

On the ..... day of ..... 20....., the court is informed by the Attorney- General of the Federation on behalf of the Federal Republic that C.D Is charged with the following offence.[or offences]. (and statement of offence [offences].

**FORM NO. 12**(Section 180)

**FORFEITURE ON CONVICTION**

(General Title-Form No. 1)

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

AB., hereinafter called the defendant, was by his recognizance entered into  
the day of bound in the sum of ....., and his sureties C.D and  
F.F. in the sum of ..... each, the condition of the recognizance  
being that the said defendant should.....

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

It is therefore adjudged that the said recognizance be forfeited, and that he  
said ..... Pay to..... The sum of and the further sum of  
.....for costs [by instalments of ..... for every.....  
days, the first instalments to be paid] forthwith or on the ..... day of  
.....]:

And in default of payment it is ordered that the sum due from the  
said..... under this order be levied by distress and sale of his  
goods, and in default of sufficient distress that he be imprisoned in the prison  
at ..... for the peace of ..... unless the said sums  
[and all costs and charges of the (said distress and) committed] be sooner  
paid.

.....  
**Judge [or Magistrate]**

**FORM No. 13**

**WARRANT FOR APPREHENSION OF A WITNESS**

(General Title-Form No. I)

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

And he has neither appeared thereto, nor offered any just excuse for his neglect.

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

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

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

.....  
**Judge [or Magistrate]**

**FORM No. 14(Section 242)**

**WARRANT FOR ARREST OF WITNESS IN FIRST INSTANCE**  
(General Title-Form No. 1)

To .....

A.B has been charged by .....for .....on the  
.....aforesaid,

\*did.....

\*State concisely the substance of the complaint

.....

And it appearing to me by oath of ..... that E.F. is likely to give material evidence concerning the said matter, and that it is probable he will not attend to give evidence unless compelled so to do:

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

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

**Judge [or Magistrate]**

## FORM NO.15(Section 248)

**WARRANT TO COMMIT A WITNESS**

(General Title-Form No. 1)

To ..... and to the Superintendent of .....Prison.  
E.F ..... having appeared or being brought before the  
High/Magistrate Court of the ..... in the Judicial Division/Magisterial  
District sitting at..... on day, the..... day of .....  
to testify what he should know concerning a certain case against A.B.,  
refused to take an oath [or having taken an oath] refused to answer any [or  
a certain] question put to him concerning the case and did not offer any just  
excuse for his refusal.

You, the said Police Officer are hereby commanded to convey the said E.F  
safely to the said Prison, and there deliver him to the Superintendent thereof,  
together with this Warrant, and you, the Superintendent of the said Prison, to  
receive him into your custody, and keep him for the space of, unless he in the  
meantime consents to be examined and to answer questions concerning  
the case.

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

.....  
**Judge [or Magistrate]**

**FORM No. 16 (Section 314)**

**CONVICTION (IMPRISONMENT)**

(General Title- Form No. 1)

Before the High/ Magistrate Court of the.....in the Judicial  
Division/ Magisterial District sitting at.....on the ..... Day of  
..... 20.....

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

at ..... within the .....above-mentioned, did

.....

And it is ordered that the defendant, for his said offence, be imprisoned in  
the prison at. ....and kept for the period of  
.....

If costs are ordered, add-

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

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

.....  
**Judge [or Magistrate]**



**FORM NO. 17**(Section 317,320, and 324)

**ORDER FOR MONEY (NOT A CIVIL DEBT)**  
(General Title- Form No. 1)

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

A.B. having made a complaint that C.D hereinafter called the defendant,  
on the ..... day of ..... at ..... within  
the ..... above-mentioned, did .....

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

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

.....  
**Judge [or Magistrate)s**

**FORM NO. 18**(Section 439)

**ORDER OF DISMISSAL WITH DAMAGES**

General Title- Form No. 1)

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

The ..... day of ..... 20..... Complaint having been made by A.B that C.D hereinafter called the defendant, on the .....day of ..... at..... in the.....above-mentioned, did.....

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

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

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

.....  
**Judge [or Magistrate]**

**FORM No. 19**

**ORDER FOR OTHER MATTERS**

(General Title- Form No. 1)

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

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

On hearing the said compliant, it is ordered that the defendant.....

If imprisonment is ordered, add-

And it is adjudged that if the defendant neglect or refuse to obey this order, he be imprisoned in the prison at ..... for the space of. .... days [or unless the said order be sooner obeyed].

If costs are ordered, add-

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

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

.....  
**Judge [or Magistrate]**

**FORM NO. 20**(Section 368))

**ORDER OF DISMISSAL**

(General Title- Form No. 1)

Before the High/Magistrate's Court of the .....in the Judicial Division/  
Magisterial District sitting at ..... the ..... day of  
..... 2012 Complaint having been made by .....that A.B  
hereinafter called the defendant, on the..... day  
of.....at.....in the.....above-mentioned, did.....

\*This Court having heard and determine the said complaint do dismiss same\*

\*on its merits or without prejudice to its being brought again

If costs are ordered, add-

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

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

.....  
**Judge [or Magistrate]**

**FORM No. 21 (Section 433)**

**WARRANT OF DISTRESS (FOR PENALTY)**

(General Title- Form No. 1)

To.....

A.B., hereinafter called the defendant, was on the day of.....  
Convicted before the High/Magistrate's Court sitting at or that he on the  
.....day of..... at..... in the above-mentioned,  
did .....

And it was adjudged that the defendant for the said offence should be  
imprisoned[ or forfeit and pay the sum of. ....] and should also pay  
the sum of [for compensation and .....] for costs [by instalments of  
..... for every..... days, the first instalment to be paid  
forthwith [or on the ..... day of .....], and that in  
default the said sum [or sums] should be levied by distress, .....  
and default having been made in payment.

You are hereby commanded forthwith to make distress of the goods of the  
defendant ( expect the wearing apparel and bedding of him and his family,  
and, the tools and implements of his trade) and if within the space of five  
clear days next after the making of such distress, unless he consents in writing  
to an earlier sale, the sum stated at the foot of this warrant, together with the  
reasonable costs and charges of the making and keeping of the said  
distress, be not paid, then to sell the said goods, and pay the money arising  
there from to the Registrar of that court, and if no such distress can be found,  
to certify the same to that court.

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

.....  
*Judge [or Magistrate]*

N                      K

Amount ordered.....

Paid.....

Remaining due.....

Cost of issuing this warrant.....

Total amount to be levied.....

**NOTICE OF TRIAL**

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

Also find attached is the "Information on Legal Representation" Form which you must complete and return to the Registry of this court within 14 days of service on you of this notice of trial.



**SECOND SCHEDULE**

**CHARGES**

**FORM OF CHARGE UNDER THE PENAL CODE(Sections 191)**

**A: CHARGES WITH ONE HEAD**

**Charge on Section 115, Penal Code**

(1)(a) I..... [name of presiding officer of court] hereby charge you ..... [name of the defendant] as follows -

(b) That you on or about the.....day of..... 20 ..... at ..... being a public servant in the Ministry of ..... directly accepted from A. B. for yourself [or for another person named 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 115 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 the..... day of ..... 20..... at..... in the course of the trial of AB. 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 158 of the Penal Code.

**Charge on Section 224**

(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 224 of the Penal Code.

**Charge on section 227**

(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 227 of the Penal Code.

Charge on section 217

(5) That you on or about the .....day of ..... 20.....at .....voluntarily caused grievous hurt to A. B by..... [state details of grievous hurt] and thereby committed an offence punishable under section 247 of the Penal Code.

Charge on section 312

(6) That you between the ..... day of ..... 20..... and the ..... 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 312 of the Penal Code.

Charge on section 324

(7) That you on or about the ..... day of ..... 20 ..... at ..... cheated A. B. by 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 under section 324 of the Penal Code.

**B: CHARGES WITH TWO OR MORE HEADS**

Charges on section 221 and 224

(1)(a) I..... [Name of presiding officer of court] hereby charge you..... [Name of the 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 221 of the Penal Code.

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 224 of the Penal Code.

Alternative charges on section 158

(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 ..... 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 158 of the Penal Code.

**Alternative charges on section 287,312 or 317**

(3) That you on or about the .....day of .....at..... committed theft by stealing a horse the property of A.B. and thereby committed an offence punishable under section 287 of the Penal Code.

(or)

That you on or about the .....day of..... 20.....at ..... being entrusted with the said horse committed criminal breach of trust dishonestly misappropriating it and thereby committed an offence punishable under section 312 of the Penal Code.

(or)

That you on or about the .....day of..... 20.....at.....dishonestly received the said horse knowing or having reason to believe that it was stolen property and thereby committed an offence punishable under section 317 of the Penal Code.

**THIRD SCHEDULE**

**INFORMATION PRECEDENT(Section 376 (4))**

**STATEMENT OF OFFENCE**

Perjury, contrary to section 158 of the Penal Code

*Particulars of offence*

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

2. **STATEMENT OF OFFENCE**

Delivery of counterfeit coin or note, contrary to section 438 of the Penal Code.

*Particulars of offence*

A.B., on the..... day of ..... 20, at ..... market in the division of ..... delivered counterfeit Naira coins/notes, knowing the same to be counterfeit.

3. **STATEMENT OF OFFENCE**

Culpable Homicide, contrary to section 221 of the Penal Code.

*Particulars of offence*

A.B., on the..... day of ..... 20 in the division of.....caused the death of J.S.

4. **STATEMENT OF OFFENCE**

Abetment of culpable homicide, contrary to section 85 of the Penal Code

*Particulars of offence*

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

5. **STATEMENT OF OFFENCE**

Culpable Homicide not punishable with death, contrary to section 222 (1) of the Penal Code

*Particulars of offence*

A.B., on the..... day of ....., 20..... in the division of .....by mistake or accident or while.....caused the death of J.S.

6. **STATEMENT OF OFFENCE-FIRST COUNT**

Voluntarily causing grievous hurt, contrary to section 247 of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ....., 20..... in the division of .....voluntarily and with intent to maim, disfigure or disable, or to do some grievous harm, caused grievous hurt to the said A.B

**STATEMENT OF OFFENCE-SECOND COUNT**

Voluntarily causing hurt, contrary to section 244 of the Penal Code

*Particulars of offence*

AB., on the.....day of .....,20..... in the division of ....., voluntarily caused hurt to C.D.

7. **STATEMENT OF OFFENCE**

Rape, contrary to section 283 of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ....., 20..... in the division of ..... had sexual intercourse with E.F against her will or without her consent.

8. **STATEMENT OF OFFENCE**

Printing or engraving matter that is defamatory, contrary to section 394, of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ..... 20 ..... in division of ..... printed a matter in the form a letter [book, pamphlet, picture, or as the case may be] that is defamatory of E.F.,

[Innuendo should be stated where necessary]

9. **STATEMENT OF OFFENCE-FIRST COUNT**

Theft contrary to section 287, Penal Code

*Particulars of offence*

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

**STATEMENT OF OFFENCE-SECOND COUNT**

Dishonestly receiving stolen goods, contrary to section 317 of the Penal Code

*Particulars of offence*

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

10. **STATEMENT OF OFFENCE-FIRST COUNT**

Theft by clerk contrary to section 289 of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ..... 20 ..... in the division of ..... stole N200.00 which had been entrusted to him by H.S., for him, the said A.B., to retain in safe custody.

**STATEMENT OF OFFENCE-SECOND COUNT**

Theft by servants contrary to section 289 of the Penal Code

*Particulars of offence*

A.B., on the ..... Day of ..... 20 ..... in the division of ..... stole N200.00 which had been received by him for and on account of L.M.



11.

**STATEMENT OF OFFENCE**

Voluntarily causing hurt in committing robbery, contrary to section 300 of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ..... 20..... in the division of, robbed C.D of a watch, and at, or immediately before or immediately after, the time of such robbery did voluntarily cause hurt to the said C.D.

12.

**STATEMENT OF OFFENCE**

Extortion contrary to section 292 of the Penal Code

*Particulars of offence*

AB., on the..... Day of ..... 20 ..... in the division of, with intent to extort money from C.D., caused the said C.D. to receive a letter containing threats of injury or detriment to be caused to E.F.

13.

**STATEMENT OF OFFENCE**

Extortion contrary to section 295, of the Penal Code

*Particulars of offence*

A.B., on the..... Day of ..... 20 ..... in the division of with intent to extort money from C.C., accused or threatened to accuse the said C.D of having committed or attempted to commit an offence punishable with death or imprisonment.

14.

**STATEMENT OF OFFENCE**

Fraudulent inducement to obtain property, contrary to section 322, of the Penal Code

*Particulars of offence*

A.B., on the..... day ..... of ..... 20 ..... in the division of ..... with intent to defraud, obtained from S.P. five yards of cloth by falsely pretending that he, the said A.B., was a servant to J.S., and that he, the said AB., had then been sent by the said J.S. to S.P. for the said cloth, and that he, the said AB., was then authorised by the said J. S. to receive the said cloth on behalf of the said J.S.

15.

**STATEMENT OF OFFENCE**

House breaking/trespass, contrary to section 352, and theft, contrary to section 287 of the Penal Code

*Particulars of offence*

AB., on the .....day of .....20..... in the division of....., did break and enter the house of C.D., with intent to commit a felony therein, namely to steal therein, and did steal therein one watch, the property of S. T.

16.

**STATEMENT OF OFFENCE**

Conspiracy to cheat, contrary to section 97 (1) and 322 of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ....., 20....., and on different days between that day and the ..... day of..... 20 ..... in the division of ..... conspired together with intent to cheat by means of an advertisement inserted by them, the said AB. and C.D., in the H.S. newspaper, falsely representing that A.B. and C.D were then carrying on a genuine business as jewellers at, in the division of ..... and that they were then able to supply certain articles of jewellery to whosoever would remit to them the sum of .....

17.

**STATEMENT OF OFFENCE-FIRST COUNT**

Falsification of accounts, contrary to section 371 of the Penal Code

*Particulars of offence*

A.B., on the ..... day of..... 20..... in the division of..... and on different days between that day and the day of ..... 20..... being clerk or servant to C.D., with intent to defraud, made, or was privy to making a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day two N200.00 had to L.M

**STATEMENT OF OFFENCE-SECOND COUNT**

Falsification of accounts contrary to section 371 of the Penal Code

*Particulars of offence*

AB., on the ..... day of ..... 20 ..... in the division of ..... being clerk or servant to C.D., with intent to defraud, omitted or was privy to omitting from a cash book belonging to the said C.D., his employer, a material particular, that is to say, the receipt on the said day of N100.00 from H.S.

18.

**STATEMENT OF OFFENCE**

Mischief by fire, contrary to section 337, of the Penal Code

*Particulars of offence*

A.B., on the .....day of....., 20.....in the division of.....with intent to destroy, set fire to a house.

19.

**STATEMENT OF OFFENCE**

A.B., mischief by fire, contrary to section 337, of the Penal Code. C.D., abetment of the same offence.

*Particulars of offence*

A.B., on the ..... day of ..... 20 ..... in the division of ..... with intent to destroy, set fire to a house. C.D, on the same day, in the division of ..... did counsel or procure the said A.B. to commit the said offence.

**20. STATEMENT OF OFFENCE-FIRST COUNT**

Offence under section 470, subsection (1), of the Penal Code

*Particulars of offence*

A.B., on the .....day of. ...., 20.....in the division of..... with intent to obstruct the use of the Nigerian Railway, placed an object on the railway.

20.

**STATEMENT OF OFFENCE-SECOND COUNT**

Damage to railway works, contrary to section 471, of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ..... 20 in the division of ..... intentionally damaged a vehicle in use upon the railway.

21.

**STATEMENT OF OFFENCE**

Mischief, contrary to section 327 of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ..... 20 in the division of ..... voluntarily sets fire to a cocoa tree.

22. **STATEMENT OF OFFENCE-FIRST COUNT**

Forgery, contrary to section 364, of the Penal Code

*Particulars of offence*

A.B., on the ..... day of ..... 20 ..... in the division  
of....., forged a certain will purporting to be the will of C.D.

**STATEMENT OF OFFENCE-SECOND COUNT**

Uttering a false document, contrary to section 366 of the Penal Code

*Particulars of offence*

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.

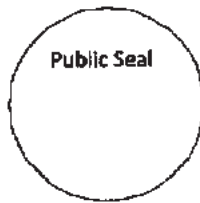
23. **STATEMENT OF PREVIOUS CONVICTION**

Prior to the commission of the said offence, the said A.B. has been previously  
convicted of burglary on the .....day of.....20....., at the Sessions held  
at.....

**FOURTH SCHEDULE****Item 1****SCALE OF IMPRISONMENT FOR NON-PAYMENT OF MONEY ORDERED TO BE PAID**  
(Section 423)

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;
exceed N20,000.00 and does not exceed N60,000.00	2 months;
exceed N60,000.00 and does not exceed 100, 000. 00	3 months;
exceed N100,000.00 and does not exceed N200,000.00	4 months;
exceed N200,000.00 and does not exceeds N400,000.00	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;
exceeds N2,000,000.00 and does not exceed N5,000,000.00	9 months;
exceed N5,000,000.00 and does not exceed N10,000,000.00	10 months
exceed N10,000,000.00	To the discretion of the Judge from 18 months and above.

**Order for Sentence of Death to be Carried Out (Section 411)**



**ORDER FOR EXECUTION**

WHEREAS at the COURT.....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 State to confirm the sentence:

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

AND FOR SO DOING this shall be your Warrant.

GIVEN under my hand and the Public Seal of the Kogi State Government this  
..... day of..... 20.....

.....  
GOVERNOR

To the Sheriff at.....



**ORDER FOR COMMUTATION OF SENTENCE**(Section 409)



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 Kogi State Government  
this..... day of .....20.....

.....  
**Governor**

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

**ENSORSEMENT ON WARRANT OF ARREST**(Section 38)

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

I hereby authorise .....who brings me this warrant and all 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 ..... 20.....

.....  
Magistrate

**ENDORSEMENT ON WARRANT OF DISTRESS (Section 433)**

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 there from to the Registrar of this court, and if no such distress can be found, to certify the same to this court.

Dated the....., 20.....

.....  
Judge [or Magistrate]

**FORM E**

**WARRANT TO ARREST A PERSON FAILING TO APPEAR PURSUANT TO RECOGNIZANCE**

(TITLE OF PROCEEDINGS)

To.....

And.....

Whereas.....

Of ..... is bound by recognizance to appear before this court  
on..... (state when) but has failed so to appear;

You are hereby commanded to arrest the said..... and bring him  
before me at ..... without delay.

.....  
Judge (or magistrate)

**FORM F**

**WARRANT TO CARRY OUT SENTENCE (TITLE OF PROCEEDINGS)**

To.....

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

The defendant ..... was on the ..... day of .....,  
20 ....., sentenced as follows-

No.	Offence	Term, Fine, Compensation, Cost, or Strokes	Term in default

The defendant has made default in payment of the above sum (or sums, or 1<sup>st</sup> and 2<sup>nd</sup> above named sums, or as the case may be).

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

The terms are to run concurrent [or consecutive, or concurrent as to the ..... and ....., and consecutive as to, or as the case may be.]

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

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

.....  
Judge (or Magistrate)

**FORM G**(Section 220)

**RECOGNIZANCE OF WITNESS**

In the Magistrate's Court of..... C.D. of.....  
(address and occupation or profession) acknowledges that he/she owes to the  
Federal Government the sum of ..... payment thereof to be enforced  
against him/her by due process of law if he/she fails to comply with the conditions  
endorsed hereon.

Signature of C.D.....

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

.....  
Magistrate (Judge)

(Endorsement)

**Conditions**

The condition of this recognizance is that whereas AB (hereinafter called the  
accused) was this day charged before me (name of Magistrate), the above-  
mentioned Magistrate, with (state shortly particulars of offence):

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



**FORM GI**(Section 243)

**RECOGNIZANCE OF WITNESS CONDITIONALLY BOUND OVER**

In the Magistrate's Court of.....C.D.....

.....  
(address and occupation or profession)

Signature of C.D.....

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

.....  
Magistrate

(Endorsement)

**Conditions**

Whereas AB (hereinafter called the defendant) was this day charged before me (name of Magistrate), the above-mentioned Magistrate, with (state shortly particulars of offence): and Whereas C.D has been informed that he/she is only conditionally bound over to give evidence at the trial of AB but that, after receiving a notice that he/she will be required to give evidence at the said trial, he/she will then be firmly bound by the following conditions:

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

**FORM H**

Notice to Witness that Defendant has not been Committed for Trial

In the Magistrate' court of ..... whereas on the..... day of ..... 20..... bound by recognizance in the sum of ..... to appear on a date to be notified to you at the High Court of State and give evidence upon the trial of AB:

This is to give you notice that the Magistrate has determined not to commit the said AB for trial and that consequently you will not be required to appear at the High Court for the purpose above-mentioned.

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

.....  
Judge (or Magistrate)

FORM E

**NOTICE TO WITNESS BOUND OVER THAT HE IS TO BE TREATED AS HAVING BEEN  
BOUND OVER CONDITIONALLY**

In the Magistrate' court of. ....

Whereas you, C.D of..... were on the day of .....  
20 ....., bound by a recognizance in the sum of..... to  
appear at the High Court of .....State on a date to be notified to you  
and there give, evidence upon the trial of A.B:

And whereas the Magistrate has since committed the said A.B for trial at the High  
Court of..... State and has directed that you are to be treated as having  
been bound over to attend the trial conditionally upon notice being given to you:

This is to give you notice that you are not bound by the recognizance entered into  
by you until and unless you subsequently receive notice that you will be required to  
give evidence at the trial of the accused A.B.

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

.....  
*Judge (or Magistrate)*

FORM K

**NOTICE TO WITNESS BOUND OVER OR TREATED AS BOUND OVER CONDITIONALLY**

In the High/Magistrate' court of.

Whereas you C.D of ..... were on the ..... day of ..... 20..... bound over conditionally in the sum of ..... to appear upon being given to you to give evidence upon the trial of A.B (or, whereas you C.D were given notice, after entering into a recognizance to give evidence upon the trial of A.B., that you would not be bound by such recognizance until and unless you subsequently receive notice that you will be required to give at the trial of A.B):

This is to give you notice that you are required to appear and give evidence at the High Court of ..... at the trial of A.B on the..... (or on a date to be subsequently notified) and that unless you do so the said recognizance will be forthwith enforced against you.

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

.....  
*Registrar of High/Magistrate's Court*

FORM L

SECTION 109

**COMPTROLLER-GENERAL OF PRISONS RETURNS OF PERSONS AWAITING TRIAL**

(Complete form in triplicate per individual)

To the: The Chief Judge of .....and to the Attorney-General of the Federation.

The Chief Judge of .....and the Attorney-General of the State are hereby informed that these are the records of all persons awaiting trial held in custody within Kogi State for a period beyond 180 days from the date of arraignment.

1. Name of person in custody: .....
2. Date of Arraignment. ....
3. Court where arraigned.....
3. Particulars of the offence charged with: .....
4. Date of his Admission to custody: .....
5. Name of the Prosecuting Agency: .....
6. Any other relevant information.....

Insert passport  
Photograph of  
Individual  
Awaiting Trial  
Person (ATP)

.....  
Comptroller-General of Prisons

**FIFTH SCHEDULE**(Section 477)

**PROSECUTORS' GUIDELINES**

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14. Victims and witnesses
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**1.0 Preamble**

1.1 These guidelines are issued by the Attorney-General of Kogi State, Ibrahim Sanni Muhammed, SAN consistent with his constitutional powers over prosecutions under Section 211 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) in order to ensure that public prosecution is carried out with regard to public interest, the interest of justice and the need to prevent abuse of legal process.

**2.0 Scope and Application**

2.1 These guidelines shall apply to:

- (a) a prosecutor serving in the Ministry of Justice of Kogi State;
- (b) a prosecutor/legal officer employed by:
  - (i) the Nigerian Police
  - (ii) any Ministry, Department or Agency with powers under its statute to prosecute; and
- (c) Private Prosecutors with fiat of the Attorney-General.

**3.0 General Principles**

3.1 Fair and effective prosecution is essential to a properly functioning criminal justice system and to the maintenance of law and order. The individuals involved in a crime namely, the victim, the defendant, and the witnesses (as well as society as a whole) have an interest in the decision whether or not to prosecute and for what offence, and in the outcome of the prosecution.

3.2 Every case is unique and must be considered on its own merits. The aim



of these Guidelines for Prosecutors is to set out in general terms, principles which should guide the initiation and conduct of prosecutions. They are intended to give general guidelines to prosecutors on the factors to be taken into account at the different stages of a prosecution, so that a fair, reasoned and consistent policy underlies the prosecution process.

#### **4.0 Role and Duties of the Prosecutor**

4.1 The essence of a criminal prosecution is not to obtain a conviction at all cost. It is to lay before the court what the Prosecutor considers to be credible evidence relevant to the allegation of a crime. The Prosecutor has a duty to see that all available legal proof of the facts is present.

4.2 A Prosecutor is an officer of the court and a minister in the temple of justice. The prosecutor is primarily to assist the court to arrive at the truth and do justice between the state and the defendant according to law and the dictates of fairness. As a minimum therefore the prosecutor must:

- (a) prosecute diligently;
- (b) act independently, yet in the interest of the general public.

#### **5.0 Fairness**

5.1 Fairness in the discharge of the prosecutorial function entails that the prosecutor:

- (a) informs the defence and the court of directions, warnings or authorities which may be appropriate in the circumstances of the case, even where unfavourable to the prosecution.
- (b) serves within the time stipulated by the rules of court or any relevant Practice Direction copies of the statements of evidence and documentary exhibits upon the court and the defendant;
- (c) provides to the court a written case summary on the evidence as it presently stands
- (d) specifies in the summary what further evidence is to come and how long the prosecution reasonably estimates that the evidence can be served on the court and the defendant; and
- (e) conducts cross examination of a defendant as to credit or motive fairly. Materials put to a defendant must be considered on reasonable grounds to be accurate and its use justified in the circumstances of the trial.

#### **6.0 Diligence**

6.1 It is a fundamental obligation of a prosecutor to assist in the timely and efficient administration of criminal justice. Section 35(4) and (5) of the Constitution of the Federal Republic of Nigeria 1999(as amended), requires that charges should be filed in a timely manner. Prosecutors must determine whether there are reasonable grounds that justify continuation of investigation.

6.2 A prosecutor must:

- (a) ensure that charges are filed within a reasonable time and that the particulars of the charges or information are communicated to the defendant as soon as possible.
- (b) prepare cases for hearing as quickly as possible.
- (c) take reasonable steps to maintain and enhance knowledge, skills and the personal qualities necessary for the proper performance of the prosecutorial duties; this entails keeping himself or herself well informed of relevant legal developments, including applicable human rights norms, taking advantage for this purpose of those training and other facilities which are available;
- (d) provide guidance and advice to investigators throughout the investigation and prosecution of the case; and
- (e) bring to a timely conclusion cases that do not meet the criteria of sufficient evidence and public interest.

**7.0 The Decision to Prosecute; the Evidence and Public Interest Criteria**

7.1 In Nigeria, as is the practice in other jurisdictions not all suspected criminal offences must automatically be the subject of prosecution. The overall consideration is whether it appears that the offence or the circumstances of its commission is or are of such a nature that a prosecution is required in the public interest. A prosecutor must weigh the contending interests of the community, suspect and the victim in determining whether or not to prosecute.

**7.2 The Strength of the Evidence**

7.2.1 No prosecution should be undertaken where essential evidence of the basic elements of the offence are lacking. The main reasons for this are;

- (a) It is not in the public interest to use public resources on the prosecution of a case which has no reasonable prospect of success;
- (b) It may amount to an abuse of legal process where a prosecution is commenced against a person when there is insufficient evidence to assure a realistic prospect of conviction;
- (c) If there was a very high rate of prosecutions resulting in acquittals this could undermine public confidence in the criminal justice system;

7.2.2 A prosecution should not be instituted unless there is a prima facie case against the suspect. By this, it is meant that there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by the suspect. The evidence should be such that if uncontradicted, a court should reasonably convict on it.

7.2.3 In considering the strength of the evidence, the existence of a prima facie case is important. Once it is established that there is a prima facie case, it is the necessary to give consideration to the prospects of conviction. The prosecution should not lay a charge where there is no reasonable prospect

of securing a conviction before a court. Note that it is NOT the law that there must be an eye witness to an alleged offence.

7.2.4 It is not sufficient if the evidence is likely to go no further than to show on a balance of probabilities that it was more likely than not that the suspect committed the offence but does not go so far as to establish guilt beyond a reasonable doubt. For this reason, it is important to know if there is independent evidence which supports the complainant's story. This could be evidence from another witness, or forensic evidence such as finger prints or DNA evidence from body tissue/fluid. This makes the case stronger than one based on one person's word against another.

### 7.3 Evidence Test

Each case is unique, and the variety of human experience and behaviour are so great as to make it impossible to outline a comprehensive list of all possible considerations which could arise in evaluating the admissibility and strength of evidence. Questions which may arise include for instance:

- (a) Are there grounds for believing that evidence may be excluded, bearing in mind the principles of admissibility under the Evidence Act or applicable law? For example, has confession evidence been properly obtained?
- (b) If the case depends in whole or in part on admissions by the suspect, are there grounds for believing that the admissions may not be reliable considering all the circumstances of the case including the age, intelligence mental state and apparent understanding of the suspect? Are the admissions consistent with what can be objectively proved? Is there any reason why the suspect would make a false confession?
- (c) Where the suspect was aged under 12 at the time of the offence, is there evidence available to show that, at the time, he or she could distinguish right from wrong?
- (d) Does it appear that a witness is exaggerating, or has a faulty memory, or is either hostile or friendly to the defendant, or may be unreliable for some reasons? Did a witness have the opportunity to observe what he or she claims to have seen? Are there any other matters known to the prosecution which may significantly lessen the likelihood of acceptance of the testimony of a witness?
- (e) Has a witness been consistent in his or her evidence? If not, can the inconsistency be explained? Does the evidence tally with the behaviour of the witness?
- (g) Could the reliability of evidence be affected by physical or mental illness or infirmity?
- (h) What sort of impression is a witness likely to make? How is the witness likely to stand up to cross-examination? Is the witness's background, including previous convictions likely to weaken the prosecution's case?
- (i) If there are contradictions in the testimony of witnesses, does it go

beyond what might be considered normal and hence materially weaken the case?

- (j) If, on the other hand, there are no contradictions in the testimony of witnesses, is there anything which causes suspicion that a false story may have been concocted?
- (k) Are all the necessary witnesses available to give evidence, including any who may be abroad? In the case of witnesses who are abroad, the possibility of obtaining the evidence.
- (l) Are all the necessary witnesses competent to give evidence? If so, are they compellable, have they indicated their willingness to testify?
- (m) Where child witnesses are involved, are they likely to be able to give sworn evidence or unsworn evidence in accordance with the criteria in the Evidence Act or any other law? How is the experience of a trial likely to affect them particularly in cases of sexual offences or offences involving violence?
- (n) In relation to mentally handicapped witnesses, are they capable of giving an intelligible account of events which are related to the proceedings so as to enable their evidence to be given pursuant to the Evidence Act?
- (o) If identification is likely to be an issue, how cogent and reliable is the evidence of those who claim to identify the defendant?
- (p) Where there might otherwise be doubt concerning a particular piece of evidence, is there any independent evidence to support it?
- (q) If the suspect has given an explanation, is a court likely to find it credible in the light of the evidence as a whole? Does it support an innocent explanation?

In assessing the evidence, the prosecutor should also have regard to any defence which are plainly open to, or have been indicated by, the defendant. The assessment of the credibility and reliability of evidence is ultimately a matter for the court. However, where there are grave and substantial concerns as to the reliability of essential evidence, criminal proceedings will not be appropriate.

#### **7.4 Duty to continuously review evidence**

7.4.1 The assessment of the evidence not only has to be made initially but needs to be reviewed at every stage of the proceedings. The primary decision to charge is made by the prosecutor and he or she may request further investigative work from investigating authorities.

For example, this may include requesting the investigator to give an alleged offender an opportunity to answer or comment upon the substance of the allegations or a request for copies of relevant records, statements or other material not included in the file.

7.5.1 There is a clear public interest in ensuring that crime is prosecuted and that ~~awrong doer~~ is convicted and ~~punished~~. It follows from this that it will generally be in the public ~~interest~~ to prosecute a crime where there is sufficient evidence to ~~justify doing~~ so, unless there is some countervailing public interest reason not to prosecute. In practice, the prosecutor approaches each case by asking whether the evidence is sufficiently strong to justify prosecuting. If the answer to that question is "no", then a prosecution will not be pursued; If the answer is "yes", then before deciding to prosecute the prosecutor will ask whether the public interest favours a prosecution or if there is any public interest reason not to prosecute.

## 7.6 Public Interest Test

7.6.1 Once the prosecutor is satisfied that there is sufficient evidence to justify the institution or continuance of a prosecution, the next consideration is whether, in the light of the provable facts and the value of the surrounding circumstances, public interest requires a prosecution to be pursued.

7.6.2 The factor to consider in assessing where the public interest lies is, therefore, the seriousness of the alleged offence and whether there are any aggravating or mitigating factors.

### 7.6.3 Aggravating Factors

#### 7.6.3.1 Seriousness of the offence.

The following aggravating factors, which are not intended to be exhaustive, tend to increase the seriousness of the offence and if present will tend to increase the likelihood that the public interest requires a prosecution.

- (a) where a conviction is likely to result in a significant penalty;
- (b) where the legislature has prescribed a mandatory penalty or other consequence of a conviction such as a disqualification or forfeiture;
- (c) if the defendant was in a position of authority or trust and the offence is an abuse of that position or an offence unbecoming of the holder of that office;
- (d) where the defendant was a ringleader or an organiser of the offence;
- (e) where the offence was premeditated;
- (f) where the offence was carried out by a group;
- (g) where the offence was carried out pursuant to a plan in pursuit of a joint criminal enterprise;
- (h) where a weapon was used or violence threatened or the victim of the offence has been otherwise put in fear, or suffered personal attack, damage or disturbance. The more vulnerable the victim the greater the aggravation;
- (i) where there is a marked difference between the actual or mental ages of the defendant;
- (j) if there is any element of corruption;
- (k) where the defendant has previous convictions or criminal record relevant to the present offence;



relevant to the present offence;

- (l) if the defendant is alleged to have committed the offence whilst on bail, on probation, serving a community service order, or subject to a suspended sentence or an order binding the defendant to keep the peace and be of good behaviour, or released on licence from a prison or a place of detention;
- (m) where there are grounds for believing that the offence is likely to be continued or repeated, for example, where there is a history of recurring conduct.

#### **7.6.3.2 Other Aggravating Factors**

In addition to factors affecting the seriousness of an offence, other matters which may arise when considering whether the public interest requires a prosecution may include the following:

- (a) the availability and efficacy of any alternatives to prosecution;
- (b) the prevalence of offence of the nature of that alleged and the need for deterrence, both generally and in relation to the particular circumstances of the offender;
- (c) the need to maintain the rule of law and public confidence in the criminal justice system;
- (d) whether the consequences of a prosecution or a conviction would be disproportionately harsh or oppressive in the particular circumstances of the offender;
- (e) the attitude of the victim or the family of a victim of the alleged offence to a prosecution;
- (f) the likely effect on the victim or the family of a victim of a decision to prosecute or not to prosecute;
- (g) whether the likely length and expense of a trial would be disproportionate having regard to the seriousness of the alleged offence and the strength of the evidence;
- (h) whether the offender is willing to co-operate in the investigation or prosecution of other offenders, or has already done so;
- (i) if a sentence has already been imposed on the offender in relation to another matter whether it is likely that additional penalty would be imposed;
- (j) whether an offender who has admitted the offence has shown genuine remorse and a willingness to make amends;
- (k) whether the offence is of a purely technical nature;
- (l) whether a prosecution could put at risk confidential informants or matters of national security;
- (m) whether any circumstances exist that would prevent a fair trial from being conducted;



- (n) whether the offender is either very young or elderly or suffering from significant mental or physical ill health or disability

#### **7.6.4 Mitigating factors**

7.6.4.1 The following mitigating factors, if present tend to reduce the seriousness of the offence and hence the likelihood of a prosecution being required in the public interest:

- (a) if the court is likely to impose a very small or nominal penalty while prosecution is likely to be protracted;
- (b) where the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by an error of judgement;
- (c) where the offence is a first offence, if it is not a serious nature and is unlikely to be repeated;
- (d) whether there has been a long delay between the date of the offence and the trial (See 7.6.4.1).

#### **7.6.4.1 Delays**

The prosecutor should, in any case where there has been a long delay since the offence was committed, consider in the light of the law whether that delay is such that the case should not proceed. Some of the considerations which the prosecutor should bear in mind are the following:

- (a) Whether any delay was caused or contributed to by the suspect;
- (b) Whether the fact of the offence or of the suspect's responsibility for it has recently come to light;
- (c) whether any delay was caused or contributed to by a long investigation, whether the length of investigation was reasonable in the circumstances;
- (d) whether there is a real and serious risk of an unfair trial;
- (e) where the victim has delayed in reporting the offence, the age of the victim both when the offence was committed and when it was reported;
- (f) where there has been a delay in making a complaint, whether the complainant was emotionally and psychologically inhibited from or incapable of making the complaint, and, if so, to what extent and in what manner;

- (g) whether this was by reason of behaviour that could be attributed to the suspect, whether by overt actions or threats or a more subtle form of dominion or psychological control;
- (h) whether there is a specific prejudice caused to the alleged offender by reason of any delay or lapse of time;
- (i) whether the suspect has admitted the offence.

7.6.5 A decision not to prosecute a complex case on ground of public interest must be brought to the notice of the Attorney-General within 2 days of taking such decision.

## **8.0 Selection of Charges**

8.1 In selecting charges to be preferred against a suspect, the prosecutor must select those which-

- (a) are within the court's jurisdiction;
- (b) reflect the seriousness and extent of the alleged offence;
- (c) can lawfully, reasonably and conveniently be tried together or in groups;
- (d) enable the case to be presented to a court in a clear and comprehensive way;
- (e) Give the court adequate sentencing power to reflect the offence; and
- (f) enable the court to make suitable ancillary orders.

8.2.1 A prosecutor must never prefer more charges than required in order to encourage a defendant to plead guilty to some.

## **9.0 Bail**

9.1 A prosecutor must ensure that he or she is fully conversant with, and complies with the constitutional provisions for the protection of personal liberty and the laws governing bail. In particular, if the trial of a defendant remanded in custody has not started within a reasonable time then, in accordance with section 35 of the 1999 constitution, the prosecutor should not oppose a bail application but may put forward reasonable conditions.

9.2 A prosecutor must always bear in mind that bail is not to be withheld as a form of punishment or the pre-judgement of a case. When a question arises whether or not to oppose bail a prosecutor must consider carefully:

- (a) the law;
- (b) the charges especially the seriousness of the charge and severity of the punishment;
- (c) the strength of the evidence;
- (d) the protection of victims, witnesses and the general public;
- (e) the personal circumstances of the defendant;
- (f) the likelihood of the commission of same or other offences if granted bail;
- (g) the likelihood of failure to attend court; and
- (h) any other relevant factor.

## 10.0 Trial

10.1 A prosecutor must endeavour to reduce to a minimum the number of adjournments both before and after the commencement of a trial.

Every effort should be made to ensure a trial is not delayed at its commencement and continues on consecutive working days until conclusion.

Applications to adjourn should be vigorously opposed unless they are absolutely unavoidable.

10.2 It is not the duty of a prosecutor to obtain counsel for a defendant or put forward the case of a defendant. However, assistance must be offered to the court and a defendant if the interests of justice so require.

10.3 A prosecutor must ensure that the prosecution's case is fully ready for the time fixed for trial. This includes ensuring that:

- (a) the prosecution's case is known thoroughly;
- (b) all legal, evidential and procedural issues are known, researched and ready for presentation to or argument before the court;
- (c) the prosecution has complied with the duties of a prosecutor to avoid and prevent unnecessary delays in accordance with any relevant rules of court or practice direction in force.
- (d) Proper and timely response to each request and question reasonably raised by the defence and the timely supply of all material reasonably requested by the defence.
- (e) witnesses are available and attend court;
- (f) each required exhibit held by the prosecution is in court, whether for the prosecution or defence.
- (g) there are copies of all relevant documents for all persons who need them and where appropriate; and
- (h) an assessment has been made of the likely defences and how these can be properly countered.

## 11.0 Sentencing

11.1 When sentence is being considered the prosecutor should draw the attention of the court to:

- (a) the previous character and conviction of the defendant;
- (b) any aggravating or mitigating facts disclosed by the evidence;
- (c) evidence of the impact of the offence on the victim and the victim's family; (See the Federal High Court (Criminal) Practice Direction 2013 particularly paragraphs 4 and 6 thereof)
- (d) Statutory powers and limitations on sentencing;
- (e) relevant sentencing guidelines if any; and
- (f) any ancillary orders that the court may make (for example confiscation or compensatory orders)

11.3 If the mitigation put forward after a guilty plea:

(a) amounts to a denial of the offence, then the prosecutor should advise the court that the defendant's plea should be changed to one of "not guilty".

(b) is so different to the prosecution's version of the facts that it would affect the sentence, then the prosecutor should ask for a hearing to determine the basis on which sentencing should take place.

11.4 The prosecutor should challenge any significant assertion made in mitigation that is inaccurate or misleading. If the defense persists, in the assertions, then the court should be invited to hear evidence before sentence is passed.

11.5 If derogatory assertions of any person are made in mitigation then the court should be asked to consider if they are relevant to sentence and, if so, to hear evidence on them before sentence is passed.

## **12.0 Re-opening a Prosecution**

12.1 If there are special and compelling reasons a prosecution may be started or re-opened in the following cases: Where:

(a) the original decision was clearly wrong; or

(b) fresh evidence comes to light which previously:

(i) could not reasonably have been known; or

(ii) could not reasonably have been obtained.

12.1.1 The decision to start or to re-open a prosecution in the circumstances outlined in paragraph 12.1 above shall be taken by the Attorney-General or a designated person. If a defendant has been formally found guilty or not guilty of an offence or pardoned, then no new prosecution would be brought in respect of that offence.

12.1.2 If before the prosecution was withdrawn, the evidence adduced at the hearing is substantial, prosecution should not ordinarily be re-opened as this will put the defendant in double jeopardy bearing in mind that a discharge at this stage amounts to acquittal.

12.1.3 A prosecutor should not in general withdraw a prosecution solely on account of the weight of unfavourable evidence at the trial with a view to re-opening the prosecution after correcting the defect in the evidence.

## **13.0 Plea Bargains and Agreements**

13.1 Plea Bargain and agreements shall be conducted strictly in accordance with the provisions of the Administration of Criminal Justice Law of Kogi State.

13.1.1 Where before trial or in the course of trial a defendant proposes or signifies readiness to plead guilty to a lesser charge as part of a plea bargain agreement, the Prosecutor may subject to paragraph 13.1 above enter into discussion leading to such agreement where:

(a) the alternative charge adequately reflects the essential criminality of the conduct and the plea provides adequate scope for sentencing;

(b) there is need to obtain reliable and material testimony from an

- accomplice as prosecution witness and the evidence cannot be obtained in any other way;
- (c) the evidence available to support the prosecution's case is weak in any material respect;
- (d) the saving of cost and time weighed against the likely outcome of the matter if it proceeded to trial is substantial;
- (e) it will save a witness, particularly a victim or other vulnerable witness, for the stress of testifying in a trial; and
- (f) a victim has expressed a wish not to proceed with the original charge or charges.

#### **14.0 Victims and Witnesses**

##### **14.1 Interests of victims and witnesses**

A prosecutor shall pay special attention to the interests of victims and witnesses. When a decision is taken not to go on with a prosecution or to change a case significantly, then the prosecutor must inform the victim and witnesses.

14.1.1 A prosecutor should consider the interest and safety of victims and witnesses before, during and after trial. In particular, a prosecutor should endeavour to have trials started as soon as possible and reduce to a minimum the number of times victims and witnesses have to attend court. Once a trial has started, the prosecutor should endeavour that the testimony of victims and witnesses is heard promptly and without adjournment and they are allowed to leave immediately on completion.

14.1.2 A prosecutor must seek for special measures if this would increase the quality of a witness's evidence. Particular attention must be paid to vulnerable witnesses like women, children, the aged, the disabled and witnesses in serious offences such as terrorism, kidnapping, culpable homicide punishable with death e.t.c.

14.1.3 A prosecutor must not act for the victims of crime or their families in the way a lawyer act for his client but must act on behalf of the public and in the interests of justice as a whole.

##### **14.2 Preparing witness**

A prosecutor should not put a witness in the witness box without a pre-trial conference. The prosecutor must be satisfied that the evidence to be given will be relevant and credible.

14.2.1 A prosecutor should never put words in the mouth of a witness during pre-trial conference but should let witnesses tell their story by themselves.

14.2.2 If the story of a witness at the pre-trial conference is materially different from his statement, the prosecutor should call the investigators to reduce the second version into writing as an additional statement of the witness and serve copies of both or all versions as the case may be of the statement on the defence.

14.2.3 The prosecution should never put such a witness (as in 14.2.2 above) in



evidence and if the absence of his evidence nullifies a prima facie case, the prosecution should be withdrawn. A prosecutor should as much as possible avoid holding pre-trial conference at the venue of the court on the day of the case. A pre-trial conference should be held a day or two to the day of hearing in the office of the prosecutor.

## **15.0 Media**

15.1 The public release of information must be done consistently. Public conclusion and criticism may result if different officers publish different material about the same or a related or comparable matter. Uncoordinated release of information may also prejudice action being taken by others (for example the Attorney General) which may not be known to all officers.

## **15.2 Basic Rules**

15.2.1 There is no general obligation to provide information to the media.

15.2.2 The names and addresses of victims and addresses of other witnesses who are to be or have been called in court proceedings should not be supplied to the media. Information already given in an open court (including names and addresses) may be confirmed. Care must be taken to ensure that the identities of witnesses such as prisoners, informers and others who are giving evidence at some personal risk are kept confidential (so far it is possible) and are not disclosed to the media.

15.2.3 True copies of open exhibits (including paper photographs and prints) may, if convenient, be inspected or provided if otherwise appropriate;

15.2.4 Videotapes and audio tapes of recorded interviews, re-enactments, demonstrations and identifications and all physical photographs and recordings are not to be provided or made available for inspection.

15.2.5 On account of security considerations, it will normally be sufficient to indicate that the prosecution is being conducted by the ministry or a relevant agency without disclosing names or identity of the prosecutor.

15.2.6 It is not appropriate to discuss with the media the likely result of proceeding or the prospect of appellate proceedings being instituted, or of a matter being discontinued or of an ex-officio process being filed

15.2.7 It is not appropriate to comment to the media on the correctness or otherwise of any determination of a court. Discretion should be exercised in relation to sensitive material (e.g.) medical reports, pre-sentence reports or material produced under compulsion, where it may be more appropriate to direct inquiries to the court. Medical (including psychiatric and psychological) reports of offenders and victims should not be made available to the media by the prosecution.

15.2.8 If it is considered that something should be issued proactively to the media on behalf of the ministry or of a relevant agency (for example the issue of a statement of a general kind) the prosecutor should refer the matter to the office of the Attorney-General or the head of the agency.

15.2.9 In complex and sensitive cases there may be a need to refer to the Attorney General for advice or instructions on how to proceed with the media.

15.2.10 Statements, summaries, criminal histories, exhibits or copies (including documents paper photographs, plans and the likes), the disclosure of which is permissible pursuant to these guidelines, are only to be provided to the media, subject to the following qualifications:

- (a) Inspection of any such item should take place in the presence of an official of the ministry or a relevant agency and only if convenient. It is permissible likewise to allow the media to view lengthy document for the purposes of accurate reporting.
- (b) Copies of statements of witnesses admitted into evidence with addresses and telephone numbers deleted may be provided if that is the more convenient course, subject to the restrictions and provisions referred to above.
- (c) Transcripts of court proceedings may not be provided or displayed to the media.
- (d) Disclosure of documentation or information, other than that permitted in accordance with these guidelines, shall not to occur unless approved by the Attorney-General or the head of the relevant agency.

### 15.3 Rulings

Generally, ruling on evidence and any other matter dealt with by the court should not be commented upon publicly by prosecutors, other than to remind the media that those matters should not be reported during the trial.

### 15.4 Legal opinion or advice to be excluded

The seeking and giving of legal advice within the administrative framework of the ministry or a relevant agency is not carried out in public and the process is subject to privilege. No public comment concerning matters referred to the Ministry of Justice for advice or the content of such advice is to be made public without the approval of the Attorney-General.

### 15.5 Media Contact

All inquiries from the media for information should be directed to the Attorney-General except where the information requested:

- (a) is of an uncontroversial nature;
- (b) is of a kind routinely provided directly by prosecutors and has been provided to the defence; or
- (c) is readily obtainable by the defence (for example, statements of facts admitted or handed up to the bench on bail hearing or pleas of guilty, names or addresses of witnesses who have given them in open testimony in court, details of charges heard in open court or included in a court attendance notice, agreed statements of facts that have been tendered and admitted).



15.5.1 Media releases on behalf of the Ministry or relevant agency are to be issued by the designated officer with the approval:

(a) in the case of the ministry, of the Attorney-General or Director of Public Prosecution; or

(b) in the case of a relevant agency, the head of the agency

**15.5.2 Requests for Interviews**

Requests for interviews with prosecutors on matters concerning prosecution should be referred to the Attorney-General.

**15.5.3 Special Interest Matters**

A prosecutor who is in charge of a matter that is likely to attract significant media attention should provide details of the matter in advance to the Attorney-General or to an Officer so designated by him.

**1.0.1 Interpretation**

1.1 In these guidelines:

**"Attorney General"** means the Attorney General of Kogi State;

**"designated person"** means any person authorised by the Attorney General and mentioned under Section 211 of the constitution of the Federal Republic of Nigeria 1999 (as amended).

**"harm"** includes physical or psychological harm. The loss of an immediate family member or the loss, destruction of, or damage to property.

**"legal practitioner"** means a legal practitioner as defined in the Legal Practitioners Act,

**"Ministry"** means the Kogi State Ministry of Justice and a Ministry of the Kogi State Government;

**"relevant agency"** means a body or organisation referred to in these Guidelines;

**"Victim"** means a person who suffers harm as a direct result of an act committed, or apparently committed, by another person in the course of a criminal offence and which includes a member or nominated representative of the victim's immediate family if the person dies.

1.2 A case is to be regarded as complex or difficult where the case:

(a) has a significant national or international direction;

(b) involves cash or assets to a value exceeding Fifty Million Naira

(c) requires specialised knowledge of financial commercial fiscal or regulatory matters such as the operation of markets, banking systems, trust or tax regime;

(d) involves allegations of fraudulent conduct against numerous victims;

(e) involves substantial or significant loss of funds by a Ministry, Department or public agency;

(f) is likely to be of widespread public concern; or

(g) involves an alleged misconduct which amounts to an act of economic sabotage.

**SIXTH SCHEDULE (Section 477)**  
**WHISTLE-BLOWING PROGRAMME**

**Establishment**

1. The Kogi State whistle-blowing programme is hereby established with the aim of encouraging persons with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice, fraud, theft, and kidnapping legislations to report same to it.

**Objectives of Whistle-blowing**

2. The objective of this section of the law is to provide secure, online and telephone portals and other avenues through which information bordering on violation of financial regulations, mismanagement of public funds and assets, financial malpractice or fraud, theft and kidnapping deemed to be in the interest of the public can be disclosed. The online and telephone portals and other avenues also permits the person disclosing the information to perform a status check on matters that have been reported on the whistle-blowing online portal.

**Type of information to be submitted?**

3. The following information shall qualify as information to be given by persons under the provision of this section and they include:

- a. Violation of Government's financial regulations e.g. failure to comply with the Financial Regulations, Public Procurement Law, Bureau of Public Private Partnership Law and other extant laws.
- b. Mismanagement or misappropriation of public funds and assets (e.g. properties and vehicles).
- c. Information on stolen public funds.
- d. Information on concealed public funds.
- e. Financial malpractice or fraud.
- f. Theft.
- g. Collecting / soliciting bribes.
- h. Corruption.
- i. Diversion of revenues.
- j. Underreporting of revenues.
- k. Conversion of funds for personal use.
- l. Fraudulent and unapproved payments.
- m. Splitting of contracts.
- n. Procurement fraud (kickbacks and over-invoicing etc.).
- o. Violation of public procurement procedures.
- p. Other related acts or offences.
- q. Kidnapping and related offences

Provided that the programme shall not apply to personal grievances concerning private contracts.

**Procedure for submitting information under this part**

4. (1) Information on any of the identified heads in Section 3 above shall be submitted through the Kogi State Government Whistle Blower online or telephone portals, or in writing to the Whistle Blower Programme Office of the Kogi State Government.

(2) Information submitted in accordance with (1) above may be submitted anonymously and without disclosing an identity while providing information.

**Provision of additional information by whistle-blower**

5. (1) Where the whistle-blower is in the possession of evidence to support the disclosures/information given, the whistle-blower shall submit same through the Kogi State Government Whistle Blower online portal, or in writing to the Whistle Blower Programme Office of the Kogi State Government; provided always that the whistle-blower shall state the facts with as much specific information as possible such as to what occurred, who was involved and dates of occurrence to facilitate the investigation of allegations.

(2) Notwithstanding the foregoing provision, it shall be sufficient that the whistle-blower holds a reasonable belief that the information provided is true. Concerns shall be raised in public-spirit and in good faith, and the individual or group of individuals must reasonably believe that the information disclosed, and any allegations contained in it, are substantially true beyond reasonable doubt.

**Identity of Whistle-blower to be kept confidential**

6. Confidentiality shall be maintained to the extent possible within the ambit of extant laws. Provided that where the whistle-blower chooses not to disclose his identity, a record of the whistle-blower's identity shall not be kept however, where the whistle-blower chooses to disclose his identity, the identity will only be disclosed in circumstances required by law.

**Who can be a Whistle-blower?**

7. Anybody with information about a violation of financial regulations, mismanagement of public funds and assets, financial malpractice or fraud, theft, and kidnapping including but not limited to: internal stakeholders, inter-Government stakeholders, institutional stakeholders and members of the public.

**Protection of Whistle-blowers**

8. (1) Any Stakeholder who whistle-blows in public-spirit and in good faith shall be protected, regardless of whether or not the issue raised is upheld against any Party. Provided always that where a Stakeholder (internal or external) whomade a genuine disclosure believes that, as a result, he or she has suffered adverse treatment in retaliation shall file a formal complaint to an independent panel of inquiry, hereinafter set-up to handle such complaint, detailing his/her adverse treatment.

(2) Where it appears that there are reasonable grounds for making the complaint, the onus shall be on the Party against whom the complaint of adverse treatment has been made to show that the actions complained of were not taken in retaliation for the disclosure.

(3) Where it is established that there is *prima facie* case that a Whistle-blower has suffered adverse treatment (harassment, intimidation or victimization) for sharing his\her concerns with the Ministry, a further investigation may be instituted and disciplinary action may be taken against the perpetrator in accordance with the public service rules/other extant rules and a restitution shall be made to the Whistle-blower for any loss suffered.

#### **Use of information supplied by Whistle-blower**

9. Information provided by the Whistle-blower upon been made available to the administrators of the Whistle-blowing online and/or telephone portals where received by staff shall be subjected to preliminary analysis to determine whether or not to open an investigation into the matters reported.

#### **Financial reward for Whistle-blowers**

10. (1) A Whistle-blower responsible for providing the Government with information specified in Section 3 (a)-(q) that directly leads to the voluntary return of stolen or concealed public funds or assets may be entitled to anywhere between 2.5%-5.0% of the amount recovered. In order to qualify for the reward, the Whistle-blower shall provide to the Government with information the Government does not already have and could not otherwise obtain from any other publicly available source of the Government. The actual recovery must also be on account of the information provided by the Whistle-blower.

(2) A Whistle-blower responsible for providing the Government with information specified in Section 3 (q) as regards kidnapping and related offences which directly leads to the arrest of the accused persons/rescue of the victim(s) may be entitled to the sum of Five Million Naira (N5,000,000.00).

#### **False or Malicious Information**

11. Where upon a first level review of the information supplied by the Whistle-blower it is discovered that the said information is on the face of it false, misleading, or malicious, the Whistle-blower who volunteered the information shall be referred to law enforcement agents for investigation and possible prosecution.

#### **Independent Panel of Inquiry**

12. (1) Pursuant to Section 10 (1) of this law, an independent panel of inquiry is hereby established to amongst other things handle complaints arising from the Whistle-blower programme.

(2).The Panel which shall be chaired by the Attorney-General of the State shall be constituted by 3 other persons from the following organizations:

- a. A representative of the Office of the Head of Service with a rank of not less than a Director;
- b. The Director of Public Prosecutions, Ministry of Justice.
- c. The Auditor-General of the State

13. (1) All complaints meant for the attention of the Panel shall be sent to the Office of the Attorney-General of the State whose office shall (until an alternative venue is agreed) serve as the secretariat of the panel.

(2) Quorum of the panel shall be 3 members with the Chairman having the deciding vote in the case of a deadlock on any matter.

(3) The decision of the panel on any matter shall be final.

**SEVENTH SCHEDULE** (Section 3)

**TABULAR STATEMENT OF OFFENCES**

Explanatory Notes:

1. The entries in the second and fifth columns of this Schedule, 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 3 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 7.



**Kogi State Administration of Criminal Justice Law, 2017**

Section	Offence	Whether the police may arrest without warrant or not (see section 26)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 154)	Punishment under the Penal Code	Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	Area Court 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 if arrest 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
86	Abetment of any offence if the person abetted does the act with a different intention from that of the abettor	Ditto	Ditto	The same punishment as the offence abetted	Same court as offence abetted	Same Court as the offence abetted
87	Abetment of any offence, when one act is abetted and a different act is done. Abettor liable to cumulative punishment for act abetted and act done	Ditto	Ditto	The same punishment as for the offence committed. Punishment for each offence as under section 85 and section 87.	ditto	Ditto
88	Abetment of any offence when an effect is caused by the act abetted different from that intended	Ditto	Ditto	The same punishment as for the offence committed	ditto	Ditto



**Kogi State Administration of Criminal Justice Law, 2017**

90	Abetment of any offence, if the abettor present when the offence is committed.	May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise	According as a warrant or summon may issue for the offence abetted.	The same punishment as for the offence committed.	Same court as the offence abetted.	Same court as the offence abetted.
91	Abetment of any offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment, if the abettor be a public servant whose duty it is to prevent the offence.	Ditto	Ditto	Imprisonment for Seven years and fine	Ditto	Ditto
92	Abetment of an offence punishable with death or imprisonment, if the offence be not committed in consequence of the abetment.  If the abettor be a public servant whose duty is to prevent the offence.	Ditto	Ditto	Imprisonment extending to a quarter of the longest term provided for the offence or fine or both.  Imprisonment extending to have of the longest term provided for the offence or fine or both.	Ditto	Ditto

**Kogi State Administration of Criminal Justice Law, 2017**

Abetting the commission of an offence by the public or by more than ten persons.	Ditto	Ditto	Imprisonment for three years or fine or both	ditto	Ditto
Administering unlawful oath to commit offence.	Shall not arrest without warrant	Warrant	Imprisonment for seven years or fine or both.	Chief Magistrate.	Upper Area Court.
If offence is an offence punishable with death	Ditto	Ditto	Imprisonment for life or less term or fine or both.	High Court	Ditto
<b>CHAPTER VI-ATTEMPTS TO COMMIT OFFENCES</b>					
Attempting to commit offence punishable with imprisonment and in such attempt doing any act toward the commission of the offence	According as the offence is one in respect of which the police may arrest without warrant or not	According as the offence is one in respect of which a summons or warrant shall ordinarily issue	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
<b>CHAPTER VII- CONSPIRACY TO COMMIT OFFENCES</b>					
Conspiracy: - (I) To commit offence punishable with death or life imprisonment (II) in any other case.	Shall not arrest without warrant	Warrant	The same punishment as for abetment of offence  Imprisonment for six months or fine or both.  Imprisonment for seven years or fine or both	High court   Magistrate of the First Grade.	Upper Area Court   Ditto
Managing or membership of unlawful society	Ditto				

CHAPTER VIII - BREACH OF OFFICIAL TRUST						
98	Breach of official trust  (i) If communication is made or attempted to agent of foreign government;  (ii) in any other state;	shall not arrest without.       shall not arrest without	Warrant       summons	Imprisonment for fourteen years and fine      Imprisonment for two years or fine or both.	High Court      Magistrate of first grade	No jurisdiction      Upper Area court.
CHAPTER IX AGAINST THE PUBLIC PEACE						
102	Being member of an unlawful assembly.	May arrest without warrant	Summons	Imprisonment for one year or fine or both	Magistrate of the second Grade	Gd. III Courts
103	Being member of an unlawful assembly armed with any deadly weapon	Ditto	Warrant	Imprisonment for two years or fine or both	Ditto	Ditto
104	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse	Ditto	Ditto	Imprisonment for five years or fine or both	Ditto	Ditto
106	Rioting	Ditto	Ditto	Imprisonment for three years or fine or both	Ditto	Ditto
107	Rioting armed with deadly weapon	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Gd. 1

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109	Promoting or assisting the promoting of an unlawful assembly	Ditto	Summons, or as for any offence committed by any member of the assembly	The same as for a member of such assembly and for any offence committed by any member.	The court by which the offence is triable	The court by which the offence is triable
110	Joining or continuing in any assembly of five or more persons knowing that it has been commanded to disperse	May arrest without warrant	summons	Imprisonment for one year or fine or both	Magistrate of the second Grade	Gd. III
111	Wearing and carrying of emblem flag, etc	ditto	ditto	Imprisonment for six months or fine or both and forfeiture of emblem, flag, etc	ditto	ditto
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	Gd. II
113	Disturbance of public peace	Ditto	Summons	Imprisonment for three years or fine of N100 or both	Magistrate of the second Grade	Gd. III
114	Inciting disturbance	Ditto	Ditto	Imprisonment for two years or fine or both	ditto	Ditto

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CHAPTER X- OFFENCES BY OR RELATING TO PUBLIC SERVANTS						
115 N. N. 12 of 1964	Being or expecting to be a public servant and taking a gratification other than lawful remuneration in respect of an official act	Shall not arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Magistrate of the First Grade	Gd. II excluding, save in the case of an Upper Area Court, jurisdiction in respect of Government officials.
N. N. 12 of 1964	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	High Court	Upper Area Court
116 N. N. 12 of 1964	Taking a gratification in order to influence a public servant	Shall not arrest without warrant	warrant	Imprisonment for three years or fine or both	Magistrate of the First Grade	Gd. II excluding, save in the case of an Upper Area Court, jurisdiction in respect of Government officials.
117 N. N. 12 of 1964	Abetment by public servant of an offence under section 116 with reference to himself	Ditto	Ditto	Ditto	Ditto	Ditto
118 N. N. 12 of 1964	Offering or giving gratification to public servant in respect of official act or in order to influence him	Ditto	Ditto	Ditto	Ditto	Ditto

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119 N. N. 12 of 1964	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	Ditto	Ditto
120 N. N. 12 of 1964	Offering or giving valuable to public servant without consideration	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	ditto
121 N. N. 12 of 1964	Third person profiting by gratification or benefit obtained by public servant	Ditto	Ditto	Imprisonment for one year or fine or both	Ditto	Ditto
122 N. N. 12 of 1964	Public servant dishonesty receiving money or property not due	Ditto	Ditto	Imprisonment for five years or fine or both	Ditto	Ditto
123 N. N. 12 of 1964	Public servant disobeying a direction of law with intent to cause injury or save person from punishment or property from forfeiture	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	Magistrate of the first Grade	Gd. II excluding save in the case of an Upper Area Court jurisdiction in respect of Government officials
124 N. N. 12 of 1964	Public servant framing an incorrect record or writing or mistranslating document with intent to cause injury	Ditto	Warrant	Imprisonment for three years or fine or both	Magistrate of the First Grade	Gd. II Ditto



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125 N. N. 12 of 1964	Public servant in judicial proceedings making or pronouncing a report, order, judgement or decision which he knows to be contrary to law	ditto	Ditto	Imprisonment for seven years or fine or both	Ditto	Ditto
126 N. N. 12 of 1964	Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law	Ditto	Ditto	Ditto	Ditto	Ditto

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127 N. N. 12 of 1964	International omission to arrest or international sufferance or aiding escape on part of public servant whose duty it is to arrest or keep a person in confinement or custody.  (a) If offender is under sentence to death				High Court	
	(b) If offender is under sentence of imprisonment for ten years or upwards or is charged with an offence punishable with death	Ditto	ditto	Imprisonment for fourteen years with or without fine	Chief Magistrate	ditto
	(c) If offender is under sentence of imprisonment for less than ten year or is charged with an offence punishable with imprisonment for a term which may extend to ten years	Shall not arrest without warrant	Ditto	Imprisonment for seven years with or without fine	Magistrate of the First Grade	Upper Area Court
	(d) in any other case	Ditto	Ditto	Imprisonment for three years or fine		Gd. II excluding save in the case of an Upper Area

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128 N. N. 12 of 1964	Negligence omission to arrest or negligent sufferance of escape on part of public servant whose duty it is to arrest or to keep in confinement or custody	Ditto	summons	Imprisonment for two years or fine or both	Magistrate of the second Grade	ditto
129 N. N. 12 of 1964	Public servant wilfully omitting to perform duty, if such omission causes danger, etc	Ditto	Ditto	Imprisonment for two years or fine or both	ditto	Ditto
130 N. N. 12 of 1964	Public servant wrongfully abandoning duty.	Ditto	ditto	ditto	ditto	ditto
131 N. N. 12 of 1964	Public servant unlawfully buying or bidding for property	ditto	ditto	ditto	ditto	ditto
132 N. N. 12 of 1964	Personating a Public servant	May arrest without warrant	warrant	Imprisonment for three years or fine or both	Magistrate of the second Grade	Ditto
133 N. N. 12 of 1964	Wearing dress or carrying token used by public servant with intent that it may be believed that the offender is such public servant	ditto	summons	Imprisonment for six months or fine of N40 or both	ditto	Ditto

<b>CHAPTER XI - CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS</b>						
134	<p>Absconding to avoid service of summons or other proceedings from a public servant.</p> <p>If summons or notice requires attendance, in person, etc., in a court of justice</p>	<p>Shall not arrest without warrant</p> <p>ditto</p>	<p>Summons</p> <p>ditto</p>	<p>Imprisonment for one month or fine of N20 or both</p> <p>Imprisonment for six months or fine of N40 or both</p>	<p>Magistrate of the second Grade</p> <p>ditto</p>	<p>Grade III</p> <p>ditto</p>
135	<p>Preventing the service or affixing of any summons or notice of the removal of it when it has been affixed or preventing a public summons.</p> <p>If summons, etc., requires attendance in person, etc., in a court of justice</p>	<p>ditto</p> <p>ditto</p>	<p>ditto</p> <p>ditto</p>	<p>Imprisonment for one month or fine of N20 or both</p> <p>Imprisonment for one month or fine of N40 or both</p>	<p>ditto</p> <p>ditto</p>	<p>ditto</p> <p>ditto</p>

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136	<p>Not obeying legal order to attend at a certain place in person or by agent or departing there from without authority</p> <p>If the summons, etc., requires personal attendance, or attendance by agent in a court of justice</p>	<p>ditto</p> <p>Shall not arrest without warrant</p>	<p>ditto</p> <p>ditto</p>	<p>Imprisonment for six months or fine of N20 or both</p> <p>Imprisonment for six months or fine of N20 or both</p>	<p>ditto</p> <p>Magistrate of the second grade</p>	<p>ditto</p> <p>Ditto</p>
137	<p>Intentionally omitting to produce a document to public servant by a person legally bound to produce or deliver such document</p> <p>If the document is required to be produced in or delivered to a court of justice</p>	<p>Ditto</p> <p>Ditto</p>	<p>Ditto</p> <p>Ditto</p>	<p>Imprisonment for one month or fine of N10 or both</p> <p>Imprisonment for six months or fine of N40 or both</p>	<p>The court in which the offence is committed, subject to the provisions of chapter XX, or a Magistrate of the second Grade</p> <p>ditto</p>	<p>As in column 6 or Gd. III</p> <p>ditto</p>

138	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information	Ditto	Ditto	Imprisonment for one month or fine of N20 or both	Magistrate of the second Grade	Gd. III
	If the notice or information required respects the commission of an offence etc.	Ditto	Ditto	Imprisonment for six months or fine of N40 or both	ditto	Ditto
139	Knowing furnishing false information to a public servant	Ditto	Ditto	Ditto	Ditto	Ditto
	If the information required is in respect of the commission of an offence, etc.	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
140	Giving false information to a public servant in order to cause him to do something or to use his lawful power to the injury or annoyance of any person.	Shall not arrest with warrant	Summons	Imprisonment for one year or fine of N40 or both	ditto	ditto



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141	Refusing oath when duly required to take oath by public servant	Ditto	Ditto	Imprisonment for six months or fine of N40 or both	The court in which the offence is committed subject to the provisions of Chapter XXV, or a Magistrate of second Grade	As in column 6 or Gd. III
142	Refusing to answer questions when legally bound to answer	Ditto	Ditto	Ditto	Ditto	Ditto
143	Refusing to sign a statement made to a public servant when legally required	Ditto	Ditto	Imprisonment for three months or fine of N20,000 or both	Ditto	Ditto
144	Resistance to the taking of property by the lawful authority of a public servant	Ditto	Ditto	Imprisonment for six months or fine of N40 or both	Magistrate of the second Grade	Gd. III
145	Obstructing sale of property offered for sale by authority of a public servant	Ditto	Ditto	Imprisonment for one month or fine of N20 or both	Ditto	Ditto
146	Removing property under lawful seizure	Ditto	Ditto	Imprisonment for three years or fine or both	ditto	Ditto
147	Illegal purchase or bid for property offered for sale by authority of public servant	Shall not arrest with out warrant	summons	Imprisonment for one month or fine of N20 or both	ditto	Ditto
148	Obstructing public servant in discharge of his public functions	Ditto	Ditto	Imprisonment for three months or fine of N40 or both	Ditto	ditto

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149	Obstructing public servant in discharge of duty under written law	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto
150	Omission to assist public servant when legally bound to give such assistance	Ditto	ditto	Imprisonment for six months or fine of N40 or both	ditto	ditto
151	Contravention of residence order.	May arrest without warrant	ditto	Imprisonment for six months or fine of N100 or both	Magistrate of the First Grade	Upper Area Court
152	Disobedience to an order lawfully promulgated by a public servant:-  (a) If such disobedience causes obstruction, annoyance or injury to persons lawfully employed	Shall not arrest without warrant	Ditto	Imprisonment for three month or fine of N40 or both	Magistrate of the second Grade	Gd. III
	(b) If such disobedience causes danger to human life, etc	ditto	ditto	Imprisonment for six month or fine of N100 or both	ditto	ditto

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153	Threatening a public servant with injury to him or one in whom he is interested to induce him to do or forbear to do any official act	Ditto	Ditto	Imprisonment for two years or fine or both	ditto	ditto
154	Threatening any person to induce him to refrain from applying for protection to public servant.	Shall not arrest without warrant	summons	Imprisonment for one year or fine or both	Magistrate of second grade	ditto
155	Intentional insult or interruption to public servant sitting in judicial proceeding	Ditto	Ditto	Imprisonment for six months or fine of N40 or both	The court in which the offence is committed, subject to the provisions of Chapter XXV, or a Magistrate of the second Grade	As in column 6 or Gd. III

**CHAPTER XII – FALSE EVIDENCE AND OFFENCES RELATING TO  
THE ADMINISTRATIVE OF JUSTICE**  
*offences relating to evidence*

158	Giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	Ditto	Imprisonment for fourteen years and fine	Chief Magistrate	Upper Area Court or, if the court considers that the offence can be adequately punished by not more than six months imprisonment or by a fine not exceeding N200. Area Court Grade 1.
159	Giving or fabricating false evidence with intent to cause any person to be convicted of an offence punishable with death.  If innocent person be thereby convicted and executed	Shall not arrest without warrant  Ditto	warrant  Ditto	Imprisonment for life  Death	High Court  ditto	No jurisdiction  Ditto

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160	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment	Ditto	Ditto	The same as for the offence	Magistrate of the First Grade	Gd. II
	Using in a judicial proceeding evidence known to be false or fabricated	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
	Knowingly issuing or signing a false certificate relating to any fact of which, such certificate is by law admissible in evidence.	ditto	ditto	The same as for giving false evidence	The same court as may try giving false evidence	No jurisdiction
163	Using as a true certificate one known to be false in a material point	ditto	ditto	ditto	ditto	No jurisdiction

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160	<p>Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment</p> <p>Using in a judicial proceeding evidence known to be false or fabricated</p> <p>Knowingly issuing or signing a false certificate relating to any fact of which, such certificate is by law admissible in evidence.</p>	<p>Ditto</p> <p>ditto</p> <p>ditto</p>	<p>Ditto</p> <p>Ditto</p> <p>ditto</p>	<p>The same as for the offence</p> <p>The same as for giving or fabricating false evidence</p> <p>The same as for giving false evidence</p>	<p>Magistrate of the First Grade</p> <p>The same court as may try giving or fabricating the false evidence</p> <p>The same court as may try giving false evidence</p>	<p>Gd. II</p> <p>As column 6</p> <p>No jurisdiction</p>
163	Using as a true certificate one known to be false in a material point	ditto	ditto	ditto	ditto	No jurisdiction

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164	False statement in any declaration which is by law receivable as evidence	Ditto	Ditto	Ditto	Ditto	Ditto
	Using as true any such declaration known to be false	Ditto	Ditto	Ditto	Ditto	Ditto
165	Making false translation for use in judicial proceeding	Ditto	Ditto	Ditto	Ditto	Ditto
166	Secreting or destroying any document to prevent its production as evidence	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the First Grade	Gd. II
		Screening of offences				
167	Causing disappearance of evidence of an offence committed to screen offender or giving false information touching it to screen the offender or prevent his arrest or harbouring an offender.	Shall not arrest without warrant	Warrant	Imprisonment for five years and fine.	Magistrate of the First Grade	Gd. II



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168	Taking gratification to screen an offender from punishment	Ditto	Ditto	Ditto	Ditto	No jurisdiction
169	Offering gratification in consideration of screening offender	ditto	ditto	Imprisonment for seven years or fine	ditto	ditto
		Fraudulent Dealing with property				
170	harbouring robbers or brigands	May arrest without warrant	ditto	ditto	ditto	Ditto
171	Resistance or obstruction to the lawful arrest of another person or rescuing him from lawful confinement or custody	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Magistrate of the First Grade	Gd. II
	If under sentence of death	Ditto	Ditto	Imprisonment for life and fine.	High Court	Upper Area Court Gd. II.

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172	Resistance or obstruction by a person to his lawful arrest for an offense with which charged or of which he has been convicted or escape from custody in respect of such offence.	Ditto	Ditto	Imprisonment for seven years or fine or both	Magistrate of the First Grade	Gd. II
173	Resistance or obstruction to arrest or escape in other cases	May arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the first grade	Ditto
		Fraudulent Dealing with property				
174	Fraudulent or dishonesty dealing with property to prevent its seizure or its application according to law.	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
175	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto	Ditto	ditto	Magistrate of the First Grade	Gd. II

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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
178	Giving false information respecting an offence committed	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the First Grade	Gd. III
179	Personation for the purpose of any act or proceeding in a suit or criminal prosecution.	ditto	ditto	Imprisonment for three years or fine or both	Magistrate of the First Grade	Gd. II
180	False charge of offence made with intent to injure  If offence charged be punishable with death or imprisonment for seven years or upwards	Ditto  Shall not arrest without warrant	Ditto  warrant	Imprisonment for two years or fine or both  Imprisonment for seven years or fine or both	Ditto  Magistrate of the First Grade	Ditto  Ditto

181	Taking gift to help to recover movable property of which a person has been deprived by an offence without endeavouring to cause offender to be brought to justice	Ditto	Ditto	ditto	ditto	Ditto
182	Influencing course of justice	Ditto	summons	Imprisonment for two years or fine	Magistrate of the first grade	Ditto
<b>CHAPTER XIII- PUBLIC NUISANCE</b>						
	Adulteration etc., food or drink intended for sale, without notice to purchaser	Shall not arrest without warrant	Summons	Imprisonment for one year or fine of N200	Magistrate of the second Grade	Gd. III
185	Selling of food or drink not corresponding to description	Ditto	Ditto	fine of N20	ditto	Ditto
186	Selling adulterated food or drink	Ditto	Ditto	Imprisonment for six months or fine of N100 or both	Ditto	Ditto

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187	Selling any article as food and drink knowing the same to be noxious	ditto	Ditto	Imprisonment for two years or fine of both	ditto	ditto
188	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy or to change its operation or to make it noxious	ditto	Ditto	Imprisonment for six months or fine of N100 or both	ditto	ditto
189	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated	Shall not arrest without warrant	summons	Imprisonment for six months or fine of N100 or both	Magistrate of second Grade	Gd. IIII
190	Knowing selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation	Ditto	Ditto	Ditto	Ditto	Ditto

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191	Fouling the water of a public well or reservoir	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto
192	Making atmosphere noxious to health	Ditto	Ditto	Imprisonment for six months or fine or both	Ditto	Ditto
193	Exhibition of a false light, mark or buoy	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Magistrate of the first grade	Gd. II
194	Causing obstruction on public way or line of navigation	Ditto	Summons	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
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	Ditto	Ditto
196	Rash or negligent act or conduct endangering human life, etc	May arrest without warrant	Ditto	Imprisonment for six months or fine or both	ditto	Ditto
197	A person omitting to control any animal in his possession, so as to guide against danger to human life or of grievous hurt from such animal	May arrest without warrant	summons	Imprisonment for six months or fine or both	Magistrate of second grade	Gd. III

198	Committing a public nuisance	Shall not arrest without warrant	Ditto	Imprisonment for one year or fine or both	Ditto	Ditto
199	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Ditto	Imprisonment for three years or fine or both	Ditto	Ditto
200	Obscene or indecent acts	ditto	Warrant	Imprisonment for two years or fine or both	Ditto	Ditto
201	Keeping a brothel	Ditto	Summons	Imprisonment for one year or fine or both	Ditto	Ditto
202	Sale, etc of obscene books etc or having such books in possession for sale or exhibition	Ditto	Warrant	Imprisonment for two years or fine or both	Ditto	Ditto
203	Obscene songs, etc.	Ditto	Ditto	Imprisonment for three months or fine or both	Ditto	Ditto



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		<b>CHAPTER XV – LOTTERIES AND GAMING HOUSES</b>				
205	Keeping a gaming house or lottery office	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	Ditto	ditto
206	Offences relating to lotteries	Shall not arrest without warrant	summons	Imprisonment for six month or fine or both	Magistrate of the second Grade	Ditto
		<b>CHAPTER XV – CRUELTY TO ANIMALS</b>				
207	Ill-treating domestic animals	May arrest without warrant	Summons	Imprisonment for one year or fine or both	Ditto	Gd. III
208	Over-riding or neglect of animal	Ditto	Ditto	Ditto	Ditto	Ditto

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CHAPTER XVI – OFFENCES RELATING TO RELIGION						
210	Insulting religion creed	May arrest without warrant	Summons	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
211	Destroying, damaging or defiling the place of worship or sacred object with intent to insult the religion of any class of person	Ditto	Ditto	Ditto	Ditto	Ditto
212	Causing a disturbance to an assembly engaged in religious worship	Ditto	Ditto	Imprisonment for one year or fine or both	ditto	Ditto
213	Trespassing in place of worship or burial or disturbing funeral, with intent to wound the feelings or to insult the religion of any person or offering indignity to a human corps	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	Ditto

**CHAPTER XVII – OFFENCES RELATING TO ORDEAL, WITCHCRAFT OF JUJU**

214	Trial by ordeal	May arrest without warrant	Warrant	Imprisonment for ten years or fine or both	Chief Magistrate	Upper Area Court
	If such trial results in death	ditto	ditto	death	High Court	No jurisdiction
216	Offences relating to witchcraft and juju	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the First Grade	Upper Area Court
217	Criminal charms	Ditto	Ditto	Imprisonment for five years or fine or both	Ditto	ditto
218	Cannibalism	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	ditto
219	Unlawful possession of human head	Ditto	Ditto	Imprisonment for five years or fine or both	Ditto	No jurisdiction

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## CHAPTER XVIII – OFFENCES AFFECTING THE HUMAN BODY

### Offences affecting human life

221	Culpable homicide punishable with death	May arrest without warrant	Warrant	Death	High Court	No jurisdiction
224	Culpable homicide not punishable with death	Ditto	Ditto	Imprisonment for life or fine or both	Ditto	Ditto
225	Causing death when intention is to cause hurt or grievous hurt only.	Ditto	Ditto	Imprisonment for fourteen years or fine or both	Ditto	Ditto
226	Death caused in act of committing offence	May arrest without warrant	warrant	Imprisonment for ten years or fine or both	High Court	No jurisdiction
227	Abetment of suicide committed by a child or insane or delirious person or idiot or a person intoxicated	Ditto	Ditto	Death	Ditto	Ditto
228	Abetting the commission of suicide	Ditto	Ditto	Imprisonment for ten year and fine	Ditto	Ditto
229	Attempt to commit culpable homicide punishable with death	Ditto	Ditto	Imprisonment for life or fine or both	Ditto	Ditto
	Attempt by life convict to commit culpable homicide punishable with death, if hurt is caused	ditto	ditto	death	ditto	ditto

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230	Attempt to commit culpable not punishable with death  if hurt is caused	Ditto       ditto	Ditto       ditto	Imprisonment for three years or fine or both       Imprisonment for seven years or fine or both	Ditto       Ditto	Ditto       Ditto
231	Attempt to commit suicide	Ditto	ditto	Imprisonment for one year or fine or both	Magistrate of the second Grade	Gd. III
Causing Miscarriage, Injuries to Unborn Children, Exposure of Infants, Cruelty to Children, and the Concealment of Birth						
232	Causing miscarriage	Shall not arrest without warrant	Warrant	Imprisonment for fourteen years or fine or both	High Court	No jurisdiction
233	Death caused by an act done with intent to cause miscarriage	Ditto	Ditto	Imprisonment for fourteen years and fine or both	Ditto	Ditto
234	Causing miscarriage unintentionally  If offender knew woman to be with child	Ditto    Ditto	Ditto    Ditto	Imprisonment for three years or fine or both   Imprisonment for five years or fine or both	ditto   ditto	Ditto   Ditto

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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	ditto	Ditto
236	Causing death of a quick unborn child by an act amounting to culpable homicide	Ditto	Ditto	Imprisonment for life or fine or both	ditto	Ditto
237	Exposure of a child under twelve years of age by parent or person having care of it with the intention wholly abandoning it	May arrest without warrant	Ditto	Imprisonment for seven years or fine or both	ditto	Ditto
238	Cruelty to children	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both.	Magistrate of the second Grade	Gd. III
	If serious injury caused to health of child	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the First Grade	Gd. II
239	Concealment of birth by secret disposal of dead body	May arrest without warrant			warrant	Imprisonment for two years or fine or both

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244	Voluntarily causing hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant			summons	Imprisonment for one month or fine or both
245	causing grievous hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation	May arrest without warrant			Ditto	Imprisonment for four years or fine or both
246	Voluntarily causing hurt without provocation	Shall not arrest without warrant	Ditto	Imprisonment for one year or fine or both	ditto	ditto
247	Voluntarily causing grievous hurt without provocation	May arrest without warrant	Ditto	Imprisonment for seven years and fine or both	ditto	ditto
248	Voluntarily causing hurt by dangerous weapons or means  If the hurt be grievous	May arrest without warrant	Summons	Imprisonment for three years or fine or both	High Court	Upper Area Court
		Ditto	Warrant	Imprisonment or and fine	Ditto	ditto
249	Administering stupefying drug with intent to cause hurt, etc	Ditto	Ditto	Imprisonment for ten years and fine	Ditto	Ditto



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250	Voluntarily causing hurt to extort property or a document of title or to constrain to do anything which is illegal or which may facilitate the commission of an offence  If the hurt be grievous	Ditto	Ditto	Imprisonment for ten years and fine or both	Chief Magistrate	Ditto
		Ditto	Ditto	Imprisonment for fourteen years and fine	High Court	ditto
251	Voluntarily causing hurt to extort confession or information or to compel restoration of property etc  If the hurt be grievous	Ditto	Ditto	Imprisonment for seven years and fine	Chief Magistrate	Gd. II
		Ditto	Ditto	Imprisonment for ten years and fine	ditto	Upper Area Court.
252	Voluntarily causing hurt to deter public servant from his duty  If the hurt be grievous	Ditto	Ditto	Imprisonment for three years or fine or both	Magistrate of the First Grade	Gd. II
				Imprisonment for ten years and fine	Ditto	

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253	Causing hurt by an act endangers human life, etc.	May arrest without warrant	summons	Imprisonment for one year or fine or both.	Magistrate of the second Grade	Grade. III
	If the harm be grievous	ditto	ditto	Imprisonment for two years or fine or both	ditto	ditto
Wrongful restrained and wrongful confinement						
256	Wrongfully restraining any person	May arrest without warrant	Summons	Imprisonment for One month or fine or both	Magistrate of the second Grade	Gd. II
257	Wrongfully confining any person	Ditto	Ditto	Imprisonment for one month or fine or both	Ditto	Ditto
	If wrongfully confinement continues for more than three days	Ditto	Ditto	Imprisonment for three years or fine or both	ditto	ditto
258	Keeping any person in wrongful confinement knowing that a warrant or Order has been issued	Ditto	Ditto	Imprisonment for two years in addition to imprisonment under any other section	Chief Magistrate	Upper Area Court
259	Wrongful confinement in secret	Ditto	Ditto	ditto	ditto	Ditto

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260	Wrongful confinement for the purpose of extorting property or  Constraining to illegal act, e.t.c	Ditto	Ditto	Imprisonment for three years and fine	Magistrate of the First Grade	Gd. II
261	Wrongful confinement for the purpose of extorting confession or information compelling restoration of property, e.t.c	Ditto	Ditto	Ditto	Ditto	Ditto
			Criminal Force and Assault			
265	Assault or use of criminal force otherwise than on grave provocation  If hurt be grievous	May arrest without warrant  Ditto	Summons  Ditto	Imprisonment for one year or fine or both  Imprisonment for three years or fine or both	Magistrate of the second Grade  Ditto	Gd. III  Ditto
266	Assault or use of criminal force on grave provocation	Ditto	Ditto	Imprisonment for three or fine or both	ditto	ditto

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267	Assault or use of criminal force to deter a public servant from discharge of his duty	Ditto	Warrant	Imprisonment for three years or fine of or both	ditto	ditto
268	Assault or use of criminal force to a woman with intent to outrage her modesty	Ditto	Ditto	ditto	Ditto	Ditto
269	Assault or criminal force in attempt to commit theft of property worn or carried by a person	Ditto	Ditto	ditto	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	ditto	Ditto
273	Kidnapping	May arrest without warrant	Warrant	As contained in the state law	High Court	Upper Area Court
274	Kidnapping or abducting in order to commit culpable homicide	Ditto	Ditto	ditto	High Court	ditto
275	Procurement of minor girl	May arrest without warrant	warrant	Imprisonment for ten years and fine	Chief magistrate	Ditto

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276	Importation of a girl from foreign country	Ditto	Ditto	ditto	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	Upper Area Court
278	Buying, selling, hiring or letting to hire a minor for purposes of prostitution etc.	Ditto	Ditto	Imprisonment for ten years and fine	Chief Magistrate	ditto
279	Buying or disposing of slave	Ditto	Ditto	Imprisonment for fourteen years and fine	High Court	ditto
280	Unlawful compulsory labour	Ditto	Ditto	Imprisonment for one years or fine or both	Magistrate of the second Grade	Gd. III
281	Traffic in Women	Ditto	Ditto	Imprisonment for seven years and fine	Chief Magistrate	Upper Area Court

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	<b>Rape, and Unnatural and Indecent Offences against the Person</b>					
283	Rape	May arrest without warrant	Summons	Imprisonment for life and fine	High Court	ditto
284	Unnatural offence	Ditto	Ditto	Imprisonment for fourteen years and fine	Ditto	Ditto
285	Gross indecency upon person	Ditto	Ditto	Imprisonment for Seven years	Chief Magistrate	ditto
	<b>CHAPTER XIX – OFFENCES AGAINST PROPERTY</b>					
	<b>Theft</b>					
287	Theft	May arrest without warrant	Warrant	Imprisonment for five years or fine or both	Magistrate of the second Grade	Gd. III
288	Theft in a building, tent or vessel	Ditto	Ditto	Imprisonment for Seven years or fine or both	ditto	Ditto
289	Theft by clerk or servant of property in possession of master or employer	ditto	ditto	ditto	ditto	ditto

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290	Theft, preparing having been made for causing death or hurt or restraint or fear of death or of hurt or of restraint in order to commit such theft or to escape after committing it or to retain property taken by it	Ditto	Ditto	Imprisonment for fourteen years and fine	Chief Magistrate	Upper Area Court
		<b>Extortion</b>				
292	Extortion	Shall not arrest without warrant	Warrant	Imprisonment for five years fine or both	Magistrate of the second Grade	Gd. III
293	Putting or attempting to put in fear of injury in order to commit extortion	Ditto	Ditto	Imprisonment for two years or fine or both	Ditto	ditto
294	Extortion by putting a person in fear of death or grievous hurt	Ditto	Ditto	Imprisonment for fourteen years and fine	High Court	Upper Area Court
298	Robbery	May arrest without warrant	ditto	Imprisonment for twenty one years, fine and canning	High Court	No jurisdiction
	If committed by person armed with dangerous or offensive weapon or instrument	Ditto	Ditto	imprisonment for life, canning	Ditto	Ditto



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299	Attempt to commit robbery	Ditto	Ditto	Imprisonment for Fourteen y years and fine	Ditto	Ditto
300	Person voluntarily causing hurt in committing or attempting to commit robbery or any other person jointly concerned in such robbery	May arrest without warrant	Warrant	Imprisonment for twenty-one years and fine.	High Court	No jurisdiction
301	Brigandage	Ditto	Ditto	ditto	Ditto	Ditto
302	Brigandage with culpable homicide	Ditto	Ditto	Death	Ditto	Ditto
303	Robbery or brigandage with deadly weapon or grievous hurt.	Ditto	Ditto	Imprisonment for fourteen years and fine	Ditto	Ditto
	With service uniform or equipment	Ditto	Ditto	Imprisonment for life	Ditto	Ditto
	With service weapon	Ditto	Ditto	Ditto	Ditto	Ditto
	With firearm	Ditto	Ditto		Ditto	Ditto
304	Making preparation to commit brigandage	Ditto	Ditto	Imprisonment for fourteen years and fine	ditto	Ditto

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305	Belonging to a gang of persons associated for the purpose of habitually committing brigandage	May arrest without warrant	Warrant	Imprisonment for fourteen years and fine	High court	No jurisdiction
305(2)	Ditto Punishable under section 303(1)(b)	Ditto	Ditto	Imprisonment for Twenty one years and fine	Ditto	Ditto
306(1)	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts or robbery	Ditto	Ditto	Imprisonment for ten years and fine	ditto	Ditto
306(2)	Ditto punishable under section 303 (1) (b)	Ditto	Ditto	Imprisonment for not less than fourteen years and fine	ditto	ditto
307(1)	Being one of five or more persons assembled for the purpose of committing brigandage.	ditto	ditto	Imprisonment for ten years and fine	ditto	Ditto
307(2)	Punishable under section 3010 (1)(b)	Ditto	ditto	Imprisonment for not less than fourteen years and fine	High Court	No Jurisdiction

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		Criminal Misappropriation				
309	Criminal misappropriation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
310	Criminal misappropriation knowing that the property was in possession of a deceased person at his death and that it has not since been in the possession of any person legally entitled to it.  If by clerk or servant of deceased	Shall not arrest without warrant	warrant	Imprisonment for three years and fine	Magistrate of second Grade	Gd. III
		ditto	Ditto	Imprisonment for seven years and fine	Ditto	Ditto
		Criminal Breach of Trust				
312	Criminal Breach of trust	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	Magistrate of the second Grade	Gd. III
313	Criminal breach of trust by a carrier, Wharfinger etc.	Ditto	Ditto	Imprisonment for ten years and fine	Ditto	Ditto
314	Criminal breach of trust by a clerk or servant	Ditto	Ditto	ditto	Ditto	Ditto

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	Criminal breach of trust by public servant or by banker, merchant or agent, etc	Ditto	Ditto	Imprisonment for fourteen years and fine	Magistrate of the First Grade	Gd. II
		Receiving Stolen Property				
317	Dishonesty receiving stolen property, knowing it to be stolen	May arrest without warrant	Warrant	Imprisonment for fourteen years or fine or both	Magistrate of the second Grade	Gd. III
318	Dishonestly receiving stolen property knowing that it was obtained by brigandage	Ditto	ditto	Imprisonment for life and fine	High Court	Upper Area Court
319	Assisting concealment or disposal of stolen property, knowing it to be stolen	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the second Grade	Gd. II
		Having possession of thing reasonably suspected of having been stolen				
319	Having possession of thing reasonably suspected of having been stolen	May arrest without warrant	Warrant	Imprisonment for Two years or fine or both	Magistrate of the second Grade	Gd. III
322	Cheating	Shall not arrest without warrant	Warrant	Imprisonment for Three years or fine or both	Magistrate of the second Grade	Gd. III
323	Cheating a person whose interest the offender was bound either by law or by legal contract to protect	Ditto	Ditto	Imprisonment for five years or fine or both	Magistrate of the first Grade	Upper Area court

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324	Cheating by personation	May arrest without warrant	Ditto	Ditto	Magistrate of second grade	Gd. III
325	Cheating and thereby dishonestly inducing delivery of property, or making alteration or destruction of a document of title	Ditto	Ditto	Imprisonment for seven years and fine	Magistrate of the First Grade	Upper Area Court
		Mischief				
327	Mischief	Shall not arrest without	Summons	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
329	Mischief by killing, poisoning or maiming or rendering useless any animal	May arrest without warrant	Ditto	ditto	ditto	Ditto
330	Mischief by killing, poisoning rendering useless any camel, horse etc.	Ditto	Warrant	Imprisonment for five years or fine or both	Magistrate of the second Grade	Gd. III
				or both		
331	Mischief in relation to Water Supply	Ditto	Ditto	Ditto	ditto	Ditto

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332	Mischief by injury to the public road, bridge, navigable river or navigable channel and rendering it impossible or less safe for traveling or conveying property	Ditto	Ditto	Imprisonment for life or fine or both	ditto	ditto
333	Mischief by causing inundation or obstruction to public drainage attended with damage	Ditto	Ditto	Imprisonment for five years or fine or both	ditto	Ditto
334	Mischief relating to electricity, telegraph and telephone	Ditto	Ditto	Ditto	Ditto	ditto
335	Mischief by destroying or moving etc a landmark fixed by public authority	Shall not arrest without warrant	Ditto	Imprisonment for one year or fine or both	ditto	Ditto
336	Mischief by fire or explosive substance with intent to cause damage	May arrest without warrant	Ditto	Imprisonment for Seven years or fine	Magistrate of the First Grade	Gd. II
337	Mischief by fire or explosive substance with intent to destroy a house etc.	Ditto	Ditto	Imprisonment for life and fine	High Court	Upper Area Court
338	Mischief to vessels	Ditto	Ditto	Imprisonment for fourteen years or fine or both	Ditto	Ditto

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339	Mischief described in section 338 when committed by fire or any explosive substance	May arrest without warrant	Warrant	Imprisonment for life and fine	High Court	Upper Area Court
340	Running vessel assured with intent to commit theft etc	Ditto	Ditto	Imprisonment for fourteen years or fine	Ditto	ditto
341	Mischief committed after preparation made for causing death or hurt etc	ditto	ditto	Imprisonment for five	Magistrate of the first grade	Gd. II
		<i>Criminal Trespass</i>				
348	Criminal trespass	May arrest without warrant	Summons	Imprisonment for one year or fine or both	Magistrate of the second Grade	Gd. III
349	House trespass	Ditto	Warrant	Ditto	Ditto	ditto
350	House trespass with intention to commit an offence punishable with death	Ditto	Ditto	Imprisonment for fourteen Years and fine	High Court	Upper Area Court
351	House trespass punishable with fourteen years imprisonment	Ditto	Ditto	Imprisonment for ten years and fine	Ditto	ditto
352	House trespass to commit an offence punishable with imprisonment	Ditto	Ditto	Imprisonment for seven years and fine	Magistrate of the second Grade	Gd. III



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353	Lurking house trespass or house breaking	Ditto	Ditto	Imprisonment for two years and fine	Ditto	ditto
354	Lurking house trespass or housebreaking to commit an offence punishable with imprisonment	May arrest without warrant	warrant	Imprisonment for fourteen years and fine	Magistrate of the second Grade	Gd. II
355	Lurking house trespass or house breaking by night	Ditto	Ditto	Imprisonment for three years and fine	Ditto	Ditto
356	Lurking house trespass or house breaking by night in order to commit an offence punishable with imprisonment	Ditto	Ditto	Imprisonment for life and fine	Ditto	Ditto
357	Death or grievous hurt caused by one of several person jointly concern in house breaking by night, etc	Ditto	Ditto	Ditto	High court	Upper Area Court
358	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	Ditto	Ditto	imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III

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359	Being entrusted with any closed receptacle containing or supposed to contain any property and fraudulently open the same	Ditto	Ditto	Imprisonment for three years or fine or both	Ditto	ditto
360	Lurking with house breaking 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
<b>CHAPTER XX – FORGERY</b>						
364	Forgery	Shall not arrest without warrant	Warrant	Imprisonment for fourteen years or fine or both	Chief Magistrate	Upper Area Court
365	Forgery of public seals, e.t.c	Ditto	Ditto	Imprisonment for life and fine	High Court	Ditto; excluding jurisdiction in respect of Government seals.
366	Using as genuine a forged document which is known to be forged	Ditto	Ditto	Punishment for forgery of such document	Same court as that by which the forgery is triable	The one that can tries the forgery
367	Making or counterfeiting a seal, plate, etc. with intent to commit forgery, possessing with intent any such seal, plate, etc. knowing the same to be counterfeit	Ditto	Ditto	Imprisonment for fourteen years and fine	Chief Magistrate	Upper Area Court

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369	Counterfeiting a device or mark used for authenticating documents or possessing counterfeit marked material	Ditto	Ditto	Ditto	Ditto	Ditto
370	Fraudulent destroying or defacing, or attempting to destroy or deface or secreting a document of title , etc.	Ditto	Ditto	Ditto	Ditto	Ditto
371	Falsification of accounts	Ditto	Ditto	Imprisonment for Seven years or fine or both	Ditto	Ditto
		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 second Grade	Gd. III
375	Counterfeiting a property mark used by another	Ditto	Ditto	Imprisonment for two years or fine or both	ditto	Upper Area Court
376	Counterfeiting a property mark used by a public servant or any mark use by him to denote the manufacture, quality, etc. of any property	Ditto	Summons	Imprisonment for three years and fine	Magistrate of the First Grade	Ditto – excluding jurisdiction in respect of government servants and government property marks

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<b>CHAPTER XXI – CRIMINAL BREACH OF CONTRACTS OF SERVICE</b>						
381	Being bound by contract to render personal service during voyage or journey or to convey or guard any property or person and voluntarily omitting to do so	Shall not arrest without warrant	summons	Imprisonment for one month or fine or both	Magistrate of the second Grade	Gd. III
382	Being bound by contract to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or diseases and voluntarily omitting to do so	ditto	ditto	Imprisonment for three months or fine or both	ditto	ditto
<b>CHAPTER XXII – OFFENCES RELATING TO MARRIAGE INCEST</b>						
383	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him and to co-habit with him in that believed	Shall not arrest without warrant	Warrant	Imprisonment for ten years and fine	High Court	Area court Grade 1
384	Marrying again during the lifetime of a husband or wife	Ditto	Ditto	Imprisonment for seven years and fine	Ditto	Ditto

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385	Same offence with the concealment of former marriage from the person with whom subsequent marriage is contracted	Ditto	Ditto	Imprisonment for ten years and fine	Ditto	Ditto
386	A person with fraudulent intention going through the ceremony of being married knowing that is not thereby lawfully married	Ditto	Ditto	Imprisonment for seven years and fine	ditto	Ditto
387	Adultery by a man	Shall not arrest without warrant	warrant	Imprisonment for two years or fine or both	Magistrate of the First Grade	Gd. III
388	Adultery by a woman	Ditto	Ditto	Ditto	Ditto	Ditto
389	Enticing or taking away or detaining with criminal intent a married	Ditto	Ditto	Ditto	Ditto	ditto
390	Incest	Ditto	Ditto	Imprisonment for seven years and fine	High Court	Upper Area Court
<b>CHAPTER XXIII – DEFAMATION</b>						
392	Defamation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the First Grade	Gd. II
393	Injurious falsehood	Ditto	Ditto	Ditto	ditto	Ditto
394	Printing or engraving, etc., matter knowing it to be defamatory	Ditto	Ditto	Ditto	Ditto	Upper Area Court

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395	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	Ditto	Ditto	Ditto	Ditto	Ditto
<b>CHAPTER XXIV – CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE AND DRUNKENNESS</b>						
397	Criminal intimidation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
	If threat be to cause death or grievous hurt, etc.	Ditto	Ditto	Imprisonment for seven years or fine or both	ditto	Ditto
398	Criminal intimidation by anonymous communication or having taking precaution to conceal when the threat come	Ditto	Ditto	Imprisonment for two years in addition to the punishment under section 397	Magistrate of the First Grade	Gd. II
399	Used of insulting or abusing language e.t.c	Ditto	Ditto	Imprisonment for two years or fine or both	Magistrate of the second Grade	Gd. III
400	Uttering any word or making any gesture intended to insult the modesty of a woman e.t.c	Ditto	Ditto	Imprisonment for one year or fine or both	ditto	Ditto

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401	Drunkenness in a public place	Ditto	Summons	Imprisonment for seven days or fine or both	Ditto	Ditto
	If person conducts himself in a disorderly manner, etc.	Ditto	Warrant	Imprisonment for one month or fine or both	ditto	Ditto
402	Being drunk and disorderly in a private place	Ditto	Ditto	Ditto	Ditto	ditto
403	Drinking alcoholic drink	Ditto	Ditto	Imprisonment for one month or fine or both	Ditto	Ditto
404	Effect of previous convictions under sections 401, 402 and 403	Shall not arrest without warrant	warrant	Twice the maximum imprisonment or maximum fine for offence of which convicted	Magistrate of the First Grade	Gd. II
	If convicted of two or more such offences	Ditto	Ditto	Three times the maximum imprisonment or maximum fine for the offence of which convicted or both	Ditto	Ditto
CHAPTER XXV - VAGABOND						
406	Conviction as idle person	Shall not arrest without warrant	warrant	Imprisonment for one month or fine or both	Magistrate of the second Grade	Gd. III
407	Conviction as a vagabond	Ditto	Ditto	Imprisonment for one years or fine or both	Magistrate of the First Grade	Gd. II
408	Incorrigible vagabond	Ditto	Ditto	Imprisonment for two year or fine or both	Ditto	ditto



Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	395	The person defamed
Criminal intimidation except when the offence is punishable with imprisonment for seven years	397	The person intimidated
Insult intended to provoke a breach of the peace	399	The person insulted.
<b>PART II</b>		
Grievous hurt on provocation	245	The person to whom hurt is caused
Grievous hurt without provocation.	247	The person to whom hurt is caused
Hurt, not grievous, by dangerous weapon	248	The person to whom the hurt is caused
Hurt, or grievous hurt, by act endangering life or safety	253	The person to whom the hurt is caused
Wrongfully restraining or confining any person	256,257	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.	331	The person to whom loss or damage is caused
House trespass to commit an offence (other than theft) punishable with imprisonment.	352	The person is possession of the house trespassed upon
Uttering words or making gestures intending to insult the modesty of a woman.	400	The woman who it is intended to insult.

**ADMINISTRATION OF CRIMINAL JUSTICE LAW, 2017**

**EXPLANATORY MEMORANDUM**

This Law provides for the administration of criminal justice system which 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 in Kogi State.

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



Matthew Ireya Shalbu  
(CLERK OF THE HOUSE)


✓  
I Assent/~~withhold~~ Assent this 29<sup>th</sup> day of December, 2017

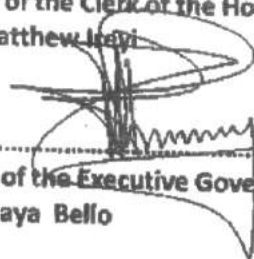


ALHAJI YAHAYA BELLO  
GOVERNOR OF KOGI STATE

**SCHEDULE OF BILL**

S/NO	LONG TITLE OF THE BILL	SUMMARY OF CONTENTS OF THE BILL	DATE PASSED BY THE HOUSE
1.	A Bill "The Kogi State Administration of Criminal Justice."	A Bill for "The Kogi State Administration of Criminal Justice, 2017.	28 <sup>TH</sup> December, 2017.

  
Signature of the Clerk of the House  
Shaibu Matthew Igayi

  
Signature of the Executive Governor of Kogi State  
Alhaji Yahaya Bello

29<sup>th</sup> Dec 2017