



Kwara State of Nigeria Gazette

Published by Authority

No. 10

ILORIN - 25th February, 2019

Vol. 47

Kwara State Notice No. 10

The following is published in the Supplement to this Gazette -

Kwara State Law No. 1 of 2019 - Kwara State Administration
of Criminal Justice Law, 2018

Printed and Published by the Government Printer, Ilorin.

Annual Subscription Nigeria, N21,600.00 Oversea, N5,000.00 post free Present issue (including Supplement) N2,000.00 per copy. Application for the purchase of Gazette and other Government Publications should be submitted to the Government Printer, Printing Department, P.M.B. 1428, Ilorin. Remittances should be in Money or Postal order, crossed and made payable to the Government Printer, Ilorin. Postage stamps are NOT acceptable.

KWARA STATE ADMINISTRATION OF CRIMINAL JUSTICE LAW, 2018

ARRANGEMENT OF SECTIONS

SECTION

PART I - PRELIMINARY

1. Purpose.
2. Application.

PART II - THE CONSTITUTION AND POWERS OF CRIMINAL COURTS

3. Classes of criminal courts
4. Power to divide the State into divisions or districts
5. Establishment and jurisdiction of Magistrate's Court in each district
6. Presiding officer not to exceed powers
7. Appointment of magistrates
8. Territorial jurisdiction of magistrates
9. Power of chief magistrate to direct a subordinate magistrate
10. Offences under the Penal Code and jurisdiction of Area Courts
11. Offences under other laws
12. Jurisdiction of High Court
13. Jurisdiction of Magistrates' Court
14. Power of the House of Assembly to expand jurisdiction
15. Combination of sentences
16. Imprisonment in default of payment of fine
17. Sentences in case of conviction of several offences at one trial
18. Power to bind parties to be of good behaviour

PART III - ARREST, BAIL AND PREVENTIVE JUSTICE

19. Arrest generally.
20. Mode of arrest.
21. No unnecessary restraint.
22. Notification of cause of arrest and rights of suspect.
23. Arrest in lieu prohibited.
24. Humane treatment of arrested suspect.
25. Search of arrested suspect.
26. Inventory of property of arrested suspect.
27. Examination of arrested suspect.
28. Search of place entered by suspect sought to be arrested.
29. Power to break out of house or place for purpose of liberation.
30. Arrested suspect to be taken to police station.
31. Recording of arrest.
32. State Criminal Records Registry.
33. Recording of statement of suspect.
34. Arrest by police officer without warrant.
35. Refusal to give name and address.
36. Arrest by private person.
37. Handing over suspect arrested by private person.
38. Arrest for offence committed in presence of judge or magistrate.
39. When public is bound to assist in arrest.
40. Pursuit of suspect into other jurisdiction.
41. Monthly report of arrest to Attorney-General.
42. Release on bail of suspect arrested without warrant.
43. Power to release on bail before charge is accepted.
44. Remedy of suspect detained in custody.
45. Police to report monthly to supervising magistrate.
46. Chief magistrate to visit police stations every month.

PART IV - WARRANTS

47. General authority to issue warrant.
48. Form and requisites for warrant of arrest.
49. Warrant to be issued on complaint only if on oath.

50. Warrant may be issued on any day.
51. Warrant, to whom directed and duration.
52. Warrant of arrest may be directed to other persons.
53. Publication of public summons of person absconding.
54. Execution of warrant and procedure.
55. Power to arrest on warrant but without the warrant.
56. Court may direct particulars of surety to be taken on execution of warrant.
57. Procedure on arrest of suspect outside division or district of court issuing the warrant.
58. Warrant issued by court.
59. Re-arrest of suspect escaping.
60. Sections 28 and 29 to apply to arrests under section 59.

PART V - PREVENTION OF OFFENCES AND SECURITY FOR GOOD BEHAVIOUR

61. Police to prevent offences and injury to public property.
62. Information of design to commit offence.
63. Arrest by police to prevent offences.
64. Prevention by other public officers and injury to public property.
65. Power of magistrate to require execution of recognizance for keeping peace.
66. Security for good behaviour for suspected person.
67. Security for good behaviour for habitual offenders.
68. Order to be made.
69. Procedure in respect of suspect present in court.
70. Summons or warrant in case of suspect not present.
71. Copy of order under section 70 to accompany summons or warrant.
72. Power to dispense with personal attendance.
73. Inquiry as to truth of information.
74. Order to give security.
75. Discharge of suspect informed against.

PART VI - PROCEEDINGS IN ALL CASES SUBSEQUENT TO
ORDER TO FURNISH SECURITY

76. Commencement of period for which security is required.
77. Conditions of recognizance.
78. Power to reject sureties.
79. Procedure on failure of suspect to give security.
80. Release of suspect imprisoned for failure to give security.
81. Power of High Court to cancel recognizance
82. Discharge of sureties.

PART VII - PUBLIC NUISANCE

83. Conditional order for removal of nuisance.
84. Service of order.
85. Suspect to whom order is addressed to obey or appear before court.
86. Order pending inquiry.
87. Prohibition of repetition or continuance of nuisance.

PART VIII - ATTACHMENT WHERE A PERSON DISOBEYS
SUMMONS OR WARRANT

88. Attachment of property of suspect absconding.
89. Order to attach property.
90. Restoration of attached property.
91. Issue of warrant in lieu of or in addition to summons.
92. Power to take bond for appearance.
93. Provision of this part generally applicable to summons and warrant.

PART IX - PROVISIONS RELATING TO CRIMINAL TRIALS AND
INQUIRIES IN GENERAL

94. Application of Parts 9 to 44.
95. General authority to bring subject to court.
96. Right of making complaint.
97. Form of Complaint.
98. Form of document in criminal proceedings.
99. Rule as to statement of exception.
100. Limitation of period for making a private complaint.

PART X - PLACE OF TRIAL OR INQUIRY

101. Venue generally.
102. Offence committed on a journey.
103. Offence commenced and completed in different State.
104. Chief Judge to decide question as to court of inquiry or place of trial.
105. Chief Judge may transfer a case.
106. When cases may be remitted to another court.
107. Removal under warrant.
108. Transfer of cases where cause of complaint has arisen out of jurisdiction of court.
109. Court may assume jurisdiction under certain conditions.
110. Assumption of jurisdiction after commencement of proceedings.

PART XI - POWERS OF THE ATTORNEY-GENERAL

- 111. Charges by the Attorney General.
- 112. Issuance of legal advice and other directives to police and other agencies.
- 113. Prosecution of offences.

PART XII - CONTROL OF CRIMINAL PROCEEDINGS BY THE ATTORNEY-GENERAL

- 114. Discontinuance of criminal cases.
- 115. Withdrawal from prosecution in trials and inquiries before a court.

PART XIII - INSTITUTION OF PROCEEDINGS

- 116. Different methods of instituting criminal proceedings.
- 117. Mode of instituting criminal proceedings in a magistrate's court.
- 118. Returns by Controller of Prisons.

PART XIV - FIRST INFORMATION REPORT

- 119. Procedure for receiving complaint and First Information Report.

PART XV - ENFORCING APPEARANCE OF SUSPECTS

- 120. Compelling appearance of a suspect.
- 121. Summons and warrants.
- 122. Making of complaints and issuance of process.

PART XVI - ISSUE, FORM AND SERVICE OF SUMMONS

- 123. Issue and service.
- 124. Issue of summons and contents.
- 125. Hearing by consent before return date of summons.
- 126. Summons with immediate return date in special circumstances.
- 127. Discretion in ex parte application.
- 128. Summons to be in duplicate.
- 129. Service of summons.
- 130. Normal methods of effecting service.
- 131. Service where person summoned cannot be found.

132. Service on public officers.
133. Service outside jurisdiction of court.
134. Proof of service when serving officer not present.
135. Receipt of service of summons.
136. Person refusing to sign receipt may be arrested.
137. Proof of service generally.
138. Summons disobeyed, warrant may be issued.
139. Issue of warrant in the first instance.
140. Application of sections 47 to 58 to a warrant.
141. Warrant may be issued before or after return date of summons.
142. Power to dispense with personal attendance of defendant in certain cases.

PART XVII - MISCELLANEOUS PROVISIONS REGARDING PROCESS

143. Irregularities in summons, warrant, service or arrest.
144. Irregularities which vitiate proceedings.
145. Variance between charge and complaint.
146. Process valid despite death or vacation from office of person issuing it.

PART XVIII - SAVING OF VALIDITY OF PROCESS

147. Validity of process, warrant of commitment and warrant of distress.
148. General addressee of process for issue and execution.
149. Application for search warrant matters.

PART XIX - SEARCH WARRANTS

150. Application for search warrant.
151. Cases in which search warrants may be issued.
152. Discharge of suspected person.
153. Search warrant to be signed by magistrate or judge.
154. Search warrant, to whom directed.
155. Time when search warrant may be issued and executed.

156. Person in charge of closed place to allow access.
157. Occupant of place searched to attend.
158. Execution of search warrant outside jurisdiction.
159. Magistrate may direct search in his presence.
160. Detention of articles recovered.
161. Perishable articles may be disposed of by court.
162. Search for and disposal of gun powder, explosives, e.t.c.
163. Disposal of counterfeit currency and certain other thing.
164. Transmission to court of other States.

PART XX- BAIL AND RECOGNIZANCES GENERALLY

165. General entitlement to bail.
166. Power of court to order person in custody to be brought before it.
167. Recognizance by parent or guardian of a child.
168. Bail where suspect is charged with capital offence.
169. Bail where defendant is charged with offence exceeding 3 years' imprisonment.
170. Bail where defendant is charged with offence not exceeding 3 years' imprisonment.
171. Bail in respect of other offences.
172. Conditions of bail.
173. Recognizance in respect of a charge.
174. Sureties.
175. Judge may vary bail fixed by magistrate or police.
176. Reconsideration of a bail.
177. Before who recognizance may be executed.
178. Release on execution of recognizance.
179. Mode of entry into recognizance.
180. Continuous bail.
181. Defendant bound by recognizance to appear before a court or police may be committed to prison.
182. Reconsideration of amount of bail on application by law officer or police.
183. Variation of recognizance if surety unsuitable.

184. Discharge of sureties.
185. Order of fresh surety upon original order.
186. Forfeiture of recognizance.
187. Mitigation of forfeiture.
188. Where defendant fails to find surety.
189. Forfeiture on conviction.
190. Where recognizance forfeited warrant may be issued.
191. Arrest on failure to appear.
192. Payment on recognizance.
193. Appeal.
194. Registration of bonds persons.
195. Bonds person.

PART XXI - PROPERTY AND PERSONS

196. Methods of stating multiple ownership of property
197. Description of persons in criminal process.
198. Remedies of married woman against her husband and others in respect of her person.
199. Husband and wife competent as witness.

PART XXII - THE CHARGE

200. Forms of charges in Appendix B to be used and adapted.
201. Contents of a charge.
202. Legal presumption of charge.
203. Particulars in charge.
204. Proof of evidence.
205. Charge of criminal breach of trust.
206. Charge of criminal falsification of account.
207. Charge may contain the manner in which offence was committed.
208. Sense of words used in charge.
209. Description of property and joint owners.
210. Description of bank or currency note.
211. Provision to statutory offences.
212. Description of persons and document.
213. General rule as to description.

- 214. Statement of intent.
- 215. Defendants who may be charged jointly.
- 216. Separate charge for distinct offences.
- 217. Attempt the same as substantive offence.
- 218. Trial for more than one offence.
- 219. Offences falling within two definitions.
- 220. Acts constituting one offence but constituting a different offence when combined.
- 221. Where it is doubtful which offence has been committed.
- 222. Incidental offences in the same transaction.

PART XXIII - ALTERATION OR AMENDMENT OF CHARGES

- 223. Alteration and amendment of charge by permission of court.
- 224. Procedure on alteration of charge.
- 225. When court may proceed with trial immediately after altering or adding to a framed charge.
- 226. Recall of a witness when charge is revised.
- 227. Effect of error.
- 228. Objection to a charge.
- 229. Effect of material error.

PART XXIV - CONVICTION WHEN CHARGED WITH ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE

- 230. Where defendant charged with one offence may be convicted of another.
- 231. Full offence charged, attempt proved.
- 232. Attempt charged, full offence proved.
- 233. Liability as to further prosecution.
- 234. On charge of an offence, conviction as accessory after the fact to that or connected offence may follow.
- 235. Defendant tried for lesser but higher offence is proved.
- 236. Conviction of kindred offences relating to property.
- 237. Defendant charged with burglary may be convicted of kindred offence.
- 238. On charge of rape, defilement, incest or unnatural offence conviction for indecent assault may follow.

- 239. Procedure for trial on charge of certain offences requiring witness protection.
- 240. Where homicide of an unborn child is charged and concealment of birth is proved.
- 241. Where homicide is charged and death of unborn child is proved.
- 242. Where offence proved is not included in offence charged.
- 243. Withdrawal of remaining charges on conviction on one of several charges.

PART XXV - PREVIOUS ACQUITTALS OR CONVICTION

- 244. Defendant convicted or acquitted not to be tried again for the same or kindred offence.
- 245. A defendant may be tried again on separate charge in certain cases.
- 246. Consequences supervening or not known at previous trial.

PART XXVI - WITNESSES: COMPELLING ATTENDANCE AND TAKING OF OATH OR MAKING OF AFFIRMATION

- 247. Issue of summons for witness.
- 248. Service of summons and other processes on witness.
- 249. Warrant for witness after summons.
- 250. Issue of warrant for witness.
- 251. Mode of dealing with witness arrested under warrant.
- 252. Penalty on witness refusing to attend.
- 253. Non-attendance of witness on adjourned hearing.
- 254. Persons in court may be required to give evidence though not summoned.
- 255. Manner of taking oath or affirmation.
- 256. Witness refusing to be sworn or produce document.

PART XXVII - WITNESSES: EXPENSES

- 257. Expenses of witnesses for the prosecution.
- 258. Expenses of witness for the defence.
- 259. Adjournment may be granted subject to witness costs.
- 260. Ascertainment of witness expenses.

PART XXVIII - EXAMINATION OF WITNESSES

- 261. Application of Evidence Act.
- 262. Power to call or recall witness.
- 263. Certificates of certain government technical officers.
- 264. Right of reply.

- 265. Public to have access to hearing.
- 266. Court may exclude certain persons while taking evidence of a child.
- 267. Order under sections 265 and 266 not to apply to press and certain others.
- 268. Prohibition of infant being present in court during trial of other persons.
- 269. Visit by court to locus.
- 270. Determination of age.
- 271. Age in relation to offences.
- 272. Presence of defendant at trial.
- 273. Conduct of cases by legal practitioner for complainant or for defendant.
- 274. General control of prosecution by Attorney General.
- 275. Position in court of person summoned.

PART XXIX - PLEA BARGAIN AND PLEA GENERALLY

- 276. Plea bargain.
- 277. Plea to a charge.
- 278. Proof of previous conviction.
- 279. Effect of plea of not guilty.
- 280. Effect of plea of guilty.
- 281. Amending charge where defendant pleads guilty to offence.
- 282. Failure to plead due to malice or otherwise.
- 283. Pleas: autrefois acquit or convict, or pardon.

PART XXX - PERSONS OF UNSOUND MIND

- 284. Procedure when defendant is suspected to be of unsound mind.
- 285. Report from medical officer.
- 286. Certificate of medical officer.
- 287. Release of defendant of unsound mind pending investigation or trial.
- 288. Resumption of proceedings or trial.
- 289. Resumption of proceedings after release.
- 290. Where defendant appears to be of unsound mind.
- 291. Safe custody of defendant discharged.
- 292. Order of Attorney-General under section 291.
- 293. Observation of prisoner of unsound mind.
- 294. Procedure when defendant of unsound mind is reported to be able to make his defence.
- 295. Procedure when defendant of unsound mind is reported fit for discharge.
- 296. Transfer from one place of custody to another.

- 297. Delivery of defendant of unsound mind to care of relative.
- 298. Removal to another detention facility.

PART XXXI - REMAND PROCEEDINGS & TIME LIMITS

- 299. Application for remand or other interlocutory proceedings.
- 300. Court may remand suspect in prison custody.
- 301. Court may grant bail in remand proceedings.
- 302. Time and protocols for remand orders.
- 303. Where court may exercise power of remand.
- 304. Court may bring up person remanded or make any order during remand.
- 305. Place of remand.

PART XXXII - PRESENTATION OF CASE BY PROSECUTION AND DEFENCE

- 306. Presentation of case.
- 307. No case submission at the instance of the court.
- 308. No case submission by the defence and replies.
- 309. Defence and prosecutor's right of reply.
- 310. Reference to the Court of Appeal.
- 311. Stay of proceedings.
- 312. Consideration of case by court and announcement of findings.
- 313. Judgment to be in writing.
- 314. Defendant to be discharged where found not guilty.
- 315. Procedure on finding of guilty.
- 316. Sentence and sentencing hearing.
- 317. Recommendation for mercy.
- 318. Conviction on other charges pending.
- 319. Compensation to victim in judgment.
- 320. Delivery of judgment when judge or magistrate is absent.
- 321. Warrant of commitment.
- 322. Authority for carrying out sentence other than death.
- 323. Error or omission not to affect legality of act.

PART XXXIII - COSTS, COMPENSATION, DAMAGES AND RESTITUTION

- 324. Power of court to order payment of expenses or compensation.

- 325. Payment to be taken into consideration in subsequent civil suit.
- 326. Power of court to order restitution.
- 327. Cost against prosecutor.
- 328. Compensation in cases of false and vexatious accusation.
- 329. Injured person may refuse to accept compensation, but payment of compensation is bar to further liability.
- 330. Compensation recovered as fine.
- 331. Warrant for levy of fine.
- 332. Power of court when convict is sentenced to only fine.
- 333. Wrongful conversion or detention of property and award of damages.

PART XXXIV - CUSTODY, DISPOSAL, RESTORATION OF PROPERTY

- 334. Meaning of property.
- 335. Order of custody and disposal of property pending trial.
- 336. Order of disposal of property after trial.
- 337. Custody or sale of property.

PART XXXV - SEIZURE, FORFEITURE, CONFISCATION AND DESTRUCTION OF INSTRUMENTS OF CRIME

- 338. Seizure of things intended to be used in commission of crime.
- 339. Destruction of seditious, prohibited or obscene Publications and of obscene object .
- 340. Search warrant may be used to search for things subject to section 338 or 339.
- 341. Restoration of possession of immovable property.
- 342. Procedure on seizure of property taken during arrest or investigation or stolen.
- 343. Procedure where owner of property seized is unknown.
- 344. Power to sell perishable property.
- 345. Payment to innocent person of money found on defendant.
- 346. Restitution and disposition of property found on defendant.
- 347. Restitution of stolen property.
- 348. Destruction of articles relating to counterfeiting where charge is laid.
- 349. Destruction of articles relating to counterfeiting where no charge is laid.
- 350. Detention and destruction of counterfeit property, etc.
- 351. Mode of dealing with forfeiture not pecuniary.

PART XXXVI - SUMMARY PROCEDURE IN PERJURY

352. Summary procedure in perjury.

PART XXXVII

TRIALS AND SUMMARY TRIALS GENERALLY

353. Trials.

354. Non-appearance and non-representation of legal practitioner.

355. When summary trial shall be held.

356. Non-appearance of complainant.

357. Non-appearance of defendant.

358. Non-appearance of both parties.

359. Appearance of both parties.

360. Withdrawal of complaint.

361. Manner of hearing.

362. Discharge of defendant when no case to answer.

363. Defence.

364. Process for compelling production of evidence at instance of defendant.

365. Saving as to section 363(1)(a).

366. Evidence in reply.

367. Power to take disposition in certain cases.

368. When statement may be used in evidence.

369. Notes of evidence to be recorded electronically or in writing.

370. Local inspection.

371. Cross complaints.

372. Joinder of complaints.

373. Giving of decision upon conclusion of hearing.

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

375. Effect of judgement of dismissal on merits, not on merits and without prejudice.

376. Summary trial of child by Magistrate.

377. Power to determine summary trial.

- 378. Law officer may require a case to be adjourned or dealt with specially.
- 379. Adjournment for law officer's decision.
- 380. Security for peace in cases tried summarily.
- 381. Case files, legal advice and related proceedings.
- 382. Filing of charge.
- 383. Assignment of charge and issuance of notice of trial.
- 384. Charge by private persons.
- 385. Conditions for private prosecutors.
- 386. Venue of trial.
- 387. Change of venue of trial.
- 388. Effect of change of venue.
- 389. Forms of notice of trial.
- 390. Copy of charge and notice of trial to be delivered to sherrif.
- 391. Time and mode of summoning parties on a charge.
- 392. Service of notice of trial on witnesses.
- 393. Registered courier companies may serve processes.
- 394. Return of service.
- 395. Warrant where defendant does not appear.
- 396. Law officer or legal practitioner for State and defence in capital cases.
- 397. Day-to-day trial and adjournments.
- 398. Attendance of witness bound by recognizance to attend.
- 399. Warrant for arrest of witness not attending on recognizance.
- 400. Warrant for arrest of witness disobeying summons.
- 401. Fine for non-attendance of witness.

PART XXXVIII - PROVISIONS RELATING TO SENTENCE OF DEATH

- 402. Construction of provisions relating to punishments.
- 403. Death.
- 404. How sentence of death is to be carried out.
- 405. Sentencing in the case of pregnancy.
- 406. Sentencing in the case of a child offender.
- 407. Authority for the detention of convict.
- 408. Judge's certificate of death full authority for execution of convict, unless pardoned or reprieved.

409. Steps to be taken by registrar.
410. Convict may send request to Committee on Prerogative of Mercy.
411. State at which Governor is to consider recommendation.
412. Where pardon or reprieve is granted.
413. Copy of order to be sent to judge.
414. Where pardon or reprieve is not granted.
415. Copy of order to be sent to prison official.

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

416. Procedure where woman convicted of capital offence is pregnant.

PART XL - SENTENCING GENERALLY OTHER THAN CAPITAL
SENTENCE

417. Court to determine term of imprisonment.
418. Power to order detention for one day in precincts of the court.
419. Date from which sentence commences.
420. Default in payment of fine.
421. Execution of sentence on escaped convict.
422. Fine in default of imprisonment.
423. Chief Judge may recommend review of fines etc.
424. General power of awarding imprisonment in default of payment of penalty.
425. Period of imprisonment in default of payment of penalty not to exceed scale in Appendix E.
426. Committal for non-payment of fine.
427. Payment and allocation of fines and fees.

- 428. Power to commit defendant in certain cases.
- 429. Allowance of further time and payment by instalments.
- 430. Payment of penalty to person executing warrant.
- 431. Commencement of imprisonment under a warrant.
- 432. Varying or discharging order for sureties.
- 433. Right of person imprisoned in default to be released and effect of part payment.
- 434. Fines may be ordered to be recoverable by distress.
- 435. Warrant of distress.
- 436. Procedure on the execution of distress warrant.
- 437. Part payment to reduce period of imprisonment in proportion.
- 438. Execution of sentence of *Haddi* lashing.
- 439. Execution of sentence of caning.
- 440. Stay of execution of sentence of caning.
- 441. Stay of execution of caning to allow time for appeal.

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

- 442. Conditions attached to detention in safe custody or suitable place other than prison or mental asylum.

PART XLII - CHILD OFFENDERS

- 443. Procedure for trying child offender.

PART XLIII - PROBATION AND NON-CUSTODIAL ALTERNATIVES

- 444. Meaning of probation order.
- 445. Conditional release of defendant and payment of compensation for loss or injury and costs.
- 446. Probation orders and conditions of recognizance.

- 447. Relieving probation officer of his duties.
- 448. Duties of probation officer.
- 449. Variation of terms and conditions of probation.
- 450. Provision in case of convict failing to observe condition of release.
- 451. Suspended sentence and community service.
- 452. Arrangements for community service.
- 453. Performance of community service orders.
- 454. Default of convict in complying with community service order.
- 455. Commission of further offence.
- 456. Amendment, review and discharge of community service orders.
- 457. Discharge of community service orders.
- 458. Confinement in rehabilitation and correctional centre.

PART XLIV - PAROLE

- 459. Release of prisoner before completion of sentence.

PART XLV - THE ADMINISTRATION OF CRIMINAL JUSTICE MONITORING COMMITTEE

- 460. Establishment of the Administration of Criminal Justice Monitoring Committee.
- 461. Functions of the Committee.
- 462. Secretariat of the Committee.
- 463. Fund of the Committee.
- 464. Annual estimates and accounts.
- 465. Annual report.
- 466. Power to obtain information.
- 467. Proceedings and quorum of the Committee.

PART XLVI - TRIAL OF CORPORATION

- 468. Interpretation under this Part.
- 469. Plea by corporation.
- 470. Charge against a corporation.
- 471. Joinder of counts in same charge.
- 472. Power of representative.
- 473. Matters to be read, said or explained to representative.

- 474. Non-appearance of representative.
- 475. Savings under this Part and joint charge against corporation and individual.

PART XLVII - APPEALS

- 476. Appeals from Area Courts.
- 477. Appeals from other courts.
- 478. Appeals from Magistrates' Court.

PART XLVIII - COMPOUNDING OF OFFENCES

- 479. Compounding of offence.

PART XLIX - FEES AND MISCELLANEOUS PROVISIONS

- 480. Payment of fees.
- 481. Suspension of payment of fees.
- 482. State not required to pay fees.
- 483. Use of forms in the Appendix.
- 484. Power to make rules of court.
- 485. Non-compliance and absence of express provisions.

PART L - SAVINGS, REPEAL AND INTERPRETATION

- 486. Saving existing appointments.
- 487. Savings as to other forms and procedures.
- 488. Repeal of Cap. C23.
- 489. Interpretation.
- 490. Citation.

APPENDIX A - I

KWARA STATE ADMINISTRATION OF CRIMINAL JUSTICE LAW, 2018

I assent this 3rd day of December 2018

L.S



ALH. ABDULFATAH AHMED
Governor,
Kwara State of Nigeria.

Kwara State of Nigeria
Law No. 10 of 2018

A LAW TO PROVIDE FOR THE ADMINISTRATION OF CRIMINAL JUSTICE
IN THE COURTS OF KWARA STATE AND FOR RELATED MATTERS

() Date of
Commencement

The Kwara State House of Assembly enacts:

PART I - PRELIMINARY

1. (1) The purpose of this Law is to ensure that the system of administration of criminal justice in Kwara 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. Purpose.

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

2. Without prejudice to section 101, the provisions of this Law shall apply to criminal trials for offences established by the laws of Application.

the State and other offences punishable in the State, except otherwise provided by any other law.

PART II - THE CONSTITUTION AND POWERS OF CRIMINAL COURTS

Classes of
criminal courts.

3. There shall be the following classes of criminal courts in Kwara State—

- (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 magistrates of the first grade;
- (g) courts of the magistrates of the second grade;
- (h) Area Courts established by law;
- (l) any other court that may be created by law.

Power to divide
the State into
divisions or districts.

4. (1) The Chief Judge may—

- (a) divide the State into magisterial districts for the purpose of establishing Magistrates' Court;
- (b) constitute any part of the State as a magisterial district for the purpose of establishing Magistrates' Court;
- (c) distinguish such magisterial districts by such names or numbers as he may consider appropriate;
- (d) vary the limit of any such magisterial district; and
- (e) create or designate divisions of the High Court to handle specific criminal matters solely or in addition to other matters or causes.

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

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

Establishment and jurisdiction of Magistrate's Court in each district.

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

6. (1) Subject to the provisions of this Law –

Presiding officer not to exceed powers.

(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

(b) no magistrate shall exercise any jurisdiction or powers in excess of those conferred upon him by his appointment.

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

7. (1) Magistrates shall be the chief magistrates of the first and second grades, senior magistrates of the first and second grades and magistrates of the first and second grades.

Appointment of magistrates.

(2) The appointment of a person to the office of a magistrate shall be made by the Judicial Service Commission.

(3) A person shall not be qualified to hold the office of a magistrate unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than 5 years.

Territorial jurisdiction of magistrates.

8. Every magistrate shall have jurisdiction throughout the State unless his appointment is specifically limited to a magisterial district or group of magisterial districts.

Power of chief magistrate to direct a subordinate magistrate.

9. Notwithstanding the provisions of section 8, 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 group, and may direct to the best of his ability the movements of any additional magistrate within the group.

Offences under the Penal Code and jurisdiction of Area Courts.

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

(2) Any offence under the Penal Code, other than sections 94(b), 97(1), 97(2), 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 274, 282, 283, 284, 294, 295, 301, 302, 304, 350, 357, 362, 363, 364, 365, 366, 367, 368, 369, 370 and 390, may be tried by any Area Court by which such offence is shown in the seventh column of Appendix A to be triable or by any court with greater powers.

(3) Subject to subsection (2) the jurisdiction of Area Courts shall be governed by the law establishing them.

Offences under other laws.

11. (1) Any offence under any law other the Penal Code may be tried by any court given jurisdiction in that behalf in that law or by any court with greater powers.

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

Provided that in trying any such offence –

- (a) (i) a chief magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed 18 years or with a fine exceeding ₦300,000,
- (ii) a chief magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed 15 years or with a fine exceeding ₦200,000;
- (b) (i) a senior magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed 12 years or with a fine exceeding ₦100,000,
- (ii) a senior magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed 10 years or with a fine exceeding ₦70,000;
- (c) (i) a magistrate of the first grade shall not try an offence punishable with imprisonment for a term which may exceed 8 years or with a fine exceeding ₦50,000,
- (ii) a magistrate of the second grade shall not try an offence punishable with imprisonment for a term which may exceed 5 years or with a fine exceeding ₦40,000;
- (d) an Area Court shall not try an offence under any law unless jurisdiction to

try the offence has been conferred upon the Area Court by the law creating the offence.

Jurisdiction of High Court.

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

Jurisdiction of Magistrates' Court.

13. (1) A chief magistrate of the first grade may pass the following sentences—

- (a) imprisonment for a term not exceeding 14 years;
- (b) fine not exceeding ₦300,000 naira; and
- (c) canning.

(2) A chief magistrate of the second grade may pass the following sentences—

- (a) imprisonment for a term not exceeding 12 years;
- (b) fine not exceeding ₦200,000; and
- (c) canning.

(3) A senior magistrate of the first grade may pass the following sentences—

- (a) imprisonment for a term not exceeding 10 year;
- (b) fine not exceeding ₦100,000; and
- (c) canning.

(4) A senior magistrate of the second grade may pass the following sentences—

- (a) imprisonment for a term not exceeding 8 years;
- (b) fine not exceeding ₦70,000; and
- (c) canning.

(5) A magistrate of the first grade may pass the following sentences –

- (a) imprisonment for a term of not exceeding 5 years;
- (b) fine not exceeding ₦50,000; and
- (c) canning.

(6) A magistrate of the second grade may pass the following sentences –

- (a) imprisonment for a term not exceeding 3 years;
- (b) fine not exceeding ₦40,000; and
- (c) canning.

14. 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.

Power of the House of Assembly to expand jurisdiction.

15. Any court may pass any lawful sentence, combining any of the types of sentences which it is authorized by law to pass.

Combination of sentences.

16. 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:

Imprisonment in default of payment of fine.

Provided that the term of imprisonment shall not be in excess of the powers of the court under section 13.

17. (1) 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 thereof which such court is competent to impose to run consecutively or concurrently.

Sentences in case of conviction of several offences at one trial.

(2) In cases falling under this section a court shall not be limited by the provisions of section 13 but shall not impose consecutive sentences exceeding in the aggregate twice the amount of punishment which is in excess of its ordinary jurisdiction.

A 8

Power to bind parties to be of good behaviour.

18. 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.

PART III - ARREST, BAIL AND PREVENTIVE JUSTICE

Arrest generally.

19. A suspect or defendant alleged to have committed an offence established by a law of the State shall be arrested, investigated, inquired into, tried or dealt with according to the provisions of this Law, except otherwise provided by this Law.

Mode of arrest.

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

No unnecessary restraint.

21. A suspect or defendant shall 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.

Notification of cause of arrest and rights of suspect.

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

(2) The police officer or the person making the arrest shall inform the suspect of his right to –

- (a) remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;
- (b) consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and
- (c) free legal representation by the Legal Aid Council of Nigeria or Kwara State Office of the Public Defender where applicable:

Provided that 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.

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

Arrest in lieu prohibited.

24. (1) A suspect shall –

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

Humane treatment of arrested suspect.

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

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

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

A 10

Search of arrested suspect.

25. (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 –

- (a) may search the suspect, using such force as may be reasonably necessary for the purpose; and
- (b) shall keep in safe custody all articles other than necessary wearing apparel found on the suspect.

(2) Where a suspect is admitted to bail, he shall not, subject to the provisions of section 27, be searched unless there are reasonable grounds for believing that he has on his person any –

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

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

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

Inventory of property of arrested suspect.

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

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

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

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

(5) Where a police officer refuses to release the property to the owner or any person having interest in the property under subsection (4), 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), may, if it is of the opinion that the property or any portion of it can be returned in the interest of justice to the safe custody of the owner or person having interest in the property, direct that the property or any portion of it be returned to the owner or to such person having interest in the property.

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

27. Where a suspect is in lawful custody on a charge of committing an offence of such a nature and under circumstances that there are reasonable grounds for believing that an examination of his

Examination of
arrested suspect.

person will afford evidence as to the commission of the offence, a qualified medical practitioner or any certified professional with relevant skills, acting on the request of a police officer, may make such an examination of the suspect in custody as is reasonably necessary in order to obtain the requisite evidence necessary for his prosecution.

Search of place entered by suspect sought to be arrested.

28. (1) Where a police officer or any other person 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.

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

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

Power to break out of house or place for purpose of liberation.

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

Arrested suspect to be taken 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 provisions of subsection (2), any such communication or legal advice shall be done in the presence of an officer who has custody of the arrested suspect.

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

Recording of arrest.

- (a) the alleged offence;
- (b) the date and circumstances of his arrest;
- (c) his full name, occupation, residential address, and email; and
- (d) for the purpose of identification –
 - (i) his height,
 - (ii) his photograph,
 - (iii) his full fingerprint impressions,
 - (iv) Bank Verification Number,
 - (v) DNA, whenever possible.

- (vi) national identity number,
- (vii) telephone number, and
- (viii) such other means of his identification.

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

(3) Any further action in respect of the suspect arrested pursuant to subsection (1) 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 or audio device.

(5) An oral confession of arrested suspect shall be admissible in evidence.

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

(7) Any objection to the admissibility of such confessional statement shall be recorded and shall be ruled upon by the court while delivering judgment in the substantive case.

State Criminal
Records Registry.

32. (1) There shall be established in the State Command of the Nigeria Police Force a State 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), 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, Kwara State 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.

33. (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.

Recording of
statement of
suspect.

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

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

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

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

A 16

Arrest by police officer without warrant.

34. (1) A police officer may, without an order of a court and without a warrant, arrest a suspect—

- (a) whom he suspects on reasonable grounds of having committed an offence against a law of the State or against the law of any other state, unless the Law creating the offence provides that the suspect cannot be arrested without a warrant;
- (b) who commits any offence in his presence;
- (c) who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody;
- (d) in whose possession anything is found which may reasonably be suspected to be stolen property or who may reasonably be suspected of having committed an offence with reference to the thing;
- (e) whom he suspects on reasonable grounds of being a deserter from any of the armed forces of Nigeria;
- (f) whom he suspects on reasonable grounds of having been involved in an act committed at a place outside the State which, if committed in the State, would have been punished as an offence, and for which he is, under a law in force in the State, liable to be apprehended and detained in the State;
- (g) having in his possession without lawful excuse, the burden of proving same shall lie on such person, any implement of housebreaking, car theft, firearm or any offensive or dangerous weapon;
- (h) whom he has reasonable cause to believe a

warrant of arrest has been issued by a court of competent jurisdiction in Nigeria;

- (i) found in the State taking precautions to conceal his presence in circumstances which afford reason to believe that he is taking such precautions with a view to committing an offence;
- (j) whose arrest warrant has been issued or whom he is directed to arrest by a judge, magistrate, or superior police officer;
- (k) whom he reasonably suspects to be designing to commit an offence for which the police may arrest without a warrant, if it appears to him that the commission of the offence cannot be otherwise prevented;
- (l) required to appear by a public summons issued under this Law or any other law; or
- (m) whom he reasonably suspects to be damaging any public property.

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

35. (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

Refusal to give name and address.

the officer has reason to believe to be false, he may be arrested by the officer in order that his name or residential address may be ascertained.

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

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

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

Arrest by private person.

36. (1) A private person may arrest a suspect in the State 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.

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

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

Handing over suspect arrested by private person.

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

(2) Where there is reason to believe that the arrested suspect comes under the provisions of section 34 (1), a police officer shall re-arrest him.

(3) Where there is reason to believe that the suspect has committed an offence, and he refuses on the demand of a police officer to give his name and address, or gives a name or address which the officer reasonably believes to be false, he shall be dealt with under the provisions of section 40 (2).

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

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

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

(7) The provisions of section 31 do not apply to this section unless the suspect arrested and handed over has been re-arrested in accordance with subsection (2) of this section.

Arrest for offence committed in presence of judge or magistrate

38. (1) 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.

(2) A magistrate may arrest or direct the arrest in his presence of a suspect whose arrest on a warrant he could have lawfully ordered if the facts known to him at the time of making or directing the arrest had been stated before him on oath by some other person.

(3) Where a suspect is arrested in accordance with the provisions of either subsection (1) or (2), the judge or magistrate making or directing the making of such arrest may deal with the suspect so arrested in the same manner as if the suspect had been brought before him by any other person.

(4) A judge or magistrate may arrest or direct the arrest of a suspect committing an offence in his presence and shall thereupon hand him over to a police officer who shall proceed to take necessary action.

When public is bound to assist in arrest.

39. A person is bound to assist a judge or 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 authorized to arrest.

Pursuit of suspect into other jurisdiction.

40. A person authorized to effect the arrest of any suspect may, for the purpose of effecting the arrest, pursue him into any part of Nigeria.

Monthly report of arrest to Attorney-General.

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

(2) The report shall contain the full particulars of arrested suspects as prescribed by section 31.

(3) A register of arrests containing the particulars prescribed in section 37 shall be kept in the prescribed form at every police station or agency authorized by law to make arrests, and every arrest, whether made with or without warrant, within the local limits of the police station or agency, shall be entered accordingly by the officer in charge of the police station or official in charge of the agency as soon as the suspect is brought to the station or agency.

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

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

Release on bail of suspect arrested without warrant.

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

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

43. (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 upon the execution of a bond, to appear at the police

Power to release on bail before charge is accepted

station and at such times as are named in the recognizance, unless he previously receives notice in writing from the police officer in charge of that police station that his attendance is not required.

(2) A recognizance under subsection (1) may be enforced as if it were a recognizance conditional for the appearance of the suspect before a court or the place in which the police station named in the recognizance is situated.

Remedy of suspect detained in custody.

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

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

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

Police to report monthly to supervising magistrate.

45. (1) An officer in charge of a police station or an official in charge of an agency authorized to make arrest shall, on the last working day of every month, report to the nearest magistrate 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 31.

(3) The magistrate shall on receipt of the report, forward them to the Administration of Criminal Justice Monitoring Committee which shall analyze the reports and advise the Attorney-General as to the mode of arrests, bail and related matters.

(4) The Attorney-General may, upon request by the National Human Rights Commission, the Legal Aid Council of Nigeria or a non-governmental organization, make the report available to them.

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

46. (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 stations every month.

(2) During a visit, the magistrate may –

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

(3) An officer in charge of a police station or official in charge of an agency authorized to make an arrest shall make available to the visiting chief magistrate or designated magistrate exercising his powers under subsection (1)–

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

(4) Where there is default by an officer in charge of a police station or official in charge of an agency authorized to make

arrest to comply with the provisions of subsection (3), the default shall be treated as a misconduct and shall be dealt with in accordance with the relevant police regulations under the Police Act, or under any other disciplinary procedure prescribed by any provision regulating the conduct of the officer or official of the agency.

PART IV - WARRANTS

General authority to issue warrant. 47. Where under a law, there is power to arrest a suspect without warrant, a warrant for his arrest may be issued.

Form and requisites for warrant of arrest. 48. (1) A warrant of arrest issued under this Law, unless the contrary is expressly provided under any other law, shall –
 (a) bear the date of the day of issue;
 (b) contain all necessary particulars; and
 (c) be signed by the judge or magistrate by whom it is issued.

(2) A warrant shall state concisely the offence or matter for which it is issued and shall name or otherwise describe the suspect to be arrested, and it shall order the police 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.

Warrant to be issued on complaint only if on oath. 49. A warrant of arrest shall not be issued in the first instance in respect of any complaint or statement unless the complaint or statement is on oath either by the complainant himself or by a material witness.

Warrant may be issued on any day. 50. A warrant of arrest may be issued on any day, including a Sunday or public holiday.

Warrant, to whom directed and duration. 51. (1) A warrant of arrest may be directed to a police officer by name or to all police officers.

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

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

52. (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 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.

(3) Where a court has reason to believe, whether after evidence or not, that a suspect, against whom a warrant of arrest has been issued by itself or by any court has absconded or is concealing himself so that the warrant cannot be executed, the court may publish 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.

53. (1) A public summons shall be published –

- (a) in a newspaper that enjoys wide circulation or circulated in any other medium as may be appropriate;
- (b) by affixing it to some conspicuous part of the

Publication of public summons of person absconding.

house or the premises or to some conspicuous place in the town or village in which the persons to be served ordinarily resides; or

(c) by affixing a copy to some conspicuous part of the High Court or Magistrate's Court building.

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

Execution of warrant and procedure.

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

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

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

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

Power to arrest on warrant but without the warrant.

55. 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.

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

56. (1) A court, on issuing a warrant for the arrest of a suspect in respect of a matter other than an offence punishable with death, may, if it thinks fit by endorsement on the warrant, direct that the

suspect named in the warrant be released on bail on his entering into such a recognizance for his appearance as may be required in the endorsement.

(2) The endorsement shall specify –

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

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

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

(5) Subject to the provisions of section 54, subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside the State.

57. (1) Where a warrant of arrest is executed in the State outside the division or district of the court by which it was issued, the suspect shall, unless security is taken under section 56, 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 the 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 has been endorsed under section 56 on the warrant and the suspect is ready and willing to give the security required by the direction, the court shall take bail or security, as the case may be, and shall forward the recognizance, if such be entered into, to the court which issued the warrant.

(3) Nothing in this section is deemed to prevent a police officer from taking security under section 63.

Warrant issued by court.

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

(2) A warrant issued under this section may be executed in accordance with section 42.

Re-arrest of suspect escaping.

59. 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.

Sections 28 and 29 to apply to arrests under section 59.

60. The provisions of sections 28 and 29 shall apply to arrests under section 59 although the person making such arrest is not acting under a warrant and is not a police officer having authority to arrest.

PART V - PREVENTION OF OFFENCES AND SECURITY
FOR GOOD BEHAVIOUR

61. (1) A police officer may intervene for the purpose of preventing, and shall, to the best of his ability, prevent the commission of an offence. Police to prevent offences and injury to public property.

(2) A police officer may on his authority intervene to prevent an injury attempted to be committed in his presence to any person or damage to public property, whether movable or immovable, or removal of or damage to any public landmark or buoy or other mark used for navigation.

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

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

64. (1) A judge, magistrate, or any other public officer charged with responsibility for maintaining law and order may intervene for the purpose of preventing and shall, to the best of his ability, prevent the commission of an offence for which he is authorized to arrest without a warrant or any damage to any public property, movable or immovable. 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 authorized to arrest without a warrant or any damage to any public property, movable or immovable;
- (b) in the suppression of a breach of the peace or in the prevention of any damage to property, movable or immovable, or to any railway, canal, water supply, telecommunication system, oil pipeline or gas installation, or electrical installation; or
- (c) in the prevention of the removal of, or damage to any public landmark, buoy or other mark used for navigation.

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

65. (1) Where a magistrate is informed on oath that a suspect is likely to—
- (a) commit a breach of the peace or disturb the public tranquility; or
 - (b) do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility,

the magistrate may, in the manner provided in this Part, require the suspect to show cause why he should not be ordered to enter into a recognizance, with or without sureties, for keeping the peace for such period, not exceeding 1 year, as the magistrate thinks fit.

- (2) Proceedings shall not be taken under this section unless the suspect is —
- (a) in the State; and
 - (b) subject of the information under subsection (1) within the jurisdiction of the magistrate, or

the place where the breach of the peace or disturbance has occurred or where the suspect is, is within the jurisdiction of the magistrate.

66. Where a magistrate is informed on oath that –

- (a) a suspect is taking precautions to conceal his presence within the local limits of the magistrate's district; and
- (b) there is reason to believe that the suspect is taking steps with a view to committing an offence,

Security for good behaviour for suspected person.

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.

67. Where a magistrate is informed on oath that a suspect within the local limits of his jurisdiction –

- (a) is by habit an armed robber, a housebreaker, or a thief;
- (b) is by habit a receiver of stolen property, knowing the same to have been stolen;
- (c) habitually protects or harbours thieves, or aids in the concealment or disposal of stolen property;
- (d) habitually commits or attempts to commit, or aids or abets 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;
- (f) habitually commits or attempts to commit offences involving violence to, or abuse of children or women;
- (g) is so desperate or dangerous as to render his being at large without security hazardous to the community,

Security for good behaviour for habitual offenders.

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 thinks fit.

Order to be made.

68. Where a magistrate acting under sections 65, 66 or 67 considers it necessary to require a suspect to show cause under the sections, he shall make an order in writing setting out—

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

Procedure in respect of suspect present in court.

69. 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, and the substance of the information shall be explained to him.

Summons or warrant in case of suspect not present.

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

(2) Where it appears to the magistrate on the report of a police officer or on other information, the substance of which report or information shall be recorded by the magistrate, that there is reason to fear the commission of a breach of the peace, and that the breach of 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.

Copy of order under section 70 to accompany summons or warrant.

71. A summons or warrant of arrest issued under section 70 shall be accompanied by a copy of the order made under section 68, and the copy shall be delivered by the officer serving or executing the summons or warrant to the suspect served with or arrested under it.

72. 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.

73. (1) Where an order under section 68 has been read or explained under section 69 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 70, the magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

Inquiry as to truth of information.

(2) The inquiry shall be made, as nearly as may be practicable, in the manner prescribed in this section for 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), the magistrate, if he considers that immediate measures are necessary for the prevention of—

- (a) a breach of the peace or disturbance of the public tranquility; or
- (b) the commission of any offence or for the public safety,

may, for reasons to be recorded in writing, direct the suspect in respect of whom the order under section 68 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) —

- (a) a suspect against whom proceedings are not being taken under section 65 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 69; 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 66 may be proved by evidence of general repute or otherwise.

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

Order to give security.

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

- (a) a suspect shall not be ordered to give security of a nature different from or of an amount larger than or for a period longer than that specified in the order made under section 68;
- (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 171.

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

75. Where on an inquiry under section 70 it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the suspect in respect of whom the inquiry is made should enter into a recognizance, the magistrate shall make an entry on the record to that effect, and shall, if the suspect is –

Discharge of suspect informed against

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

PART VI - PROCEEDINGS IN ALL CASES SUBSEQUENT TO ORDER TO FURNISH SECURITY

76. (1) Where a suspect in respect of whom an order requiring security is made under section 68 is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of the sentence.

Commencement of period for which security is required.

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

77. The recognizance to be entered into by a suspect under section 68 shall bind him to keep the peace or be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the aiding, abetting, counselling, or procuring the commission, anywhere within the State, of an offence punishable with imprisonment, wherever it may be committed, any time during the continuance of the recognizance, shall be a breach of the recognizance.

Conditions of recognizance.

78. 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.

79. Where a suspect ordered to give security does not give the security on or before the date on which the period for which the

Procedure on failure of suspect to give security.

security is to be given commences, he shall, except in the case mentioned in this section, be committed to prison until the period expires or the period he gives the security to the court that made the order requiring it.

Release of suspect imprisoned for failure to give security.

80. 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 thinks fit, order the suspect to be discharged.

Power of High Court to cancel recognizance.

81. 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.

Discharge of sureties.

82. (1) A surety for the peaceable conduct or good behaviour of another suspect may at any time apply to a court to discharge a recognizance executed under any of the preceding sections within the district or division to which the court is assigned.

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

(3) Where the suspect appears or is brought before a Magistrate's Court, the court after hearing the suspect may discharge the recognizance and order the suspect to give, for the unexpired portion of the term of the recognizance, fresh security for the unexpired portion of the same description as the original security.

(4) An order made under subsection (3) shall, for the purposes of sections 76, 77, 78 and 79, be deemed to be an order under section 68.

PART VII - PUBLIC NUISANCE

83. Where a court considers, on receiving a police report or other information and on taking such evidence, if any, as it thinks 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 to be fixed by the order and apply to have the order set aside or modified in the manner hereinafter provided.

84. (1) An order made under section 83 shall, if practicable, be served on the suspect against whom it is made in the manner provided for the service of a summons.

Service of order.

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

85. A suspect against whom an order under section 83 is made shall—

Suspect to whom order is addressed to obey or appear before court.

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

Order pending inquiry.

86. (1) Where the court making an order under section 83 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further order to the suspect against whom the order was made as is required to obviate or prevent the danger or injury pending the determination of the matter.

(2) In default of the suspect referred to in subsection (1) 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.

Prohibition of repetition or continuance of nuisance.

87. 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.

PART VII - ATTACHMENT WHERE A PERSON DISOBEYS SUMMONS OR WARRANT

Attachment of property of suspect absconding.

88. A judge or a magistrate may, at any time after action has been taken under section 52(3) 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.

Order to attach property .

89. (1) An order under section 88 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.

(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.

90. (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 95, appears voluntarily or 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.

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

Issue of warrant in lieu of or in addition to summons.

- (a) before or after the issue of the summons, the court sees reason to believe that the suspect has absconded or will not obey the summons; or

(b) at the time fixed for his appearance, the suspect fails to appear and the summons is proved to have been duly served in time to allow for his appearance and no reasonable excuse is offered for his failure to appear.

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

Power to take bond for appearance.

92. 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.

Provision of this Part generally applicable to summons and warrant.

93. 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.

PART IX - PROVISIONS RELATING TO CRIMINAL TRIALS AND INQUIRIES IN GENERAL

Application of Parts 9 to 44.

94. The provisions of this Part and Parts 10 to 44 shall apply to all criminal trials and proceedings unless express provision is made in respect of any particular court or form of trial or proceedings.

General authority to bring subject to court.

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

Right of making complaint.

96. (1) A person may make a complaint against any other person alleged to have committed or to be committing an offence.

(2) Notwithstanding anything to the contrary contained in any other law, a police officer may make a complaint in a case of assault

even though the party aggrieved declines or refuses to make a complaint.

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

Form of complaint.

(2) Subject to the provisions of section 65, a complaint may, unless some laws 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, but the complaint shall not be voided by describing the offence, or any material act relating to it, in alternative words according to the language of the law constituting such offence.

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

(6) After the investigation the police 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 where the offence attracts more than 3 years imprisonment.

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

98. A complaint, summons, warrant or any other document laid, issued or made for the purpose of, or in connection with, any

Form of document
in criminal
proceedings.

proceedings before a court for an offence, shall be sufficient if it contains a statement of the specific offence with which the suspect is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

Rule as to statement of exception.

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

Limitation of period for making a private complaint.

100. In every case where no time is specially limited for making a complaint for a summary conviction for an offence in the law relating to such offence, such complaint, if made other than by a person in his official capacity, shall be made within 2 years from the time when the matter of such complaint arose and not after.

PART X - PLACE OF TRIAL OR INQUIRY

Venue generally

101. (1) An offence shall ordinarily be inquired into and tried by a court within the local limits of its jurisdiction if –

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

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

102. 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 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.

103. Where an offence –

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

Offence commenced and completed in different State.

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

Chief Judge to decide question as to court of inquiry or place of trial.

105. (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 a case.

(2) The power of the Chief Judge referred to in subsection (1) 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 1 week of receipt of such petition.

(4) The investigating body shall submit its report within 2 weeks of appointment except otherwise specified.

When cases may be remitted to another court.

106. 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 where appropriate, remand the defendant charged in custody or require him to give security for his attendance before that other court to answer the charges and to be dealt with accordingly.

Removal under warrant.

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

Transfer of cases where cause of complaint has arisen out of jurisdiction of court.

108. Where a suspect is –

- (a) in custody and the court directing a transfer thinks it expedient that the custody should be continued; or

- (b) not in custody, that he should be placed in custody, the court shall, by its warrant, commit the suspect to prison for a period not exceeding 14 days, subject to such security as it may think appropriate in the circumstances, until he can be taken before a court where the cause of complaint arose, or is to be dealt with.

109. (1) Notwithstanding the provisions of sections 101 and 105, a judge or magistrate of a division or district in which a suspect –

Court may assume jurisdiction under certain condition.

- (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 regard 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.

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

110. Where a case is commenced in any other division or district than that in which it ought to have been commenced, the court may assume jurisdiction in accordance with the provisions of section 108 and all acts performed and all decisions given by the court during the trial or any other proceeding shall be deemed to be valid in all respect as if the jurisdiction had been assumed prior to the performance of the acts and the giving of the decisions.

Assumption of jurisdiction after commencement of proceedings.

PART XI - POWERS OF THE ATTORNEY-GENERAL

Charges by the Attorney-General.

111. (1) The Attorney-General may prefer a charge in any court in respect of an offence created by a law of the State.

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

Issuance of legal advice and other directives to police and other agencies.

112. (1) The Attorney-General may issue legal advice or such other directive to the police or any other law enforcement agency in respect of an offence created by a law of the State.

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

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

Prosecution of offences.

113. (1) In accordance with the provisions of the Constitution relating to the powers of prosecution by the Attorney-General, the prosecution of all offences in any court shall be undertaken by –

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

(2) On receipt of a complaint relating to the commission of an offence punishable with death, or such other offences as may be specified by the Governor and published in the State gazette, the Attorney-General shall assign a law officer to investigate the offence in conjunction with the police.

(3) It shall be the responsibility of the Commissioner of Police of the State to, within 7 days of the commission of any offence covered by subsection (2), notify the Attorney-General.

PART XII - CONTROL OF CRIMINAL PROCEEDINGS
BY THE ATTORNEY-GENERAL

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

Discontinuance of
criminal cases.

(2) Where the suspect –

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

(3) Where the suspect is not –

- (a) before the court when the discontinuance is entered, the registrar or other 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 testify.

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

Withdrawal from prosecution in trials and inquiries before a court.

115. (1) In any trial or proceeding before a court, a prosecutor may, on the instruction of the Attorney-General in case of offences against a law of the State, 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.

(2) Where the withdrawal is made –

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

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

(4) Where a private prosecutor withdraws from a –

prosecution for an offence under the provisions of this section, the court may, in its discretion, award costs against the private prosecutor.

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

PART XIII - INSTITUTION OF PROCEEDINGS

116. 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 Magistrate's Court, by a complaint whether or not on oath or upon receiving a First Information Report;
- (b) in the High Court, by a charge filed by or on behalf of the Attorney-General subject to section 111;
- (c) by a charge filed in the court after the defendant has been summarily committed for perjury by a court under the provisions of this Law;
- (d) by a charge filed in the court by any other prosecuting authority; or
- (e) by a charge filed by a private prosecutor subject to the provisions of this Law.

117. (1) Criminal proceedings instituted in a Magistrate's Court may be—

Mode of instituting criminal proceedings in a Magistrate's Court.

- (a) by bringing a suspect arrested without a warrant before the court on a complaint specifying the name, address, age, sex and occupation of the suspect charged, the charge against him and the time and place where the offence is alleged to have been committed; and the charge sheet shall be signed by any of the persons mentioned in section 113;

- (b) upon receiving a First Information Report on the commission of an offence for which the police are authorized to arrest without a warrant and which may be tried by the court within the jurisdiction where the police station is situate; the particulars in the Report shall disclose the offence for which the complaint is brought and shall be signed by the police officer in charge of the case; or
- (c) subject to the provisions of section 97, by complaint to the court, whether or not on oath, that an offence has been committed by a suspect whose presence the magistrate has power to compel, and an application to the magistrate, in the manner set out in this section, for the issue of either a summons directed to, or a warrant to arrest, the suspect.

(2) The charge sheet filed by the prosecution shall be served on the defendant within 7 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) 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) 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 by the court within the quarter, to the Chief Judge.

(6) In reviewing the returns made by a court under subsections (4) and (5), 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 302.

(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) for the purpose of ensuring expeditious disposal of cases, and the National Human Rights Commission set up under the National Human Rights Commission Act shall have access to the returns on request to the Chief Judge.

118. (1) The Controller of Prisons shall make returns every 90 days to the Chief Judge and to the Attorney-General of all persons awaiting trial held in custody in the prisons in the State for a period beyond 180 days from the date of arraignment.

Returns by
Controller of
Prisons.

(2) The returns referred to in subsection (1) shall be in a prescribed form and shall include –

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

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

PART XIV - FIRST INFORMATION REPORT

Procedure for receiving complaint and First Information Report.

119. (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 judge within which jurisdiction the police station is situated, the officer shall, if the complaint is made orally, reduce the complaint or cause it to be reduced into writing in the police diary.

(2) The complaint, whether given in writing or orally, shall be reduced into writing in the police diary and read or cause 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 116(a).

(5) Notwithstanding subsection (2), 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 subsection (3), the officer in charge of the police station 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 cases 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 station need not make or direct investigation on the spot;
- (d) in the cases mentioned in paragraph (c), the officer in charge of the police station shall record in the police diary 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); 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 or judge within whose jurisdiction the police station is situated.

(7) Where the suspect appears or is brought before the magistrate or judge, 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 or judge.

(8) Where upon hearing the information, the alleged suspect admits the commission of the offence contained in the First Information Report, his admission shall be recorded as near as possible in the words used by him and if he shows no sufficient cause why he should not be convicted, the magistrate or judge 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 or judge shall proceed to hear the complainant and take such evidence as may be produced in support of the prosecution and the suspect shall be at liberty to cross-examine the witnesses for the prosecution and if he so does, the prosecutor may re-examine the witnesses where necessary.

(10) Where the evidence referred to in subsection (9) has been taken or at any stage of the case, the magistrate or judge is of the opinion that there is ground that the suspect has committed an offence triable under this Part, which such magistrate or judge is competent to try and which, in the opinion of the magistrate or judge could be adequately punished thereby, the magistrate or judge shall frame a charge stating the offence and shall then proceed with the trial.

(11) Where in proceedings before a Magistrate's Court, at any stage before the judgment the court is of the opinion that the case is one which ought to be tried by the High Court, the

magistrate shall transfer the case along with the suspect to the High Court for trial upon a charge in accordance with the provisions of this Law.

PART XV - ENFORCING APPEARANCE OF SUSPECTS

Compelling appearance of a suspect.

120. 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, whether within or outside the State, triable in the State.

Summons and warrants.

121. 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.

Making of complaints and issuance of process.

122. (1) Subject to the provisions of section 97, a person who believes from a reasonable or probable cause that an offence has been committed by another person whose appearance a magistrate or judge has power to compel, may make a complaint of the commission of the offence to a magistrate or judge who shall consider the allegations of the complainant and may –

- (a) in his discretion, refuse to issue a process and shall record his reasons for such refusal; or
- (b) issue a summons to the defendant to appear before a court in the district; or
- (c) issue a warrant for the arrest of the defendant:

Provided that the magistrate or judge shall not issue in the first instance a warrant to arrest unless satisfied by affidavit evidence, sworn to by the complainant, that the defendant has absconded or is likely to abscond or is avoiding service of a summons that has been issued.

(2) The magistrate or judge 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 XVI - ISSUE, FORM AND SERVICE OF SUMMONS

123. A summons may be issued or served on any day, including a Sunday or public holiday. Issue and service.
124. Where a complaint is made before a magistrate or judge as provided in section 122 and the magistrate or judge 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. Issue of summons and contents.
125. The court may, if it thinks fit and with the consent of the parties, hear and determine a complaint notwithstanding that the time within which the defendant was required to appear may not have elapsed. Hearing by consent before return date of summons.
126. Where, on a complaint being made before a magistrate or judge as provided in section 122, the magistrate or judge 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. Summons with immediate return date in special circumstances.
127. An application for a summons under this Law shall be made ex parte to the court or to such other officer as the Chief Judge may specify, from time to time. Discretion in ex parte application.
128. 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. Summons to be in duplicate.

Service of
summons.

129. A summons shall be served by a police officer or by an officer of the court issuing it or other public officer, by e-mail or through a courier service company duly registered with the Chief Judge as a process service agent of the court under this Law.

Normal methods
of effecting service.

130. The person effecting service of a summons shall effect it by delivering it on –

- (a) an individual, to him personally; or
- (b) a firm or corporation –
 - (i) to one of the partners,
 - (ii) to a Director,
 - (iii) to the Secretary,
 - (iv) to the chief agent within the jurisdiction,
 - (v) by 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, in accordance with the Local Government (Miscellaneous Provisions) Law;
- (d) the Commissioner of Police of the State, or the Divisional Police Officer within the jurisdiction of the issuing court;
- (e) any State Government Ministry, Department or Agency, to the Attorney-General or to the Legal Department or legal adviser of such Ministry, Department or Agency;
- (f) any arm of the armed forces, to the Director of Legal Services of the Service or Command concerned.

131. Where service in the manner provided by section 130(a) 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 person summoned cannot be found.

132. (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 130 (a) and shall return the duplicate to the court under his signature, with the endorsement required by section 134, which signature shall be evidence of the service.

133. Where a court issues summons to a person outside its jurisdiction or Kwara State, the summons shall be sent in duplicate to a court in whose jurisdiction the person resides or works.

Service outside jurisdiction of court.

134. 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.

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

Receipt of service of summons.

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

A 60

Person refusing to sign receipt may be arrested.

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

- (a) arrested by the person 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 think fit.

Proof of service generally.

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

Summons disobeyed, warrant may be issued.

138. Where the court is satisfied that the suspect has been served with a summons and the suspect does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under section 135, the court may issue a warrant for his arrest and production before the court.

Issue of warrant in the first instance

139. Where a complaint is before a magistrate or a judge as provided in this Law, and the magistrate or judge 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.

Application of sections 47 to 58 to a warrant

140. Where a warrant of arrest is issued in consequence of a complaint on oath as provided under section 139, the provisions of sections 47 to 58 shall apply to such warrant.

141. Notwithstanding the issue of a summons as in section 124, 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.

142. (1) Where a magistrate or judge issues a summons in respect of any offence for which the penalty is a fine not exceeding ₦50,000 or imprisonment for a term not exceeding 6 months or both, the magistrate or judge, on application of the defendant –

Power to dispense with personal attendance of defendant in certain cases.

- (a) may dispense with his personal attendance; or
- (b) where the offence is punishable by fine only, the defendant may plead guilty in writing or by his legal practitioner.

(2) The magistrate or judge 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 or judge imposes a fine on a defendant whose personal attendance has been dispensed with under this section, the magistrate or judge 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 are alleged against him and 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).

(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 him.

PART XVII - MISCELLANEOUS PROVISIONS REGARDING
PROCESS

Irregularities in
summons, warrant,
service or arrest

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

- (a) any irregularity, defect, or error in the summons or warrant, or the issuing, service, or execution of the summons or warrant;
- (b) the want of any complaint on oath; or
- (c) any defect in the complaint, or any irregularity in the arrest or custody of the defendant.

Irregularities
which vitiate
proceedings.

144. Where a court which is not empowered by law does any of the following things –

- (a) attaches and sells property under section 88;
 - (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 83 as to a public nuisance;
 - (g) prohibits, under section 87, the repetition or continuance of a public nuisance;
 - (h) tries an offender; or
 - (I) decides an appeal,
- the proceedings shall be void.

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

Variance between charge and complaint.

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

Process valid despite death or vacation from office of person issuing it.

PART XVIII - SAVING OF VALIDITY OF PROCESS

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

Validity of process, warrant of commitment and warrant of distress.

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

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

148. (1) All summonses, warrant of every description and process of whatever description shall be sufficiently addressed for service or execution by being directed to the sheriff.

General addressee of process for issue and execution.

(2) Notwithstanding the provisions of subsection (1), 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.

Application for search warrant matters.

149. 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.

PART XIX - SEARCH WARRANTS

Application for search warrant.

150. Where an investigation under this Law is being made by a police officer, he may apply to a court within the local limits of whose jurisdiction he is for the issuance of a search warrant.

Cases in which search warrants may be issued.

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

- (a) anything upon or in respect of which any offence has been or is suspected to have been committed;
- (b) anything for which there is reasonable ground of believing will provide evidence to the commission of an offence; or
- (c) anything for which there is reasonable ground of believing is intended to be used for the purpose of committing an offence,

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

(2) A search warrant issued under subsection (1) 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 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 thinks so fit to direct on the warrant.

152. 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 or a complaint is not made that he has committed an offence, the court shall immediately discharge him.

Discharge of
suspected person.

153. (1) A search warrant shall be under the hand of the magistrate or judge issuing it.

Search warrant to
be signed by
magistrate
or judge.

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

154. 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.

155. 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.

156. (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 section 25, 26, 27 or 28.

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

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

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

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

Occupant of place searched to attend.

157. 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, signed or sealed by the witnesses, if any.

Execution of search warrant outside jurisdiction.

158. 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.

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

Magistrate may direct search in his presence.

160. (1) Where upon the execution of a search warrant anything referred to in section 151 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 were found shall be drawn up by the person carrying out the search in accordance with section 156(5) and a copy of the list forwarded to the magistrate or judge who issued the warrant for his information with indication as in the prescribed form set out in the Appendix D on the search warrant of the things –

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

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

(4) Where the police or any other agency carrying out the search is authorized or required by law to dispose of the items seized in accordance with section 151, the police or agency shall release the proceeds of, or the disposal of the seized items, to the person entitled to it.

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

Perishable articles may be disposed of by court.

161. 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.

Search for and disposal of gunpowder, explosives, etc.

162. Where the thing to be searched for under a search warrant is gunpowder, arms, ammunition or any other explosive, dangerous or noxious substance or thing, the person making the search has powers and protection as are given by a law for the time being in force to a person lawfully authorized to search for the thing, the thing shall be disposed of in the same manner as directed by the law or, in the absence of the direction, as the court may either generally or in any particular instance order.

Disposal of counterfeit currency and certain other thing.

163. 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.

Transmission to court of other States.

164. Where a search warrant is issued in respect of an offence against the law of the State and a summons has been issued for that offence or any person has been charged with that offence before a court, the court issuing the search warrant may, except he has disposed of the thing in accordance with section 160(4), transmit anything seized and brought before him to that court and in relation to anything so transmitted, the functions conferred on a magistrate by this Law shall be exercised by that court instead of the magistrate who issued the search warrant.

PART XX - BAIL AND RECOGNIZANCES GENERALLY

165. 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.

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

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

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

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

Recognizance by parent or guardian of a child.

- (a) the charge is one of homicide;
- (b) the offence charged is punishable with imprisonment for a term exceeding 3 years;
- (c) it is necessary in the interest of the child to remove him from association with any reputed criminal or prostitute,

release the child on a recognizance entered into by his parent or guardian, with or without sureties.

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

Bail where suspect is charged with capital offence.

168. (1) A suspect arrested, detained or charged with an offence punishable with a term of 21 years or more, life imprisonment or death shall not be released on bail. He may, however, be admitted to bail by a judge of the High Court only under exceptional circumstances.

(2) For the purpose of exercise of discretion in subsection (1), "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 2 years; or
- (c) any other circumstances that the judge may, in the particular facts of the case, consider exceptional.

Bail where defendant is charged with offence exceeding 3 years' imprisonment.

169. A defendant charged with an offence punishable with imprisonment for a term exceeding 3 years may, on application to the court, be released on bail except in any of the following circumstances –

- (a) where there is reasonable ground to believe that the defendant will, where released on bail, commit the same or another offence;
- (b) attempt to evade his trial;

- (c) attempt to influence, intimidate witnesses, or interfere with the investigation of the case;
- (d) attempt to conceal or destroy evidence;
- (e) undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system;
- (f) where the offence involves sexual misconduct, causing bodily harm of any kind, or affecting the well-being of a child.

170. In any other circumstance other than those referred to in sections 168 and 169, the defendant shall be entitled to bail, unless the court sees reasons to the contrary.

Bail where defendant is charged with offence not exceeding 3 years' imprisonment.

171. Where a defendant is brought before a court on any process in respect of any matter not included within sections 165 to 170, 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 other offences.

172. (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 of 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.

Recognizance in respect of a charge.

173. 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.

Sureties

174. (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.

(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.

Judge may vary bail fixed by magistrate or police.

175. A judge of the High Court may, other than in the circumstances mentioned in section 168, direct that the –

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

Reconsideration of a bail.

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

Before who recognizance may be executed.

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

(2) The recognizance as mentioned in subsection (1) 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) shall have the same effect as if they have been entered into before that court.

178. (1) As soon as recognizance has been entered into in accordance with the provisions of section 171 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.

179. Where as a condition for the release of any defendant, he is required to enter into a recognizance with sureties, the recognizance

Mode of entry into
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.

Continuous bail.

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

(2) The court may, where the circumstances appear just –

- (a) vary the order of release on bail of the defendant at any subsequent hearing; and
- (b) at any subsequent stage of any proceeding, cause a defendant who has been released on bail to be arrested and be committed to custody: Provided that the judge shall state in his records the reason for the variation of the order of committal of the defendant.

Defendant bound by recognizance to appear before a court or police may be committed to prison.

181. 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 –

- (a) is about to leave the State, or
- (b) for the purpose of evading justice, is about to leave or has left the division or district of the court before which he is to appear or in which he normally resides,

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

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

182. Where a defendant has been admitted to bail and circumstances arise which, if the defendant had not been admitted to bail would, in the opinion of a law officer or police officer, justify the court in refusing bail or in requiring bail of greater amount, a court may –

- (a) on the circumstances being brought to its notice by 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.

183. 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
recognizance if
surety unsuitable.

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

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

A 76

Order of fresh
surety upon
original order.

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

Forfeiture of
recognizance.

186. (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.

(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 6 months.

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

Mitigation of
forfeiture.

187. 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.

Where defendant
fails to find surety.

188. Where a defendant required by a court to find sufficient sureties

fails to do so, the court shall, unless it is just and proper in the circumstances, make some other order in the case of a defendant –

- (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 meet 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.

189. (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 person bound by the recognizance as principal has been convicted of an offence which is by law a breach of the condition of the recognizance, may order that the –

Forfeiture on conviction.

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

(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.

190. 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 committal against a person liable,

Where recognizance forfeited warrant may be issued.

whether as principal or surety under the recognizance, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set out in this Law, except the amount due under the recognizance is paid.

Arrest on failure to appear.

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

Payment on recognizance.

192. All sums paid or recovered in respect of a recognizance order by a court under section 186 to be forfeited shall be paid to the treasury and a receipt issued which shall be produced in court as evidence of payment.

Appeal.

193. An order of forfeiture made under this Law shall be subject to appeal.

Registration of bonds persons.

194. (1) The Chief Judge may make regulations 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.

(2) A person shall not engage in the business of bail bond services without being duly registered and licensed in accordance with subsection (1).

(3) A person who engages in bail bond services without registration and license or in contravention of the regulations or terms of his licence is liable to a fine not exceeding ₦500,000 or imprisonment for a term not exceeding 12 months or to both such fine and imprisonment.

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

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

(6) A person or organization shall not be registered as a bonds person unless the person is, or the organization 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 regulations, having regard to the registered class or limit of the bonds person's recognizance.

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

(8) The Chief Judge may withdraw the registration of a bonds person who contravenes the terms of his license.

195. Where a bonds person arrests a defendant or suspect who is absconding or who he believes is trying to evade or avoid appearance in court, he shall – Bonds person.

- (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 XXI - PROPERTY AND PERSONS

196. Where in a complaint, summons, warrant of any description, charge sheet, or any document issued by a court in the exercise of its criminal jurisdiction it is necessary to refer to the ownership of any property, whether movable or immovable, which belongs to or is in the possession of more than one person, if – Methods of stating multiple ownership of property.

- (a) the property belongs to, or was in the possession of more than one person whether as partners in trade or otherwise, joint tenants, tenants in common or other joint owners or possessors, be described in the name of any one of those persons and another or others;
- (b) the property belongs to a company, association, club or society, be described, subject to the provisions of any other law, as the property of the official of the company, association, club or society, or as belonging to the company, association, club or society by its legal or registered title;
- (c) the property belongs to, or is provided for the use of a public establishment, service or department, be described as the property of the State, as the case may be;
- (d) it is necessary to state the ownership of a church, chapel, mosque or building or place set apart for religious worship or of anything belonging to or being in the place, be stated as the property of a person in charge of or officiating in the church, chapel, mosque, or building or place, or thing, without naming him or them;
- (e) it is necessary to state the ownership of any money or other property in the charge, custody, or under the control of, a public officer, be stated to be the money or property of the State, as the case may be;
- (f) 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 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 Act or a marriage recognized as a valid marriage under any law in force in Nigeria, be stated as belonging to the married woman.

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

Description of
persons in
criminal process.

(2) It shall not be necessary to state the person's correct name, or his 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), 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 upon a coroner's inquisition.

Remedies of married woman against her husband and others in respect of her person.

198. 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 proceedings for the protection and security of her person.

Husband and wife competent as witness.

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

PART XXII - THE CHARGE

Forms of charges in Appendix B to be used and adapted.

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

Contents of a charge.

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

(2) Where the law creating the offence –

(a) gives it a specific name, the offence shall be described in the charge by that name only; and

- (b) does not give it a specific name, so much of the definition of the offence shall be stated as to give the defendant notice of the facts of the offence with which he is charged.

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

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

Legal presumption of charge.

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

Particulars in charge.

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

204. (1) A charge shall be filed in the registry of the High Court before which the prosecution seeks to prosecute the offence, and shall include the proof evidence consisting of—

Proof of evidence.

- (a) the list of witnesses;
- (b) the list of exhibits to be tendered;
- (c) summary of statements of the witnesses;
- (d) copies of statement of the defendant;
- (e) any other document, report, or material that the prosecution intends to use in support of its case at the trial;

- (f) particulars of bail or any recognizance, bond or cash deposit, if the defendant is on bail;
- (g) particulars of place of custody, where the defendant is in custody;
- (h) particulars of any plea bargain arranged with the defendant if any;
- (I) particulars of any previous interlocutory proceedings, including remand proceedings, in respect of the charge; and
- (j) any other relevant document as may be directed by the court.

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

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

Charge of criminal breach of trust.

205. Where a defendant is charged with criminal breach of trust or fraudulent appropriation of property, it is sufficient to specify the gross sum in respect of which the 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 falsification of account.

206. 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.

207. Where the nature of the offence is such that the particulars required by sections 201 and 203 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 offence was committed.

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

Sense of words used in charge.

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

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

Description of property and joint owners.

(2) Where property is vested in more than one person and the owners of that property are referred to in the charge, the property may be described as being owned in accordance with the appropriate provision set out in section 196.

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

Description of bank
or currency note.

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

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

Provision to
statutory offences.

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

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

Description of
persons and
document.

212. (1) The description or designation of the defendant in a charge or of any other person to whom reference is made therein may be in the manner set out in section 197.

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

213. 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.

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

Statement of intent.

215. The following defendants may be charged and tried together, defendant accused of—

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.

Separate charge for distinct offences.

216. 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 –

- (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 217 to 222.

Attempt the same as substantive offence.

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

Trial for more than one offence.

218. Where in 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 offences at one trial.

Offences falling within two definitions.

219. Where the acts or omissions alleged constitute an offence falling within two or more separate definitions in any law for the time

being in force under which offences are defined or punished, the defendant accused of them may be charged with and tried at one trial for each of those offences.

220. 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 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.

Acts constituting one offence but constituting a different offence when combined.

221. 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.

222. 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 XXIII - ALTERATION OR AMENDMENT OF CHARGES

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

Alteration and amendment of charge by permission of court.

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

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

Procedure on alteration of charge.

224. (1) Where a new charge is framed or alteration made to a charge under section 223, 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.

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

When court may proceed with trial immediately after altering or adding to a framed charge

225. (1) Where the charge as revised under section 223 or 224 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.

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

Recall of a witness when charge is revised.

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

Effect of error.

227. An error in stating the offence or the particulars required to be stated in a charge or an omission to state the offence or those particulars, or any duplicity, mis-joinder or non-joinder of the particulars of the offence shall not be regarded at any stage of the case as material unless the defendant was in fact misled by the error or omission.

Objection to a charge.

228. Before the plea is taken, the defendant may raise any objection to the validity of the charge, provided that such objection shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgment.

229. (1) Where an appellate court is of the opinion that a defendant convicted of an offence was misled in his defence 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.

(2) Where the appellate court is of the opinion that the facts of the case are such that no valid charge could have been preferred against the defendant in respect of the facts proved, it shall quash the conviction.

PART XXIV - CONVICTION WHEN CHARGED WITH ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE

230. 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.

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

Full offence charged, attempt proved.

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

Attempt charged, full offence proved.

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

Liability as to further prosecution.

234. Where a defendant is charged with an offence and the evidence establishes that he is an accessory after the fact to that offence or to

On charge of an offence, conviction as accessory after the fact to that or connected offence may follow.

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.

Defendant tried for lesser but higher offence is proved.

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

(2) The defendant referred to in subsection (1) 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 under this section, the defendant shall be tried before another court.

Conviction of kindred offences relating to property.

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

Defendant charged with burglary may be convicted of kindred offence.

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

On charge of rape, defilement, incest or unnatural offence conviction for indecent assault may follow

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

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

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

(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 or other electronic means;
- (b) permit the witness to be screened or masked;
- (c) receive written deposition of expert evidence; and
- (d) any other measure that the court considers appropriate in the circumstance.

(4) The provisions of this section shall apply to –

- (a) offences mentioned under section 238;
- (b) offences of armed robbery, kidnapping, abduction and other crimes involving the use of or threat of violence;
- (c) offences under the Terrorism (Prevention) Act;
- (d) offences relating to economic and financial crimes;
- (e) trafficking in persons and related offences; and

- (f) any other offence in respect of which a law of the State 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) shall be an offence and liable on conviction to a term of imprisonment not exceeding 1 year.

Where homicide of an unborn child is charged and concealment of birth is proved.

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

Where homicide is charged and death of unborn child is proved.

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

(2) Nothing in subsection (1) prevents a defendant who is tried for the homicide of a newborn 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.

Where offence proved is not included in offence charged.

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

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

243. (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 the charges withdrawn.

PART XXV - PREVIOUS ACQUITTALS OR CONVICTION

244. (1) Without prejudice to section 233, 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 the 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) 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 retrial.

A defendant may be tried again on separate charges in certain areas.

245. A defendant acquitted or convicted of an offence may afterwards be tried for a distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of section 218.

Consequences supervening or not known at previous trial.

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

PART XXVI - WITNESSES: COMPELLING ATTENDANCE
AND TAKING OF OATH OR MAKING OF
AFFIRMATION

Issue of summons for witness.

247. (1) The court may, on an application of the prosecution or the defence, issue a summons 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.

(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.

Service of summons and other processes on witness.

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

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

(3) A summons shall be served on the person to whom it is directed in the same manner as is set out in section 129 or 130 or, with leave of the court, section 131 and sections 133 to 137 shall apply to the summons.

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

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

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

249. Where a witness summoned to give evidence does not—

- (a) attend court at the time and place indicated on the summons; and
- (b) provide any reasonable excuse for his non-attendance,

Warrant for witness after summons.

then after proof that the summons was duly served on him, or that the person to be served wilfully avoided service, the court may issue a warrant to arrest and bring him before the court.

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

Issue of warrant for witness.

Mode of dealing
with witness
arrested under
warrant.

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

- (a) may, on the witness furnishing security by recognizance to the satisfaction of the magistrate for his appearance at the hearing, order him to be released from custody; or
- (b) shall, on the witness failing to furnish the security, order him to be detained for production at the hearing.

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

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

Penalty on witness
refusing to attend.

252. (1) A witness who –

- (a) refuses or neglects, without reasonable cause, to attend court in compliance with the requirements of a summons duly served in the manner prescribed by law; or
- (b) departs from the premises of the court without the leave of the judge or magistrate hearing the case,

is liable on summary conviction to a fine not exceeding N50,000 or to imprisonment for a term not exceeding 2 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.

253. A witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which the hearing or further hearing is so adjourned, shall attend any subsequent hearing and if he defaults, he may be dealt with in the same manner as if he had refused or neglected to attend the court in obedience to a witness summons.

Non-attendance of witness on adjourned hearing.

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

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

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

Manner of taking oath or affirmation.

256. (1) Where a person attending court and who is required to give evidence, without any sufficient excuse or reason –

- (a) refuses to be sworn or to affirm as a witness;
- (b) having been sworn or having taken affirmation refuses to answer any question put to him; or
- (c) refuses or neglects to produce any document or anything which he is required by the court to produce, the court may adjourn the hearing of the case and may in the meantime by warrant, commit the person to prison or other place of safe custody for a period not exceeding 30 days.

Witness refusing to be sworn or produce document.

(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 XXVII - WITNESSES: EXPENSES

Expenses of witnesses for the prosecution.

257. Where a person attends court as a state witness, the witness shall be entitled to payment of such reasonable expenses as may be prescribed.

Expenses of witness for the defence.

258. 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 consider reasonable and sufficient to compensate the witness for the expenses he reasonably incurred in attending the court.

Adjournment may be granted subject to witness costs.

259. The court may permit an 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 257, or such sum as the court may fix.

Ascertainment of witness expenses.

260. The amount of the expenses payable to a witness under section 257 shall be processed and paid by the registrar of the court to the witness out of the relevant vote as appropriated by the judiciary.

PART XXVIII - EXAMINATION OF WITNESSES

Application of Evidence Act.

261. Subject to the provisions of any other law, the examination of witnesses shall be in accordance with the provisions of the Evidence Act.

Power to call or recall witness.

262. 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 reexamine a person already examined where his evidence appears to the court to be essential to the just determination of the case.

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

Certificates of certain government technical officers.

264. 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.

265. (1) Subject to the provisions of sections 239 and 266 to 268 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), the judge or magistrate presiding over a trial may, in his discretion and subject to the provisions of section 266, exclude the public at any stage of the hearing on the grounds of public policy, decency or expediency.

(3) Where the court is sitting in a place other than in a building, the authority given in subsection (2) 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.

266. 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 persons while taking evidence of a child.

- (a) members or officers of the court; or
- (b) parties to the case, their legal representatives or persons otherwise directly concerned in the case,

be excluded from the court during the taking of the evidence of such person.

Order under section 265 or 266 not to apply to press and certain others.

267. (1) An order made under section 265 or 266 excluding the public from a court shall, not unless specifically stated

- (a) authorise the exclusion of bonafide representatives of a newspaper, broadcast or news agency; or
- (b) apply to messengers, clerks and other persons required to attend the court for purposes connected with their employment.

(2) Where an order is made, the court shall record the grounds on which the order is made.

Prohibition of infant being present in court during trial of other persons.

268. 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 –

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

Visit by court to locus.

269. (1) Where it appears to the court that in the interest of justice,

the court should have a view of any place, person or thing connected with the case, the court may, where the view relates to a place, either adjourn the court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.

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

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

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

270. (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 Kwara State Child's Rights Law or any other law in force.

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

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

Determination of age.

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.

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

Presence of defendant at trial.

272. A defendant shall, subject to the provisions of section 142, be present in court during the whole of his trial unless—

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

Conduct of cases by legal practitioner for complainant or for defendant.

273. (1) The complainant and defendant shall be entitled to conduct their cases by a legal practitioner or in person:

Provided that in capital offences and offences punishable with life imprisonment a defendant who refuses to be represented by counsel shall, after being informed under section 354 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.

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

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

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

General control of prosecution by Attorney-General.

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

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

(4) Where the Attorney-General of the federation delegates the power to prosecute to the Attorney-General of the State with respect to an offence or class of offences, any such offence shall be prosecuted in the name of the Federal Republic of Nigeria.

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

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

275. 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 person summoned.

PART XXIX - PLEA BARGAIN AND PLEA GENERALLY

276. (1) The Director of Public Prosecutions of the State, or a prosecutor authorized by him in writing, and a defendant who is legally represented may, before he pleads to the charge brought against him, negotiate and enter into an agreement in respect of—

Plea bargain.

- (a) a plea of guilty by the defendant to the offence charged or to an offence of which he may be convicted on the charge; and
 - (b) if the defendant is convicted of the offence to which he has agreed to plead guilty –
 - (i) a just sentence to be imposed by the court, or
 - (ii) the postponement of the passing of sentence for a period not exceeding 5 years, or
 - (iii) a just sentence to be imposed by the court, of which the operation of the whole or any part thereof is to be suspended on any condition which the court may specify in the order, and
 - (iv) if applicable, an award for compensation by the court where an offence causes damage to or loss of property.
- (2) The prosecutor may enter into an agreement contemplated in subsection (1)–
- (a) after consultation with the person charged with the investigation of the case;
 - (b) with due regard to, at least, the –
 - (i) nature of and circumstances relating to the offence,
 - (ii) personal circumstances of the defendant,
 - (iii) previous convictions of the defendant, if any, and
 - (iv) interests of the community; and

- (c) after affording the complainant or his representative, where it is reasonable to do so and taking into account the nature of and circumstances relating to the offence and the interests of the complainant, the opportunity to make representations to the prosecutor regarding –
 - (i) the contents of the agreement, and
 - (ii) the inclusion in the agreement of a condition relating to compensation or the rendering to the complainant of some specific benefit or service in lieu of compensation for damage or pecuniary loss.

(3) The requirements of subsection (2)(b)(i) may be dispensed with if the prosecutor is satisfied that consultation with the person charged with the investigation of the case will delay the proceedings to such an extent that it could –

- (a) cause substantial prejudice to the prosecution, the defendant, the complainant or his representative; and
- (b) affect the administration of justice adversely.

(4) An agreement contemplated in subsection (1) shall be in writing and shall, at least –

- (a) state that the defendant, before entering into the agreement, has been informed that he has the right –
 - (i) to be presumed innocent until proven guilty beyond reasonable doubt,

- (ii) to remain silent and not to testify during the proceedings, and
 - (iii) not to be compelled to give self-incriminating evidence;
 - (b) state fully the terms of the agreement, the substantial facts of the matter, all other facts relevant to the sentence agreement and any admission made by the defendant;
 - (c) be signed by the prosecutor, the defendant and his legal representative; and
 - (d) if the defendant has negotiated with the prosecutor through an interpreter, contain a certificate by the interpreter to the effect that he interpreted accurately during the negotiations and in respect of the contents of the agreement.
- (5) The court shall not participate in the negotiations contemplated in subsection (1).
- (6) The prosecutor shall, before the defendant is required to plead, inform the court that an agreement contemplated in subsection (1) has been entered into and the court shall then –
- (a) require the defendant to confirm that such an agreement has been entered into; and
 - (b) satisfy itself that the requirements of subsection (1)(b)(i) and (iii) have been complied with.

- (7) If the court is not satisfied that the agreement complies with the requirements of subsection (1) (b)(i) and (ii), the court shall –
- (a) inform the prosecutor and the defendant of the reason for non-compliance;
 - (b) afford the prosecutor and the defendant the opportunity to comply with the agreement concerned; and
 - (c) require the defendant to plead to the charge and order that the contents of the agreement be disclosed in court.

(8) After the contents of the agreement have been disclosed, the court shall question the defendant to ascertain whether –

- (a) he confirms the terms of the agreement and the admissions made by him in the agreement;
- (b) with reference to the alleged facts of the case, he admits the allegations in the charge to which he has agreed to plead guilty; and
- (c) the agreement was entered into freely and voluntarily in his sound and sober senses and without having been unduly influenced.

(9) After an inquiry has been conducted under subsection (6), the court shall, if –

- (a) it is not satisfied that the defendant is guilty of the offence in respect of which the agreement was entered into;

- (b) it appears to the court that the defendant does not admit an allegation in the charge or that the defendant has incorrectly admitted any such allegation or that the defendant has a valid defence to the charge; or
- (c) for any other reason, it is of the opinion that the plea of guilty by the defendant should not stand, record a plea of not guilty and inform the prosecutor and the defendant of the reasons thereof.

(10) If the court has recorded a plea of not guilty, the trial shall start de novo before another presiding officer, but the defendant may waive his right to be tried before another presiding officer.

(11) If the court is satisfied that the defendant admits the allegations in the charge and that he is guilty of the offence in respect of which the agreement was entered into, the court shall proceed to consider the sentence agreement.

(12) For purposes of subsection (9), the court may –

- (a) direct relevant questions, including questions about the previous convictions of the defendant, to the prosecutor and the defendant; and
- (b) hear evidence, including evidence or a statement by or on behalf of the defendant or the complainant.

(13) If the court is satisfied that the sentence agreement is just, the court shall inform the prosecutor and the defendant that

it is so satisfied, whereupon the court shall convict the defendant of the offence charged and sentence the defendant with the sentence agreement.

(14) If the court is of the opinion that the sentence agreement is unjust, the court shall inform the prosecutor and the defendant of the sentence which it considers unjust.

(15) Upon being informed of the sentence which the court considers just, the prosecutor and the defendant may –

- (a) abide by the agreement with reference to the charge and inform the court that, subject to the right to lead evidence and to present argument relevant to sentencing, the court may proceed with the imposition of sentence; or
- (b) withdraw from the agreement.

(16) If the prosecutor and the defendant abide by the agreement as contemplated in subsection (15) (a), the court shall convict the defendant of the offence charged and impose the sentence which it considers just.

(17) If the prosecutor or the defendant withdraws from the agreement as contemplated in subsection (15) (b), the trial shall start de novo before another presiding officer:

Provided that the defendant may waive his right to be tried before another presiding officer.

(18) Where a trial starts de novo –

- (a) the agreement shall be null and void and no regard shall be had or reference made to –

- (i) any negotiation which proceeded the entering into the agreement,
 - (ii) the agreement, or
 - (iii) any record of the agreement in any proceeding relating thereto, unless the defendant consents to the recording of all or certain admissions made by him in the agreement or during any related proceeding and any admission so recorded shall stand as proof of such admission;
- (b) the prosecutor and the defendant may not enter into a plea and sentence agreement in respect of a charge arising out of the same facts; and
 - (c) the prosecutor may proceed on any charge.

(19) The Attorney-General shall issue directives regarding all matters which are reasonably necessary or expedient to be prescribed in order to achieve the objects of this section and any directive so issued shall be observed in the application of this section.

- (20) The directives contemplated in subsection (19)–
- (a) shall prescribe the procedures to be followed in the application of this section relating to any offence–
 - (i) for which a minimum penalty is prescribed in the law creating the offence,
 - (ii) in respect of which a court has the power or is required to conduct a specific enquiry, whether before or after convicting or sentencing the defendant, and

- (iii) in respect of which a court has the power or is required to make a specific order upon conviction of the defendant;
- (b) may prescribe the procedures to be followed in the application of this section relating to any other offence in respect of which the Attorney-General considers it necessary or expedient to prescribe specific procedures;
- (c) shall ensure that adequate disciplinary steps are taken against a prosecutor who fails to comply with any directive; and
- (d) shall ensure that comprehensive records and statistics relating to the implementation and application of this section are kept by the prosecuting authority.

(21) Any directive issued under this section may be amended or withdrawn.

(22) In this section, "sentence agreement" means an agreement contemplated in subsection (1)(b).

277. (1) Before a defendant takes his plea, the court shall inform him of his rights under the provisions of section 276.

Plea to a charge.

(2) The defendant to be tried on a charge shall be –

- (a) brought before the court unfettered unless the court sees cause otherwise to order and the charge 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 charge, he objects to the non-service and where the court finds that he has not been duly served.

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

Proof of previous conviction.

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

Effect of plea of not guilty.

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

Effect of plea of guilty.

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

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

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

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

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

Amending charge where defendant pleads guilty to offence.

282. (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) 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.

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

Pleas: autrefois acquit or convict, or pardon.

- (a) by virtue of section 244 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) 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.

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

PART XXX - PERSONS OF UNSOUND MIND

Procedure when defendant is suspected to be of unsound mind.

284. (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.

(2) An investigation under subsection (1) 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 interests of the defendant or of other persons or in the interests of public decency that he should be absent.

(3) Where the court is not satisfied that the defendant is capable of making his 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) 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), the case shall be fixed returnable by the court at the expiration of the period granted under subsection 4(b).

(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.

285. 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 284(4) and (7) 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.

286. (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 compulsory for him to be present in court during proceedings under this section.

Release of
defendant of
unsound mind
pending
investigation or trial.

287. (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 –

- (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 charged with an offence which is bailable by a judge but not by a magistrate or where the offence is bailable by a magistrate but the magistrate refused to grant bail, the magistrate shall inform the defendant of his right to apply to a judge for bail.

(3) Where the offence charged is not bailable by the High court or where a judge has refused bail under subsection (1) or after an application made under subsection (2) or where sufficient security is not given or where no application is made for bail, the judge shall report the case to the Attorney-General, who, after consideration of

the report may, in his discretion, order the defendant to be confined in a lunatic asylum or other suitable place of safe custody and the judge shall give effect to the order.

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

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

288. Where a proceeding or trial is postponed under section 284 or 285, the court may at any time re-open the proceeding or recommence the trial and require the defendant to appear or be brought before the court.

Resumption of proceedings or trial.

289. Where the defendant has been released under section 287, the court may at any time require the defendant to appear or be brought before it and may again proceed with the proceeding or trial.

Resumption of proceedings after release.

290. 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 284 to 297 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.

Where defendant appears to be of unsound mind.

291. 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.

Safe custody of defendant discharged.

A 120

Order of
Attorney-General
under section 291.

292. (1) The Attorney-General may at his discretion order the defendant to be confined pursuant to section 291 in a mental health asylum, prison or other suitable place of safe custody.

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

Observation of
prisoner of
unsound mind.

293. Where a defendant is confined under section 287 (3) and (5), 291 or 292, the medical officer of the prison, where such defendant is confined in a prison, or the medical officer attached to the asylum or other facility, where he is confined in any asylum or such facility, shall keep him under observation in order to ascertain his state of mind and such medical officer shall make a special report for the information of the Attorney-General as to the state of mind of such defendant at that time or times as the Attorney-General shall require.

Procedure when
defendant of
unsound mind is
reported to be able
to make his defence.

294. Where a defendant is, under the provisions of section 285, 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 fit for
discharge.

295. (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 287, 291 or 292 certifies that the defendant in his judgment may be discharged without the danger of him causing injury to himself or to any other person, the Attorney-General may, on the receipt of that report, order the defendant to be discharged or to be detained in custody or in prison or to be in custody or be transferred to an asylum where he has not already been sent to an asylum.

(2) Where the Attorney-General orders a defendant to be transferred to an asylum, he may appoint two medical officers to report on the state of mind of the defendant and on any other facts the court

may require, and on receipt of the report, the court may order his discharge or detention as it thinks fit.

296. Where a defendant is confined in a prison or an asylum, the Attorney-General may direct his transfer from one prison or asylum to any other prison or asylum as often as may be necessary or may, at any time, order for his release from detention as he may consider necessary.

Transfer from one place of custody to another.

297. (1) Where a relative or friend of a defendant confined under section 287 or 292 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) is confined under the provisions of section 291, 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 287 and 293 shall apply, with necessary modifications, to a defendant delivered to the care and custody of a relative or friend under this section.

298. Where it is necessary to remove a prisoner to a prison or asylum under the provisions of this Part, an order for the removal

Removal to another detention facility.

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 State.

PART XXXI - REMAND PROCEEDINGS AND TIME LIMITS

Application for remand or other interlocutory proceedings.

299. (1) A suspect arrested for an offence shall be brought before a court within a reasonable time of the arrest, and the court may order the remand of the suspect in custody notwithstanding that it has no jurisdiction to try the offence:

Provided that the court shall not order the remand of a suspect in custody under this Part unless it is satisfied by evidence before it that the original case file has been transmitted to the Attorney-General for legal advice.

(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 Appendix D; and
- (b) be verified on oath and contain reasons for the remand request.

Court may remand suspect in prison custody.

300. (1) Where the court, after examining the reason for the arrest and for the request for remand in accordance with the provisions of section 299, is satisfied that there is probable cause to remand the suspect pending the receipt of a copy of the legal advice from the Attorney-General and arraignment of the suspect before the appropriate court, as the case may be, may remand the suspect in custody.

(2) In considering whether “probable cause” has been established for the remand of a suspect under subsection (1), 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.

301. The court may, in considering an application for remand brought under section 299, grant bail to the suspect brought before it, taking into consideration the provisions of sections 165 to 195 relating to bail.

Court may grant bail in remand proceedings.

302. (1) Where an order of remand of the suspect is made under section 299, the order shall be for a period not exceeding 21 days in the first instance and the case shall be returnable within the same period.

Time and protocols 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), the court may, on application of the suspect, grant bail in accordance with the provisions of sections 165 to 195.

(4) At the expiration of the remand order made under subsection (1) or (2), and where the suspect is still remanded with his trial having not commenced or charge having not been filed at the relevant court having jurisdiction, the court shall issue a hearing notice on –

- (a) the Commissioner of Police and the Attorney-General;
- (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), to inquire as to the position of the case and for the Commissioner of Police or the Attorney-General to show cause why the suspect remanded should not be unconditionally released.

(5) Where the Commissioner of Police and the Attorney-General show good cause pursuant to subsection (4) 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).

(6) Where a good cause is not shown for the continued remand of the suspect pursuant to subsection (4), 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).

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

Where 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 shall in all cases be copied to the court, and the court may act only on the copy of the advice to make any order that may be necessary in the circumstances.

(3) Where the legal advice of the Attorney-General indicates that the suspect remanded has no case to answer, the court shall release the suspect immediately.

304. (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.

305. A suspect committed to prison under this Law shall be remanded in prison or other place of safe custody.

Place of remand.

PART XXXII - PRESENTATION OF CASE BY PROSECUTION AND DEFENCE

306. (1) After a plea of not guilty has been taken or no plea has been made, the prosecutor may open the case against the

Presentation of case.

defendant stating shortly by what evidence he expects to prove the guilt of the defendant.

(2) The prosecutor shall then examine the witnesses for the prosecution, who may be cross-examined by the defendant or his legal practitioner and thereafter re-examined by the prosecutor, where necessary.

(3) After the case of the prosecution is concluded, the defendant or the legal practitioner representing him, if any, is entitled to address the court to present his case and to adduce evidence where so required.

No case submission at the instance of the court.

307. 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 by the defence and replies.

308. (1) Where the defendant or his legal practitioner makes a no case submission in accordance with the provisions of this Law, the court shall call on the prosecutor to reply.

(2) The defendant or his legal practitioner shall have the right to reply to any new point of law raised by the prosecutor, after which, the court shall give its ruling.

(3) In considering the application of the defendant under this section, the court shall have regard to whether –

- (a) an essential element of the offence has been proved;
- (b) there is evidence linking the defendant with the commission of the offence with which he is charged;

- (c) the evidence so far led is such that no reasonable court or tribunal would convict on it; and
- (d) any other ground on which the court may find that a prima facie case has not been made out against the defendant for him to be called upon to answer.

309. (1) After the case for the prosecution is concluded, the defendant or the legal practitioner representing him, if any, is entitled to address the court at the commencement or conclusion of his case, as he thinks 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 as evidence for the defence, the prosecution shall not be entitled to address the court a second time but if, in opening the case for the defence, the legal practitioner appearing for the defendant introduced a new matter without supporting it by evidence, the court in its discretion may allow the prosecution to reply.

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.

310. (1) Where a question as to the interpretation of the Constitution of the Federal Republic of Nigeria arises in the course of a trial and is referred to the Court of Appeal under the provisions of the Constitution, the court before which the question arose may in its discretion—

Reference to the
Court of Appeal.

- (a) adjourn the trial until the question has been considered and decided;
- (b) conclude the trial and postpone the verdict until such time as the question has been considered and decided; 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 XX.

(2) When the question referred to in subsection (1)

(a) 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.

Stay of proceedings. 311. An application for stay of proceedings in respect of a criminal matter before the court shall not be entertained.

Consideration of case by court and announcement of findings.

312. (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.

(2) After the court has made its finding, the court shall pronounce that finding in the open court.

Judgment to be in writing.

313. (1) The judge or magistrate shall record his judgment in writing and every judgment shall contain the point or points for determination, the decision and the reasons for the decision and shall be dated and signed by the judge or magistrate at the time of pronouncing it.

(2) The magistrate, instead of writing the judgment, may record briefly in the book or file his decision or finding and his reason for the decision or finding.

314. 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.

315. (1) Where the finding is guilty, the convict shall, where he has not previously called any witness to character, be asked whether he wishes to call any witness and, after the witness, if any, has been heard, he shall be asked whether he desires to make any statement or produce any necessary evidence or information in mitigation of punishment in accordance with section 316(3).

Procedure on finding of guilty.

(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.

316. (1) Where the provisions of section 315 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 –

- (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) The 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.

Recommendation for mercy.

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

Conviction on other charges pending.

318. (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.

(2) Where a desire is expressed under subsection (1) and consent is given, the court shall –

- (a) make an entry to that effect on the record book or file; and
- (b) the prosecution shall state the facts of the case in accordance with section 306.

(3) Where the other charge pending against the defendant is considered in accordance with subsections (1) and (2) and sentence passed on the defendant with consideration or in respect of the other pending charge, the defendant shall not, subject to the provisions of sections 242 and 243, or unless the conviction has been set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

Compensation to victim in judgment.

319 (1) Notwithstanding the limit of its civil or criminal jurisdiction, a court has power, in delivering its judgment, to award to a victim commensurate compensation to be paid by the defendant or any other person or the State.

(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).

320. 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 absent.

321. 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.

322. 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 death.

323. 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 XXXIII - COSTS, COMPENSATION, DAMAGES AND RESTITUTION

Power of court to order payment of expenses or compensation.

324. (1) A court may, within the proceedings or while passing judgment, order the defendant or convict to pay a sum of money –

- (a) as compensation to any person injured by the offence, irrespective of any fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit;
- (b) in compensating a bona fide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and
- (c) in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

(2) Where the payment referred to in subsection (1) is imposed in a case which is subject to appeal, no payment may be made before the period allowed for presenting the appeal has elapsed or, where an appeal is presented, before the decision on the appeal.

(3) Order for compensation may be made under this section irrespective of the fact that no fine has been imposed on the defendant in the judgment.

Payment to be taken into consideration in subsequent civil suit.

325. (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 recovered as compensation under this section.

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

326. (1) The court after conviction in a joint trial 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 authorized by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate; 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.

327. (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 consider fit. Cost against prosecutor.

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

Compensation in cases of false and vexatious accusation.

328. (1) Where a person causes the arrest or arrest and charge of a defendant or defendants and it appears to the court that there was no sufficient ground for causing the arrest, or that the accusation is false, vexatious or frivolous, it may for reason recorded, order the person to pay reasonable compensation to the defendant or defendants arrested and charged.

(2) The court may, in default of payment of such compensation or any part of it, award a term of imprisonment against the person 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 451.

(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:

Provided that the amount ordered to be paid as compensation shall be paid into an interest yielding account in any manner as may be directed by the court pending the determination of the appeal.

Injured person may refuse to accept compensation, but payment of compensation is bar to further liability.

329. (1) A person to whom compensation is awarded may refuse to accept the compensation.

(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.

330. 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.

331. (1) Where a convict is ordered to pay a fine, or a defendant is ordered to pay compensation to another person under section 324, 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.

332. (1) Where a convict has been ordered by the court to pay a fine with or without a sentence of imprisonment in default of payment of the fine, the court authorized by section 331 to issue a warrant may, exercise any of the following powers—

- (a) allow time for payment of the fine;
- (b) direct that the fine be paid by installments;
- (c) postpone the issue of a warrant under section 331;
- (d) without postponing the issue of a warrant under section 331, 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) 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), 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).

(4) Where the fine or any instalment of the fine is not paid in accordance with an order under this section, the authority making the order may enforce payment of the fine, or of the balance outstanding, by any means authorized in this Law and may cause the offender to be arrested and may commit or recommit him to prison under the sentence of imprisonment in default of payment of the fine.

Wrongful
conversion or
detention of
property and award
of damages.

333. (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.

(2) The damages awarded under this section shall be recovered in like manner as prescribed in section 330.

PART XXXIV - CUSTODY, DISPOSAL, RESTORATION OF PROPERTY

334. 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 the same has been converted or exchanged and anything acquired by the conversion or exchange, whether immediately or otherwise.

Meaning of property.

335. 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 of 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.

336. (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

Order of disposal of property after trial.

or document produced before it or in its custody or regarding which an offence appears to have been committed or which has been used for the commission of an offence.

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

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

Custody or sale of property.

337. (1) Where the court orders the forfeiture or confiscation of any property but does not make an order for its destruction or for its delivery to any person, the court may direct that the property be kept or sold and that the property, if sold, the proceeds of the sale be held as it directs until some person establishes to the court's satisfaction, a right to the property.

(2) Where no person establishes a right within 12 months from the date of forfeiture or confiscation of the property, the proceeds of the sale shall be paid into the Consolidated Revenue Fund of the State or any other appropriate account, as may be authorized.

(3) Where an order is made under this section in a case from which an appeal lies, the order shall not, except when the property is 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 XXXV - SEIZURE, FORFEITURE, CONFISCATION AND
DESTRUCTION OF INSTRUMENTS OF CRIME

338. 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
- (b) direct the instrument, material or thing to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 341.

Seizure of things intended to be used in commission of crime.

339. (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 object.

(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.

340. Where a court is satisfied, by information on oath, that there is reasonable ground for believing that there is in the State in any building, ship, carriage, receptacle or place, anything in respect of which an order may be made under section 338 or 339, 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 338 or 339.

341. (1) Where a defendant is convicted of an offence carried out by criminal force, and it appears to the court that by that force a victim has been dispossessed of any immovable property, the court

Restoration of possession of immovable property.

may, where it considers fit, order the possession of the property to be restored to the victim.

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

Procedure on seizure of property taken during arrest or investigation or stolen.

342. (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 14 days of the taking of the property or thing, or if investigation is extended beyond 14 days within 48 hours of the completion of investigation, 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 consider fit in the circumstances.

(2) Where the person entitled to the possession of property referred to in subsection (1) 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 6 months from the date of the notice.

Procedure where owner of property seized is unknown.

343. (1) Where no person within the period referred to in section 342 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 Kwara State Government.

(2) At any time within 6 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.

344. Where the person entitled to the possession of property referred to in section 342 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 342 and 343 shall, as nearly as may be practicable, apply to the net proceeds of the sale.

Power to sell perishable property.

345. 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.

346. 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.

347. (1) Where a defendant is convicted of an offence relating to property, the court convicting him may order that the

Restitution of stolen property.

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

(2) This section does not apply to—

- (a) a valuable security which has been paid or discharged in good faith by a person liable to pay or discharge the instrument; or
- (b) a negotiable instrument which has been received in good faith by transfer or delivery by a person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen.

Destruction of articles relating to counterfeiting where charge is laid.

348. 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 no charge is laid.

349. (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—

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

350. (1) Subject to the provisions of this section, sections 348 and 349 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
property, 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; or
- (b) it appears to a Magistrate's 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 lodgment made with the Central Bank by a commercial bank.

Mode of dealing with forfeiture not pecuniary.

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

PART XXXVI - SUMMARY PROCEDURE IN PERJURY

Summary procedure in perjury.

352. (1) Where it appears to a court that a person has committed perjury in any proceeding before it, the court, subject to

subsection (2) and in addition, in the case of a magistrate, to subsection (3), may –

- (a) commit him for trial on a charge of perjury and bind any person by recognizance to give evidence at his trial; or
- (b) try him summarily for contempt of court and where he is found guilty, commit him to prison for a period not exceeding 6 months or fine him in such sum in accordance with the scale of fine in Appendix E.

(2) Where a court decides to try a person summarily under subsection (1) 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), 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 under subsection (3) –

- (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 XXXVII - TRIALS AND SUMMARY TRIALS GENERALLY

Trials.

353. (1) Trials shall be held in the High Court on a charge filed –

- (a) by the Attorney-General or a law officer in his office;
- (b) by a legal officer of any prosecuting agency;
- (c) by a private prosecutor duly authorized by the Attorney-General; or
- (d) summarily, in accordance with the provisions of this Law.

(2) Trials shall be held in the Magistrates' Court or any other court exercising criminal jurisdiction in accordance with the provisions of this Law relating to summary trials.

354. (1) Where a defendant charged before the court is not represented by a legal practitioner, the court shall –

- (a) inform him of his rights to a practitioner of his choice; and
- (b) enquire from him whether he wishes to engage his own legal practitioner or have a legal practitioner engaged for him by way of legal aid from the Legal Aid Council or Kwara State Office of the Public Defender.

(2) Where the legal practitioner who had appeared on behalf of the defendant ceases to appear in court on two consecutive sessions of the court, the court shall enquire from the defendant if he wishes to engage another legal practitioner or have 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 engage a legal practitioner for himself within a reasonable time, the court may direct that the defendant be represented by a legal practitioner engaged by way of legal aid.

(5) The court may assign to any legal practitioner the case of a defendant who has no legal representation, and the legal practitioner shall undertake the defence of the defendant with all due diligence, in which case, the legal practitioner shall not pay any filing fee or service fee in respect of the case so assigned.

(6) A legal practitioner engaged under subsection (5) shall be paid such reasonable sum as may be determined by the Chief Judge, unless he offered his services pro bono.

(7) Where the defendant chooses to represent himself, the court shall –

- (a) inform him of his rights under the Constitution and under this Law; and
- (b) indicate on the record the fact of having so informed the defendant.

(8) A legal practitioner, other than a law officer, engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant until final judgment, unless allowed for any special reason to cease from acting by the court of its own motion or upon application by the legal practitioner.

(9) Where a legal practitioner intends to disengage from a matter, he shall notify the court not less than 7 days before the date fixed for hearing and such notice shall be served on the court and all parties.

When summary trial shall be held.

355. (1) Trial shall be held summarily in –
- (a) the High Court in respect of perjury;
 - (b) respect of an offence which by law is triable summarily; and
 - (c) respect of a trial for an offence punishable with less than 3 years' imprisonment in the Magistrates' Court.

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

Non-appearance of complainant.

356. (1) When the case is called and the defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing, does not appear

in person or in the manner authorized by a written law, the court may dismiss the complaint.

(2) Where the court receives a reasonable excuse for the non-appearance of the complainant or his representative or for other sufficient reason, it shall adjourn the hearing of the complaint to some future day on such terms as the court may consider just.

357. (1) Where a case is called in which summons has been issued and the defendant does not appear and no sufficient excuse is offered for his absence, then the court, where it is –

Non-appearance
of defendant.

- (a) satisfied that the summons, if any, has been duly served, may issue a bench warrant for his arrest; or
- (b) not satisfied that the summons has been duly served or where a warrant had been issued, in the first instance, for the arrest of the defendant, shall adjourn the hearing of the case to some future day, in order that proper service may be effected or until the defendant is arrested, as the case may be.

(2) Where the defendant is afterwards 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 considers 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).

(4) Where the court, in exercise of its discretion, has granted bail to the defendant and the defendant fails to attend court without reasonable explanation, the court shall continue with the trial in his absence and convict him unless the court sees reasons otherwise, provided that proceedings in the absence of the defendant shall take place after two adjournments or as the court may consider fit.

(5) The court shall impose a sentence only when the defendant is arrested or surrenders to the custody of the court.

Non-appearance
of both parties.

358. 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.

Appearance of
both parties.

359. When the case is called and both the complainant and the defendant appear, the court shall proceed to hear and determine the case.

Withdrawal of
complaint.

360. Where a complainant, at any time before judgment is delivered in a case, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the complaint and shall thereupon acquit the defendant.

Manner of hearing.

361. (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.

(2) Where the defendant pleads guilty and the court is satisfied that he has admitted the offence and shown no cause or no sufficient cause why sentence should not be passed, the court shall proceed to sentence him.

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

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

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

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

362. 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 307.

Discharge of defendant when no case to answer.

363. (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.

Process for compelling production of evidence at instance of defendant.

364. (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.

(2) On an application by the defendant under subsection (1), the court shall issue the process unless for reasons to be recorded by it in writing it considers that the application is made for the purpose of vexation or delay or of defeating the aims of justice.

Saving as to section 363(1)(a).

365. Failure to comply with the requirements of section 363(1)(a) shall not of itself vitiate the trial where the court –

- (a) called on the defendant for his defence;
- (b) asked the defendant if he had any witness; and
- (c) heard the defendant and his witnesses and other evidence, if any.

Evidence in reply.

366. Where the defendant adduces in his defence a new matter which the prosecution could not foresee, the prosecution may, with the leave of the court, adduce evidence to rebut the new matter or evidence.

Power to take disposition in certain cases.

367. (1) In certain exceptional circumstances, where the evidence of a technical, professional or expert witness would not ordinarily be contentious as to require cross-examination, the court may grant leave for the evidence to be taken in writing or by electronic recording device, on oath or affirmation of the witness, and the deposition shall form part of the record of the court.

(2) Where it appears to the court that a person who is seriously ill or hurt may not recover, but is able and willing to give material evidence relating to an offence and it is not practicable to take the evidence in accordance with the provisions of this Law, the judge or magistrate shall –

- (a) take in writing the statement on oath or affirmation of the person and subscribe the statement and certify that it contains accurately the whole of the statement made by the person; and
- (b) add a statement of his reason for taking the statement, the date and place when and where the statement was taken, and shall preserve the statement and file it for record.

(3) The court shall cause reasonable notice of the application to take the deposition in accordance with subsections (1) and (2) 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.

368. (1) A statement taken under section 367 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 section 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 its genuineness.

369. (1) Without prejudice to section 353(2), court

Notes of evidence to be recorded electronically or in writing.

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.

(2) Where court proceedings are not recorded as stated in subsection (1), the court shall in every case take notes in writing of the oral evidence it considers material, in a book or file to be kept for that purpose and the book or file 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 authorized from time to time by the Chief Judge in accordance with such condition as may be imposed by rules of court, and the signed transcript shall be taken as part of the record of the proceedings.

(4) A person is not entitled, as of right, to inspection of or to a copy of the record so kept except as may be expressly provided for by the rules of the court or by any other law.

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

Local inspection. 370. A court trying a case summarily shall make or cause to be made such local inspection as the circumstances of the case may require.

Cross complaints. 371. 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 considers fit, hear and determine the complaints in the same proceeding.

372. 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 considers fit, hear and determine the complaints in the same proceedings.
373. 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.
374. (1) In a summary trial, the court may, whether the complaint is dismissed or not, by order bind over either the complainant or defendant, or both, with or without a surety or sureties, to be of good behaviour.
- (2) A person who breaches an order made under to subsection (1) may be imprisoned for a term not exceeding 3 months in addition to any other punishment to which the person is liable.
- (3) Before a binding order under subsection (1) or an order for imprisonment or any other punishment under subsection (2) is made, the person to be affected by the order shall be given an opportunity to be heard.
375. (1) Where a charge is dismissed on merits, the dismissal has the same effect as an acquittal.
- (2) Where a charge is dismissed but not on merits, or stated to be dismissal without prejudice, the dismissal does not have the same effect as an acquittal.
376. Where a child is proceeded against before a court for an offence, the court shall have regard to the provisions of the Kwara State Child's Rights Law.
377. Without prejudice to any other power which a magistrate may

Joinder of complaints.

Giving of decision upon conclusion of hearing.

Power to bind parties to be of good behaviour.

Effect of judgement of dismissal on merits, not on merits and without prejudice.

Summary trial of child by magistrate.

Power to determine summary trial.

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 for a period not exceeding 48 hours and release him on bail.

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

378. (1) A law officer, in a case where a charge of an indictable offence is being proceeded with summarily by a magistrate, may, at any time before judgment, request the magistrate to deal with the case as one for trial on charge.

(2) On receipt of the request, the magistrate shall adjourn the proceeding until such a time as information or charge is filed in the High court, provided that the information or charge shall be filed within a period of 30 days of the date the order granting the request.

(3) The magistrate shall make the case returnable for a period not exceeding 32 days from the date of the grant of the request.

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

Adjournment for law officer's decision.

379. (1) Where a charge for an offence is being tried summarily by a magistrate, 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 378.

(2) The request of the law officer so consulted shall be filed within 14 days of the date the magistrate grants the request of the

person prosecuting, failing which the magistrate shall proceed to try and conclude the case summarily.

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

380. (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.

381. (1) Where an offence for which the Magistrates' Court have 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.

Case files, legal advice and related proceedings.

(2) The Attorney-General shall, within 30 days of receipt of the police case file, issue and serve his legal advice indicating whether or not there is a prima facie case against the defendant for which he can be prosecuted.

(3) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has no prima facie case to answer, he shall serve a copy of the legal advice on the –

- (a) police or the head of the police legal unit through whom the original case file was sent to the Attorney-General;
- (b) court before which the suspect was remanded in prison, where he is in remand custody, or before which 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's Court has jurisdiction to try, the prosecutor shall file the charge at the Magistrate's 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) shall, on receipt of the legal advice, dismiss the charge against the suspect and accordingly discharge the suspect.

(7) The Attorney-General shall send a law officer in his office to the court where the order of remand was made and ensure the discharge of the remand order and of the suspect.

(8) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has a prima facie case to answer, he shall file and serve the charge or information in accordance with the provisions of this Law.

(9) A form as prescribed in Appendix F 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 organization providing free legal representation to defendants, shall be attached to each legal advice for the purpose of endorsement by the person in respect of whom legal advice is preferred and against whom the information is filed.

(10) Where the defendant indicates in the form referred to in subsection (9) that he wishes to be represented by a legal practitioner of the Legal Aid Council or of any other organization 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 or of any other organization providing free legal representation is engaged for the defendant and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.

(11) The Chief Registrar shall, upon receipt of the form, forward the same to the Director of Legal Aid Council in the State or the head of the relevant organization providing free legal representation.

Filing of charge. 382. A charge may be filed by –

- (a) the Attorney-General or law officers in his office;
- (b) a public officer acting in his official capacity;
- (c) a private legal practitioner authorized by the Attorney-General; or
- (d) a private person, provided the charge is endorsed by a law officer that he has seen such charge and declined to prosecute at the public instance and the private person enters into a bond to prosecute diligently and to a logical conclusion.

Assignment of charge and issuance of notice of trial.

383. (1) Where a charge has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the charge filed is assigned to a court for trial within 15 working days of its filing.

(2) On assigning the charge, the court to which the charge 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 charge not more than 3 days from the date they are issued.

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

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

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

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

384. (1) The registrar shall receive a charge from a private legal practitioner where—

Charge by private persons.

- (a) the charge is endorsed by the Attorney-General or a law officer acting on his behalf stating that he has seen the charge and has declined to prosecute the offence set out in the charge; 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 charge to conclusion from the time the defendant shall be required to appear,
 - (ii) pay such costs as may be ordered by the court, or
 - (iii) deposit in the registry of the court, such sum of money as the court may fix.

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

Conditions for private prosecutors.

385. Where a private legal practitioner has complied with the provisions of section 384, the charge shall be signed by such private legal practitioner, who shall be entitled to prosecute the charge.

Venue of trial.

386. The place of trial shall be determined in accordance with the provisions of this Law.

Change of venue of trial.

387. Notwithstanding the provisions of section 386—

- (a) where a cause is commenced in any division other 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.

Effect of change of venue.

388. 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.

389. The registrar or any other person directed by the court shall endorse on or annex to every charge delivered to the sheriff or proper officer for service, a notice of trial and such notice shall specify the particular sessions at which the party is to be tried on the charge.

Forms of notice of trial.

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

Copy of charge and notice of trial to be delivered to sheriff.

391. The sheriff or other proper officer shall, on receipt of the charge and notice of trial, serve the person named in the notice at least 7 working days before the date specified on the notice.

Time and mode of summoning parties on a charge.

392. 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.

393. 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 company may serve processes.

394. The official of the courier company serving the copy of the charge and notices shall immediately make to the registrar or other proper officer a return of the mode of service with the necessary endorsement of service on the person named for service on the notice or charge.

Return of service.

395. Where a defendant against whom a charge has been duly preferred, and on whom the charge and notice of trial have been duly served, does not appear to plead to the charge, whether he is under recognizance to appear or not, the court may issue a warrant for his arrest.

Warrant where defendant does not appear.

Law officer or legal practitioner for State and defence in capital cases.

396. 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, subject to the provisions of section 273, assign a legal practitioner for his defence.

Day-to-day trial and adjournments.

397. (1) The defendant to be tried on a charge shall be arraigned in accordance with the provisions of this law relating to the taking of pleas and the procedure on it.

(2) Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

(3) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than 7 adjournments from arraignment to final judgment, provided that the interval between each adjournment shall not exceed 14 working days.

(4) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their 7 adjournments each, the interval between one adjournment and another shall not exceed 7 days inclusive of weekends.

(5) Where a judge or magistrate conducting a trial is transferred to another jurisdiction he shall be given a dispensation by the Chief Judge to conclude any part-heard matters in his last jurisdiction within a reasonable time after assuming office in the new jurisdiction.

(6) 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.

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

Attendance of witness bound by recognizance to attend.

399. 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.

400. Where a person named on a summons or writ of subpoena willful 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.

401. A person who fails to attend as witness in either of the cases mentioned in sections 399 and 400 is liable, on the summary order of the court, to a fine in a reasonable sum to be fixed by the court, but not exceeding N5,000 and, in default of payment, to imprisonment for a term corresponding to the fixed sum, but the period of imprisonment shall not exceed 1 month.

Fine for non-attendance of witness.

PART XXXIX - PROVISIONS RELATING TO SENTENCE OF DEATH

402. (1) Subject to the provisions of any law relating to a specific offence or class of offences and to the jurisdiction conferred on any court, 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.

Death.

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

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

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

404. Where sentence of death has been passed, the sentence shall only be carried out in accordance with the provisions of this Part and as provided in Appendix G.

How sentence of death is to be carried out.

405. 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.

406. 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 consider appropriate in consideration of the principles in section 417.

Sentencing in the case of a child offender.

407. 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 the detention of convict.

408. The judge who pronounces a sentence of death shall issue, under his hand and the seal of the court, a certificate to the effect that sentence of death has been pronounced upon the convict named in the certificate, and the certificate shall be sufficient and full authority in law for the detention of the convict in safe custody until the sentence of death pronounced upon him can be carried into effect in accordance with the provisions of this Part.

Judge's certificate of death full authority for execution of convict, unless pardoned or reprieved.

409. The registrar of the court that sentenced the convict to death shall, as soon as practicable after the sentence has been pronounced –

Steps to be taken by registrar.

- (a) hand a copy each of the certificate issued by the judge under the provisions of section 408 to the Commissioner of Police and the superintendent or other officer in charge of the prison in which the convict is to be confined;
- (b) transmit to the sheriff one copy of the certificate; and
- (c) file one copy of the certificate with the record of the proceedings in the case.

Convict may send request to Committee on Prerogative of Mercy

410. (1) Where a convict desires to have his case considered by the Committee on Prerogative of Mercy, he shall forward his request through his legal practitioner or officer in charge of the prison in which he is confined to the Committee on Prerogative of Mercy.

(2) The Committee on Prerogative of Mercy shall consider the request and make its recommendation to the Governor.

State at which Governor is to consider recommendation.

411. The Governor, after considering the recommendation made under section 410(2), shall decide to confirm the sentence or commute the sentence to imprisonment for life, or that the sentence should be commuted to any specific period, or that the convict should be otherwise pardoned or reprieved.

Where pardon or reprieve is granted.

412. (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.

(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).

413. The Attorney-General shall communicate the decision referred to in section 412(1) and (2) to the judge who presided over the trial.

Copy of order to be sent to judge.

414. (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 in accordance with Appendix H 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 date and time the execution is to be carried out and give directions as to the place of the burial; or
- (b) may direct that the execution shall take place at such time and such place and the body of the convict executed shall be buried at such place as shall be appointed by some officer specified in the order.

(3) When the place or time of execution or the place of burial is appointed by some person and is not stated in the order of the Governor, the specified officer shall endorse on the order his signature, the place and time of execution and place of burial:

Provided that where the Governor fails or neglects to sign the execution order, the execution order shall take effect on the first working day after the first anniversary of the death sentence.

415. 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 XL - PROCEDURE WHERE WOMAN CONVICTED
OF CAPITAL OFFENCE IS ALLEGED TO BE
PREGNANT

Procedure where
woman convicted
of capital offence is
alleged to be
pregnant.

416. (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 405.

PART XLI - SENTENCING GENERALLY OTHER THAN
CAPITAL SENTENCE

Court to determine
term of
imprisonment.

417. (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 402 –

- (a) each case shall be treated on its own merit;
- (b) the objectives of sentencing, including the principles of reformation, shall be borne in mind in sentencing a convict;

- (c) an appeal court may, in a proper case, reduce the sentence imposed by the trial court, especially where it is excessive or based on wrong principles, or an appeal court may increase the sentence imposed by the trial court especially where it is inadequate;
- (d) a trial court 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 subtracted from the sentence of the convict;
- (f) trial court may conduct an inquiry into the convict's antecedents before sentencing;
- (g) it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with section 316;
- (h) where there is doubt as to whether the defendant or convict has attained the age of 18, the court should resolve the doubt in his favour;
- (i) a defendant may not be given consecutive sentences for two or more offences committed in the same transaction;
- (j) an appellate court may not increase the sentence of a lower court beyond the maximum number of years the lower court has power to impose; and

- (k) sentencing to a term of imprisonment shall apply only to those offenders who should be isolated from society and with whom other forms of punishment have failed or is likely to fail.

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

418. (1) Where the court has power to pass a sentence of imprisonment, it may, in lieu of such sentence, order the convict to be detained within the precincts of the court or at a police station till such hour not later than eight in the evening on the day on which he is convicted, as the court may direct.

(2) The court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the convict's abode where his abode is known to or ascertained by the court, but the court shall not make an order of detention under this section as will deprive the convict of a reasonable opportunity of returning to his abode on the day on which the order of detention is made.

(3) Where a sentence of imprisonment is passed on a convict by a court, it may order that the sentence shall commence at the expiration of any term of imprisonment to which that convict has been previously sentenced by a competent court in Nigeria.

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

Date from which sentence commences.

419. A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

Default in payment of fine.

420. (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.

- (2) In the case of a conviction in the Magistrate's Court –
- (a) the amount of the fine shall be at the discretion of the court but shall not exceed the maximum fine authorized by this law to be imposed by the magistrate; and
 - (b) a term of imprisonment imposed in default of payment of the fine shall not exceed the maximum fixed in relation to the amount of the fine by the scale specified in the Appendix E.

(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) exceed the maximum term authorized as a punishment for the offence by the law.

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

421. 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.

422. 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,

Fine in default of imprisonment.

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.

Chief Judge may recommend review of fines etc.

423. The Chief Judge may, from time to time, recommend to the House of Assembly the review of the provisions for the amount of fines, compensation or other sums of money prescribed under this Law.

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

424. Where by any law, the court is empowered to impose a penalty for an offence for which it can convict summarily, it may, in the absence of express provisions to the contrary, order a defendant who has been so convicted, in default of payment of the sum of money adjudged to be paid under the order, either immediately or at the time specified in the order, as the case may be, to be imprisoned, in accordance with the scale set out in the Appendix E.

Period of imprisonment in default of payment of penalty not to exceed scale in Appendix E.

425. Subject in every case to the provisions of the law on which the order is founded, the period of imprisonment which is imposed by the court in respect of the non-payment of a sum of money ordered to be paid by an order shall be such period as in the opinion of the court will satisfy the justice of the case, but shall not exceed the maximum fixed in the scale set out in the Appendix E.

Committal for non-payment of fine.

426. A committal for non-payment of a fine shall not exceed 2 years, except where the law under which the conviction is made allows a longer period.

Payment and allocation of fines and fees.

427. (1) A court in fixing the amount of fine to be imposed on a convict may take into consideration, among other things, the means of the convict.

(2) Where a fine is imposed, the payment of the court fees and other legal expenses payable in the case, up to and including conviction, shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine or of such part as may be paid or recovered, shall be applied as follows—

- (a) in the first instance, in the payment to the informant or complainant of any court or other fees paid by him and ordered by the court to be repaid to him;

- (b) in the second instance, the payment of any outstanding court fee not already paid by the informant or complainant which may be payable under rules of court; and
- (c) the balance, if any, remaining after the payments have been made shall be paid into general revenue of the State.

428. In a case where an order is made against a defendant for the payment of a sum of money and the defendant is in default of payment and liable to be imprisoned, the court may—

Power to commit defendant in certain cases.

- (a) issue a warrant of committal;
- (b) allow time for the payment of the said sum; or
- (c) direct that the defendant liable to pay the 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 sum or any installment.

429. (1) Where time has been allowed for the payment of a sum adjudged to be paid upon conviction or order, further time may, on an application by or on behalf of the convict liable to pay the sum, be allowed by a court having jurisdiction to issue a warrant of committal in respect of the non-payment of that sum, the court may, subject as aforesaid, direct payment by installments of the sum so adjudged to be paid.

Allowance of further time and payment by installments.

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

(3) Where before the expiration of the time allowed, the convict surrenders himself to the court having jurisdiction to issue a warrant of committal in respect of the non-payment of the sum and

states that he prefers immediate committal, the court may, if it thinks fit, issue a warrant committing him to prison.

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

Payment of penalty to person executing warrant.

430. In all cases where a convict against whom a warrant of committal for non-payment of a sum of money adjudged to be paid by an order is issued, pays or tenders to the person having the execution of the warrant the sum or sums mentioned in the warrant together with the amount of the expenses of the warrant up to the time of the payment or tender, the person having the execution of the warrant shall not execute the warrant.

Commencement of imprisonment under a warrant.

431. Where a convict is brought to a prison to be imprisoned by virtue of a warrant of committal, there shall be endorsed on the warrant the day on which the convict was arrested by virtue of it and the imprisonment shall be computed from that day.

Varying or discharging order for sureties.

432. Where a person has been committed to prison by the court for default in finding a surety or sureties, the court may, on application made to it by the person or by some person acting on his behalf, inquire into the case, and if new evidence is produced in proof of a change of circumstances the court, having regard to such circumstances may –

- (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 it thinks fit.

Right of person imprisoned in default to be released and effect of part payment.

433. (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 committal 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.

(2) Where in a case under subsection (1) 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 subsection (2), 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 the prison in which a person who has made the part-payment is confined shall, as soon as practicable thereafter, take the person before a court which shall—
 - (i) certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction, and
 - (ii) make such order as the circumstances require.

(4) Where, in the opinion of the superintendent or other officer, the delay occasioned by taking the person before a court is such that the person will be detained beyond the date on which he should by reason of the part-payment be released, the superintendent or other officer may release the person on the day which appears to the superintendent or other officer to be the correct day, endorse the warrant accordingly and shall, as soon as practicable thereafter, inform the court of the action taken and the court shall make such order it may consider to be appropriate in 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.

Fines may be ordered to be recoverable by distress.

434. Where, under the authority of a law, the court imposes a fine or a pecuniary penalty, whether or not that fine or penalty is accompanied by a power to impose imprisonment, and no special provision other than recovery by distress is made for the recovery of the fine or penalty, the court may –

- (a) order the fine or penalty to be recovered by distress; and
- (b) in default of the distress satisfying the amount of the fine or penalty, order that the convict be imprisoned, in accordance with the scale set out in the Appendix E.

Warrant of distress.

435. Where the court orders a sum to be recovered by distress, it shall issue a warrant which shall be in writing and signed by the court authorizing 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.

436. 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, the magistrate may, by writing under his hand endorse on the warrant, authorizing him to use such force as may be necessary to enable him execute the warrant;
- (c) the wearing apparel and bedding of the person and of his family, the tools and implements of his trade, shall not be taken;
- (d) except as provided in paragraph (e) and so far as the person on whose movable property the distress is levied consents in writing to an earlier sale, the goods distrained on shall be sold at a public auction not later than 5 days and not more than 14 days after the making of the distress, but where consent in writing is so given, the sale may be in accordance with the consent;
- (e) subject to paragraph (d), the goods distrained shall be sold within the time fixed by the warrant, unless the sum or charges, if any, of taking and keeping the goods distrained for which the warrant was issued are paid;
- (f) where a person charged with the execution of a warrant of distress –

- (i) 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 conviction to a penalty not exceeding ₦200,000 or imprisonment for a term not exceeding six months;
- (g) a written account of the costs and charges incurred in respect of the execution of a warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the court, and the convict on whose movable property the distress was levied may, at any time within one month after the making of the distress, be given 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.

437. 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 438 shall apply.

Part payment to reduce period of imprisonment in proportion.

438. (1) Where an offender is sentenced to a *Haddi* lashing the sentence shall be executed at such time as the court may direct and the sentence shall be inflicted with such instrument and in such manner and place as ordered.

Execution of sentence of *Haddi* lashing.

(2) Nothing herein contained shall be deemed to authorize the infliction of a *Haddi* lashing upon any person other than a Muslim and in accordance with the provisions of section 68(2) of the Penal Code and Appendix I to this Law.

439. (1) Where a defendant is sentenced to caning, the sentence shall be executed at such place and time as the court may direct.

Execution of sentence of caning.

(2) No sentence of caning shall be executed by installments.

(3) No sentence of caning shall be inflicted on –

- (a) females;
- (b) males sentenced to death; or
- (c) males whom the court considers to be more than 45 years of age.

(4) The sentence shall be inflicted with a light horse whip.

440. (1) Where before the execution of sentence of caning it appears to the registrar of the court that the offender is not in a fit state

Stay of execution of sentence of caning.

of health to undergo the sentence, he shall notify the court which passed the sentence and the court may either –

- (a) after taking a medical opinion, again order the execution of the sentence; or
- (b) substitute for it any other sentence which it could have passed at the trial.

(2) Where during the execution of caning it appears to the registrar of the court that the offender is not in a fit state of health to undergo the remainder of the sentence, the caning shall immediately be stopped and the remainder of the sentence be remitted.

(3) In either case the court shall be informed of the stay of execution.

Stay of execution
of caning to allow
time for appeal.

441 (1) Where the offender is sentenced to caning, the court shall forthwith ask him whether he intends to appeal and if he express such an intention the caning shall not be inflicted until 15 days after the date of the sentence or, where an appeal is made within that time, unless and until the appellate court confirms the sentence.

(2) Where the offender is sentenced to caning only and states to the court his intention to appeal in accordance with the provision of subsection (1), the court shall release him pending the expiration of 15 days or, where an appeal is made within that time, disposal of the appeal by the appellate court on his furnishing bail to the satisfaction of the court for his appearance at such time or place as the court may direct for the execution of the sentence, the court shall release him pending such appearance.

(3) Where the offender is sentenced to caning only and furnishes bail to the satisfaction of the court for his appearance at such time or place as the court may direct for the execution of the sentence, the court shall release him pending such appearance.

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

442. (1) Where a person is ordered to be detained in a safe custody or suitable place other than prison or mental health asylum, he is, notwithstanding anything in this Law or in any other law, liable to be detained in a prison or asylum or such other place as provided under this Law or any law as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

Conditions attached to detention in safe custody or suitable place other than prison or mental asylum.

(2) A person detained in a safe custody or suitable place other than prison or mental health asylum may at any time be discharged by the Governor on licence.

(3) The Governor 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 Governor may direct and if he fails to do so may be arrested without warrant and taken to the place.

PART XLIII - CHILD OFFENDERS

443. (1) Where a child is alleged to have committed an offence, the provisions of the Kwara State Child's Rights Law shall apply.

Procedure for trying child offender.

(2) Notwithstanding subsection (1), the provisions of this Law relating to bail shall apply to bail proceedings of a child offender.

PART XLIV - PROBATION AND NON-CUSTODIAL ALTERNATIVES

444. In this Part, "probation order" means an order containing a condition specified in section 446.

Meaning of probation order.

Conditional release of defendant and payment of compensation for loss or injury and costs.

445. (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;
- (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).

(2) The court may make an order under subsection (1)–

- (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), 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) 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 by acts or omission contributed to the commission of the offence.

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

(a) for the purpose of reinvesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner; and

(b) as to the payment of money upon, or in connection with, such restitution or delivery,

shall have the like effect as a conviction.

446. (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 gender, to be called a probation officer, and may, with his consent, 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 circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

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

Relieving probation officer of his duties.

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

Duties of probation officer.

448. (1) A probation officer shall, subject to the directions of the court –

- (a) where the person on probation is not actually with the probation officer, visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order or as the probation officer may think fit;
- (b) ensure that he observes the conditions of his recognizance;
- (c) report to the court as to his behaviour; and
- (d) advise and assist him, when necessary.

(2) The Chief Judge shall make regulations with respect to the appointment of probation officers, including designation of persons of good character as probation officers from which a court within the district or division where the probation officer resides may make its appointment under section 446.

Variation of terms and conditions of probation.

449. The court before which a defendant is bound by a recognizance under this Part to appear for conviction and sentence or for sentence may –

- (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.

450. (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.

Provision in case of convict failing to observe condition of release.

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

Suspended sentence
and community
service.

451. (1) Notwithstanding the provisions 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 suspended, with or without conditions, in which case, the convict shall not be required to serve the sentence in accordance with the conditions of the suspension.

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

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

(4) The court, in exercising its power under subsection (1) or (2) 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.

Arrangements for
community service.

452. (1) The Chief Judge shall establish in every judicial division a Community Service Centre to be headed by a registrar who shall be responsible for overseeing the execution of community service orders in that division.

(2) The registrar shall be assisted by suitable personnel who shall supervise the implementation of community service orders that may be handed down by the courts.

(3) The functions of the Community Service Centre include –

- (a) documenting and keeping detailed information about convicts sentenced to community service, including the –
 - (i) name of the convict,
 - (ii) sentence and the date of the sentence,
 - (iii) nature, duration and location of the community service,
 - (iv) residential address of the convict,
 - (v) height, photograph, full fingerprint impressions,
 - (vi) Bank Verification Number, National Identification Number or Voters Identification Card,
 - (vii) telephone number and email,
 - (viii) other means of identification as may be appropriate;
- (b) providing assistance to the court in arriving at appropriate community service order in each case;
- (c) monitoring the operation of community service in all its aspects;
- (d) 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 not exceeding ₦100,000 as the circumstances of each case may require.

453. (1) The community service order shall be performed for a period of not more than 6 months and the convict shall not work for more than 5 hours a day.

Performance of
community service
orders.

(2) The convict shall be under the supervision of a supervising officer or officers or non-governmental organizations as may be designated by the Community Service Centre.

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

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

454. (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

Default of convict in
complying with
community service
order.

the convict to appear before it.

(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 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 not exceeding N50,000 or such other punishment as the court considers fit.

Commission of further offence.

455. Where a convict has been ordered to undergo community service on conviction by an original court but has committed another offence during the period of community service, the following rules shall apply –

- (a) the subsequent court may add to the sentence or impose a term of imprisonment which

might have been passed by the original court and cancel the order of community service;

- (b) the subsequent court may take into account the period of community service served in reduction of the term of imprisonment;
- (c) where the original court is a High Court and the subsequent court is a subordinate court, the subordinate court shall send the copy of the proceedings to the High Court and, on receipt of the proceedings from the subordinate court, the High Court shall proceed under paragraphs (a) and (b); 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).

456. (1) A convict undergoing community service who intends to change his 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.

Discharge of
community service
orders.

457. (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.

(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.

Confinement in
rehabilitation and
correctional centre.

458. (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 government in lieu of imprisonment.

(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) The court may make an order directing that a child standing criminal trial be remanded at rehabilitation and correctional centre.

PART XLV - PAROLE

459. Where the Controller of Prisons is of the opinion that a prisoner –

Release of prisoner before completion of sentence.

- (a) sentenced and serving his sentence in prison is of good behavior; 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,

he may make a recommendation to the Committee on Prerogative of Mercy for their consideration.

(2) A prisoner released under subsection (1) shall undergo a rehabilitation programme in a government facility where available or any other appropriate facility to enable him to be properly reintegrated into the society.

PART XLVI - THE ADMINISTRATION OF CRIMINAL
JUSTICE MONITORING COMMITTEE

Establishment of the
Administration of
Criminal Justice
Monitoring
Committee

460. (1) There is established the Administration of Criminal Justice Monitoring Committee (in this Law referred to as "the Committee").

(2) The Committee shall consist of –

- (a) the Chief Judge, who shall be the chairman;
- (b) a judge of the High Court;
- (c) Grand Khadi or Khadi;
- (d) Attorney-General or his representative not below the rank of a Director in the Ministry;
- (e) Director of Public Prosecutions;
- (f) the Commissioner of Police or his representative not below the rank of Chief Superintendent of Police;
- (g) the Controller of the Nigeria Prisons in the State or his representative not below the rank of Chief Superintendent;
- (h) the State Director of the National Human Rights Commission or his representative not below the rank of Assistant Director;
- (i) the chairman of any local branch of the Nigeria Bar Association in the State to serve for two years only;
- (j) State Director of Department of State Services or his representative;
- (k) a representative of the Kwara State Office of the Public Defender;

- (l) the State Director of the Legal Aid Council of Nigeria or his representative not below the rank of Assistant Director; and
- (m) a representative of the civil society working on human rights and access to justice or women's 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 may be approved by the Governor.

461. (1) The Committee shall be charged with the responsibility of ensuring effective and efficient application of this Law by the relevant agencies.

Functions of the
Committee.

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

- (a) criminal matters are speedily dealt with;
- (b) congestion 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 cooperation amongst the organs in the administration of justice in the State;
- (f) collate, analyze and publish information in

relation to the administration of criminal justice sector in the State;

- (g) submit quarterly reports 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.

Secretariat of the Committee.

462. (1) The Committee shall establish and maintain a secretariat with such number of staff as it considers necessary for the efficient running of its affairs provided the number of staff shall not exceed 10 except with the approval of the Governor.

(2) The Secretariat shall be headed by a Secretary who shall be nominated by the Attorney-General.

(3) The Secretary shall be a legal practitioner of not less than 5 years post-call experience and shall possess sound knowledge of the practical functioning of the criminal justice system and adequate experience in justice system administration.

(4) The Secretary shall be responsible for the execution of the policy of the Committee and the day-to-day running of the affairs of the Committee.

(5) The Secretary shall hold office for a term of 4 years and may, subject to satisfactory performance of his functions, be re-appointed for another term of 4 years and no more.

(6) Subject to this section, the secretary shall hold office on such terms as to emoluments and otherwise as may be specified in his letter of appointment.

Fund of the Committee.

463. (1) There is established for the Committee a Fund into which shall be paid –

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

- (b) such monies as may, from time to time, be provided to the Committee by any public, private or international organization 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.

464. (1) The Secretary shall submit to the Attorney-General 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.

(3) The audited accounts shall be forwarded to the Governor through the Attorney-General for his consideration and directives.

465. The Committee shall prepare and publish an annual report of its activities.

Annual report

466. (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) shall comply with the notice within a period of 7 days.

Proceedings and quorum of the Committee.

467. (1) The Committee may make standing orders regulating its proceedings.

(2) The quorum at a meeting of the Committee shall consist of the chairman or his representative and five 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 matter to be considered by the Committee shall disclose his interest and shall not vote on any issue relating to the proposal.

PART XLVII - TRIAL OF CORPORATION

Interpretation under this Part.

468. (1) In this Part –

- (a) "corporation" means any body corporate registered in Nigeria or elsewhere;
- (b) "representative", in relation to a corporation, means a person duly

appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this Part authorized to do; but a person so appointed shall not, by virtue only of his being appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(2) A representative for the purposes of this Part need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this Part, shall be admissible without further proof as prima facie evidence that the person has been so appointed.

469. Where a corporation is called upon to plead to any charge including a new charge under the provisions of this Law or charge added to or altered under the provisions of this Law, it may enter in writing by its representative a plea of guilty or not and if either the corporation does not appear by a representative or, though it does so appear, fails to enter a plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty. Plea by corporation.

470. A charge may be preferred against a corporation after the preparation of the proofs of evidence relating to the charge. Charge against a corporation.

471. A charge under section 470 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 charge if they are founded on facts or evidence disclosed in the proofs of evidence. Joinder of counts in the same charge.

472. A representative may, on behalf of a corporation – Power of representative.

- (a) state whether the corporation is ready to be tried on a charge or altered charge to which the corporation has been called on to plead;
- (b) consent to the hearing and determination of a complaint before the return date of a summons;
- (c) express assent to the trial of the corporation on a charge, notwithstanding that a copy of the charge and notice of trial has not been served on the corporation 3 days or more before the date on which the corporation is to be tried.

Matters to be read, said or explained to representative.

473. 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.

Non-appearance of representative.

474. Where a representative does not appear, any such requirement as is referred to in section 469, shall not apply.

Savings under this Part and joint charge against corporation and individual

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

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

PART XLVIII - APPEALS

Appeals from Area Courts.

476. Appeals from Area Courts in criminal matters shall be in accordance with the Area Courts Law, High Court Law or under this Law or any other law, or any rules made under any such laws.

Appeals from other courts.

477. Where a defendant has been acquitted or an order of dismissal is made by a Magistrate's Court the prosecutor may appeal to the High

Court from such acquittal or dismissal on the ground that it is erroneous in law or that the proceedings or any part thereof were in excess of the jurisdiction of the Magistrate's Court.

478. (1) Appeals from Magistrates' Court to the High Court in criminal matters shall be in accordance with the High Court Law or under this Law. Appeals from
Magistrates' Court

(2) An appeal, in accordance with the provisions of this Part, shall be commenced by the appellant by giving notice to the registrar of the court from which the appeal is brought and such notice of appeal shall be signed by the appellant.

(3) The notice of appeal shall be given in every case before the expiration of the 30th day after the day on which the court has made the decision appealed against.

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

(5) An appellant, in an appeal brought in accordance with the provisions of this Part, shall, within 30 days of the pronouncing of the decision appealed against, file with the registrar of the court from which the appeal is brought a notice setting forth the grounds of his appeal which shall be signed by the appellant or the legal practitioner representing him.

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

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

(8) Without prejudice to the generality of subsection (7), the grounds of appeal may set forth all or any of the following –

- (a) that the lower court has no jurisdiction in the case;
- (b) that the lower court has exceeded its jurisdiction in the case;
- (c) that the decision has been obtained by fraud;
- (d) that the case has already been heard or tried and decided by or forms the subject of a hearing or trial pending before a competent court;
- (e) that admissible evidence has been rejected, or 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 law;
- (h) that some other specific illegality not mentioned and substantially affecting the merits of the case, have been committed in the course of the proceedings; or
- (i) that the sentence passed on conviction is excessive or in-adequate, unless the sentence is one fixed by Law.

(9) Where the appellant relies upon the grounds of appeal mentioned in subsection (8) (d), the name of the court shall be stated and, if it is alleged that a decision has been made, date of such decision.

(10) Where the appellant relies upon the ground of appeal mentioned in subsection (8) (g), the particulars of the error shall be stated and, where he relies upon the ground of appeal mentioned in subsection (8) (h), the illegality complained of shall be clearly specified.

(11) A sentence by a Magistrate's Court shall take effect notwithstanding an appeal unless –

- (a) a warrant has been issued under section 331 when no sale of property shall take place until the sentence has been confirmed or the appeal decided; or
- (b) an order for release on bail pending any further proceeding has been made by a competent court when the time during which the convicted person had been so released shall be excluded in computing the period of any sentence which he shall ultimately undergo.

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

PART XLIX- COMPOUNDING OF OFFENCES

479. (1) The offences punishable under the sections of the Penal Code described in second column of Appendix C may, subject to the subsequent provisions of this section, be compounded by the persons mentioned in the third column of that Appendix.

Compounding of
offence.

(2) When any offence is compoundable under this section, the abetment of such offence or attempt to commit such offence, when attempt is itself an offence, may be compounded in a similar manner.

(3) Where a person who would otherwise be competent to compound an offence is under 18 years of age, or of unsound mind, any person competent to contract on his behalf may compound the offence.

(4) The offences in Part I of Appendix C may be compounded without the leave of the court at any time before the defendant has been convicted by the court or committed for trial to the High Court.

(5) The offences in Part II of Appendix C may be compounded before the defendant is convicted by a court or committed for trial only with the leave of the court which has jurisdiction to try the defendant for the offence or commit him for trial.

(6) After a committal for trial an offence shall not be compounded except with the leave of –

- (a) a Magistrate's Court where trial has not commenced; or
- (b) the court trying the case, where the trial has commenced and has not been concluded.

(7) After a trial has been concluded, an offence shall not be compounded except with the leave of the court to which an appeal would lie.

(8) The compounding of an offence under this section shall have the effect of an acquittal of the defendant.

(9) No offence shall be compounded except as provided under this section.

PART L - FEES AND MISCELLANEOUS PROVISIONS

Payment of fees. 480. 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.

481. A court may, in any proceeding in which good cause appears to the court for so doing, remit the payment of the fees, or suspend payment of any fee payable until the conclusion of the proceedings, and the court may then direct the fees to be paid as costs by a party to the proceedings on whom the court has power to order costs to be paid.

Suspension of payment of fees.

482. The provisions of this Law relating to fees and to giving of security shall not apply to the State or to a public officer acting in his official capacity.

State not required to pay fees.

483. Subject to the provisions of this Law, the forms and precedents contained in the Appendixes to this Law may, in accordance with any instructions contained in the forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply.

Use of forms in the Appendix.

484. The Chief Judge 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 may make 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 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.

Non-compliance and absence of express provisions.

485. (1) Where no other sanction is provided for in this Law, failure on the part of any person to discharge his responsibility under this Law without reasonable cause shall be treated as misconduct by the appropriate authority.

(2) Where there are no express provisions in this Law, the court may apply any procedure that will meet the justice of the case.

PART LI - SAVINGS, REPEAL AND INTERPRETATION

Saving existing appointments.

486. Nothing in this Law shall affect the status, appointment or tenure of office of –

- (a) any magistrate appointed within the State before the commencement of this Law, and such magistrate is 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;
- (b) any officer performing duties in connection with a court under any Law before the commencement of this Law, and such officer is deemed to have been appointed as such under this Law.

Saving as to forms and procedures

487. (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 law, or the validity of any other procedure provided by any other law.

(2) Nothing in this Law shall affect the validity of any investigation, prosecution, charge or proceedings initiated or commenced under the Penal Code or any other law before the coming into force of this Law.

488. The Criminal Procedure Code Law, Cap. C23 of the Laws of Kwara State, is repealed.

Repeal of Cap. C23.

489. In this Law, unless the context otherwise requires –

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;

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

“charge” means the statement of offence or statement of offences with which a defendant is charged in a trial;

“Chief Judge” means the Chief Judge of the High Court of Kwara State;

“child” means a person who has not attained the age of 18 years;

“Committee” means the Administration of Criminal Justice Monitoring Committee established by section 467;

“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;

“Constitution” means the constitution of the Federal Republic of Nigeria, 1999;

“court” includes Area Courts presided over by legal practitioners, Magistrates' Court and the State High Court;

“currency” means coins, notes and other legal tender;

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

“district” means a magisterial district established under section 9;

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

“federation” means the Federal Republic of Nigeria;

“federal law” means any Act enacted by the National Assembly having effect with respect to the federation or any part thereof;

“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;

“Governor” mean the Governor of Kwara State;

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

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

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

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

- (a) a term of imprisonment exceeding 2 years; or
- (b) of a fine exceeding N40,000, not being an offence declared by the law creating it to be punishable on summary conviction;

“indictment” means the filing of a charge against a person in court;

“infant” means a person who has not attained the age of 7 years;

“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;

“licensed courier company” means a courier company registered under the law;

“magistrate” means a magistrate appointed under section 7;

“Magistrates' Court” means the Magistrates' Court established under section 5;

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

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

“member” means a member of the Committee and includes the chairman;

“offence” means an offence against a law of the State or an Act of the National Assembly for which courts of Kwara State have jurisdiction;

“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 conviction offence;

“part-heard criminal matter” means a trial which has not been concluded by the court;

“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 or child;

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

“police officer” includes any member of the Nigeria Police Force established by the Police Act;

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

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

“reasonable time” has the same meaning as in section 35(5) of the Constitution of the Federal Republic of Nigeria;

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

“rules” or “the rules” means rules of court relating to the practice and procedure of the High Court or of the Magistrates' Court or of Area 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 Law and includes a deputy sheriff and any person authorized by the sheriff or a deputy sheriff to execute process of a court;

“State” means Kwara State;

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

“summary court” means, unless expressly or by necessary implication qualified –

- (a) a judge of the High Court when sitting in court and presiding over a summary trial; and
- (b) a magistrate or Area Court judge when sitting in court to hear and determine any matter within his power and jurisdiction either under the provisions of this Law or any other law, and the judge when so sitting and presiding, and the magistrate when so sitting, shall be deemed to be a “court” or “summary court” within the meaning of this Law or any other law;

“summary trial” means any trial by a magistrate or a trial by a High Court commenced without filing a charge;

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

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

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

490. This Law may be cited as the Kwara State Administration of Criminal Justice Law, 2018.

Citation.

TABULAR STATEMENT OF OFFENCES

CHAPTER V
Abetment

Explanatory Notes: 1. The entries in the second and fifth columns of this Appendix, headed respectively "offence" and "Punishment under the Penal Code", are not intended as definitions of offences and punishment described in the several corresponding sections of the Penal Code or even as abstracts in these sections, but merely as references to the subject of the section, the number of which is given in the first column.

2. By virtue of section 10 of the Administration of Criminal Justice Law any offence may be tried by any court with greater powers than those of the court mentioned in column 6.

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)	7 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 warrant 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 for the offence abetted.	ditto	ditto
87	Abetment of any offence, when one act is abetted and a different act is done.	ditto	ditto	The same punishment as for the offence committed	ditto	ditto
88	Abettor liable to cumulative punishment for the act abetted and the act done.	ditto	ditto	Punishment for each offence as under section 85 and section 87 of the penal code	ditto	ditto
89	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor	ditto	ditto	The same punishment as for the offence committed	ditto	ditto

90	Abetment of any offence, if the abettor present when offence is committed	ditto	ditto	ditto	ditto	ditto	ditto
91	Abetment of any offence, punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment	ditto	ditto	Imprisonment for seven years and fine	ditto	ditto	ditto
92	If the abettor be a public servant whose duty it is to prevent the offence	ditto	Ditto	Imprisonment for fifteen years and fine	ditto	ditto	ditto
	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment	May arrest without warrant if arrest for the offence abetted may be made without warrant but not otherwise	According as a warrant or summons may issue for the offence abetted	Imprisonment extending to a quarter of the longest term provided for the offence or fine or both	ditto	ditto	Same court as the offence abetted
	If the abettor be a public servant whose duty it is to prevent the offence	ditto	ditto	Imprisonment extending to half of the longest term provided for the offence or fine or both	ditto	ditto	ditto
93	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	ditto
94	Administering unlawful oath to commit offence	Shall not arrest without warrant	Warrant	Imprisonment for seven years 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	No jurisdiction	

CHAPTER VI
Attempts to Commit Offences

Section	1	2	3	4	5	6	7
	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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	
95	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	

CHAPTER VII
Conspiracy to commit Offences

Section	1	2	3	4	5	6	7
	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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	
97	criminal 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	High court	No jurisdiction	
97B	Managing or membership of unlawful society	ditto	ditto	Imprisonment for one year or fine or both	magistrate of the second grade	Upper Area Court	

Chapter VIII
Breach of Official Trust

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers which triable (but see Explanatory Note 2 at head of Appendix)	7 Area Court with least powers by which triable
99	Breach of official trust - (i) if communication is made or attempted to agent of foreign government (ii) in any other case	shall not arrest without warrant ditto	Warrant Summons	Imprisonment for fourteen years and fine Imprisonment for two years and fine or both	High court magistrate of the first grade	No jurisdiction Upper Area Court
CHAPTER IX Offences against the Public Peace						
1	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers which triable (but see Explanatory Note 2 at head of Appendix)	7 Area Court with least powers by which triable
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	Area Court, grade II
103	Being member of an unlawful assembly armed with any deadly weapon	ditto	Warrant	Imprisonment for five years or fine or both	magistrate of the first grade	Area Court, grade I
104	Joining or continuing in unlawful assembly knowing that it has been commanded to disperse	ditto	ditto	Imprisonment for five years or fine or both	ditto	ditto
106	Rioting	ditto	ditto	Imprisonment for three years or fine or both	ditto	Area Court, grade 1
107	Rioting armed with deadly weapon	ditto	ditto	Imprisonment for seven years or fine or both	chief magistrate	Upper Area Court
109	Promoting or assisting the promotion 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 of such assembly	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	ditto	Summons	Imprisonment for one month or with fine not exceeding one thousand rupees	magistrate of the second grade	Area Court, grade II
111	Wearing and carrying of emblem, flag, etc.	May arrest without warrant	Summons	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	Area Court, grade I	Area Court, grade I
113	Disturbance of public peace	ditto	Summons	Imprisonment for two years or fine of Rs2000 or both	magistrate of the second grade	Area Court, grade II
114	Inciting disturbance	ditto	ditto	Imprisonment for three years or with fine which may extend to five thousand rupees or both	ditto	ditto
CHAPTER X Offences by or Relating to Public Servants						
1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	Punishment under the Penal Code	Court with least powers which triable (but see Explanatory Note 2 at head of Appendix	Area Court with least powers by which triable
115	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 warrant	Warrant	Imprisonment for seven years or fine or both	chief magistrate	Area Court, grade II excluding, except in the case of Upper Area court, jurisdiction in respect of government officials
	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	ditto
116	Taking a gratification in order to influence a public servant	ditto	ditto	Imprisonment for three years or fine or both	magistrate of the first grade	ditto

117	Abetment by public servant of an offence under section 116 with reference to himself	ditto	ditto	ditto	ditto	ditto
118	Offering or giving gratification to public servant in respect of official act or in order to influence him	ditto	ditto	ditto	chief magistrate	ditto
119	Public servant obtaining any valuable thing without consideration from a person concerned in any proceeding or business transacted by such public servant	ditto	ditto	Imprisonment for seven years or fine or both	ditto	ditto
120	Offering or giving valuable thing to a public servant without consideration	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both	magistrate of the first grade	No jurisdiction
121	Third person profiting by gratification or benefit obtained by public servant	ditto	ditto	Imprisonment for two years or fine or both	ditto	ditto
122	Public servant dishonestly receiving money or property not due	ditto	ditto	Imprisonment for five years or fine or both	ditto	ditto
124	Public servant disobeying a direction of law with intent to cause injury or save person from punishment or property from forfeiture	ditto	Summons	Imprisonment for five years or fine or both	ditto	ditto
125	Public servant framing an incorrect record or writing or mistranslating document with intent to cause injury	ditto	Warrant	Imprisonment for five years or fine or both	ditto	ditto
	Public servant in judicial proceedings making or pronouncing a report, order, judgment or decision which he knows to be contrary to law	ditto	ditto	Imprisonment for ten years	High Court	ditto

126	Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law	ditto	ditto	ditto	ditto	ditto
127	Intentional omission to arrest or intentional suffering or aiding of escape on part of public servant whose duty is to arrest or to keep a person in confinement or custody - (a) if offender is under sentence of death (b) if offender is under sentence of imprisonment for ten years or upwards or is charged with an offence punishable with death	ditto	ditto	Imprisonment for fourteen years with or without fine	High Court	ditto
	(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 seven years with or without fine	chief magistrate	ditto
	(c) if offender is under sentence of imprisonment for less than ten years or is charged with offence punishable with imprisonment for a term which may extend to ten years	Shall not arrest without warrant	Warrant	Imprisonment for three years or fine or both	Area Court, grade II	
	(d) in any other case	ditto	ditto	Imprisonment for two years or fine or both	magistrate of the second grade	Ditto

128	Negligent omission to arrest or negligent sufferance of escape on part of public servant whose duty is to arrest or to keep in confinement or custody	ditto	Summons	ditto	ditto	ditto
129	Public servant willfully omitting to perform duty, if such omission causes danger, etc.	ditto	ditto	ditto	ditto	ditto
130	Public servant wrongfully abandoning duty	ditto	ditto	ditto	ditto	ditto
131	Public servant unlawfully buying or bidding property	ditto	ditto	ditto	ditto	ditto
132	Personating a public Servant	ditto	Warrant	Imprisonment for three years or fine or both	ditto	ditto
133	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 two thousand naira or both	ditto	ditto

CHAPTER XI
Contempts of the lawful Authority of Public Servants

Section	1	2	3	4	5	6	7
	Offence		Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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
134	Absconding to avoid service of summons or other proceeding from a public servant		Shall not arrest without warrant	Summons	Imprisonment for one month or fine of one thousand naira or both	ditto	ditto
	If summons or notice requires attendance, in person, etc., in a court of justice		ditto	ditto	Imprisonment for three months or fine of two thousand naira or both	ditto	ditto
135	(i) Preventing the service or the affixing of any summons or notice or the removal of it when it has been affixed or preventing a public summons		Shall not arrest without warrant	Summons	Imprisonment for one month or fine of one thousand naira or both	ditto	ditto
	(ii) If summons, etc., requires attendance in person, etc., in a court of justice		ditto	ditto	Imprisonment for three months or fine of two thousand naira or both	ditto	ditto

136	Not obeying a legal order to attend at a certain place in person or by agent or departing there from without authority	ditto	Summons	Imprisonment for one month or fine of one thousand naira or both	ditto
	If the summons, etc., requires personal attendance by agent in a court of justice	Shall not arrest without warrant	Summons	Imprisonment for three months or fine of two thousand naira or both	ditto
137	(a) Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document	ditto	ditto	Imprisonment for one month or fine of one thousand naira or both	ditto
	(b) If the document is required to be produced in or delivered to a court of justice	ditto	ditto	Imprisonment for three months or fine of two thousand naira or both	ditto
138	(a) Intentionally omitting to give notice or information to a public or servant by a person legally bound to give such notice or information	ditto	ditto	Imprisonment for one month or fine of two thousand naira or both	ditto
	(b) If the notice or information required respects the commission of an offence, etc.	ditto	ditto	Imprisonment for three months or fine of two thousand naira or both	ditto

A 226

139	(a) Knowingly furnishing false information to a public servant	ditto	Imprisonment for three months or fine of two thousand naira or both	ditto
	(b) If the information required is in respect of the commission of an offence, etc.	ditto	ditto	ditto
140	Giving false information to a public servant in order to cause him to do or omit to do something or to use his lawful power to the injury or annoyance of any person	Shall not arrest without warrant	Summons	Imprisonment for six months or fine of two thousand naira or both
141	Refusing oath when duly required to take oath by a public servant	ditto	ditto	Imprisonment for six months or fine of two thousand naira or both
142	Refusing to answer questions when legally bound to answer	ditto	ditto	Imprisonment for six months or fine of two thousand naira or both
143	Refusing to sign a statement made by a public servant legally required	ditto	ditto	Imprisonment for three months or fine of one thousand naira or both
144	Resistance to the taking of property by lawful authority of a public servant	ditto	ditto	Imprisonment for six months or fine of two thousand naira or both
145	Obstructing sale of property offered for sale by authority of a public servant	ditto	ditto	Imprisonment for one month or fine of one thousand naira or both

146	Removing property under lawful seizure	ditto	ditto	Imprisonment for three months or fine or both	ditto	ditto
147	Illegal purchaser bid for property offered for sale by authority of public servant	ditto	ditto	Imprisonment for one month or fine of one thousand naira or both	ditto	ditto
148	Obstructing public servant in discharge of his public functions	ditto	ditto	Imprisonment for three months or fine of two thousand naira or both	ditto	ditto
149	Obstructing public servant in discharge of his duty under a 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 two thousand naira or both	ditto	ditto
151	Contravention of resident order	May arrest without warrant	ditto	Imprisonment for six months or fine of five thousand naira or both	magistrate of the second grade	Area Court, grade I
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 months or fine of two thousand naira or both	magistrate of the second grade	Area Court, grade II
	(b) If such disobedience causes danger to human life, etc.	ditto	ditto	Imprisonment for six months or fine of five thousand naira or both	ditto	Area Court, grade I
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	Area Court, grade II

154	Threatening any person to induce him to refrain from applying protection to public servant	ditto	ditto	Imprisonment for one year or fine or both	ditto	ditto
155	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding	ditto	ditto	Imprisonment for six months or fine of two thousand rupees or both	ditto	ditto

CHAPTER XII
False Evidence and Offences relating to the Administration of Justice

Offences to relating to Evidence

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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
158	(a) Giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	warrant	Imprisonment for fourteen years and fine	chief magistrate	No jurisdiction
	(b) Giving or fabricating false evidence in any other case			Imprisonment for seven years and fine		
159	Giving or fabricating false evidence with intent to cause any person to be convicted of an offence punishable with death	ditto	ditto	Imprisonment for life and fine	High Court	Upper Area Court
	If innocent person be thereby convicted and executed	ditto	ditto	Death	ditto	ditto

160	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment	Shall not arrest without warrant	Warrant	The same as for the offence	chief magistrate	Upper Area Court
161	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
162	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	ditto
163	Using as true a certificate one known to be false in a material point	ditto	ditto	ditto	ditto	No jurisdiction
164	False statement made in any declaration which is by law receivable as evidence	ditto	ditto	ditto	ditto	ditto
165	Using as true any such declaration known to be false	ditto	ditto	ditto	ditto	ditto
166	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	ditto	Warrant	Imprisonment for two years or fine or both	magistrate of the second grade	Upper Area Court

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 harboring an offender	Shall not arrest without warrant	Warrant	Imprisonment for five years and fine	ditto	Area Court, grade I
168	Taking gratification to screen an offender from punishment	ditto	ditto	ditto	ditto	ditto
169	Offering gratification in consideration of screening offender	Shall not arrest without warrant	Warrant	Imprisonment for seven years and fine	chief magistrate	Upper Area Court
Resistance to Arrest and Escape						
170	Harbouring robbers or brigands	May arrest without warrant	ditto	Imprisonment for ten years and fine	ditto	ditto
171	(a) Resistance or obstruction to the lawful arrest of another person or rescuing him from lawful confinement or custody; (b) If under sentence of death	May arrest without warrant	warrant	Imprisonment for seven years or fine or both	ditto	ditto
172	Resistance or obstruction by a person to his lawful arrest for an offence with which he is charged or of which he has been convicted or escape from custody in respect of such offence	ditto	ditto	Imprisonment for life and fine Imprisonment for seven years or fine or both	High Court chief magistrate	No jurisdiction
173	Resistance or obstruction to arrest or escape in other cases	ditto	ditto	Imprisonment for two years or fine or both	Magistrate of the second grade	Area Court, grade II

	Fraudulent Dealing with Property				
	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both	magistrate of the first grade	Area Court, grade II
174	Fraudulent or dishonest dealing with property to prevent its seizure or its application according to law				
175	Fraudulently suffering a decree to pass for a sum not due, or suffering a decree to be executed after it has been satisfied	ditto	ditto	magistrate of the first grade	ditto
176	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied	ditto	ditto	ditto	ditto
177	Fraudulent execution of deed of transfer containing a false statement of consideration	ditto	ditto	ditto	ditto
Miscellaneous					
178	Giving false information respecting an offence committed	Shall not arrest without warrant		Imprisonment for five years or fine or both	magistrate of the first grade
179	Personation for the purpose of any act or proceeding in a suit or criminal prosecution	ditto		Imprisonment for three years or fine or both	magistrate of the first grade
180	False charge of offence made with intent to injure	ditto		Imprisonment for two years or fine or both	magistrate of the second grade
	If offence charged be punishable with death or imprisonment for seven years or upwards	ditto		Imprisonment for seven years or fine or both	chief magistrate
					ditto

181	Taking gift to help 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 five years or fine or both	magistrate of the first grade	ditto

CHAPTER XIII
PUBLIC NUISANCE

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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
184	Adulterating, etc. food or drink intended for sale, without notice to purchaser	Shall not arrest without warrant	Summons	Imprisonment for two years or fine of ten thousand naira	senior magistrate	Upper Area Court
185	Selling food or drink not corresponding to the description	ditto	ditto	Fine of five thousand naira	magistrate of the second grade	Area Court, grade II
186	Selling adulterated food or drink	ditto	ditto	Imprisonment for one year or fine of ten thousand naira or both	senior magistrate	Upper Area Court
187	Selling any article as food or drink, knowing the same to be noxious	ditto	ditto	Imprisonment for five years or fine or both	magistrate of the second grade	Area Court, grade II
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	Shall not arrest without warrant	Summons	Imprisonment for five years or fine of ten thousand naira or both	senior magistrate	Upper Area Court

189	Offering for sale or issuing for a dispensary any drug or medical preparation known to have been adulterated	ditto	ditto	ditto	ditto
190	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation	ditto	ditto	ditto	ditto
191	Fouling the water of public well or reservoir	ditto	ditto	Imprisonment for five years and with fine	magistrate of the first grade
192	Making atmosphere noxious to health	ditto	ditto	Imprisonment for two years and with fine	magistrate of the second grade
193	Exhibition of a false light, mark or buoy	May arrest without warrant	Warrant	Imprisonment for seven years or fine or both	chief magistrate
194	Causing obstruction in any public way or line of navigation	ditto	Summons	Imprisonment for two years or fine or both	magistrate of the second grade Area Court, grade II
195	Employees 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 Area Court, grade II

196	Rash or negligent act or conduct endangering human life, etc.	May arrest without warrant	ditto	Imprisonment for one year or fine of ten thousand naira or both	Senior magistrate of the second grade	Upper Area Court
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	ditto	ditto	Imprisonment for one year or fine of five thousand naira or both	magistrate of the second grade	Area Court, grade II
198	Committing a public nuisance	Shall not arrest without Warrant	Summons	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 two years 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 six months or fine or both	ditto	ditto

CHAPTER XIV
Lotteries and Gaming Houses

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)	7 Area Court with least powers by which triable
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	ditto	ditto	Imprisonment for six months or fine or both	ditto	ditto

CHAPTER XV
Cruelty to Animals

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)	7 Area Court with least powers by which triable
207	Ill-treating domestic animals	May arrest without warrant	Summons	Imprisonment for three months or fine of one thousand naira or both	ditto	ditto
208	Over-riding and neglecting animal	ditto	ditto	Imprisonment for one year or fine of two thousand naira or both	ditto	ditto

CHAPTER XVI
Offences relating to Religion

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)	7 Area Court with least powers by which triable
210	Insulting religious creed	May arrest without Warrant	Summons	Imprisonment for two years or fine or both	ditto	ditto

211	Destroying, damaging or defiling a place of worship or sacred object with intent to insult the religion of any class of persons	ditto	ditto	ditto	Imprisonment for two years or fine or both	ditto	ditto	ditto
212	Causing a disturbance to an assembly engaged in religious worship	ditto	ditto	ditto	Imprisonment for two years or fine or both	ditto	ditto	ditto
213	Trespassing in a place of worship or burial or disturbing funeral, with intention to wound the feelings or to insult the religion of any person or offering indignity to a human corpse	ditto	ditto	ditto	Imprisonment for two years or fine or both	ditto	ditto	ditto

CHAPTER XVII
Offences relating to Ordeal, Witchcraft and Juju

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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
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 second grade	
217	Criminal charms	ditto	ditto	Imprisonment for five years or fine or both	Magistrate of the first grade	Area Court, grade I
218	Cannibalism	ditto	ditto	Imprisonment for five years or fine or both	ditto	ditto
219	Unlawful possession of human head	ditto	ditto	Imprisonment for ten years or fine or both	Chief magistrate	No jurisdiction

CHAPTER XVIII
Offences Affecting the Human Body

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix)	7 Area Court with least powers by which triable
221	Culpable homicide punishable with death	May arrest without warrant	Warrant	Death	High Court	No jurisdiction
222	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	ditto	ditto	Imprisonment for ten years or fine or both	ditto	ditto
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 years 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	ditto	ditto	Death	ditto	ditto
	If hurt is caused	ditto	ditto	Imprisonment for ten years or fine or both	ditto	ditto
230	Attempt to commit culpable homicide not punishable with death	ditto	ditto	Imprisonment for five years or fine or both	ditto	ditto
	If hurt is caused	ditto	ditto	Imprisonment for ten years or fine or both	ditto	ditto

A 238

231	Attempt to commit suicide	ditto	ditto	Imprisonment for two years or fine or both	magistrate of the second grade	Area Court, grade II
232	Causing miscarriage	Causing Miscarriage, Injuries to Unborn Children, Exposure to Infants, Cruelty to Children and the Concealment of Birth	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	ditto	ditto
	If act done without woman's consent	ditto	ditto	Imprisonment for life and fine	ditto	ditto
234	Causing miscarriage unintentionally	ditto	ditto	Imprisonment for three years or fine or both	ditto	ditto
	If offender knew the woman to be with child	ditto	ditto	Imprisonment for five years and with fine	ditto	ditto
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 intention of wholly abandoning it	May arrest without warrant	ditto	Imprisonment for ten years or fine or both	ditto	ditto
238	(a) Cruelty to children caused to health of child	Shall not arrest without warrant	Summons	Imprisonment for two years or fine or both	magistrate of the second grade	Area Court, grade II
	(b) If serious injury caused to health of child	ditto	ditto	Imprisonment for five years or fine or both	Area Court, grade I	
239	Concealment of birth by secret disposal of dead body	May arrest without warrant	Warrant	Imprisonment for five years or fine or both	magistrate of the first grade	Area Court, grade I

244	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	Shall arrest without warrant	Summons	Imprisonment for three months or fine of two thousand naira or both	magistrate of the second grade	Area Court, grade II
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 one year or fine of three thousand naira or both	magistrate of the second grade	Area Court, grade II
246	Voluntarily causing hurt without provocation	Shall not arrest without warrant	ditto	Imprisonment for two years or fine of five thousand naira or both	magistrate of the second grade	Area Court, grade II
247	Voluntarily causing grievous hurt without provocation	May arrest without warrant	ditto	Imprisonment for seven years and fine	chief magistrate	
248	Voluntarily causing hurt by dangerous weapon or means	ditto	ditto	Imprisonment for three years and with fine	magistrate of the first grade	Area Court, grade II
	If the hurt be grievous	ditto	Warrant	Imprisonment for fourteen years and fine	High Court	No jurisdiction
249	Administering stupefying drug with intent to cause hurt, etc.	ditto	ditto	Imprisonment for ten years and fine	ditto	ditto
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	ditto	ditto	Imprisonment for ten years and fine	chief magistrate	Upper Area Court
	If the hurt be grievous	ditto	ditto	Imprisonment for fourteen years and fine	High Court	No jurisdiction

251	Voluntarily causing hurt to extort confession or information or to compel restoration of property, etc	ditto	Imprisonment for seven years and fine	chief magistrate	Upper Area Court
	If the hurt be grievous	ditto	Imprisonment for ten years and fine	ditto	ditto
252	Voluntarily causing hurt to deter public servant from his duty	ditto	Imprisonment for three years or fine or both	magistrate of the first grade	Area Court, grade II
	If the hurt be grievous	ditto	Imprisonment for ten years and fine	chief magistrate	Upper Area Court
253	Causing hurt by act which endangers human life, etc.	ditto	Imprisonment for one year or fine or both	magistrate of the second grade	Area Court, grade II
	If the hurt be grievous	ditto	Imprisonment for two years or fine or both	magistrate of the second grade	ditto

Wrongful Restrain and Wrongful Confinement

256	Wrongfully restraining any person	May arrest without warrant	Summons	Imprisonment for one month or fine or both	
257	Wrongfully confining any person	ditto	ditto	Imprisonment for one year or fine or both	Area Court, grade II

	ditto	ditto	Imprisonment for three years or fine or both	magistrate of the second grade	Area Court, grade II
258	If wrongful confinement continued for more than three days	ditto	Keeping any person in wrongful confinement, knowing that a warrant or order has been issued	chief magistrate	ditto
259	Wrongful confinement in secret	ditto	ditto	ditto	ditto
260	Wrongful confinement for the purpose of extorting property or constraining to an illegal act, etc.	ditto	Imprisonment for three years and fine	ditto	ditto
261	Wrongful confinement for the purpose of extorting confession or information or of compelling restoration of property, etc.	ditto	ditto	ditto	ditto

265	Assault or use of criminal force otherwise than on grave provocation	May arrest without warrant	Summons	Imprisonment for one year or fine or both	magistrate of the second grade	Area Court, grade II
	If hurt is grievous	ditto	Ditto	Imprisonment for three years or fine or both	ditto	Area Court, grade II
266	Assault or use of criminal force on grave provocation	ditto	Ditto	Imprisonment for three months or fine of two thousand naira or both	ditto	Area Court, grade II
267	Assault or criminal force to deter a public servant from discharge of his duty	ditto	Warrant	Imprisonment for three years or fine or both	ditto	Area Court, grade II
268	Assault or use of criminal force to a woman with intent to outrage her modesty	ditto	ditto	ditto	ditto	Area Court, grade II
269	Assault or use of criminal force in attempt to commit theft of property worn or carried by a person	ditto	ditto	ditto	ditto	Area Court, grade II
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	Area Court, grade II
273	Kidnapping	May arrest without warrant	Warrant	Imprisonment for ten years and fine	chief magistrate	
274	Kidnapping or abducting in order to commit culpable homicide	ditto	ditto	Imprisonment for fourteen years and fine	High Court	No jurisdiction
275	Procuring of minor girl	ditto	ditto	Imprisonment for ten years and fine	chief magistrate	Upper Area Court
276	Importation of 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	Court by which kidnapping or abduction could be tried	Upper Area Court

278	Buying, selling, hiring or letting to hire a minor for the purpose 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	No jurisdiction	
280	Unlawful compulsory labour	ditto	ditto	Imprisonment for one year or fine or both	magistrate of the second grade		
281	Traffic in women	ditto	ditto	Imprisonment for seven years and fine	chief magistrate	Upper Area Court	
Rape, and Unnatural and Indecent Offences against the Person							
283	Rape	May arrest without warrant	Summons	Imprisonment for life and fine	High Court	No jurisdiction	
284	Unnatural offence	ditto	ditto	Imprisonment for fourteen years and fine	ditto	ditto	
285	Gross indecency upon person	ditto	ditto	Imprisonment for seven years and fine	chief magistrate	Upper Area Court	

CHAPTER XIX - Offences against Property
Theft

Section	1	2	3	4	5	6	7
	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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	
287	Theft	May arrest without warrant	Warrant	Caning and two thousand raira for subsequent offences	magistrate of the second grade	Area Court, grade I	
288	Theft in a building, tent or vessel	ditto	ditto	Imprisonment for seven years or fine or both	magistrate of the first grade		
289	Theft by clerk or servant of property in possession of master or employer	May arrest without Warrant	Warrant	Imprisonment for five years or fine or both	magistrate of the first grade	Area Court, grade I	

290	Theft, preparation 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 restrain property taken by it	ditto	ditto	Imprisonment for fourteen years and fine	chief magistrate	Upper Area Court
292	Extortion	Shall not arrest without warrant	Warrant	Imprisonment for five years or fine or both	magistrate of the first grade	Area Court, grade I
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	magistrate of the second grade	Area Court, grade II
294	Extortion by putting a person in fear of death or grievous hurt	ditto	ditto	Imprisonment for fourteen years and fine		No jurisdiction
295	Extortion by threat of accusation of an offence punishable with death or imprisonment for ten years	ditto	ditto	ditto	ditto	No jurisdiction
298	Robbery	May arrest without warrant	Robbery and Brigandage Warrant	Imprisonment for twenty one years, with or without fine, and caning	high court	No jurisdiction
	If committed by person armed with dangerous or offensive weapon or instrument	ditto	ditto	Imprisonment for life and caning	ditto	ditto

299	Attempt to commit robbery	ditto	ditto	Imprisonment for fourteen years, with or without caning or 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 with or without fine and caning	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	Death	ditto	ditto
	With service uniform or equipment	ditto	ditto	Death	ditto	ditto
	With service weapon with firearm	ditto	ditto	ditto	ditto	ditto
304	(1) Attempt to commit brigandage	ditto	ditto	Imprisonment for fourteen years with or without fine and caning	ditto	ditto
	(2) Punishable under section 303(1)(b)	ditto	ditto	Death	ditto	ditto
305	Belonging to a gang of persons associated for the purpose of habitually committing brigandage	ditto	ditto	Imprisonment for fourteen years and fine	ditto	ditto
306	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

307	Being one of five or more persons assembled for the purpose of committing brigandage	May arrest without warrant	Warrant	Imprisonment for ten years and fine	High Court	No jurisdiction
309	Criminal misappropriation	Shall not arrest without warrant	Criminal Misappropriation Warrant	Imprisonment for two years or fine or both	Magistrate of the second grade	Area Court, grade II
310	Criminal Misappropriation knowing that the property was in possession of a deceased person at his death and it has not since been in the possession of any person legally entitled to it	ditto	ditto	Imprisonment for three years and fine	ditto	ditto
	If by clerk or servant of deceased	ditto	ditto	Imprisonment for seven years and fine	chief magistrate	

	Criminal Breach of trust	Criminal Breach of Trust				
312	Criminal Breach of trust	May arrest without Warrant	Imprisonment for seven years or fine or both	chief magistrate	Area Court, grade I	
313	Criminal breach of trust by a carrier, wharfinger etc.	ditto	Imprisonment for ten Years and fine	ditto		
314	Criminal breach of trust by a clerk or servant	ditto	ditto	ditto		
315	Criminal breach of trust by public servant or by banker, merchant or agent, etc	ditto	Imprisonment for fourteen years and fine	ditto	ditto	
317	Dishonestly receiving stolen property, knowing it to be stolen	May arrest without warrant	Imprisonment for fourteen years and fine	chief magistrate		
318	Dishonestly receiving stolen property knowing that it was obtained by brigandage	May arrest without warrant	Imprisonment for life and fine	High Court	Upper Area Court	
319	Assisting in concealment or disposal of stolen property, knowing it to be stolen	ditto	Imprisonment for five years or fine or both	magistrate of the first grade	Area Court, grade I	
319A	Having possession of thing reasonably suspected of having been stolen	Having possession of thing reasonably suspected of having been stolen				
		May arrest without warrant	Imprisonment for six months or fine or both	magistrate of the second grade		
322	Cheating	Shall not arrest without warrant	Imprisonment for three years or fine or both	magistrate of the second grade	Area Court, grade II	
323	Cheating a person whose interest the offender was bound either by law or by legal contract to protect	ditto	Imprisonment for five years or fine or both		Area Court, grade I	
324	Cheating by personation	May arrest without warrant	ditto	magistrate of the first grade	Area Court, grade I	

325	Cheating and thereby dishonestly inducing delivery of property, or the making, alteration or destruction of a document of title	ditto	ditto	Imprisonment for seven years and fine	magistrate of the first grade	ditto
327	Mischief	Shall not arrest without warrant	Mischief Summons	Imprisonment for two years or fine or both	magistrate of the second grade	Area Court, grade II
329	Mischief by killing, poisoning, or maiming or rendering useless any animal	May arrest without warrant	ditto	Imprisonment for six months or fine or both	magistrate of the second grade	Area Court, grade II
330	Mischief by killing, poisoning, or maiming or rendering useless any camel, horse, etc	May arrest without warrant	warrant	Imprisonment for six months or fine or both	magistrate of the first grade	Area Court, grade II
331	Mischief in relation to water supply	ditto	ditto	ditto	magistrate of the first grade	Area Court, grade I
332	Mischief by injury to the public road, bridge, navigation river or navigation channel and rendering it impossible or less safe for travelling or conveying property	ditto	ditto	Imprisonment for life or fine or both	High Court	
333	Mischief by causing inundation or obstruction to public drainage, attended with damage	ditto	ditto	Imprisonment for five years or fine or both	magistrate of the first grade	Area Court, grade I
334	Mischief in relation to electricity, telegraphy and telephones	ditto	ditto	ditto	magistrate of the first grade	Area Court, grade I
335	Mischief by destroying or moving, etc., a landmark fixed by public authority	Shall not arrest without warrant	ditto	Imprisonment for five years and with fine	magistrate of the first grade	Area Court, grade I
336	Mischief by fire or explosive substance with intent to cause damage	May arrest without warrant	ditto	Imprisonment for seven years and fine	senior magistrate of the second grade	ditto
337	Mischief by fire or explosive substance with intent to destroy a house, etc.	ditto	ditto	Imprisonment for life and fine	High Court	No Jurisdiction

338	Mischief to vessel	ditto	ditto	Imprisonment for fourteen years or fine or both	ditto	ditto
339	Mischief described in section 338 when committed by fire or any explosive substance	ditto	ditto	Imprisonment for life and fine	ditto	ditto
340	Running vessel ashore with intent to commit theft, etc.	ditto	ditto	Imprisonment for fourteen years and fine	ditto	ditto
341	Mischief committed after preparation made for causing death or hurt, etc.	ditto	ditto	Imprisonment for five years and fine	Area Court, grade I	
348	Criminal trespass	May arrest without warrant	Criminal Trespass Summons	Imprisonment for one year or fine of two thousand naira or both	magistrate of the second grade	
349	House trespass	ditto	Warrant	ditto	magistrate of the second grade	
350	House trespass with intention to commit an offence punishable with death	ditto	ditto	Imprisonment for fourteen years and fine	High Court	No jurisdiction
351	House trespass to commit an offence punishable with fourteen years imprisonment	ditto	ditto	Imprisonment for ten years and fine	ditto	Upper Area Court
352	House trespass to commit offence punishable with imprisonment	ditto	ditto	Imprisonment for seven years and fine	senior magistrate	ditto
353	Lurking house trespass or house breaking	ditto	ditto	Imprisonment for two years and fine	magistrate of the second grade	Area Court, grade II
354	Lurking house trespass or house breaking to commit an offence punishable with imprisonment	ditto	ditto	Imprisonment for fourteen years and fine	High Court	
355	Lurking house trespass or housebreaking by night	ditto	ditto	Imprisonment for three years and fine	magistrate of the second grade	Area Court, grade II

A 250

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	High Court	Area Court, grade II
357	Death or grievous hurt caused by one of several persons jointly concerned in house breaking by night, etc.	ditto	ditto	ditto	High Court	No jurisdiction
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	Area Court, grade II
359	Being entrusted with any closed receptacle containing or supposed to contain any property and fraudulently opening same	May arrest without warrant	Warrant	Imprisonment for three years or fine or both	magistrate of the second grade	Area Court, grade II
360	Lurking with house-breaking implements	ditto	ditto	Imprisonment for three years and fine or both	magistrate of the second grade	Area Court, grade II
361	Fabrication of false key or instrument	ditto	ditto	Imprisonment for five years and fine	magistrate of the first grade	Area Court, grade I

Chapter XX— Forgery

Section	1. Offence	2	3	4	5	6	7
		Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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	
364	Forgery	Shall not arrest without warrant	Warrant	Imprisonment for fourteen years or fine or both	chief magistrate	No jurisdiction	
365	Forgery of public seals, etc.	ditto	ditto	Imprisonment for life and fine	High Court	ditto	
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	ditto	
367	Making or counterfeiting a seal, plate, etc., with intent to commit forgery or possession with like intent any such seal, plate, etc., knowing the same to be counterfeit	ditto	ditto	Imprisonment for fourteen years and fine	chief magistrate	ditto	
368	Having possession of forged record	ditto	ditto	ditto	ditto	ditto	
369	Counterfeiting a device or mark used for authenticating documents, or possessing counterfeit marked material	ditto	ditto	ditto	ditto	ditto	
370	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting a document of title, etc.	ditto	ditto	ditto	ditto	ditto	

A 252

371	Falsification of accounts	ditto	ditto	Imprisonment for seven years or fine or both	ditto	ditto
374	Using a false property mark	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine or both	magistrate of the second grade	
375	Counterfeiting a property mark used by another	ditto	ditto	Imprisonment for two years or fine or both	magistrate of the second grade	Area Court, grade II
376	Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, etc., of any property	ditto	Summons	Imprisonment for three years and fine		Area Court, grade II
377	Making or having in possession of any dye, plate or other instrument for counterfeiting a property mark and having possession of a false property mark	ditto	ditto	Imprisonment for three years or fine or both		Area Court, grade II
378	Making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, etc.	ditto	ditto	ditto	magistrate of the second grade	Area Court, grade II
379	Making use of any such false mark	ditto	ditto	Same punishment as for offence committed against section 378	magistrate of the second grade	Area Court, grade II
380	Removing, destroying or defacing any property mark with intent to cause injury	ditto	ditto	Imprisonment for one year or fine or both	magistrate of the second grade	Area Court, grade II

Chapter XXII
Offences relating to marriage and incest

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	7 Area Court with least powers by which triable
387	Adultery by a man	ditto	ditto	Imprisonment for two years or fine or both	magistrate of the second grade	Area Court, grade II
388	Adultery by a woman	ditto	ditto	ditto	magistrate of the second grade	ditto
389	Enticing or taking away or detaining with a criminal intent a married woman	ditto	ditto	ditto	magistrate of the second grade	ditto
390	Incest	ditto	ditto	Imprisonment for seven years	High Court	No jurisdiction

CHAPTER XXIII
Defamation

1 Section	2 Offence	3 Whether the police may arrest without warrant or not (see section 34)	4 Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	5 Punishment under the Penal Code	6 Court with least powers by which triable (but see Explanatory Note 2 at head of Appendix	7 Area Court with least powers by which triable
392	Defamation	Shall not arrest without Warrant	Warrant	Imprisonment for two years or fine or both	magistrate of the second grade	Area Court, grade II
393	Injurious falsehood	ditto	ditto	ditto	magistrate of the second grade	ditto
394	Printing or engraving, etc., matter knowing it to be defamatory	ditto	ditto	ditto	magistrate of the second grade	Area Court, grade II
395	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	ditto	ditto	ditto	magistrate of the second grade	Area Court, grade II

CHAPTER XXIV
Criminal Intimidation, Insult and Annoyance and Drunkenness

	1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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	powers
397	Criminal intimidation	Shall not arrest without warrant	Warrant	Imprisonment for two years or fine of fifty thousand naira or both	magistrate of the first grade	Area Court, grade II	
	If threat be to cause death or grievous hurt, etc.	ditto	ditto	Imprisonment for seven years or fine or both	senior magistrate	Upper Area Court	
398	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes	ditto	ditto	Imprisonment for two years or in addition to the punishment under section 397	magistrate of the second grade		
399	Insult intended to provoke a breach of the peace	ditto	ditto	Imprisonment for two years or fine or both	magistrate of the second grade		
400	Uttering any word or making any gesture intended to insult the modesty of woman etc.	ditto	ditto	Imprisonment for one year or fine or both	magistrate of the second grade		
401	Drunkenness in a public place	ditto	Summons	Imprisonment for three months or fine of one thousand naira or both	magistrate of the second grade		
	If person conducts himself in a disorderly manner, etc	ditto	Warrant	Imprisonment for six months or fine of two thousand naira or both	magistrate of the second grade		
402	Being drunk and disorderly in a private place	Shall not arrest without warrant	Warrant	Imprisonment for six months or fine of two thousand naira or both	magistrate of the second grade		
403	Drinking alcoholic drink	ditto	ditto	Imprisonment for one month or fine of one thousand naira or both	magistrate of the second grade		

404	Effect of previous conviction under sections 401, 402 and 403	ditto	ditto	Twice the maximum imprisonment or maximum fine prescribed for offence of which convicted	magistrate of the second grade	ditto
	If convicted of two or more such offences	ditto	ditto	Three times the maximum imprisonment or maximum fine aforesaid or both	magistrate of the second grade	

CHAPTER XXV
Vagabonds

1	2	3	4	5	6	7
Section	Offence	Whether the police may arrest without warrant or not (see section 34)	Whether a warrant or a summons shall ordinarily issue in the first instance (see section 121)	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
406	Conviction as idle person	Shall not arrest without warrant	Warrant	Imprisonment for one month or fine or both	magistrate of the second grade	Area Court, grade I
407	Conviction as a vagabond	ditto	ditto	Imprisonment for two years or fine of two thousand naira or both	magistrate of the second grade	ditto
408	Incorrigible vagabond	ditto	ditto	Imprisonment for three years or with fine of two thousand naira or both	magistrate of the second grade	Area Court, grade II

APPENDIX B

(Section 200)

Form of Charges

A. Single Charge

Charge on section 115

1. (a) I.....(name of presiding officer of court) hereby charge you.....(name of defendant) as follows:

(b) That you on or about the.....day 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.

© And I hereby direct that you be tried by such court on the same charge.

.....
Signature and seal of the
presiding officer of court.

To be substituted for (b):

Charge on section 158

(2) That you on or about the.....day of.....20.....at..... in the course of the trial of A.B before..... stated in evidence that..... which statement you either knew or believed to be false or did not believe to be true and thereby committed an offence punishable under section 158

of the Penal Code and triable by the High Court.

Charge on section 224

- (3) That you on or about the.....day of20
.....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 and triable by the High Court.

Charge on section 227

- (4) That you on or about the.....day of.....20.....
at.....abetted the commission
of suicide by A.B while A.B was in a state of
intoxication and thereby committed an offence
punishable under section 227 of the Penal
Code and triable by the High Court.

Charge on section 247

- (5) That you on or about the.....day of20.....
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 and triable by the High Court.

Charge on section 312

- (6) That you on or about the day of.....20
.....at.....being entrusted
with.....did commit
criminal breach of trust by dishonestly
misappropriating a sum ₹.....and
thereby committed an offence punishable
under section 312 of the Penal Code and
triable by the High Court.

Charge on section 324

- (7) That you on or about the.....day of.....20..... at.....cheated A.B by 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 and triable by the High Court.

Note: In cases tried by a magistrate substitute “the court of a chief magistrate” or “the court of a magistrate of the..... grade” for “the High Court”.

In cases tried by an Area Court substitute “an Upper Area Court” or “an Area Court grade.....” for “the High Court”.

B – TWO OR MORE CHARGES

Charge on section 221 and 224

- (1) (a) I.....(name of presiding officer of court) hereby charge you.....(name of defendant) as follows –
- (b) First – That you on or about the..... day of 20.... atcommitted 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 and triable by the High Court.

Secondly – That you on or about the..... day of 20.....at.....committed culpable homicide not punishable with death by causing the death of A.B and thereby committed an offence punishable under section 224 of the Penal Code and triable by the High Court.

- (c) And I hereby direct that you be tried by such court on the same charges.

.....
Signature or seal of the
presiding officer of court

To be substituted for (b):

Alternative charges of 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.....at..... in the course of the trial of.....before..... stated in evidence that....., one of which statements you either knew or believed to be false or did not believe to be true, and thereby committed an offence punishable under section 158 of the Penal Code and triable by the High Court.

Alternative charges of section 287, 312 or 317

- (3) That you on or about the.....day of 20....at..... committed theft by stealing a bicycle the property of A.B and thereby committed an offence punishable under section 287 of the Penal Code and triable by the High Court.

(or)

That you on or about the.....day of 20..... at.....being entrusted with the said bicycle committed criminal breach of trust by dishonestly misappropriating it and thereby committed an offence punishable under section 312 of the Penal Code and triable by the High Court.

(or)

That you on or about the.....day of.....20.....
at.....dishonestly received the said bicycle
knowing or having reason to believe that it was stolen
property and thereby committed an offence punishable
under section 317 of the Penal Code and triable by the High
Court.

Note: In cases tried by a magistrate substitute “the court of a chief
magistrate” or “the court of a magistrate of the.....grade” for
“the High Court”.

In cases tried by an Area Court substitute “an Upper Area
Court” or “an Area Court grade.....” for “the High Court”.

APPENDIX C (Section 479)

OFFENCES WHICH MAY BE COMPOUNDED

Offence	Section of Penal Code applicable	Person by whom the offence may be compounded
	PART I	
Voluntarily causing hurt	242, 244	The person to whom the hurt is caused.
Assault or use of criminal force	264, 265	The person assaulted or to whom criminal force is used.
Mischief, when the only loss or damage caused is loss or damage to a private person	326	The person to whom the loss or damage is caused.
Criminal trespass	342	The person in possession of the property trespassed upon
House trespass	352	The person in possession of the house trespassed upon
Criminal breach of contract of service	381	The person with whom the offender has contracted.
Adultery	387, 388	The husband or wife of the couple involved

Enticing or taking away or detaining with a criminal intent a married woman	389	The husband of the woman
Defamation	392	The person defamed
Printing or engraving etc., matter knowing it to be defamatory.	394	The person defamed
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.
	PART II	
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 hurt is caused

Harm, or grievous harm, by act endangering life or safety	253	The person to whom hurt is caused
Wrongfully restraining or confining any person	254,255	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 in possession of the house trespassed upon
Uttering words or making gestures intending to insult the modesty of a woman.	400	The woman whom it is intended to insult.

REPORT AND REQUEST FOR REMAND

BETWEEN

COMMISSIONER OF POLICE

DIRECTOR OF PUBLIC PROSECUTIONS

Applicant

And

XYZ

Respondent

To: The Registrar of the court

The court is hereby informed that there is a probable cause to order the remand of XYZ.....(state particulars of the respondent, namely age, sex, occupation) of.....(state details of the respondent's street address or where there is no precise street address, as near and close description as possible of the location of the respondent last known place of abode) in remind custody in.....(state the exact place of custody in which the applicant proposes to remand the respondent such as the name and location of the prison or other detention place) who is reasonably suspected to have committed the offence of..... contrary to section.....within..... High Court division/Magisterial district on or about.....(state the date or approximate date or the period of commission of the alleged offence) on grounds stated below -

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

GROUNDS FOR THE REQUEST FOR REMAND

1. Place, time and circumstance of arrest:
.....
.....
2. Arrested with exhibits: Yes No..... (tick appropriately)
(disregard (3) and (4) below if the respondent was not
arrested with exhibits.)
3. If arrested with exhibits, state clearly the particulars of the
exhibits:
.....
4. If arrested with exhibits, state clearly how the items are
related to or linked with the committal of the alleged offence
.....
.....
5. State particulars of other evidence or report linking the
respondent to the commission of the offence such as forensic
evidence, marks or finger prints, etc.
6. Confessional statement: Yes.....No.....
7. Any previous conviction for the same or similar offence:
Yes.....No.....
8. If (7) above is Yes, state the particulars of previous conviction
9. Found in custody or possession of offensive weapon, object
or substance: Yes.....No.....

10. Identification by victims or witnesses: YesNo.....
(state the particulars of such victims or witnesses):
- (a) Name:.....
Age:.....
Sex:.....
Address:.....
Occupation:.....

 - (b) Name.....
Age:.....
Sex:.....
Address:.....
Occupation:.....

 - (c) Name:.....
Age:.....
Sex:.....
Address:.....
Occupation:.....

 - (d) Name:.....
Age:.....
Sex:.....
Address:.....
Occupation.....

 - (e) Name:.....
Age:.....
Sex:.....
Address:.....
Occupation:.....

11. Need for further investigation: Yes.....No.....
12. Period/duration required for further investigation
(state approximate days/weeks/months required to complete investigation).
13. Any further relevant information.....

Signed.....
(Commissioner of Police/Director of Public Prosecutions /Law officer/Police officer)

APPENDIX E (Sections 352, 424, 425 and 433)

SCALE OF IMPRISONMENT FOR NON-PAYMENT OF
MONEY ORDERED TO BE PAID

Where the fine:	The period of imprisonment shall not exceed:
does not exceed ₦2000	7 days
exceeds ₦2000 and does not exceed ₦5000	14 days
exceeds ₦5000 and does not exceed ₦20,000	1 month
exceeds ₦20,000 and does not exceed ₦60,000	2 months
exceeds ₦60,000 and does not exceed ₦100,000	3 months
exceeds ₦100,000 and does not exceed ₦200,000	4 months
exceeds ₦200,000 and does not exceed ₦400,000	5 months
exceeds ₦400,000 and does not exceed ₦600,000	6 months
exceeds ₦600,000 and does not exceed ₦1,000,000	7 months
exceeds ₦1,000,000 and does not exceed ₦2,000,000	8 months
exceeds ₦2,000,000 and does not exceed ₦5,000,000	9 months
exceeds ₦5,000,000 and does not exceed ₦10,000,000	10 months
exceeds ₦10,000,000	To the discretion of the judge or magistrate from 18 months and above

APPENDIX F

(Section 381(9))

INFORMATION ON LEGAL REPRESENTATION

The office of the Director of Public Prosecutions of Kwara State has determined that proceedings 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, Kwara State Office of the Public Defender or any organisation providing free legal representation.

(1) If you wish to be represented by a legal practitioner arranged by you, please indicate below the particulars of such legal practitioner:

Name of legal practitioner:.....

Address of legal practitioner:

Telephone number of legal practitioner:

E-mail of legal practitioner:

Signature of the defendant:.....

Signature of the prison official or police official in charge of place of custody of defendant:

.....

(2) If you wish to be represented by a legal practitioner arranged by way of legal aid, please provide the relevant information below. If you do not know any organization you wish to apply to provide legal practitioner to represent you, kindly enter the "Legal Aid Council" or "Kwara State Office of the Public Defender" as the name of organization:

Name of the organization:.....

Address of the defendant (or place of custody if on remand):

Signature of the defendant:.....

Signature of the prison official or police official in charge of the place of custody of the defendant:
.....

APPENDIX G

(SECTION 404)



ORDER FOR EXECUTION

WHEREAS at the.....holding at.....on the.....day of.....20.....one.....was duly convicted of a capital offence and was sentenced to death:

AND WHEREAS information derived from the record of the case or elsewhere, having been duly taken into consideration at a meeting of the State Executive Council designated for the purpose, and in its 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 Attorney – General of the Kwara 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 a time and by the person appointed by you and that the body of the said.....be buried in the usual place for interment for condemned criminals executed at the place of execution.

AND FOR SO DOING this shall be your warrant.

GIVEN under my hand and the Public Seal of the KWARA State of Nigeria this.....day of.....20.....

.....
Governor of Kwara State

To the sheriff at

ORDER FOR COMMUTATION OF SENTENCE

WHEREAS on the day of
20....one.....was duly convicted of a capital
offence and was sentenced to death by the
holding at.....

AND WHEREAS information derived from the record of the case or
elsewhere, having been duly taken into consideration at a meeting of
the State Executive Council, and 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 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 Kwara State of
Nigeria thisday of.....20.....

Governor of Kwara State

To the sheriff at

(for transmission to the appropriate prison authority).

ENDORSEMENT ON WARRANT OF ARREST (Section 48)

Whereas proof has this day been made before me that the name..... subscribed to the within warrant is in the handwriting of the within-mentioned I hereby authorize who brings me this warrant and all other persons to whom this warrant was originally directed and also all police officers of the..... to execute this warrant within and to within..... and to bring the said.....if arrested within.....before me or before some magistrate of theto be dealt with according to law.

GIVEN under my hand this..... day of..... 20.....

.....
Magistrate.

ENDORSEMENT ON WARRANT OF DISTRESS (Section 435)

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.....you.....are hereby ordered forthwith to make distress of the goods of the defendant (except the wearing apparel and bedding of him and his family and, to the value of.....naira, the tools and implements of his trade); and if within the space of the 5 clear days next after making of such distress, unless he consents in writing to an earlier sale, the sum stated in the within warrant, together with the reasonable cost and charges of making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of this court, and if no such distress can be found, to certify the same to this court.

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

BEFORE ME

.....
Judge (or Magistrate).

WARRANT TO ARREST A PERSON FAILING (Section 191)
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)

APPENDIX I (Section 438)

RULES FOR THE INFLICTION OF *HADDI LASHING*

1. The punishment shall be administered in an enclosed space to which the public has a right to access or can be admitted for the occasion.
2. The punishment shall be administered with a soft single-thronged leather whip, and not with a hide whip or a club or cane.
3. The person who administers the punishment must be of moderate physique. He must hold the whip with the third, fourth and fifth fingers of the right hand. The thumb and index finger must not grasp the whip. The index finger must be folded to touch the palm and the thumb should cover the index finger. (This grip is known as the "Uguda Tissein"). He must adopt a striking position with the right foot advanced and must not raise his striking arm above the shoulder. To ensure that he does not do so, a book or similar object shall be placed under the right armpit of the striker and shall be kept there by him throughout the period of the administration of the punishment.

4. The punishment must not be heavy, and serious physical injury must be avoided. The punishment must be administered on the shoulders and back only and must not cause lacerations or wounds.

5. In consideration whether to order any, and if so how much, of the punishment a court must take into consideration the health of the person to be punished and the season of the year.

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

Clerk to the House