

Assented to by me this.....day.....20.....

.....
Senator Abiola Ajimobi
His Excellency, The Executive Governor



OYO STATE OF NIGERIA

No.11

**A LAW TO PROVIDE FOR THE SPEEDY AND EFFICIENT
ADMINISTRATION OF CRIMINAL JUSTICE AND OTHER
MATTERS RELATED THERETO**

Date of

Commencement: ()

Enactment: **ENACTED** by the House of Assembly of Oyo State of
Nigeria as follows:

PART I-PRELIMINARY

Short title. **1.** This Law is cited as the Administration of Criminal Justice
Law, 2016.

Interpretation. **2.** In this Law-

“**adult**” means a person who has attained the
age of eighteen years or above;

“**agency**” means body authorised by law;

“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 Attorney-General and Commissioner for Justice of the State or any person charged with the responsibility of the Ministry of Justice;

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

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

“child” means a person who has attained the age of seven years and is under the age of fourteen years.

“Commissioner of Police” has the same meaning as in the Police Act;

“Committee” means the Administration of Criminal Justice Monitoring Committee established under **section 457 of this Law**;

“complainant” includes the victim, any informant or prosecutor in any case relating to criminal trial;

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

“court” means the High Court, the Magistrates’ Court and any other Court or tribunal established by a law of the State;

“defendant” means any person against whom a complaint, charge or information is made;

“district” means a district into which the State is divided for the purposes of any law under which a Magistrate’s court is established;

“division” means a judicial division of the High Court;

“Federation” means the Federal Republic of Nigeria;

“Federal law” means any Act enacted by the National Assembly having effect with respect to the Federation or any part thereof and any Act enacted prior to 1st October, 1960, which under the Constitution of the Federal Republic of Nigeria has effect with respect to the Federation or any part thereof;

“felony” means an offence on conviction for which a person can, without proof of his having been previously convicted of an offence, be sentenced to death or to imprisonment for three

years or more, or which is declared by law to be a felony;

“fine” includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under this Law;

“functions” include powers and duties;

“future enactment” means any enactment relating to this Law;

“Governor” means the Governor of the State;

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

“High Court” means the High Court of the State;

“House” means House of Assembly of the State;

“indictable offence” means an offence which on conviction may be punished by-

(a) a term of imprisonment exceeding two years; or

(b) imposition of a fine exceeding forty thousand naira not being an offence declared by the law creating it to be punishable on summary conviction;

“indictment” means the filing of an information or complaint against a person in the High Court;

“infant” means a person under the age of seven years;

“Judge” means a Judge of a High Court;

“Justice of the Peace” means a person appointed to be a Justice of the Peace under any enactment in the State;

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

“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 an order of a court of competent jurisdiction;

“Magistrate” means a Magistrate appointed in accordance with the law of the State;

“Magistrates’ Court” means Magistrates’ Court established under the law of the State;

“medical officer” includes the medical personnel attached to an asylum or a medical officer from whom a court requires an opinion;

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

“member” means a member of the Committee and includes the Chairman;

“offence” means an act or omission which renders the person doing the act or making the omission liable to punishment under any Act or Law;

“officer-in-charge” includes, the officer in charge of a police station or the officer in charge of a unit in any other law enforcement agency or other officer who acts in the absence of the officer in charge;

“open court” means a room or place in which a court sits to hear and determine a matter within its jurisdiction and to which room or place the

public may have access so far as the room or place can conveniently contain them;

“**order**” includes any conviction in respect of a summary conviction offence;

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

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

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

“**Police**” means the Nigeria Police Force established by the Constitution;

“**police officer**” includes any member of the Nigeria Police Force established by the Police Act or where the context so admits, shall include any officer of any law enforcement agency established by a law of the State;

“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;

“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 Magistrate courts in the execution of their criminal jurisdiction;

“sentenced to imprisonment” shall include cases where imprisonment is imposed by a court on any person either with or without the option of a fine, or in respect of the non-payment of any sum of money, or for failing to do or abstaining from doing any act or thing required to be done or left undone, 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 authorised by the sheriff or a deputy sheriff to execute process of a court;

“State” means Oyo State of Nigeria;

“summary conviction offence” means an offence punishable by a High court or a Magistrates’ court on summary conviction and includes any matter in respect of which a High Court or a Magistrate’s Court can make an order in the exercise of its summary jurisdiction;

“summary court” means unless the same is expressly or by necessary implication qualified-

- (a) a Judge of the High Court when sitting in court and presiding over a summary trial; and
- (b) a Magistrate when sitting in court to hear and determine any matters within his power and jurisdiction either under 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;

“summary trial” means any trial by a Magistrate or a trial by a High Court commenced without filing an information or complaint;

“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;

“victim” means a person who has suffered physical or emotional harm, property damage or economic loss as a result of an offence committed by another;

“young person” means a person who has attained the age of fourteen years and is under the age of eighteen years;

(2) Unless the context otherwise requires, words and expressions used in this Law and defined in the Criminal Code Law shall have the meanings attributed to them by these laws.

Purpose of this Law.

3. (1) The purpose of this Law is to ensure that the system of administration of criminal justice in the State, promotes speedy dispensation of justice, protection of the society from crime and protection of the rights and interests of the defendant and the victim.

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

Application. 4. This Law shall apply to criminal trials and other criminal proceedings in courts and tribunals established by a law of the House or the Constitution of the Federal Republic of Nigeria.

PART 2-ARREST, BAIL AND PREVENTIVE JUSTICE

Arrest generally. 5. A person suspected of committing an offence under the Criminal Code or any other enactment creating an offence shall be arrested, investigated, inquired into, tried and otherwise dealt with according to this Law, except where there are specific provisions in the enactment in relation to the manner or place of arrest, inquiry or trial.

Mode of arrest. 6. In making an arrest, the police officer or other person making the arrest shall actually touch or confine the person to be arrested, unless there is a submission to the custody by word or action.

No unnecessary restraint. 7. A person may not be handcuffed, bound or be subjected to restraint except-

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

Notification of cause of arrest and rights of arrested person. 8.(1) Except when the person arrested 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 person arrested immediately of the reason for the arrest.

(2) The police officer or other persons making the arrest or the police officer in charge of a police station shall inform the person arrested of his rights to-

(a) remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice;

(b) consult a legal practitioner of his choice before making, endorsing or writing any statement or answering any question put to him after arrest; and

(c) free legal representation by the Legal Aid Council or any other agency providing such services where applicable:

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

Arrest in lieu Prohibited. 9. A person shall not be arrested in place of another person suspected to have committed an offence.

Humane treatment of arrested person. 10. (1) A person arrested 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.

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

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

(4) An arrested person shall be brought to the court for arraignment and trial as prescribed by this Law or any other law.

Search of arrested person. 11. (1) Where a person is arrested by a police officer or a private person, the officer making the arrest or to whom the private person hands over the person-

(a). may search the person, using such force as may be reasonably necessary for the purpose; and

(b). shall place in safe custody all articles other than necessary wearing apparel found on the person.

(2) Where an arrested person is admitted to bail and bail is furnished, he shall not, subject to section 13 of this Law be searched unless there are reasonable grounds for believing that he has on his person, any-

(a) stolen article; or

(b) instrument of violence or poisonous substance; or

(c) tools connected with the kind of offence which he is alleged to have committed; or

(d) other articles which may furnish evidence against him in regard to the offence, which he is alleged to have committed.

(3) Where it is necessary to search a person alleged to have committed an offence, the search shall be made decently and by a person of the same sex unless the urgency of the situation or the interest of due administration of justice makes it impracticable for the search to be carried out by a person of same sex.

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

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

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

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

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

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

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

(7). Where any property has been taken from a person under this section and the person is not charged before a court but he 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 person shall be returned to him, provided the property is neither connected to nor a proceed of crime.

Examination 13. Where a person is in lawful custody on a charge of committing offence of such a nature and alleged to have been committed in such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence, a qualified medical practitioner or any certified professional with relevant skills, acting at the request of a police officer, may

make such an examination of the person in custody as is reasonably necessary in order to ascertain the facts which may afford the evidence, and to use such force as is reasonably necessary for that purpose.

Search of place **14.** (1) Where a police officer or person acting under a warrant of arrest or otherwise entered by person having authority to arrest, has reason to believe that the person 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 person sought to be arrested.

(2). Where access to a house or place cannot be obtained under subsection (1) of this section, the person or police officer may enter the house or place and search it for the person 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 person to be arrested or of any other person or otherwise effect entry into such house or place, if after notification of his authority and purpose, and demand of admittance duly made, he cannot obtain admittance.

(3). Where the person to be arrested enters a house or place in the actual occupancy of another person being a woman who by custom or religious practice does not appear in public, the person making the arrest shall-

(a) before entering the house or place, give notice to the woman that she is at liberty to withdraw; and

(b) afford her every reasonable opportunity and facility for withdrawing, and may then enter the house or place, but the notice shall not be necessary where the person making the arrest is a woman.

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

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

Arrested person to be taken immediately to

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

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

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

Recording of arrests.

17. (1) Where a person is arrested, whether with or without 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 person arrested-

- (a) the alleged offence;
- (b) the date and circumstances of his arrest;
- (c) his full name, occupation and residential address; and

(d) for the purpose of identification-

(i) his physical measurement,

(ii) his photograph,

(iii) his full fingerprint impressions;
and

(iv) such other means of his
identification including but not
limited to DNA samples.

(2) The process of recording in subsection
(1) of this section shall be concluded within
a reasonable time of the arrest of the person,
but not exceeding 24 hours.

(3) Such records shall be transmitted to the
State Police Command for the purpose of
this Law.

(4) The Commissioner of Police shall
transmit to the office of the Attorney-
General duplicate case file and such other
records in relation to offences under the law
of the State immediately after the
conclusion of the investigation but not later
than 2 weeks and the office of the Attorney-
General shall within 4 weeks of the receipt
of the records of arrest provide the
Commissioner of Police with

legal opinion on the appropriate actions to be taken in respect of the state offences.

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

Recording of statement and confession of person.

18. (1) Where a person is arrested on allegation of having committed an offence, volunteers to make a statement it shall be taken, in the presence of a legal practitioner of his choice: or where he has no legal practitioner of his choice any other person of his choice: Provided that the legal practitioner or any other person mentioned in this subsection shall not interfere while the person is making his statement, except for the purpose of discharging his role as a legal practitioner.

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

(3) Notwithstanding subsection (2) of this section, an oral confession of arrested person shall be admissible in evidence.

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

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

(6) The legal practitioner or person referred to in subsection (1) of this section shall also endorse the statement with his full particulars as having witnessed the recording of the statement.

Arrest by police officer without warrant.

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

(a) whom he suspects on reasonable grounds of having committed an offence against a law in Nigeria or against the law of any other country, unless the law creating the offence

provides that the person cannot be arrested without a warrant; or

- (b) who commits any offence in his presence; or
- (c) who obstructs a police officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody; or
- (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; or
- (e) whom he suspects on reasonable grounds of being a deserter from any of the armed forces of Nigeria; or
- (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; or

- (g) having in his possession without lawful excuse, the burden of proving which excuse shall lie on the person suspected, any implement of housebreaking, car theft, firearm or any offensive or dangerous weapon; or
- (h) whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in Nigeria; or
- (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; or
- (j) whom he is directed to arrest by a judge, Magistrate, Justice of the Peace or superior police officer; or
- (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; or
- (l) who is required to appear by a summons issued under this Law or any other law.

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

Refusal to give name and residence.

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

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

(3) Where the true name and address of the person arrested cannot be ascertained within 24hours 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 person arrested on being brought before the court still refuses, the court may deal with him as it will deal with an uncooperative witness under this Law.

Arrest by private person. 21. A private person may arrest a person who in his presence commits an offence, or whom he reasonably suspects of having committed an offence for which the police is entitled to arrest without a warrant.

Arrest by owner of property. 22. A person found committing an offence involving injury to property may be arrested without a warrant by the owner of the property or his servants, agents or persons authorised by him.

Arrest of person doing damage to Public property. 23. A private person may arrest any person found damaging public property.

Handing over of an arrested person by private person. 24. (1) A private person who arrests a person without a warrant shall immediately hand over the person so arrested to a police officer, or, in the absence of a police officer, shall take the person to the nearest 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 person comes under section 19 (1) of this Law, a police officer shall re-arrest him.

(3) Where there is reason to believe that the person 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 section 20 of this Law.

(4) Where a person 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 person is taken to the police station or to the agency, the charge room officer shall make the entries in the crime diary.

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

(6) where there is sufficient reason to believe that the person handed over has committed an offence, he shall immediately be re-arrested but if there is no sufficient reason to believe that the person has committed an offence, he shall be released immediately.

(7) Section 17 of this Law do not apply to this section unless the person arrested and handed over has been re-arrested in accordance with subsection (2) of this section.

Offence committed 25. 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 and may thereupon, subject to this Law as to bail, commit the person to custody.

Arrest by Magistrate. 26.(1) A magistrate may arrest or direct the arrest in his presence of a person 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.

(2) Where a person is arrested in accordance with either section 24 or 25 of this Law, the Judge or Magistrate making or directing the making of such arrest may deal with the person so arrested in the same manner as if the person had been brought before him by or under the directions of any other person.

Arrest for offence committed in presence of Judge, Magistrate or Justice of Peace. **27.** A Judge, Magistrate or Justice of the Peace may arrest or direct the arrest of a person committing an offence in his presence and shall thereupon hand him over to a police officer or to take security for his attendance before a court at a specified time.

When public is bound to assist in arrest. **28.** A person is bound to assist a Judge, Magistrate, Justice of the peace, police officer or other person reasonably demanding his aid in arresting or preventing the escape of a person whom the Judge, Magistrate, Justice of the Peace, police officer or other person is authorised to arrest.

Pursuit of person into other jurisdictions. **29.** A person authorised to effect the arrest of any person may for the purpose of effecting the arrest, pursue him into any part of Nigeria.

Quarterly report of arrests to the Attorney-General. **30.** (1) The Commissioner of Police in the State and head of every agency authorised by law to effect arrests within the State shall remit quarterly to the Attorney-General a record of all arrest made with or

without warrant in relation to offences under the law of the State or arrest made within the State.

(2) The report shall contain the full particulars of arrested person as prescribed by section 17 of this Law.

(3) A register of arrests containing the particulars prescribed in section 17 of this Law shall be kept in the prescribed form at every police station or agency authorised by law to make arrest and every arrest, whether made with or without warrant within the local limits of the police station or agency, or within the State, shall be entered accordingly by the officer in charge of the police station or official in charge of the agency as soon as the arrested person 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.

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

31. (1) Where a person has been taken into police custody without a warrant for an offence other than an offence punishable with death, an officer in charge of a police station shall inquire into the case and release the person arrested on bail subject to subsection (2) of this section, and where it will not be practicable to bring the person before a court having jurisdiction, with

respect to the offence alleged within 24 hours of arrest.

(2) The officer in charge of a police station shall release the person on bail on his entering into a recognizance with or without sureties for a reasonable amount of money to appear before the court or at the police station at the time and place named in the recognizance.

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

Power to release on bail before charge is accepted. 32. (1) Where a person is taken into custody, and it appears to the officer that the inquiry into the case cannot be completed forthwith, he may discharge the person on his entering into a recognizance, with or without sureties for a reasonable amount, to appear at the police station and at such times as are named in the recognizance, unless he previously receives notice in writing from the police officer in charge of that police station that his attendance is not required.

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

Remedy of person detained in custody.

33. (1) Where a person 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 arrested person.

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

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

Police to report to supervising magistrates.

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

(2) The report shall contain the particulars of the person arrested as prescribed in section 17 of this Law.

(3) The Magistrate shall on receipt of the reports, forward them to the Committee which shall forward the reports with appropriate recommendations to the Attorney-General

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

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

**Judge
Chief
Magistrate to
visit places of
detention.**

35. (1) The Chief Magistrate, or where there is no or 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.

(2) During a visit, the Judge or Magistrate may-

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

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

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

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

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

PART 3 – WARRANTS

**General
authority
to issue
warrant.**

36. Where under a law, there is power to arrest a person withoutwarrant, a warrant for his arrest may be issued.

Form and of arrest. 37.(1) A warrant of arrest issued under this Law, unless the contrary is expressly provided under any other law, shall- **requisites warrant of**

(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 person to be arrested, and it shall order the police officer or officers to whom it is directed to arrest the person and bring him before the court to answer the complaint or statement, or to testify or 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. 38. 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 **39.** A warrant of arrest may be issued on
be issued on any day, including a Sunday or public
any day. holiday.

Warrant, to **40.** (1) A warrant of arrest shall be directed
whom directed to a police officer by name or to all police **and**
duration. 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 person arrested has been released, the warrant shall no longer be valid authority for re-arresting the person.

Warrant of **41.** (1) A court issuing a warrant of arrest may, **arrest**
may where its immediate execution is necessary
in exceptional and no police officer is immediately
cases be available, direct it to some other person or
directed to persons and the person or persons shall
other persons. execute same.

(2) A person, when executing a warrant of arrest directed to him, shall have 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.

Summons42. Where a court has reason to believe, whether after **for** **person** evidence or that a person, against whom a warrant **absconding**.of arrest has been issued by itself or by any court or Justice of the Peace, has absconded or is concealing himself so that the warrant cannot be executed, the court may publish the summons in writing requiring that person to appear at a specific place and time not less than 30days from the date of publishing the summons.

Publication43. (1) A summons shall be published-
of
summons.

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

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

Execution44.(1) A warrant of arrest may be executed on any of
warrant day, including Sunday or a public holiday
and
procedure.

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

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

(4) A person arrested on a warrant of arrest shall, subject to the Constitution of the Federal Republic of Nigeria and sections 45 and 46 of this Law, be brought before the court that issued the warrant of arrest.

Power to arrest on but without the warrant. **45.** A warrant of arrest may be executed notwithstanding that it is not in the possession at the time of the person executing the warrant but the warrant shall, on the demand of the person, be shown to him as soon as practicable after his arrest.

Court may direct particulars of security to be taken on execution of warrant. **46 .** (1) A court, on issuing a warrant for the arrest of a person 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 person 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 person named in the warrant are, respectively, to be bound; or are to provide as cash security on the request of the surety or person to be arrested;

(c) the court before which the arrested person is to attend; and

(d) the time at which the person 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 person 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 person named in the recognizance is bound to appear.

(5) Subject to section 47 of this Law, subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside the State.

**Procedure on
arrest of person
outside division
or district
of court issuing.**

(1) Where a warrant of arrest is executed in the State outside the division or district of the court by which it was issued, the person shall, unless security is taken under section 46 of this Law, be taken before the court within the division or district in which the arrest was made.

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

(a) is ready and willing to give bail to the satisfaction of the court within the division or district of which he was arrested; or

(b) where a direction had been endorsed under section 46 of this Law on the warrant and the suspect is ready and willing to give the security required by the direction, the court shall take bail or security, as the case may be, and shall forward the recognizance, if such be entered

into, to the court which issued the warrant.

Police officer48. Nothing in section 49 of this Law is deemed **may take** to prevent a police officer from taking **security.** security under section 31 of this Law.

Re-arrest of49. Where a person in lawful custody **person esc-** escapes or is rescued, the person from **aping.** whose custody he escapes or is rescued or any other person may pursue and re-arrest him in any place in Nigeria.

Provisions of50. Sections 14 and 15 of this Law shall apply **sections 14** to arrests under section 49 of this Law, **and 15 to** although the person making such arrest is **apply to arrests** not acting under a warrant and is not a **under section 49.** police officer having authority to arrest.

PART 4 – PREVENTION OF OFFENCES AND SECURITY FOR GOOD BEHAVIOUR

Police to51. (1) A police officer may intervene for the **prevent** purpose of preventing and shall, to the best **offences** of his ability, prevent the commission of an **and injury** offence.

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

Information of 52.
design to commit
offence.

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.

Arrest by 53. Notwithstanding the provisions of this
police to pre-
vent offences.

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 person where it appears to the officer that the commission of the offence cannot otherwise be prevented.

Prevention 54.(1) A Judge, Magistrate, or any other public
by other public
of offences maintaining law and order may intervene for **and injury**
to public property.

best of his ability, prevent the commission of an offence, for which he is authorised to arrest without a warrant or any damage to any public property movable or immovable.

the purpose of

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

- (a) in preventing, and shall to the best of his ability, prevent the commission of an offence for which he is authorised to arrest without a warrant or any damage to any public property, movable or immovable; or
- (b) in the suppression of a breach of the peace or in the prevention of any damage to any property, movable or immovable or to any railway, canal, water supply, telecommunication system, oil pipeline or oil installation, or electrical installation; or
- (c) in the prevention of the removal of any public landmark, buoy or other mark used for navigation.

Power of 55. (1) Where a Magistrate is informed on **Magistrate to require execution of** (a) commit a breach of the peace or **recognizance** disturb the public tranquillity: or **for keeping** (b) do any wrongful act that may **peace.** probably occasion a breach the peace or disturb the public tranquillity, the Magistrate may, in the manner provided in this Part, require the person to show cause why he should not be ordered to enter into a recognizance, with or without sureties, for keeping the peace for such period, not exceeding one year, as the Magistrate deems fit.

oath that a p

(2) Proceeding shall not be taken under this section unless the person is-

(a) in the State; and

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

Security for 56. Where a Magistrate is informed on oath **good behaviour** that-
for suspected persons.

(a) a person is taking precautions to conceal his presence within the local limit of the Magistrate's jurisdiction; and

(b) there is reason to believe that the person is taking the precautions with a view to committing an offence,

the Magistrate may, in the manner provided in this Part, require the person to show cause why he should not be ordered to enter into a recognizance, with sureties, for his good behaviour for such period not exceeding 1 year, as the Magistrate deems fit.

Security for good57. Where a Magistrate is informed on oath
behaviour forthat a person within the local limits of his **habitual**
offenders. jurisdiction-

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

such period, not exceeding 3 years,
as the Magistrate deems fit.

Order to 58. Where a Magistrate acting under section 55 be
made or 56 or 57 of this Law considers it
necessary to require a person to show cause
under the section, he shall make an order in
writing setting out the-

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

Procedure in 59. Where the person in respect of whom an **order**
is made is present in court, it shall be **present in** read
over to him or, if he so desires, the **court.**
substance of the information shall be
explained to him.

Summons or 60.(1) Where the person is not present in court, the
warrant in case Magistrate shall issue a summons requiring **of person**
not him to appear, or, where the person is in **present.**
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 person, the Magistrate may at any time issue a warrant for his arrest.

Copy of order under section 60 to accompany summons or warrant. **61.** A summons or warrant of arrest issued under section 60 of this Law shall be accompanied by a copy of the order made under section 58 of this Law, and the copy shall be delivered by the officer serving or executing the summons or warrant to the person served with or arrested under it.

Power to dispense with personal attendance. **62.** The Magistrate may, where he sees sufficient cause, dispense with the personal attendance of a person called on to show cause why he should not be ordered to enter into recognizance for keeping the peace, and may permit him to appear by a legal practitioner.

Inquiry as to truth of information. **63.** (1) where an order under section 58 of this Law has been read or explained under section 59 of this Law to a person in court, or where the person appears or is brought before a Magistrate in compliance with or in execution of a summon or warrant issued

under section 60 of this Law, the Magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

(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) of this section, the Magistrate, if he considers that immediate measures are necessary for the prevention of-

(a) a breach of the peace or disturbance of the public tranquillity; or

(b) the commission of any offence or for the public safety,

may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 58 of this Law has been made, to enter into a recognizance, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain

the person in custody until the recognizance is entered into or, in default of execution, until the inquiry is concluded.

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

- (a) a person against whom proceedings are not being taken under section 55 of this Law shall not be directed to enter into a recognizance for maintaining good behaviour;
- (b) the conditions of the recognizance, whether as to the amount or as to the provisions of sureties or the number of sureties or the pecuniary extent of their liability shall not be more onerous than those specified in the order under section 59 of this Law; and
- (c) a person 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 purpose of this section, the fact that a person comes within the provisions of section 56 of this Law may be proved by evidence of general repute or otherwise.

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

Order to give security. (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 person in respect of whom the inquiry is made should enter into a recognizance, with or without sureties, the Magistrate shall make an order accordingly, but-

- (a) a person 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 58 of this Law;
- (b) the amount of a recognizance shall be fixed with due regard to the circumstances of the case and shall not be excessive; and
- (c) where the person in respect of whom inquiry is made is a child, the recognizance shall

be entered into as provided in section 163 of this Law.

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

Discharge of 65. Where on an inquiry under section 60 of person this Law it is not proved that it is necessary informed for keeping the peace or maintaining against. behaviour, as the case may be, the person 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 person is-

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

PART 5 – PROCEEDING IN ALL CASES SUBSEQUENT TO ORDER TO FURNISH SECURITY

Commencement 66. (1) Where a person in respect of whom of period for an order requiring security is made under which security is section 58 of this Law is, at the time the required. order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of the sentence.

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

Conditions of 67. The recognizance to be entered into by a person under section 58 of this Law shall bind him to keep the peace or be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the aiding, abetting, counselling, or procuring the commission, anywhere within the State, of an offence punishable with imprisonment, wherever it may be committed, any time during the continuance of the recognizance, shall be a breach of the recognizance.

Power to reject 68. 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.

Procedure on 69. Where a person ordered to give security does not give the security on or before the date on which the period for which the security is to be given commences, he shall, except in the case mentioned in this section, be committed to prison until the period expires or until within the period he gives the security to the court that made the order requiring it.

Power to release⁷⁰. Where a court is of the opinion that a person imprisoned for failing to give security may be released without hazard to the community, the Court may, if it deems fit, order the person to be discharged.

Power of High Court to cancel⁷¹. 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 Sureties⁷². (1) A surety for the peaceable conduct or good behaviour of another person may at any time apply to a court to discharge a recognizance executed under any of the preceding section, within the district or division to which the Court is assigned.

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

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

(4) An order made under subsection (3) of this section shall, for the purposes of sections 66, 67, 68, and 69 of this Law, be deemed to be an order under section 58 of this Law.

PART 6 – PUBLIC NUISANCE

Conditional 73. Where a court considers, on receiving a ~~order for~~ police report or other information and on ~~removal of~~ taking such evidence, if any, as it deems fit, ~~nuisance.~~ that an offence relating to public nuisance is being committed, the court may make a conditional order requiring the persons-

- (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 provided in this Law.

Service of 74. (1) An order made under section 73 of this Law shall, if practicable, be served on the person against whom it is made in the manner provided for the service of a summons.

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

Person to 75. A person against whom an order under section 73 of this Law is made shall-
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.

Consequences 76. Where a person against whom an order under of failure to section 73 of the Law is made does not obey order perform the act specified in the order or appear or to appear, and apply to have the order set aside or modified, he is liable, where the act-

- (a) offends public safety, to a fine of not less than N100,000.00 for individual and not less than N1,000,000.00 in case of a corporate body or imprisonment for a term of six months; or
- (b) threatens human life, to a fine of not less than N200,000.00 for individual and not less than N2,000,000.00 in case of a corporate body or imprisonment for a term of 12 months.

Procedure 77. (1) Where a person against whom an where person order under section 73 of this Law is made to appears, appear applies to have the order set aside or modified, the court shall take evidence in the matter in the same manner as in a summary trial.

(2) Where the court is-

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

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

Consequences of 78. Where the acts directed by an order **disobedience** under section 73 of this Law which is made **order made absolute** under section 76 or 77 (2) (a) of **absolute**. this Law is not performed within the time **fixed** and in the manner specified in the **order**, the court may cause it to be

performed and may recover the cost of performing it either by-

(a) the sale of any building, goods or other property removed by its order; or

(b) seizure and sale of any other movable property of the person against whom the order under section 73 of this Law was made in the manner prescribed in this Law for the recovery of a fine.

Order pending 79. (1) Where the court making an order **inquiry.** under section 73 of this Law considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further order to the person against whom the order was made as is required to obviate or prevent danger or injury pending the determination of the matter.

(2) In default of the person referred to in subsection (1) of this section immediately obeying the further order referred to in that subsection or if notice of 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 of public nuisance. 80. A court may, in any proceeding under this Part or in any criminal proceeding in respect of a continuance of public nuisance, order any person not to repeat or continue the public nuisance.

PART 7 – ATTACHMENT WHERE A PERSON DISOBEYS SUMMONS OR WARRANT

Attachment of property of person absconding. 81. A Judge or Magistrate may, at any time after action has been taken under section 42 of this Law or on an application made in that regard after summons or warrant has been issued but disobeyed, order the attachment of any property, movable or immovable or both, belonging to a person the subject of the summons or warrant.

Order to attach82. (1) An order under section81 of this Law
property.shall authorise a public officer 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 person who is the subject of
an order does not appear within the time
specified in the 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.

Restoration of83. (1) Where within one year from the date
attachedof the attachment, a person, whose property is **property**.
or has been at the disposal of the courunder
section 81 of this Law, appears voluntarily or
being arrestedis brought before the court and
proves to its satisfaction that he-

(a) did not abscond or conceal himself for the purpose of avoiding execution of the warrant; and

(b) had no notice of the 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 person 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.

Issue of 84. (1) A court or Justice of the Peace empowered **warrant** ~~in~~by this Law to issue a summons for the ~~lieu of or~~appearance of a person may, after recording **in addition** ~~to~~reasons in writing, issue a warrant for his **summons.** ~~arrest in~~addition to or instead of the summons where-

- (a) whether before or after the issuance of the summons, the Court or Justice of the Peace sees reason to believe that the person has absconded or will not obey the summons; or
- (b) at the time fixed for his appearance, the person 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 or Justice of the Peace empowered by this Law to issue a warrant for the arrest of a person may issue a summons in place of a warrant where he thinks fit.

Power to85. Where a person for whose appearance or take bondarrest a summons or warrant may be issued is for present before a court or Justice of the Peace, appearance. the court or Justice of the Peace may require him to execute a bond, with or without sureties, for his appearance before a court.

Provisions of 86. The provisions in this Part relating to this Part summonses and warrants and their issuance, generally service and execution shall, so far as may be, applicable to apply to every summons and every warrant summons and issued under this Law. warrant.

PART 8 – PROVISIONS RELATING TO CRIMINAL TRIALS AND INQUIRIES IN GENERAL

Application 87. The provisions of this Part and Parts 9 to 29 of of Part 8. this Law shall apply to all criminal trials and proceedings unless express provisions is made in respect of any particular court or form of trial or proceeding.

General authority 88. A court has authority to compel the to bring attendance before it of a person who is within person before the jurisdiction and is charged with an offence a court. committed within the State, or which according to law may be dealt with as if the offence had been committed within the jurisdiction and to deal with the person according to law.

Right of making 89. (1) A person may make a complaint against complaint. 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.

Form of 90. (1) It is not necessary that a complaint shall be in writing unless it is required to be so by the law on which it is founded, or

by some other law, and where a complaint is not made in writing, the court or registrar shall reduce it into writing.

(2) Subject to section 55 of this Law, a complaint may, unless some law otherwise requires, be made without oath.

(3) A complaint may be made by the complainant in person, or by a legal practitioner representing him, or by any person authorised in writing in that behalf.

(4) A complaint shall be for one offence only, but the complaint shall not be avoided 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.

Form of 91. A complaint, information, charge, summons, warrant or any other document laid, issued or made for the purpose of or in connection with any proceedings before a court for an offence, shall be sufficient if it contains a statement of the specific offence with which the suspect is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

Rule as to 92. Any exception, exemption, proviso, condition, statement of excuse, or qualification, whether it does or does not in any enactment creating an offence accompany in the same section, the description of the offence, may be proved by the defendant, even if it is not specified or refuted in the complaint but if so specified or refuted no proof shall be required on the part of the complainant.

Limitation 93. In every case where no time is specifically limited for making a complaint for a summary conviction of an offence in the law relating to private such offence, such complaint, if made other than by a person in his official capacity, shall be made within six years from the time when the matter of such complaint arose, and not after.

PART 9 – PLACE OF TRIAL OR INQUIRY

Venue generally.94. (1) Subject to the powers of transfer contained in the enactment or law establishing any court, the place for the trial of an offence shall be in the division or districts where the-

- (a) offence was committed; or
- (b) act was done or where consequence ensues or to be done; or
- (c) act is an offence by reason of its relation to any other act which is also an offence.

(2) An offence may be tried by a court having jurisdiction in any division or district in any of the following circumstances when-

- (i) it is uncertain in which of several divisions or districts an offence was committed; or
- (ii) an offence is committed partly in one division or district and partly in another; or

(iii) an offence is a continuing one, and continues to be committed in more divisions or districts than one; or

(iv) it consists of several acts committed divisions or districts.

(3) An offence committed while the offender is in the course of performing a journey, may be tried by a court in the division or district through which the defendant passed or in which the thing in respect of which the offence was committed is situated.

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

(5) The Commissioner of Police shall ensure that one or more armed policemen are posted to provide security during every criminal trial.

Offence at sea or outside of Nigeria. 95. An offence committed at sea or elsewhere outside the State may be tried or inquired into at any place in the State to which the defendant is first brought, or to which he may be taken thereafter.

Offence committed on a journey. 96. An offence committed while the person is in the course of performing a journey or voyage may be tried or inquired into by a court in the State or division or district or whose jurisdiction the person 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 commenced and completed in different States. 97. Where an offence is-

(a) commenced in the State and completed in another State, or

(b) completed in the State after being commenced in another state,

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

Chief Judge to decide inquiry or place of trial. 98. 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 Judge99. (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.

**may transfer
a case.**

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

(3) Where the Chief Judge is to exercise this power subsequent to a petition, the Chief Judge shall cause the petition to be investigated by an independent body of not more than three reputable legal practitioners within one week of receipt of such petition.

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

When cases100. A court before which a person charged with **may be** having committed an offence is brought shall, **remitted to** where-
another court

(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 person 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 101. (1) Where a person is to be remanded in custody, a warrant shall be issued by the court remitting and that warrant shall be sufficient authority to any person to whom it is directed to-

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

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

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

Transfer of case 102. Where a person is-
where cause of (a) in custody and the court directing a transfer
complaint has thinks it expedient that the custody should
risen out of be continued; or
jurisdiction (b) not in custody, that he should be placed in
of court custody,

the court shall, by its warrant, commit the
person to prison subject to such security, as
it may deem appropriate in the
circumstances, until he can be taken before
court wherein the cause of complaint arose.

Court may 103. (1) Notwithstanding sections 94 and 99 of
this Law, a Judge or Magistrate of a division
Jurisdiction or district in which a person-
under certain
conditions.

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

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

Assumption 104. Where a case is commenced in any other of jurisdiction division or district than that in which it ought after to have been commenced, the court may commencement assume jurisdiction in accordance with of proceedings. section 102 of this Law and all acts performed and all decisions given by the court during the trial or any other proceeding shall be deemed to be valid in all respect as if the jurisdiction had been assumed prior to the performance of the acts and the giving of the decision.

PART 10 – POWERS OF THE ATTORNEY–GENERAL

Initiation of 105. (1) The Attorney-General may initiate criminal criminal proceedings in any court in respect of an proceedings offence created by a law of the House. by the Attorney-General.

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

Issuance of 106. (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 House.

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

(3) The Attorney General may request from the Police or any other agency for the case file in any matter in respect of an offence created by a law of the House and the Police or other agency shall immediately send the case file as requested.

Prosecution 107. Subject to the provisions of the 1999 Constitution, relating to the powers of prosecution by the Attorney-General, prosecution of all offences in any court shall be undertaken by-

(a) the Attorney-General or a Law Officer in his chamber; or

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

(c) a legal practitioner authorised to prosecute by this law or any other law of the House; or

(d) a police officer who is a legal practitioner.

PART 11 – CONTROL OF CRIMINAL PROCEEDINGS BY THE ATTORNEY-GENERAL

Discontinuance 108.(1) In any criminal proceeding for an offence created by any law of the House, and at any stage of the proceeding before

judgement, 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 shall not continue and based on the notice, the defendant shall immediately be discharged in respect of the charge or information for which the discontinuance is entered.

(2) Where the defendant-

(a) has been committed to prison, he shall be released; or

(b) is on bail, the recognizance shall be discharged.

(3) Where the defendant 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 defendant may be detained and the notice shall be sufficient authority to discharge the defendant; or

(b) in custody, the court shall immediately cause notice in writing to be given to the defendant and his sureties and shall in either case cause a similar notice in writing to be given to any witness bound over to prosecute.

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

Withdrawals 109. (1) In any trial or proceeding before a court, from prosecution a prosecutor may on the instruction of the Attorney-General, in case of offences in trials and inquiries against any law of the State, at any stage before a court. before judgement 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) On the withdrawal, where it is made-

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

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

(3) In any trial before a court in which the prosecutor withdraws in respects 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 this section, the court may, in its discretion, award costs against the prosecutor.

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

PART 12 – INSTITUTION OF PROCEEDINGS

Different 110. Subject to any other law, criminal proceedings may, in accordance with this Law be instituted-
instituting
criminal proceedings charge or a complaint whether or not on oath;

(a) in a Magistrate court, by a

(b) in the High Court, by complaint, information, or charge of the Attorney-General, subject to section 105 of this Law;

(c) by complaint, information or charge filed in the court after the defendant has been summarily committed for perjury by a court under this Law;

(d)by information, complaint or charge filed in the court by any other prosecuting authority; and

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

Mode of 111. (1) Criminal proceedings instituted in a **instituting** Magistrate court may be-

criminal

(a)by bringing a person **proceedings**

arrested without a warrant **in a Magistrate court.**

before the court on a charge contained in a charge sheet specifying the name, address, sex and occupation of the person charged, the charge against him at the time and place the offence is alleged to

have been committed, and the charge sheet shall be signed by any of the persons mentioned in section 107.

(b)subject to the provision of section 90 of this Law, by complaint to the court, whether or not on oath, that an offence has been committed by a person 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 person.

(2) The charge sheet filed by the prosecution shall be served on the defendant within seven days of its being filed or such time as the court may allow.

(3) The trial of a charge preferred under paragraph (a) of subsection (1) of this section shall commence not later than thirty 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 preferred under paragraphs (a) subsection (1) of this section and the trial does not commence within thirty days of bringing the charge, or trial has commence but has not been completed after one hundred and eighty 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 seised of criminal proceedings shall in every quarter forward returns of the particulars of all cases, including charges, remand and other proceedings commenced and dealt with in his court within the quarter, to the Chief Judge.

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

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

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

Returns by 112.(1)The Comptroller-General of Prisons or Comptroller-any officer authorised by him shall make **General** ofreturn every ninety days to the Chief Judge **Prisons.** and the Attorney-General of all persons awaiting trial held in custody withinthe State for a period beyond one hundred and eighty days before the date of arraignment.

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

- (a) the names of the person held in custody or Awaiting Trial Persons (ATPs);
- (b) passport photograph of the person;
- (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 court before which he was arraigned;
- (g) name of the prosecuting agency; and
- (h) any other relevant information.

(3) Upon receipt of such returns the recipient shall take such steps as are necessary to address the issues raise

in the returns in furtherance of the objectives of this Law.

PART 13 – ENFORCING APPEARANCE OF PERSON

Compelling 113. A court may issue a summons or warrant as appearance provided in this Law to compel the appearance of a person before it of a person accused of having committed an offence in any place, whether within or outside the State.

Summons and Warrants. 114. 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 process. 115. Subject to section 90 of this Law who believes a complaint from a reasonable or probable cause that an offence has been committed by another person whose appearance a Magistrate has power to compel, may make a complaint of the commission of the offence to a Magistrate who shall consider the allegation of the complaint and may-

- (a) in his discretion, refuse to issue process and shall record his reasons for such refusal;
or
- (b) issue a summons or warrant as he shall deem fit to compel the attendance of the

defendant before a Magistrate Court in the district.

(2) The Magistrate shall not refuse to issue a summons or warrant only because the alleged offence is one for which a person may be arrested without warrant.

PART 14 – ISSUE, FORM AND SERVICE OF SUMMONS

Issue and Service. **116.** A summons may be issued or served on any day, including a Sunday or public holiday.

Issue of **117.** Where a complaint is made before a Magistrate as provided in section 115 of this Law and the Magistrate decides to issue a summons, the summons shall be directed to the suspect, stating concisely the substance of the complaint and requiring him to appear at a certain time and place not less than 48 hours after the service of the summons before the court to answer to the complaint and to be further dealt with according to law.

Hearing by **118.** The court may, if it deems fit and with the consent of the parties, hear and determine a complaint notwithstanding that the time within which the defendant was required to appear of summons may not have elapsed.

Summons with immediate returns **119.** Where, on a complaint being made before a Magistrate as provided in section 115 of this Law, the Magistrate decides to issue a summons, the defendant may be directed to appear immediately in case 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.

Discretion in **120.** Nothing contained in section 117 or 118 or 119 of this Law shall oblige a Magistrate to issue a summons in any case where the application for an order may by law be made ex parte.

Summons to be in duplicate **121.** 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.

Service of **122 .** A summons shall be served by a police officer or by an officer of the court issuing it or other public officer, or through a courier service company duly registered with the Chief Judge as a process service agent of the court under this Law.

Normal **123.** The person effecting service of a summons shall effect it by delivering it on-
of effecting service.

(a) an individual, to him personally; or

(b) a firm or corporation-

(i). to one of the partners,or

(ii). to a director, or

(iii). to the secretary, or

(iv) to the chief agent

within the jurisdiction,

or

(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 or corporation; or

(c). a Local Government Council, then in accordance with the Local Government Law; or

(d). the Nigeria Police Force, or the office of the Inspector – General of Police, to the Commissioner of Police of the State;or

(e). any Federal Government Ministry, Department or Agency to the Attorney-General of Federation or to the Legal

Department of such Ministry,
Department or Agency; or

(f). any state Government
Ministry, Department or Agency
to the Attorney-General of the
State or to the Legal Department
of such Ministry, Department or
Agency; or

(g) any arm of the armed forces, to
the Director of Legal Services of the
service or command concerned.

Service 124. Where service in the manner provided by
where section 123 (a) of this Law cannot, by the person exercise of
due diligence, be effected, the summoned serving officer may, with
leave of the court, cannot affix one of the duplicates of
the summons to
be found 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 on 125. (1) Where a public officer is to be served with a
public summons, the court issuing the summons may officers.
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.

(2) The officer in charge of the department
shall, on receiving the summons, cause it to
be served in the manner provided by section

123 (a) of this Law and shall return the duplicate to the court under his name, designation and signature with the endorsement required by section 115 of this Law, which shall be evidence of the service.

Service outside jurisdiction 126. Where a court issues a summons to a person outside its jurisdiction, the summons shall be sent in duplicate to a court in whose jurisdiction the person resides or works.

Proof of service 127. 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.

Receipt of service 128.(1) Where a summons has been served on the person to whom it is addressed or is delivered to any 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.

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

Person refusing129. A person who is required to sign a receipt on to sign receiptthe back of a duplicate summons to the effect may be arrested.that he 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 14days as the court may deem fit.

Proof of130. An affidavit or declaration made before a court service. by the servingofficer 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.

Summons131. Where the court is satisfied that the person has disobeyed, been served with a summons and the person warrant does not appear at the time and place may be appointed in and by the summons the court issued. may issue a warrant for his arrest and production before the court.

Issue of 132. Where a complaint is before a Magistrate as warrant provided in this Law, and the Magistrate for person decides to issue a warrant, he shall issue in the first a warrant to arrest the person and bring him instance. before the court to answer the complaint and be dealt with according to law.

Applications133. Where a warrant of arrest is issued in of sections 36 consequence of a complaint on oath as provided to 48 to such under section 132 of this Law, the provisions of warrant. sections 36 to 48 of this Law shall apply to such warrant.

Warrant may134. Notwithstanding the issue of a summons be issued before as in section 116 of this Law, a warrant may be or after issued at any time before or after the time return date appointed for the appearance of the person. of summons.

PART 15 – MISCELLANEOUS PROVISIONS REGARDING PROCESS

Irregularities135. Where a defendant is before a court, whether in summons, voluntarily, or on summons, or after being warrant, arrested with or without warrant, or while service, or in custody for the same or any other offence, arrest. the trial may be held notwithstanding-

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

Irregularities 136. Where a court or Justice of the Peace, who is **which vitiates** not empowered by law does any of the **proceedings** following-

- (a) attaches and sells property under section 81 of this Law;
- (b) demands security to keep the peace;
- (c) demands security for good behaviour;
- (d) discharges a person lawfully bound to be of good behaviour;
- (e) cancels a bond to keep the peace;

(f) makes an order under section 73 of this Law as to a public nuisance;

(g) prohibits, under section 80 of this Law, the repetition or continuance of a public nuisance;

(h) tries an offender; and

(i) decides an appeal;

the proceedings shall be void.

Variance 137. A variance between the charge in the summons between or warrant and the offence alleged in the charge and complaint, or between any of them and complaint. the evidence adduced on the part of the prosecution, shall not affect the validity of any proceeding.

Process 138. A summons, warrant of any description or other valid process issued under a law shall not be notwithstanding invalidated by reason of the person who signed death or vacation the summons or warrant being dead, ceasing of office of to hold office or have jurisdiction. person issuing.

PART 16 – SAVING OF VALIDITY OF PROCESS

Validity of 139. (1) A warrant of commitment shall not be held process: void by reason of any defect in it, where it is warrant of alleged that the defendant has been commitment convicted or ordered to do or abstain from

and warrant doing an act or a thing required to be done or
of distress. left undone and there is a good and valid
order to sustain the warrant.

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

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

General 140. (1) In addition to sections 37 and ~~addressee~~ 41 of this Law in respect of warrants of arrest, **of process** all summonses, warrant of every description and **for** ~~issue~~ process of whatever description shall be **and execution.** sufficiently addressed for service or execution by being directed to the Sheriff.

(2) Notwithstanding subsection (1) of this section, a warrant or summons may be addressed to a person by name or to an officer by his official designation.

(3) Where a warrant of arrest is addressed to the Sheriff the warrant may be executed by a police officer or officer of a court.

Certain141. The provisions contained in this Law in provision respect of warrants of arrests, and the provisions applicable to contained in this Part relating to summonses, all summonses warrants of any description and other process and warrants and their issuance, services, enforcement and in criminal execution shall, so far as may be, apply to every matters. summons, warrant of any description and other process issued in respect of matters within the criminal jurisdiction of the court.

PART 17 – SEARCH WARRANTS

Application142. Where an investigation under this Law is being for search made by a police officer, he may apply to a warrant. court or Justice of the Peace within the local limits of whose jurisdiction he is for the issuance of a search warrant.

Cases in143.(1) Where a court or Justice of the which Peace is satisfied by information on oath and in search writing that there is reasonable ground warrants for believing that there is in any building, ship may be carriage, receptacle, motor vehicle, aircraft or issued. place-

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

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing an offence.

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

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

(a) search such building, ship, carriage, receptacle, motor vehicle, aircraft or place for any such thing, and to seize any such thing until further trial proceeding before the court issuing the search warrant or some other court to be dealt with according to law; and

(b) arrest the occupier of the house or place where the thing was found where the court deems fit to direct on the warrant.

Discharge144. Where the occupier of any building or the
of suspected person in whose possession a thing named in a person.
search warrant is found and is brought before a
court or Justice of the Peace and a complaint
is not made that he has committed an offence,
the court or Justice of the Peace shall
immediately discharge him.

Search145. (1) A search warrant shall be under the hand of the
warrant Judge, Magistrate or Justice of the Peace issuing to be signed
it.

by Judge,(2) A warrant shall remain in force until it is Magistrate
or executed or cancelled by the court or Justice of Justice of the the
Peace who issued it.
Peace.

Search warrant146. A search warrant may be directed to one or to
whom directed. more persons and, where directed to more than
one, it may be executed by all or by any one or
more of them.

Time when147. A search warrant may be issued and executed at
search war- any time on any day, including a Sunday or rant
may be public holiday.
issued and
executed.

Person in148. (1) Where any building or other thing or place charge
of liable to search is closed, a person residing in closed place or
being in charge of the building, thing or
to allow place shall, on demand of the police officer or access.
other person executing the search warrant,
allow him free and unhindered access to it and
afford all reasonable facilities for its search.

(2) Where access into the building, thing or place cannot be so obtained, the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 11, 12, 14, and 15 of this Law.

(3) Where a person 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 person may be searched and where the person 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 Justice of the Peace owing to the nature of the case otherwise directs, be made in the presence of two witnesses and the person to whom the search warrant is addressed may also provide a witness within the neighbourhood.

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

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

Occupant of 149. The occupant of a place searched or some place searched person on his behalf shall be permitted to be **may attend.** present at the search and shall, if he requires, receive a copy of the list of things seized there, signed or sealed by the witnesses, if any.

Execution of 150. A person executing a search warrant beyond the jurisdiction of the court or Justice of the Peace issuing it shall, before doing so, apply to **jurisdiction.** the court within whose jurisdiction search is to be made and shall act under its directions.

Magistrate 151. A Magistrate or Justice of the Peace **may direct** may direct a search to be conducted in his **search** in presence of any place for the search of which **his presence.** he is competent to issue a search warrant.

Detention of 152. (1) Where upon the execution of a search **articles re-** warrant anything referred to in section 143 **covered.** of this Law is recovered, it may be detained by the police, taking reasonable care that it is preserved until the trial or any further proceeding .

First(2) A list of all things recovered in the Schedule course of search and of the places in which they are found shall be drawn up

by the person carrying out the search in accordance with section 148 (5)

of this Law and a copy of the list forwarded to the Judge, Magistrate or Justice of the Peace who issued the warrant for his information with indication as in the prescribed form set out in the First Schedule to this Law on the search warrant of the things-

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

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

(3) Where no person 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; and

(b) where he is the defendant, cause to be restored to him or to his legal practitioner or to such other person as the defendant may direct.

(4) The police or any other agency carrying out the search is authorised or required by law to dispose of the items seized in accordance with this section, the police or agency shall release the proceeds of 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 article 153. 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 154. Where the thing to be searched for under a search warrant is gunpowder, arms, ammunition or any other explosive, dangerous or noxious substance or thing, the person making the search has powers and protection as are given by a law for the time being in force to a person lawfully authorised to search for the thing, the thing shall be disposed of in the same manner as directed by the law, or in the absence of the direction, as the court may either generally or in any particular instance order.

Disposal of 155. Where, in consequence of the execution of a counterfeit search warrant, there is brought before a court currency any forged bank note, bank note paper, and certain counterfeit currency, instrument, or other thing 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 156. Where a search warrant is issued in respect of to court of an offence against the law of any state of other state. Nigeria and a summons has been issued for that offence by, or any person has been charged with that offence before a court of that state, the court issuing the search warrant may, except he has disposed of the thing in accordance with section 152 of this Law, transmit anything seized and brought before him to that court and in relation to anything so transmitted, the functions conferred on a Magistrate by this Law shall be exercised and performed by that court instead of the Magistrate who issued the search warrant.

PART 18 - BAIL AND RECOGNIZANCE: GENERALLY

General 157. When a person who is suspected to have entitlement committed an offence or is accused of an to bail offence is arrested or detained, or appears or is brought before a court, he shall, subject to this Part be entitled to bail.

Power of 158. (1) Where a person or defendant is detained in a court to prison, police station or any other place of order per-detention, the court may issue an order to son in the officer in charge of the prison, police custody to station or other place to produce the person be brought or defendant at the time and date specified before it. in the order before the court.

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

Recognizance 159. (1) Where a child is arrested with or without by parent warrant and cannot be brought forth with or guardian before a court, the police officer in of a child. immediate charge for the time being of the police station to which the child is brought, shall in the interest of the child remove him from association with any reputed criminal or prostitute, and release the child on a recognizance entered into by his parent or guardian, with or without sureties except-

homicide; or (a). the charge is one of

(b) the offence charged is punishable with imprisonment for a term exceeding three years.

(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 160. (1) A person arrested, detained or charged with a person is an offence punishable with death shall only charged with be admitted to bail by a Judge of the High capital offence. Court, under exceptional circumstances.

(2) For the purpose of exercise of discretion in subsection (1) of this section, “exceptional circumstances” include-

- (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 person is able to prove that there are no medical facilities to take care of his illness by the authority detaining him; or
- (b) extraordinary delay in the investigation, arraignment and prosecution for a period exceeding one year; or
- (c) any other circumstances that the Judge may, in the

particular facts of the case,
considered exceptional.

Bail where a161. A defendant charged with an offence **defendant**
is punishable with imprisonment for a term **charged with exceeding**
three years shall, on application **offence** to the court,
be released on bail except in **exceeding** any of the
following circumstances-
three years
imprisonment.

- (a) where there is reasonable ground to believe that the defendant will, if released on bail, commit another offence;
- (b) attempt to evade his trial;
- (c) attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case;
- (d) attempt to conceal or destroy evidence;
- (e) prejudice the proper investigation of the offence;
and
- (f) undermine or jeopardize the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.

Bail where a 162. In any other circumstance other than defendant is those referred to in sections 160 and 161 of charged with this Law, the defendant shall be entitled to offence not bail, unless the court sees reasons to the exceeding three contrary. years imprisonment.

Bail in respect 163. Where a defendant is brought before a court of matters in on any process in respect of any matter not other offences included within sections 157 to 162 of this Law, the person may, at the discretion of the court, be released on his entering into recognizance, in the manner provided in this Law, for his appearance before the court or any other court at the time and place mentioned in the recognizance.

Conditions for 164. The conditions for bail in any case shall be at bail. the discretion of the court with due regard to the circumstances of the case and shall not be excessive.

Recognizance 165. Where in any case the defendant in in respect of respect of whom the court makes an order a child. 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.166. (1) A defendant admitted to bail may be required to produce 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 may be required to enter into recognizance, accordingly.

(3) A person shall not be denied, prevented or restricted to 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 vary167. A Judge of may direct that the-
bail fixed by
Magistrate or police.

(a)bail conditions required by a Magistrate or police officer be reviewed; or

(b)defendant in custody in the State be admitted to bail.

Reconsideration168. Where a defendant has been admitted to bail of
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 beingmade 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 whom 169. (1) The terms of recognizance fixed by the recognizance court in respect to any surety or sureties may be executed. shall be processed in that court.

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

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

Release on 170. (1) As soon as recognizance has been entered execution into in accordance with section 163 of this of recognizance. Law or money or other security deposited in the registry of the court-

(a) the defendant for whose appearance it has been 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 authorise 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.

Mode of 171. Where as a condition for the release of entering into any defendant, he is required to enter into a recognizance. recognizance with sureties, the recognizance of the sureties may be taken separately and either before or after the recognizance of the defendant and if so taken, the recognizance of the defendant and sureties shall be as binding as if they had been taken together and at the same time.

Continuous 172. (1) Where a defendant is released on bail, the bail. 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 record the reason for the variation of the order or committal of the defendant

(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.

Defendant bound 173. 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 may be before a court or police officer-
by recognizance court by information on oath by a
to appear before complainant, surety or other person that a
a court or police defendant bound by recognizance to appear
officer may be before a court or police officer-
committed to prison.

(a). is about to leave Nigeria; or
(b). for the purpose of evading justice, is about to leave or has left the division or district of the court before which he

is to appear or in which he normally resides, the court may cause him to be arrested and may commit him to prison until the trial, unless the court considers it fit to admit him to bail on further recognizance.

Reconsideration of 174. Where a defendant has been admitted to amount of bail on bail and circumstances arise which, if the application by lawdefendant had not been admitted to bail officer or policewould, in the opinion of a law officer or officer.police officer,justifythe 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.

Variation of a 175. Where at any time after a recognizance has recognizance if been entered into, itappears to the court that surety unsuitable.for any reason the surety or sureties are unsuitable, the court may-

- (a) issue a summons or warrant for the appearance of the defendant ; and

(b) on his coming to the court, order him to execute a fresh recognizance with other sureties, as the case may be.

Discharge of sureties. 176. (1) All or any of the sureties to a recognizance may at anytime apply to the court which caused the recognizance to be taken to discharge the bond either wholly or so far as it relates to the applicant.

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

Order of fresh security upon original order. 177. When a surety to a recognizance becomes insolvent or dies or when 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. 178.(1)Whenever it is proved to the satisfaction of the court by which arecognizance has been taken or, when the recognizancebond 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) if 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 thisLaw for the recovery of fines.

Mitigation of forfeiture. 179. The court may at any time cancel or mitigate the forfeiture, onthe 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 sufficient sureties 180. Where a defendant required by a court to find sufficient sureties fails to do so, the court, surety.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 meets such other conditions as the court may direct in the circumstances; or
- (b) ordered to give security for good behaviour, an order committing him to prison for the remainder of the period for which he was originally ordered to give security or until he finds sufficient sureties.

Forfeiture 181.(1) Where a recognizance to keep the peace and on conviction. be of good behaviour or not to do or commit some act or thing, has been entered into by a defendant or surety before a court, a court, on proof that the person bound by the recognizance as defendant has been convicted of an offence which is by law a breach of the condition of the recognizance, may order that the-

- (a) recognizance be forfeited;
- and

(b) person bound by it, whether as defendant 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.

Where 182. Where a recognizance is ordered to be forfeited, the court having jurisdiction over the matter, may, immediately or at any time after the order, issue a warrant of commitment against a person liable whether as defendant 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 183. Where a defendant who is bound by a recognizance or bound to appear before a court or police station does not so appear, the court may issue a warrant for his arrest.

Payment 184. All sums paid or recovered in respect of a recognizance order by court in pursuance of section 177 of this Law to be forfeited shall be paid to the Treasury and a receipt issued which shall be produced in court as evidence of payment.

Appeal.185. An order of forfeiture made under this Law shall be subject to appeal.

Registration186. (1) The Chief Judge may make regulation for **of bonds**the registration and licensing of corporate **persons.** 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) of this section.

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

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

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

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

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

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

Bondsperson 187. Where a bonds person arrests a defendant or may arrest person who is absconding or who he believes is absconding trying to evade or avoid appearance in court-
defendant or person.

- (a) he shall 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 19 – PROPERTY AND PERSONS

Methods of 188. Where in a complaint, summons, warrant of any stating description, charge sheet, information or any multiple document issued by a court in the exercise of its ownership criminal jurisdiction it is necessary to refer to the of property. ownership of any property, whether movable or immovable, which belongs to or is in the possession of more than one person, may if-

(a) the property belongs to, or is 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; or

(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; or

(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; or

(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; or

(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 Federation or of the State, as the case may be; or

(f) where it is necessary to state the ownership of-

(i) any work or building made, erected or maintained, either wholly or in part, at the expense

of the public revenue or of any part of it; or

(ii) any township, town, or village or any Local Government, or of anything belonging to or being in or used in relation to the same; or

(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 highways; or

(iv) any other property whatsoever, whether movable or immovable, as aforesaid, be sufficient to state as the property of the Federation or 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; or

(v) aproperty belonging to a woman who has contracted a marriage under the Marriage Act or a marriage recognised as a valid marriage under any law in force in Nigeria, be stated as belonging to the married woman.

Description of persons in criminal process 189.(1)Where in a complaint, summons, warrant of any description, charge sheet, information or any document issued by a court in the exercise of its criminal jurisdiction, it is necessary to refer to a person, the description or designation of that person shall be such as is reasonably sufficient to identify him except as provided under section 231 of this Law.

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

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

circumstances, or the person may, subject to subsection (4) of this section, be described as “Person Unknown”.

(4) A defendant who is accused of an offence shall not be described as “a person unknown” except in the case of a verdict found on a coroner’s inquisition.

Remedies of 190. 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 or her own separate property as if such property belonged to her as an unmarried woman.

Husband and wife competent as witnesses. 191. In any proceedings taken under section 190 of this Law, the husband and wife shall be competent and compellable witnesses in accordance with the Evidence Act.

PART 20 – THE CHARGE

Forms of charges. 192. A charge may be as in the forms set out in the Second Schedule to this Law, with such modification as may be necessary in the circumstances of each case.

Offence to be stated in the charge. 193.(1) A charge shall state the offence with which the defendant is charged.

charge.(2) Where the law creating the offence-

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

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

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

Legal presumption of charge. 194. The fact that a charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

Particulars in charge. 195.(1) The charge shall contain such particulars as to the time and place of the alleged offence and the defendant, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the defendant notice of the offence with which he is charged.

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

Charge of 196. When a defendant is charged with fraudulent appropriation of property, it is sufficient to appropriate specify the gross sum in respect of which the of property 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 197. When a defendant is charged with falsification criminal of accounts, fraudulent falsification of accounts falsification or fraudulent conversion, it shall be sufficient to of accounts. allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed.

Charge may 198. Where the nature of the offence is such that the contain the particulars required by sections 193 and 195 of manner in this Law do not give the defendant sufficient which the notice of the matter with which he is charged,

offence was the charge shall also contain such particulars of committed. the manner in which the offence was committed as will be sufficient for that purpose.

Sense of 199. (1) In a charge, words used in describing an offence are deemed to have been used in the **in charge.** sense attached to them, in the law creating the offence.

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

Description of 200. (1) The description of property in a charge shall **property and be in ordinary language indicating with joint owners.** reasonable clearness the property referred to and where the property is so described it is not necessary, except when required for the purpose of describing an offence depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.

(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 188 of this Law.

(3) Where the owner of any property is a

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

Description of 201. (1) Any bank or currency note may be bank or currency described as money, and any averment as notes 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 stealing and defrauding by false pretences, the bank or currency note may be described by proof that the defendant dishonestly appropriated or obtained any bank or currency note, or any portion of its value, although the bank or currency note may have been delivered to him in order that some part of its value should be returned to the party delivering it or to any other person, and that part should have been returned accordingly.

Provision as 202.(1) Where a law constituting an offence states the to statutory offence to be the omission to do any act in offences. 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, capacities, or intentions, 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 203. The description or designation of the defendant persons. in a charge or of any other person to whom reference is made therein may be in the manner set out in section 189 of this Law.

Description of 204. Where it is necessary to refer to a document or document. an instrument in a charge, it is sufficient to describe it by any name or designation by which it is commonly known, or by the purport of the document without setting out the content or attaching a copy of such documents to the charge.

General rule 205. Subject to any other provision of this Law, it is as to sufficient to describe any place, time, thing, description, 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.

Statement 206. It is not necessary in stating an intent to defraud, of intent, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the law creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.

Defendants 207. The following defendants may be charged and who may be tried together, defendant accused of- 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 defendants, or of abetment of or attempt 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 offender and another accused of offences committed during a fight or series of fights arising out of another fight and defendants accused of abetting any of these offences.

Separate208. For every distinct offence with which a defendant **charges for**is accused, there shall be a separate charge and **distinct**every charge shall be tried separately**except in the offences.**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; or
- (b) any number of the same type of offence committed by a defendant; or
- (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 209 to 214 of this Law.

Attempt, 209. 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 210. Where in one series of acts or omissions so connected together as to form the same one offence, 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 211. 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.

Acts constituting 212. Where several acts or omissions, of which one or more than one would by itself or but constituting themselves constitute an offence, constituted a different 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 omissions when combined or for any offence constituted by one or more of those acts.

Where it is 213. 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.

Incidental214. Where a single act or omission, the fact or **offences** in combination of facts, constitutes more than one **the same offence**, the defendant may be charged and tried **transaction.** at one trial for one or more of those offences.

PART 21 – ALTERATION OR AMENDMENT OF CHARGES

Alteration215. (1) A court may permit an alteration or **and amendment** amendment to a charge or framing of a new **of charge by** charge at any time before judgment is **permission** pronounced **of court.**

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

(3) Where a defendant is arraigned for trial on an imperfect or erroneous charge, the court may permit or direct the framing of a new charge, or an amendment to, or the alteration of the original charge.

(4) Where any defendant is committed for trial without a charge or with an imperfect or erroneous charge, the court may frame a charge or add or alter the charge as the case may be having regard to this Law.

Procedure on alteration of charge. (1) Where a new charge is framed or alteration made to a charge under section 215 of this Law, the court shall call on the defendant to plead to the new or altered charge as if he has been arraigned for the first time.
(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. (1) Where the charge as revised under section 215 or 216 of this Law is such that with trial proceeding immediately with the trial is not immediately after likely in the opinion of the court to altering prejudice the defendant in his defence or the adding to or prosecutor, as the case may be, in the framing charge. 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 witness. (1) Where a charge is altered, amended or witness substituted after the commencement of the when charge trial, the prosecutor and the defendant shall be allowed to recall or re-summon and examine any witness whomay 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 219. 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 220 Objections shall not be taken or entertained to a charge during proceedings or trial on the ground of an imperfect or erroneous charge.

Effect of 221(1) Where an appellate court is of the opinion that a material error defendant convicted of an offence was misled in his defence by the absence of a charge, or by an error in the charge, which has occasioned a miscarriage of justice, it may direct that the trial be recommenced on another charge.

(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 22 – CONVICTION WHEN CHARGED WITH ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE

Where defendant222. Where a defendant is charged with one chargedwithoffence and it appears in evidence that he oneoffence maycommitted a similar offence withwhich he be convicted might have been charged under the this of another.Law, he may be convicted of the offence, which he is shown tohave committed although he was not charged with it.

Full offence223. Where a defendant is charged with an offence,charged,but the evidence establishes an attempt to attemptcommit the offence, he may beconvictedof proved.having attempted to commit that offence although theattempt wasnot separately charged.

Attempt224. Where a defendant is charged with an attempt charged,to commit an offence, but the evidence full offenceestablishes the commission of the full proved.offence, he shall not be entitled to an acquittalbut he may beconvicted of the attempt and punished accordingly.

Liability as225. Where a defendant has been convicted of an to further attempt under either section 223 or 224 of prosecution.this Law, he shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit.

On charge of 226. Where a defendant is charged with an offence and the evidence establishes that he is an accessory after the fact to that offence, or to some other offence of which a defendant charged with the first-mentioned offence, that, or connected 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 227. (1) Where on trial of a defendant for a lesser offence it appears that the facts proved in the evidence amount in law to a higher offence but a charge of the defendant shall not by this higher offence. reason be acquitted of the lesser offence. is proved.

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

Conviction of 228. Where a defendant is charged with an offence relating to property and the evidence relating to establishes the commission by him with property. respect to the same property of another offence, he may be convicted of that other offence although he was not charged with it.

Defendant 229. Where on trial for burglary, housebreaking or charged with related offence, the facts proved in evidence burglary may justify a conviction for some other offences be convicted and not the offence with which the defendant be convicted is charged, he may be convicted of the other of kindred offence and be punished as he had been offence. convicted on a charge or an information charging him with the offence.

On charge of 230. Where on trial of rape, defilement, incest, rape, conviction unnatural or indecent offences against a person under defilement, the facts proved in evidence can ground incest, unnatural conviction for an indecent assault and not the or indecent assault offence with which the defendant is charged, may follow. he may be convicted of the offence of indecent assault, and be punished as if he had been convicted on a charge or an information charging him with the offence of indecent assault.

Procedure for 231. (1) A trial for the offences referred to in trial on charges subsection (4) of this section may not, where for certain the court so determines, be held in an open offences 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 alphabets.

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

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

(4) This section shall apply to-

- (a) offences under section 230 of this Law;
- (b) offences relating to Economic and Financial Crimes;
- (c) Trafficking in Persons and related offences; and
- (d) any other offence in respect of which any law permits the use of such protective measures or as the Judge may consider appropriate in the circumstances.

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

On charge of 232. Where on trial for an offence of defilement, the **defilment,** facts proved in evidence warrant a conviction **conviction** for an indecent assault and not the offence **indecent assault** with which the defendant is charged, the **may follow.** defendant may be convicted of indecent assault although he was not charged with that offence.

Where murder 233. Where a defendant is charged and tried for the or infanticide murder of a child or for infanticide and it is charged and appears on the evidence that the defendant was concealment of not guilty of murder or infanticide, as the birth is case may be, but was guilty of the offence of proved. concealment of birth, the defendant may be convicted of that offence.

Where murder 234.(1) Where a defendant is charged and tried for is charged and the murder of a newly-born child and it infanticide appears on the evidence that the defendant proved. was not guilty of murder but was guilty of infanticide, the defendant may be convicted of infanticide.

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

(a) convicted of manslaughter; or

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

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

Withdrawal of 236.(1) Where more than one charge is made **remaining charges** against a defendant and a conviction has **on conviction** been had on one or more of them, the **on one of** prosecutor may, with the consent of the **several charges.** court, withdraw the remaining charge or charges or the court, of its own motion, may stay trial of the charge or charges.

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

PART 23 – PREVIOUS ACQUITTALS OR CONVICTION

Defendant convicted 237.(1) Without prejudice to section 225 of **or acquitted notto bethis** Law, a defendant charged with **tried again for samean** offence is not liable to be tried for **or kindred offence.** that offence whereit is shown that he

has previously been-

(a) convicted or acquitted of the same offence by a competent court; or

(b) convicted or acquitted by a competent court on a charge on which he might have been convicted of the offence charged; or

(c) convicted for or acquitted of an offence by a competent court other than the offence charged, being an offence for which, apart from this section, he might be convicted by virtue of being charged with the offence charged.

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

A defendant may238. A defendant acquitted or convicted of an offence may afterwards be tried for a distinct separate charge offence for which a separate charge might in certain cases. have been made against him on the previous trial under section 210 of this Law.

Consequences239. A defendant acquitted or convicted of an offence constituted by an act or omission not known at causing consequences which together with previous trial.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 murder or manslaughter.

PART 24 – WITNESSES: COMPELLING ATTENDANCE AND TAKING OF OATH OR MAKING OF AFFIRMATION

Issue of 240.(1) The court may, on an application of the summons prosecution or the defence, issue a summon or for witness. writ of subpoena on a witness requiring him to court to give evidence in respect of the case, and to bring with him any specified documents or things and any other document or document 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 traveling expenses are paid to him.

Service of 241.(1)A court with criminal jurisdiction shall have a summons and process server specifically assigned to it.
other processes on witnesses.

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

(3) A summons shall be served on the person to whom it is directed in the same manner as is set out in section 122 or 123 of this Law or, with leave of the court, section 124 and sections 126 to 130 of this Law shall apply to the summons.

(4) Service of processes may be effected by registered reputable courier companies, recognised and authorised by the Chief Judge in accordance with this Law, and the registered courier companies may be assigned to a court with criminal jurisdiction as a process server in accordance with subsection (1) of this section.

(5) The Attorney-General or a person so authorised by him or the police, may serve

on a person whom the prosecutor wishes to call as witness, a witness summons or writ of subpoena.

(6) Proof of service of a process or document shall be endorsed by the process server effecting the service, and shall be filed in the court's file.

Warrant for witness after summons. 242. Where a witness summoned to give evidence does not attend.

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

(b) provide any reasonable excuse for his non-attendance,

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

Issue of warrant for witness. 243. 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 the defence, will not attend to give evidence without being compelled to do so, then, instead of issuing a summons, it may issue a warrant for the arrest of the person.

Mode of dealing244.(1)A witness arrested under a warrant shall, if with witness practicable and where the hearing of the arrested under case for which his evidence is required is warrant. 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 respects 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 where the defendant is in custody and the defendant shall not be allowed to make any contact with the witness.

Penalty on 245.(1) A witness who-witnesses refusing to attend.

(a) refuses or neglects, without reasonable cause, to attend court in compliance with the requirements of a summons duly served in the manner prescribed by law; or

(b). departs from the premises of the Court without the leave of the Judge or Magistrate hearing the case, is liable on summary conviction, to a fine not exceeding N10,000.00 or to imprisonment for a term not exceeding two months or to community service as may be determined by the court.

(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.

Non-attendance 246. A witness who is present when the hearing or of witness on further hearing of a case is adjourned, or who adjourned has been duly notified of the time and place to hearing, 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.

Persons in 247. A person present in court and compellable as a court may witness, whether a party or not in a cause, may be be required compelled by a court to give evidence and to give evidence, produce any document in his possession, though or in his power, in the same manner and subject not summoned. 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.

Manner of 248. A witness shall take an oath or make a solemn taking oath affirmation in such a manner as the court considers or affirmation. binding on his conscience.

Witness 249. (1) When a person attending court and who is to be refusingsworn, required to give evidence, without any or producesufficient excuse or reason- documents. (a) refuses to be sworn or to affirm as a witness;

or

(b) having been sworn or having taken affirmation refuses to answer any question put to him; or

(c) refuses or neglects to produce any document or anything which he is required by the court to produce.

the court may adjourn the hearing of the case and may in the meantime by warrant, commit the person to prison or other place of safe custody for a period not exceeding 30 days.

(2) Nothing in this section shall-

(a) affect the liability of the person to any other punishment for refusing or neglecting to do what is so required of him; or

(b) prevent the court from disposing of the case in the meantime according to any other sufficient evidence taken by it.

PART 25 – WITNESSES: EXPENSES

Expenses of 250. Where a person attends court as a state witness, witnesses for the witness shall be entitled to payment of such the prosecution reasonable expenses as may be prescribed.

Expenses of 251. 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 such sums of money, as it may deem reasonable and sufficient to compensate the witness for the expenses he reasonably incurred in attending the court.

Adjournment 252. The court may permit on application of a party to be granted 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 sections 250 and 251 of this Law, or such sum as the court may fix.

Ascertainment 253. The amount of the expenses payable to a witness pursuant to sections 250 and 251 of this Law 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 26 – EXAMINATION OF WITNESSES

Application 254. Subject to the provisions of any other law, the examination of witnesses shall be in accordance with the Evidence Act.

Power to call255. The court may, at any stage of a trial, inquiry or recall or other proceedings under this Law, either of its own motion or on application of either party to the proceeding, call a person as a witness or recall and re-examine a person already examined where his evidence appears to the court to be essential to the just decision of the case.

Certificates 256. A certificate signed by any of the officers named in section 55 of Evidence Act, shall be admissible in evidence in accordance with that Act.

Right of257. 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.

Public to258.(1) Subject to sections 231 and 259 to 261 of this Law and of any other law specifically relating thereto, the room or place in which a trial is to take place under this Law shall be an open court to which the public generally may have access as far as it can conveniently contain them.

(2) Notwithstanding subsection (1) of this section, the Judge or Magistrate presiding over a trial may, in his discretion and subject to section 259 of this Law, exclude

the public at any stage of the hearing on the grounds of public policy, decency or expedience.

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

Court may 259. Where a person who, in the opinion of the **exclude** **certain** court has not attained the age of 18 is called **persons** as witness in any proceeding in relation to **an** **while** **taking** offence against or any conduct contrary to **evidence of a** **decency** or morality, the court may direct that **child or young** all or any person not being- **person.**

(a) members or officers of the court; or

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

Order under 260.(1) An order made under section 258 or 259 of section 258 of this Law excluding the public from a court shall not apply unless specifically stated to press and certain others.

(a) authorise the exclusion of *bona fide* representatives of a newspaper or news agency; or

(b) apply to messengers, clerks and other persons required to attend the court for purpose connected with their employment.

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

Prohibition on 261. An infant, other than an infant in the arms of children being parent or guardian, or child shall not be present in court 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 court262.(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) of this section shall not affect the validity of the proceedings unless the court otherwise directs.

Determination263.(1) Where the age of a person is in issue in any of age.criminal proceedings, 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; and

(b) any evidence, in relation to the age of the person concerned, received by the court in accordance with the provisions of the Evidence Act, 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 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 relation264. Where in a charge for an offence, it is to offences.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 265. A defendant shall be present in court during the whole of his trial unless-
at trial.

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

Conduct of 266. (1) The complainant and defendant shall be cases by legal entitled to conduct their cases by a legal practitioner or in person, except that in a trial for complainant for a capital offence or an offence punishable with life imprisonment, conduct of their cases or for defendant. in person shall not be allowed.

(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.

(4) The Court shall ensure that the defendant is represented by a counsel in capital offences provided that a defendant who refuses to be represented by counsel shall, after being informed under section 350 (6) of this Law of the risks of defending himself in person, be deemed to have elected to defend himself in person and this shall not be a ground to void the trial.

General control267.(1) Where a private legal practitioner of prosecution prosecutes on behalf of the Attorney-General by the Attorney-General. General or a public officer prosecuting in his official capacity in any criminal proceedings, the private legal practitioner or public officer shall prosecute subject to such direction as maybe given by the Attorney-General.

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

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

(4) The powers conferred on the Attorney-General under this section may be exercised directly by him or any officer in his chamber.

Position in268. Where a defendant appears before a court on a court of summons, he shall be required to enter the dock, summoned to stand or sit in it, except where circumstances do not permit, as may be directed by the court.

PART 27 – PLEA BARGAIN AND PLEA GENERALLY

Plea bargain269. (1) Notwithstanding anything in this Law or in guidelines. any other law, the prosecution may-

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

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

- (a) the evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt;
- (b) where the defendant has agreed to return the proceeds of the crime or make restitution to the victim or his representative; and

(c) where the defendant in a case of conspiracy, has fully cooperated with the investigation and prosecution of the crime by providing relevant information for the successful prosecution of other offenders.

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

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

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

(b) an appropriate sentence to be imposed by the court where the defendant is convicted of the offence to which he intends to plead guilty.

(5) The prosecution may only enter into an agreement contemplated in subsection (3) of this section-

(a) after consultation with the police responsible for the investigation of the case and the victim or his representative; and

(b) with due regard to the nature of and circumstances relating to the offence, the defendant and public interest:

Provided that in determining whether it is in the public interest to enter into a plea bargain, the prosecution shall weigh all relevant factors, including-

(i) the defendant's willingness to cooperate in the investigation or prosecution of others;

(ii) the defendant's history with respect to criminal activity;

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

(iv) the desirability of prompt and certain disposition of the case;

(v) the likelihood of obtaining a conviction at trial and the probable effect on witnesses;

(vi) the probable sentence or other consequences if the defendant is convicted;

(vii) the need to avoid delay in the disposition of other pending cases;

(viii) the expense of trial and appeal; and

(ix) the defendant's willingness to make restitution or pay compensation to the victim where appropriate.

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

(a) the content of the agreement;
and

(b) the inclusion in the agreement of a compensation or restitution order.

(7) An agreement between the parties contemplated in subsection(3) of this section shall be reduced to writing and shall-

(a) state that, before conclusion of the agreement, the defendant has been informed-

(i) that he has a right to remain silent;

(ii) of the consequences of not remaining silent; and

(iii) that he is not obliged to make any confession or admission that could be used in evidence against him;

(b) state fully, the terms of the agreement and any admission made;

(c) be signed by the prosecutor, the defendant, the legal practitioner and the interpreter, as the case may be; and

(d) a copy of the agreement forwarded to the Attorney-General.

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

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

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

(a) he is satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant on his plea of guilty to that offence, and shall award the compensation to the victim in accordance with the term of the agreement which shall be delivered by the court in accordance with section 306 of this Law; or

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

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

- (a) satisfied that such sentence is an appropriate sentence, impose the sentence; or
- (b) of the view that he would have imposed a lesser sentence than the sentence agreed, impose the lesser sentence; or
- (c) of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he considers to be appropriate.

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

- (a) abide by his plea of guilty as agreed upon and agree that, subject to the defendant's right to lead evidence and to present argument relevant to sentencing, the presiding Judge or Magistrate proceed with the sentencing; or
- (b) withdraw from his plea agreement, in which event the trial shall proceed *de novo* before another presiding Judge or Magistrate, as the case may be.

(13) Where a trial proceeds as contemplated under subsection (13)(a) or *de novo* before another presiding Judge or Magistrate as contemplated in subsection (13) (b)-

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

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

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

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

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

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

Plea to 270.(1) Before a defendant takes his plea, the court **information** shall inform him of his rights under **or charge.**section 268 of this Law.

(2) The defendant to be tried on a charge, a complaint or an information shall be-

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

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

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

Proof of 271. 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 Evidence Act.

Effect of plea of not guilty 272. A defendant who pleads not guilty shall be deemed to have put himself to trial.

Effect of plea of guilty 273. (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;
- (b) invite the prosecution to state the fact of the case; and

(c) enquire from the defendant whether his plea of guilty is to the fact as stated by the prosecution;

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

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

Amending charge 274. Without prejudice to other provisions of this Law, where the defendant pleads guilty to an offence not contained in the charge complaint or information on which he was arraigned, court shall direct the prosecution to amend the charge complaint or information accordingly to include the admitted offence, in which case, a fresh plea of the defendant shall be taken on the amended charge, complaint or information.

Failure to plead due to malice or otherwise. (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 or his behalf.

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

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

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

Pleas: (1) A defendant against whom a charge, complaint or information is filed may plead that-
convict,
pardon.

(a) by virtue of section 237 of this Law he is not liable to be tried for the offence with which he is charged;
or

(b) he has obtained a pardon for his offence.

(2) Where either of the pleas under subsection (1) of this section is raised in any case and denied to be true in fact, the court

shall determine whether such plea is true in fact or not.

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

(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 28 – PERSONS OF UNSOUND MIND

Procedure when 277.(1) Where in the course of a criminal trial, the **defendant is** court has reason to suspect the mental **suspected to** be capacity or soundness of mind of a **of unsound mind.** 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) of this section may be held in the absence of the defendant where the court is satisfied that owing to the state of the defendant's mind it would be in the interest of the defendant or of other persons or in the interest of public decency that he should be absent.

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

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

(a) give to the court his opinion in writing as to the state of mind of that person; and

(b) where he is unable within the period to form any definite opinion, he shall so certify to the court and ask for a further remand and such further remand may extend to a period of 3 months.

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

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

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

Report from278. Where the medical officer or such officer in **medical officer.**charge of the asylum or other suitable place to which the defendant is referred for observation under this section fails to submit a report as provided in section 277(4)and (7) of this Law within the period stipulated in those subsections, the court may discharge the person, or shall release him on bail in accordance with this Law relating to bail.

Certificate of279.(1) Where the medical officer certifies that the **medical officer.** defendant is of-

- (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 sound mind and incapable of making his defence shall, where the finding is that he is of sound mind and capable of making his defence, be deemed to be part of his trial before the court.

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

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

Release of 280. (1) Where a defendant is found to be of unsound defendant mind and is incapable of making his defence, of unsound if the offence charged is bailable by the court, mind pending it may in its discretion, release him on investigation sufficient security being given- or trial.

(a) that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person; and

(b) for his appearance when required before the court or such officer as the court appoints in that behalf.

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

(3) Where the offence charged is not bailable by the High Court or where a Judge has refused bail under subsection (1) of this section or after an application made under subsection (2) of this section or where sufficient security is not given or where no application is made for bail, the Judge shall order the defendant to be confined in a

lunatic asylum or other suitable place of safe custody.

Resumption 281. Where a proceeding or trial is postponed of proceedings under section 277 or 278 of this Law, the or trial. court may at any time re-open the proceeding or re-commence the trial and require the defendant to appear or be brought before the court.

Resumption 282. Where the defendant has been released under of proceedings section 280 of this Law, the court may at any after releasetime require the defendant to appear or be underbrought before it and may again proceed section 280. with the proceeding or trial.

Where defendant 283. Where the defendant appears to be of appears unsound mind at the time of any remand or to similar pre-trial proceedings before a court, have been and the issue of the state of soundness of of unsound mind of the defendant is in issue, being a mind. 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 277 to 290 of this Law and shall not make any finding of fact in relation to such defence that the defendant is open to plead at his trial for the offence.

Safe custody 284. Where the finding states that the defendant of defendant committed the act alleged, the court before discharged. 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 Governor.

Order of 285.(1) The Governor may at his discretion order the **the** **Governor** defendant to be confined pursuant to section **in** 284 in a mental health asylum, prison or other **pursuance** suitable place of safe custody.

to section 284 (2) In exercising this discretion, the Governor shall ensure that the defendant is placed in such facility as to afford him adequate care at the expense of the State.

Observation 286. Where a defendant is confined under section **of prisoners** 280(3), 284 or 285 of this Law the medical **of unsound** officer of the prison, where such defendant is **mind.** confined in a prison or the medical officer attached to the asylum or other facility, where he is confined in any asylum or such facilities 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 Governor or the Judge as the case may be as to the state of mind of such defendant at the time or times as the Governor or the Judge shall require.

Procedure 287. Where a defendant is under section 278 of this **when** Law, confined in a prison, asylum or other **defendant** facility and is certified by the medical officer **of unsound** to whom the case is referred for his report to be **mind** incapable of making his defence, the defendant **reported** shall be taken before the court at such time

to be able as the court appoints, and the court shall
to make proceed with the trial or proceeding as the case
his defence. may be and the certificate shall be admissible in
as evidence.

Procedure 288. (1) Where the medical officer of a prison or the
where medical officer attached to an asylum or other
defendant of facility in which a defendant is confined under
unsound section 284 or 285 of this Law certifies that mind is the
defendant in his judgment may be
reported fit discharged without the danger of him causing for
discharge. injury to himself or to any other person, the
Governor may, on receipt of that report, order
the defendant to be discharged or
detained in custody or in prison or to be in
custody or transferred to asylum where
he has not already been sent to an asylum.

(2) Where the Governor 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.

Transfer 289. Where a defendant is confined in a prison or an
from one asylum, the Governor may direct his transfer from place
of one prison or asylum to any other prison or
custody to asylum as often as may be necessary or may at
another. any time order for his release from detention as he
may consider necessary.

Delivery of 290.(1) Where a relative or friend of a defendant defendant of confined under section 285 of this Law desires **unsound mind** that the defendant be delivered over to his to care of care and custody, the court may, on the relative. application of the relative or friend and on his giving security to the satisfaction of the court that the defendant delivered shall be-

- (a) properly taken care of; and
- (b) prevented from doing injury to himself or to any other person;

In its discretion, order the defendant to be delivered to the relative or friend on condition that the defendant shall be produced for the inspection of such officer and at such times as the court may direct.

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

(3) Sections 280 and 286 of this Law shall apply, with necessary modifications, to a defendant delivered to the care and custody of a relative or friend under this section.

Removal to 291. Where it is necessary to remove a prisoner to a **another prison** prison or asylum under this part, an order for the **or asylum.**removal given under 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 29 – DETENTION TIME LIMITS

Application 292.(1) A person arrested for an offence which a **for remand**magistrate court has no jurisdiction to try shall, or **other**within a reasonable time of arrest, be brought **interlocutory**before a magistrate court for remand **proceedings.**

(2) An application for remand under this section shall be made *ex parte* and shall-

First Schedule

(a) be made in the prescribed “Report and Request for Remand Form” as contained in Form 13, in the First Schedule to this Law; and

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

A court may 293.(1) Where the court, after examining the reason **remand in**for the arrest and for the request for remand **prison custody.**in accordance with section 292 of this Law, is satisfied that there is probable cause to remand the person pending the receipt of a copy of the legal advice from the Attorney-General and arraignment of the person before the appropriate court, as the case may be, may remand the person in custody.

(2) In considering whether “probable cause” has been established for the remand of a person pursuant to subsection (1) of this section, the court may take into consideration the following-

- (a) the nature and seriousness of the alleged offence;
- (b) reasonable grounds to suspect that the person has been involved in the commission of the alleged offence;
- (c) reasonable grounds for believing that the person may abscond or commit further offence where he is not committed to custody; and
- (d) any other circumstance of the case that justifies the request for remand.

Court may294. The court may, in considering an application for **grant bail**remand brought under section 292 of this Law, **in remand**grant bail to the person brought before it, taking **proceedings**.into considerationsections 157 to 187 of this Law relating to bail.

Time and295.(1) Where an order of remand of the person is **protocol**made pursuant to section 292 of this Law, the **for remand**order shall be for a period not exceeding 14 **orders**. days in the first instance, and the case shall be returnable within the same period.

(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 person for a period not exceeding 14 days and make the proceedings returnable within the same period.

(3) Where the person is still in custody on remand at the expiration of the period provided for under subsection (1) or (2) of this section, the court may, on application of the person grant bail in accordance with sections 157 to 187 of this Law.

(4) At the expiration of the remand order made pursuant to subsection (1) or (2) of this section, and where the person 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 of the State and the Attorney-General; or

(b) any relevant authority in whose custody the person is or at whose instance the person is remanded, and adjourn the matter within a period not exceeding 14 days of the expiration of

the period of the remand order made under subsection (1) or (2) of this section, to inquire as to the position of the case and for the Commissioner of Police and the Attorney-General to show cause why the person remanded should not be unconditionally released.

(5) Where the Commissioner of Police and the Attorney-General show good cause pursuant to subsection (4) of this section and make a request to that effect, the court-

- (a) may extend the remand of the person for a final period not exceeding 14 days for the person to be arraigned for trial before an appropriate court; and
- (b) shall make the case returnable within the said period of 14 days from the date the hearing notice was issued pursuant to subsection (4) of this section.

(6) Where a good cause is not shown for the continued remand of the person pursuant to subsection (4) of this section, or where the person is still on remand custody after the expiration of the extended period under subsection (5), the court shall, with or without an application to that effect, discharge the person and the person shall be immediately released from custody.

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

When court may exercise power of remand. (1) The powers conferred on the court under this Part may be exercised by the court-

- (a) whether the suspect remanded is present in court or not; and
- (b) on its own motion or on application, including an application by a person in charge of the prison or other place of custody where the person remanded is detained.

(2) A copy of the legal advice of the Attorney-General shall in all cases be forwarded to the court, and the court may act solely 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 person remanded has no case to answer, the court shall release the person immediately.

Court may297.(1) During remand, the court may nevertheless **bring up** order the person remanded to be brought **person** before it.

remanded or

make any(2) The court may order that the person **order during** remanded be transferred to a hospital, **remand.** 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.

Place of298. A person committed to prison under this Law **remand.** shall be remanded in prison or other place of safe custody.

PART 30 – PRESENTATION OF CASE BY PROSECUTION AND DEFENCE

Presentation299.(1) After a plea of not guilty has been taken or no **of case for** plea has been made, the prosecution may **prosecution.** open the case against the 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.

Defendant's300. 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 case301. The court may, application by the defendant, on submission after hearing the evidence for the prosecution, at the instance 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 302.(1) Where the defendant or his legal practitioner submission makes a no case submission in accordance with by the defence this Law, the court shall call on the prosecution and to reply.

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

(3) In considering the application of the defendant under section 301, the court shall, in the exercise of its discretion, have regard to whether-

- (a) an essential element of the offence has been proved;
- (b) there is evidence linking the defendant with the commission of the offence with which he is charged;
- (c) on the face of the record, the evidence of the prosecution has been so discredited and rendered unreliable by cross-examination that it would be unsafe to convict on such evidence;
- (d) the evidence so far led is such that no reasonable court or tribunal would convict on it; and
- (e) any other ground on which the court may find that prima facie case has not been made out against the defendant for him to be called upon to answer.

Defendant 303(1) If the defendant or any one of several **calling witness** defendants says that he intends to call any **other than to witness** other than a witness to character, the **character.** court shall call on the defendant to enter upon the defence.

(2) Notwithstanding the provisions of subsection (1) of this section, the court may, before calling on the defendant to enter upon the defence, call

on the prosecution to sum up his case against any one or more of the defendants against whom it considers that the evidence is not sufficient to justify the continuation of the trial and, after hearing the summing up, if any, may in its discretion record a finding of not guilty in respect of any such defendant or call on any of them to enter upon his or their defence.

Defence and prosecutor's right of reply. 304.(1) When the court calls upon the defendant to enter upon the defence, the defendant or his legal practitioner may open his case stating the facts or law on which he intends to rely and making such comments as he thinks necessary on the evidence for the prosecution, and the defendant may then give evidence on his own behalf, examine his witnesses, if any, and after their cross-examination and re-examination, if any, may sum up his case.

(2) If the defendant or any of the defendants calls a witness other than to character, or a document other than a document relating to character is put in evidence for the defence, the prosecution shall be entitled to reply.

(3) If the defendant has called only evidence to character, the prosecution may at the close of the case for the defence adduce

evidence of previous convictions of the defendant.

(4) Notwithstanding subsection (2) of this section, the prosecution may be heard in reply on a point of law or, where none of the defendant has called evidence other than to character but any of them has introduced new matter in his statement to the court, on the new matter.

Reference to 305.(1) Where a question as to the interpretation of the Court of Appeal, Nigeria arises in the course of a trial and is referred to the Court of Appeal under the Constitution, the court before which the question arose may in its discretion-

- (a) adjourn the trial until the question has been considered and decided; or
- (b) conclude the trial and postpone the verdict until such time as the question has been considered and decided; or
- (c) conclude the trial and pass sentence 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 18 of this Law.

(2) When the question referred to in subsection (1) (a) of this section has been decided by the Court of Appeal, the court shall-

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

Order of 306. Written addresses shall be filed and adopted at addresses.the end of the case in the following order-

- (a) if the defence led evidence, it would address the court first, the prosecution responds and the defence has the final right of reply on point of law; and
- (b) if the defence did not lead any evidence but rests its case on the prosecution's case, the prosecution would address the court first, the defence responds and the prosecution has the final right of reply on point of law.

Stay of proceedings. 307. An application for stay of proceedings in respect of a criminal matter before the court shall not be entertained.

Consideration of case by court. 308.(1) When the case for both sides is closed, the court shall consider its verdict and for this purpose may retire or adjourn the trial.

announcement of finding.

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

Judgment to be in writing. 309. (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) There shall be established at the High Court a Central Criminal Records Registry where all judgements in criminal cases shall be registered.

(3) In the case of a conviction, the bio-data and any other details of identification about the convict shall be obtained and kept.

Defendant to be discharged if not guilty. 310. Where the court finds the defendant not guilty, it shall immediately discharge him and record where an order of discharge and acquittal accordingly.

Procedure on finding of defendant guilty. 311.(1) Where the finding is guilty, the defendant 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 312 (3) of this Law.

(2) After the defendant has made his statement, if any, in mitigation of punishment the prosecution shall, unless such evidence has already been given, produce evidence of any previous convictions of the defendant.

Sentence and 312.(1) Where section 311 of this Law has been ~~sentencing~~ complied with, the court may pass sentence ~~hearing~~ on the convict or adjourn to consider and determine the sentence and shall then announce the sentence in open court.

(2) The court shall, in pronouncing sentence, consider the following factors in addition to section 238 and 239 of this Law-

- (a) the objectives of sentencing, including the principles of reformation and deterrence;
- (b) the interest of the victim, the convict and the community;
- (c) appropriateness of non-custodial sentence or treatment in lieu of imprisonment; and
- (d) previous conviction of the convict.

(3) A court, after conviction, shall take all necessary aggravating and mitigating evidence or information in respect of each convict that may guide it in deciding the nature and extent of sentence to pass on the convict in each particular case, even though the convicts were charged and tried together.

(4) The Chief Judge shall from time to time make provisions for sentencing guideline on a particular offence in order to promote consistency in sentencing.

Recommendation for mercy. 313. The court may, in any case in recording sentence, make a recommendation for mercy and shall give the reasons for its recommendation.

Conviction on pending charge. 314. (1) Where a defendant is found guilty of an offence, the court may, in passing sentence, take into consideration any other charge then pending against him, where the defendant admits the other charge and desires that it be taken into consideration and if the prosecution of the other charge consents.

(2) Where a desire is expressed under subsection (1) of this section and consent given, the court shall-

(a) make an entry to that effect on the record book; and

(b) the prosecution shall state the facts of the case in accordance with section 299 of this Law.

(3) Where the other charge pending against the defendant is considered in accordance with subsections (1) and (2) of this section and sentence passed on the defendant with consideration or in respect of the other pending charge, the defendant shall not, subject to sections 235 and 236 of this Law, or unless the conviction has been set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

Compensation 315. (1) Notwithstanding the limit of its civil or to victim incriminal jurisdiction a court has power, in judgment. delivering its judgment, to award to avictim commensurate compensation 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) of this section.

Delivery of 316. Where a Judge or Magistrate having tried a case judgment whenis preventedby illness or other unavoidable Judge or Magistrate cause from delivering his judgment or is unavoidablysentence, if it has been reduced into writing absent.and signed bythe Judge or Magistrate, it may be delivered and pronounced in open court by any other Judge or Magistrate in the presence of the defendant.

Warrant of 317. Where sentence or conviction does not order the commitment. payment ofmoney but orders the convict to be imprisoned, the court shall issue a warrant of commitment accordingly.

Authority for 318. A warrant under the hand of the Judge or carrying out Magistrate by whom a convict has been sentenced or committed to prison for **than of death.** 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.

Error or 319. The court may, at any time, amend any defect in **omission** an order or warrant of commitment and **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 31 – COSTS, COMPENSATION, DAMAGES AND RESTITUTION

Power of court to 320.(1) A court may, within the proceedings or order payment of while passing judgment order the expenses or compensation. defendant or convict to pay a sum of money-

(a) as compensation to any person injured by the

offence, irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant or convict, where substantial compensation is in the opinion of the court recoverable by civil suit;

(b) in compensating a bona fide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and

(c) in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.

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

doing the court may direct the convict-

(i) to return the property to the owner or to a person designated by the owner;

or

(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.

Cost against private prosecutor. 323.(1) The court may, in a proceeding instituted by a private prosecutor or on a summons or complaint of a private person, on acquittal of the defendant, order the private prosecutor or person, to pay to the defendant such reasonable costs as the court may deem fit.

(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 324.(1) Where a person causes the arrest, or arrest in cases of false and charge of a defendant or defendants and **and vexatious** it appears to the court that there was no **accusation**. 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 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 450 of this Law.

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

Injured person325.(1) A person to whom compensation is ~~may refuse to~~awarded may refuse to accept the ~~accept~~ compensation.

~~compensation,~~ (2) Where the person receives the ~~but payment of~~compensation or where the ~~compensation~~convict, having been ordered to pay ~~is bar to further~~compensation, suffers imprisonment ~~liability.~~ 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.

Monies paid326. Any compensation ordered to be paid under this as law, or any other law, relating to any criminal compensation, proceeding, may be enforced as if it were a recoverable fine. as fines.

Warrant for327.(1) Where a convict is ordered to pay a fine, or a levy of fine. defendant is ordered to pay compensation to another person under section 320 of this Law, or a person is subject to recovery of penalty for forfeiture of a bond under this Law, the court passing the sentence or making the order may, notwithstanding that, in default of the payment of the fine or 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 defendant or convict 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.

Powers of 328.(1) Where a convict has been ordered by the court to pay a fine with or without a sentence of imprisonment in default of payment of the fine, the court authorised by section 327 of this Law 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 instalments;
- (c) postpone the issue of a warrant under section 327 of this Law;
- (d) without postponing the issue of a warrant under section 327 of this Law, postpone the sale of any property seized under the warrant; and

(e) postpone the execution of the sentence of imprisonment in default of payment of the fine.

(2) An order made in the exercise of the powers referred to in subsection(1) of this section may be made subject to the convict giving such security as the court may consider fit, by means of a bond with or without sureties, in which case, the bond may be conditioned either for the payment of the fine in accordance with the order or for the appearance of the convict as required in the bond or both.

(3) The Court may also, in the exercise of the powers referred to in subsection (1) of this section, order that the execution of the sentence of imprisonment on a convict who has been committed to prison in default of payment of fine, be suspended and, that he be released but only subject to the convict giving security as specified in subsection (2) of this section.

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

Wrongful329.(1) Where in a charge of an offence relating to conversionproperty and thecourt is of the opinion that the ordetentionevidence is insufficient tosupport thecharge, ofpropertybut that it establishes wrongful conversion or andawarddetention ofproperty, the court may order that ofdamages. such property be restored andmay 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 326 of this Law.

PART 32 – CUSTODY, DISPOSAL, RESTORATION OF PROPERTY

Meaning of 330. In this Part, “property” in the case of property “property”. regarding whichan offence appears to have been committed, includes not only the property as has been originally in the possession or under the control of a party, but also any property into or for which that same has been converted or exchanged and anything acquired by the conversion or exchange, whether immediately or otherwise.

Order for 331. Where any property regarding which an offence custody andappears tohave been committed or which appears disposal of to have been used forthe commission of an offence propertyis produced before a court during an inquiry or a pending trial.trial, the court-

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

(b) where the property is subjected 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.

Order for 332.(1) Where any proceedings or trial in a criminal disposal of case is concluded, the court may make such property order as it thinks fit, for the disposal by after trial, destruction, confiscation or delivery to a person appearing to be entitled to the possession or otherwise, of any movable property or document produced before it or in its custody or regarding which an offence appears to have been committed or which has been used for the commission of an offence.

(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) of this section for the delivery of any property, to a person appearing to be entitled to the possession of the property, on his executing a bond, with or without sureties, to the satisfaction of the court, undertaking to restore the property to the court.

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

Custody or sale of property. 333.(1) Where the court orders the forfeiture or confiscation of any property but does not make an order for its destruction or for its delivery to any person, the court may direct that the property shall be kept or sold and that the property, if sold, the proceeds of the sale be held as it directs until some person establishes to the court's satisfaction, a right to the property.

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

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

**PART 33 – SEIZURE, FORFEITURE, CONFISCATION AND
DESTRUCTION OF INSTRUMENTALITY OF CRIME**

Seizure of things³³⁴. The court may-
**intended to be used
in commission of crime.**

- (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 337 of this Law.

Destruction of³³⁵.(1) Upon a conviction for an offence relating to **sedition, prohibited** obscene publications, the court may order **or** **obscene** the confiscation and destruction of all the **publications and of** copies of the publication or thing, including **obscene objects** those that remain in the possession or **and etc.** power of the convict.

- (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.

Search warrant336. 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 334 or 335. may be made under section 334 or 335 of this Law, the court may issue a search warrant to search for the thing and where the thing is found, it shall be brought before a court and dealt with as the court may deem proper.

Restoration of337.(1) Where a defendant is convicted of an offence carried out by criminal force, and it appears to the court that by that force a victim has been dispossessed of any immovable property, the court may, where it deems fit, order the possession of the property to be restored to the victim.

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

Procedure on338. (1) The seizure by the police of property taken during arrest or investigation under this Law, property or alleged or suspected to have been stolen or taken during arrest found in circumstances which create a suspicion of the commission of an offence, or stolen shall within a period not exceeding 48 hours of the taking of the property or thing, be

reported to a court, and the court shall make an order in respect of the property or its delivery to the person entitled to its possession or such other orders as it may deem fit in the circumstances.

(2) Where the person entitled to the possession of property referred to in subsection (1) of this section is unknown, the court may detain it and shall issue a public notice specifying the articles of which the property consists and requiring any person who may have a claim to it, to appear before the court and establish his claim within six months from the date of the notice.

Procedure 339.(1) Where no person within the period referred to in section 338 of this Law establishes his claim to property referred to in that section and the person in whose possession the property was found is unable to show that it was lawfully acquired by him, the property shall be at the disposal of the court and may be sold in accordance with the order of the court and proceed forfeited to the State.

(2) At any time within six years from the date of 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.

Power to sell340. Where the person entitled to the possession of perishable property referred to in section 338 of this Law is unknown or absent and the property is subject to speedy decay or, for the benefit of the owner, the court may, at any time, direct it to be sold and sections 338 and 339 of this Law shall, as nearly as may be practicable, apply to the net proceeds of the sale.

Payment to341. Where a defendant is convicted of an offence innocent relating to property and it is proved that a person person of has bought the stolen property from him without money knowing or having reason to believe that the found on property was stolen, and that money has, on the defendant. arrest of the convict been taken out of his possession, the court may on the-

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

Restitution342. Where, on the arrest of a defendant charged with and disposition an offence, any property, other than that used in of property found the commission of the offence, is taken from on defendant. him, the court before which he is charged may order that the property or any part of it be-

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

Restitution343.(1) Where a defendant is convicted of an offence of stolenrelating to property, the court convicting him **property**. may order that the property or any part of it be restored to the person who appears to it to be the owner of it, either on payment or without payment by the owner, to the person in whose possession the property or any part of it then is, of any sum named in the order.
(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 344. Where a defendant is charged with an offence of article relating to counterfeit currency or thing relating to intended to be used for the purpose counterfeiting of making counterfeit currency, then, whether where charge the charge proceeds to conviction or not, the is laid. 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 345. (1) Where a person comes into possession of a of articles currency, which he believes to be counterfeit relating to or which, in his opinion, is to be used for the counterfeiting purpose of making counterfeit currency, he where no may hand the currency or thing to any officer charge is laid. 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 is-

- (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) counterfeit or is intended to be used for the purpose of making counterfeit currencies

and if no charge is to be preferred against a person in connection with the currency or thing, may destroy, or cause to be destroyed the currency or thing in such manner and by such person as may be approved by the Central Bank of Nigeria.

(2) Notice of an action to be taken under subsection (1) (a) of this section shall have been given to the person who appears to be the owner of a currency, matter or thing, where the person is known and can easily be found, that the currency 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 currency or thing so destroyed.

Detention346.(1) Subject to the provision of this section, and destruction sections 344 and 345 of this Law shall apply of in relation to notes purporting to be counterfeit legal tender in Nigeria as those sections apply currency, etc. in relation to currency.

(2) Any currency, matter or thing shall not be destroyed by virtue of the provisions of this part except-

- (a) a court orders its destruction, in connection with a conviction for an offence; or
- (b) it appears to a Magistrate court having jurisdiction in the place where the currency, matter or thing is for the time being situated, on an application made in accordance with rules of court, that the existence of the currency, matter or thing involves a breach of the law and the court makes an order for its forfeiture and destruction accordingly; or
- (c) in the absence of a conviction for an offence in respect of

the currency, matter or thing and any pending prosecution for the offence, and of an order or pending application for an order for its forfeiture, the currency, matter or thing-

(i) has been voluntarily surrendered by the person having possession of it, to the proper official of the Central Bank of Nigeria or a superior police officer; or

(ii) is discovered in a lodgement

made with the Central Bank by a commercial bank.

Mode of dealing³⁴⁷. Subject to the express provisions of any law, with forfeiture an article, not pecuniary, forfeited in respect not pecuniary of a summary conviction offence or the seizure, forfeiture or disposition of which may be enforced by the court may be sold or disposed of in such manner as the court may direct, and the proceeds of the sale shall be applied in the like manner as if the proceeds were a penalty imposed under the law on which the proceedings for the forfeiture is founded.

PART 34 – SUMMARY PROCEDURE IN PERJURY

Summary348.(1) Where it appears to a court that a person has committed perjury in any proceeding before it, in perjury. the court, subject to subsection (2) of this section and in addition, in the case of a Magistrate, to subsection (3) of this section may-

(a) commit him to trial on information for perjury and bind any person by recognizance to give evidence at his trial; or

Fourth Schedule.

(b) try him summarily for contempt of court and where he is guilty, commit him to prison for a period not exceeding 6 months or fine him such sum in accordance with the scale of fine in the Fourth Schedule to this Law.

(2) Where a court decides to try a person summarily, under subsection (1) of this section, for contempt of court, the court shall-

(a) specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies on which the charge is based; and

(b) require him to give his explanation to the inconsistencies and record the explanation.

(3) Where a court orders a person to be imprisoned or to pay a fine under subsection (1) of this section, it shall-

(a) not issue a warrant of commitment or make an order for imprisonment for non-payment of the fine but shall either remand the person or release him on a recognizance with or without sureties, to come up before the court when called upon; and

(b) immediately forward to the Chief Judge as the Chief Judge may direct, a certified copy of the proceedings.

(4) The Chief Judge or Judge to whom a certified copy of the proceedings is forwarded pursuant to subsection (3) of this section-

- (a) may, without hearing argument and in the absence of the person concerned, set aside or confirm the order or reduce the sentence of imprisonment or the amount of the fine; and
- (b) shall inform the court immediately of his decision.

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

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

PART 35 – TRIALS AND SUMMARY TRIALS GENERALLY

Trials.349.(1) Trials shall be held in the High Court on information or complaint filed-

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

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

Non-appearance350.(1) Where a defendant charged before the and court is not represented by a legal non-representation practitioner, the court shall- of legal practitioner.

- (a) inform him of his rights to a legal practitioner of his choice; and
- (b) enquire from him, whether he wishes to engage his own legal practitioner, or a legal practitioner engaged for him by way of legal aid.

(2) Where the legal practitioner who had appeared on behalf of the defendant ceases to appear in court in two consecutive sessions of the court, the court shall enquire from the defendant if he wishes to engage on his own another legal practitioner or a legal practitioner engaged for him by way of legal aid.

(3) Where the defendant wishes to engage another legal practitioner of his choice, the court shall allow him reasonable time but not exceeding 30 days to do so.

(4) Where the defendant fails, or is unable to secure a legal practitioner arranged by him after a reasonable time, the court may direct that a legal practitioner arranged by way of legal aid to represent the defendant.

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

(6) Where the defendant choose to represent himself, the court shall-

(a) inform him of all his rights under the Constitution of the Federal Republic of Nigeria, 1999 and under this Law; and

(b) indicate the fact of having so informed the defendant on the record.

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

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

When summary trials shall be held.

351.(1) Trial shall be held summarily-

(a) the High Court in respect of perjury;

(b) in respect of an offence which by a law of the House is triable summarily; and

(c) in respect of a trial for an offence punishable with less than 3 years imprisonment in the Magistrate Court or Tribunal.

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

Non- appearance352.(1) When the case is called, where the **of complaint.** defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing, does not appear in person or in the manner authorised by a written law, the court may dismiss the complaint.

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

Non- appearance 353.(1) Where a case is called in which summons **of defendant.** has been issued and the defendant does not appear and no sufficient excuse is offered for his absence, then the court where it is-

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

(2) Where the defendant is afterward arrested on a bench warrant, he shall be brought before the court immediately which may then commit him by warrant to prison or to such other place of safe custody as it deems fit, and order him to be brought before the court at a certain time and place

(3) The complainant shall, by direction of the court, be served due notice of the time and place ordered under subsection (2) of this section.

Non- appearance354.(1) Where the case is called and neither the complainant nor the defendant appears, or the defendant appears, and the complainant does not appear, the court shall make such order as the justice of the case requires.

(2) The court may, in the order, include such direction as to the payment of costs as the court considers fit, and the payment of the costs may be as if it were a fine.

Appearance of355. When the case is called and both the complainant and the defendant appear, the court shall proceed to hear and determine the case.

Withdrawal of356. Where a complainant, at any time before a final order is made in a case, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw his complaint and shall thereupon acquit the defendant.

Provided that any offence declared to be a felony shall not be compoundable.

Manner of357.(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 intends to admit the offence and shows no cause or no sufficient cause why sentence should not be passed, the court shall proceed to sentence.

(3) Where the defendant pleads not guilty, the court shall direct all witnesses to leave the court and upon the direction, section 212 of the Evidence Act, shall apply, but failure to comply with 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 subsections (1), (2) and (3) of this section, in capital offences, the court shall proceed with the trial irrespective of the plea by the defendant.

(5) The court shall then proceed-

(a) to hear the prosecutor and such witnesses as he may call and such other evidence as he may adduce in support of the charge;

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

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

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

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

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

Discharge of 358. Where at the close of the evidence in support of defendant the charge, it appears to the court that a case is when no casenot made out against thedefendant sufficiently to answer.to require him to make a defence, the court shall as to that particular charge, discharge him being guided by section 301 of this Law.

Defence.359.(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-

- (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 360.(1) The defendant may apply to the court to issue **compelling** a process for compelling the attendance of a **production** witness for the purpose of examination or the **of evidence** production of a document or any other thing. **at instance of defendant.**

(2) On an application by the defendant under subsection (1) of this section, the court shall issue the process unless for reasons to be recorded by it in writing it considers that the application is made for the purpose of

vexation or delay or of defeating the aims of justice.

Saving as to 361. Failure to comply with the requirements of section 359.(1) section 359 (1) of this Law 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 362. Where the defendant adduces in his defence a new **in reply** 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 363.(1) In certain exceptional circumstances, where the **take de-** evidence of a technical, professional or expert **position in** witness would not ordinarily be contentious as to **certain** require cross-examination, the court may, grant **cases.** 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 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) of this section and of the time and place where it is to be taken to be served on the prosecutor and defendant and if the defendant, is in custody and his presence is required for the deposition, he shall be brought by the person in whose custody he is, to the place where the statement is to be taken, under an order in writing of the court.

When statement364.(1)A statement taken under section 363 of this **may be used in**Law may afterwards be used in evidence **evidence**.on the trial of a defendant accused of an offence to which the statement relates in accordance with section 46 of the Evidence Act.

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

Notes of365.(1)Without prejudice to section 349 (2) of this Law, **evidence**court proceedings may be recorded **to be recorded**electronically and verbatim such that at the **endelectronically**of each day's proceeding a transcript of such **orrecording** shall be printed to enable certification **in writing**. or authenticationby the Judge orMagistrate who conducted the proceedings.

(2) Where court proceedings are not recorded as stated in sub-section (1) of this section the court shall in every case take notes in writing of the oral evidence it considers material, in a book to be kept for that purpose and the book shall be signed by the court at the conclusion of each day's proceedings.

(3) The transcript of the recordings of the court shall be signed or otherwise authenticated by the presiding Judge at an adjournment of the case or at the conclusion in a manner authorised from time to time by 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.

Local366. A court trying a case summarily shall make or cause inspection.to be made suchlocal inspection as the circumstances of the case may require.

Cross367. Where a complaint is made by one or more parties **complaints.** against anotherparty or parties and there is a cross-complaint by the defendant or defendants in the first named case, the court may, where it deems fit, hear and determine the complaints in the same proceedings.

Joinder of complaints. 368. Where two or more complaints are made by one or more parties against another party or parties and the complaints refer to the same matter, the court may, where it deems fit, hear and determine the complaints in the same proceedings.

Giving of decision upon conclusion of hearing. 369. 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 deem just.

Power to bind parties to be of good behaviour. 370. (1) In a summary trial, the court may, whether the complaint is dismissed or not, by order bind over either the complainant or defendant, or both, with or without a surety or sureties, to be of good behaviour.

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

(3) Before a binding over order pursuant to subsection (1) of this section or an order for imprisonment or any other punishment under subsection (2) of this section is made, the person to be affected by the order shall be given an opportunity to be heard.

Effect of 371.(1) Where a charge is dismissed on merits, the judgment dismissal has the same effect as an acquittal.
of dismissal

on merits,(2) Where a charge is dismissed but not on merits, or **not on merits** stated to be dismissal without prejudice, the **and without** dismissal does not have the same effect as an **prejudice.** acquittal

Summary trial 372. Where a child is proceeded against before a **of child by** court for an offence, the court shall have **Magistrate.** regard to the provisions of the Child Rights Law.

Power to373. Without prejudice to any other power which a **remand.** Magistrate may possess, he may, for the purpose of ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged for a period not exceeding 48 hours or release him on bail.

Law officer may374.(1) A law officer, in a case where a charge of **require case to be an** indictable offence is being proceeded **adjourned or dealt** with summarily by a Magistrate, may, **with specially.** at any time before judgment, request the Magistrate to deal with the case as one for trial on information, complaint or charge.

(2) On receipt of the request, the Magistrate shall adjourn the proceeding until such a time as information, complaint or charge is filed in the High court, provided that the information, complaint 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) of this section, the information, complaint 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, complaint or charge as requested by the law officer.

Adjournment375.(1) Where a charge for an offence is being tried for law officer's summarily by a Magistrate, he shall, at the decision. 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 374 of this Law.

(2) The request of the law officer so consulted shall be filed within 14 days of the date of the date the Magistrate grants the request of the person prosecuting, failing which the Magistrate may grant the defendant bail.

Security for376.(1) A defendant convicted of an offence tried **peace in cases** summarily may, instead of, or in addition to **tried summarily**, 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.

(2) The convict may be ordered to be imprisoned until the recognizance is entered into, but the imprisonment shall not-

(a) extend for a term longer than 1 year; and

(b) together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine for the offence which he was convicted.

Case files,377.(1) Where an offence for which the Magistrate **legal advice** court has no jurisdiction to try is preferred **and related** against a defendant, the police shall at the end **proceedings.** of investigation submit the original case file to the office of the Attorney-General.

(2) The Attorney-General shall, within 28 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 defendant has no prima facie case to answer, he shall serve a copy of the legal advice on the-

- (a) Police or the head of the Police legal unit through whom the Police case file was sent to the Attorney-General;
- (b) Registrar who shall ensure service on the court before whom the defendant was remanded in prison, where he is in remand custody, or before whom the person was granted bail, where he is on bail; and
- (c) defendant in respect of whom legal advice is preferred through the prison authority, where the defendant is remanded in custody, or through his legal representative, if any

(4) Where the offence is one for which a Magistrate court has jurisdiction to try, the prosecutor shall file the charge at the Magistrate court, accompanied with-

- (a) the list of witnesses;
- (b) the list of exhibits;
- (c) statements of the witnesses and of the defendant; and
- (d) any report, document or material that the prosecution intends to rely on at the trial of the offence, but the prosecution may, with leave of the court, file and serve any additional document.

(5) The police or the officer in charge of the prison in which the defendant is remanded in custody shall on receipt of the legal advice, release the defendant immediately from detention where there is no case to answer.

(6) The court referred to in subsection (3) (b) of this section, shall, on receipt of the legal advice, dismiss the charge against the defendant and accordingly discharge the defendant.

(7) The Attorney-General shall may 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 defendant

(8) Where the Attorney-General is of the opinion, as contained in the legal advice, that the defendant has a prima facie case to answer, he shall file and serve the charge, complaint or information in accordance with this Law.

First Schedule
Form17.

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

(10) Where the defendant indicates in the form referred to in subsection (9) of this section that, he wishes to be represented by a legal practitioner of the Legal Aid Council or any other organisation providing free legal representation, he shall forward the form to the Chief Registrar of the court before whom the information complaint or

charge for his trial has been filed and the Chief Registrar shall, within 14 days of receipt of the form, ensure that a legal practitioner of the Legal Aid Council as stipulated under this subsection or any other organisation providing free legal representation for the defendant, and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.

(11) The Chief Registrar shall, upon getting the form, forward same to the Director-General of the Legal Aid Council or to the nearest Legal Aid Council office where the court is located.

PART 36 – TRIALS BY WAY OF INFORMATION

Form 378. An information shall be in the form set out in Form Schedule 18 in the First Schedule to this Law with such Form of modifications as may be necessary to adapt it to the **Information.** circumstances of each case.

Contents of 379. (1) A charge, complaint or information shall **Information.** contain-

- (a) a description of the offence charged in the charge, complaint or information, where more than one offence is so charged, of each offence so

known as count;

charged, and each offence charged shall be set out in a separate paragraph

(b) a count of a charge, complaint or information shall commence with a statement of offence charged.

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

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

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

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

(2) A charge is presumed to have fulfilled every condition required by law to constitute an offence but where a law limits the particulars of an offence which are required to be given in an charge, complaint or information, nothing in this subsection shall require any more particulars to be given than those so required.

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

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

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

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

Charge, 380.(1) A charge, complaint or information shall be
complaint filed in the registry of the High Court before
or information which the prosecution seeks to prosecute the
to include offence, and shall include - **Proof of**
proof of
evidence, etc.

Witnesses;
exhibits to be
tendered;

statement of the
defendant;

statements of the
witnesses;

- (a) the proof of evidence,
consisting of-
 - (i) the list of
 - (ii) the list of
 - (iii) summary of
 - (iv) copies of
 - (v) any other
document, report, or
material that the
prosecution intends
to use in support of
its case at the trial;
 - (vi) particulars of
bail or any
recognizance, bond
or cash deposit, if
defendant is on bail;

(vii) particulars of place of custody, where the defendant is in custody;

(viii) particulars of any plea bargain arranged with the defendant;

(ix) particulars of any previous interlocutory proceedings, including remand proceedings, in respect of the charge, and

(x) any other relevant document as may be directed by the court; and

(b) a copy of the form for information on legal representation as provided under section 377(9) of this Law.

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

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

Application of rules 381. The provisions relating to charges in relating to charges. this Law shall apply to the counts of a charge, complaint or information.

Filing of charge, 382. A charge, complainant or information complaint on may be filed by- information.

- (a) the Attorney-General or officers in his office; or
- (b) a public officer acting in his official capacity; or
- (c) a private legal practitioner authorised by the Attorney-General; or
- (d) a private person, provided the charge, complaint or information is endorsed by a law officer that he has seen such information and declined to prosecute at the public instance and the private person enters into a bond to prosecute diligently and to a logical conclusion.

Assignment of 383.(1) Where a charge, complaint or information of charge complaint has been filed in the court, the Chief Judge or information shall take appropriate steps to ensure and issuance of that the charge complaint or information notice of trial filed is assigned to a court for trial within 15 working days of its filing.

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

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

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

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

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

Charge, complaint384.(1) The registrar shall receive a charge, or information by complaint or information from a private person.

private legal practitioner where the-

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

(b) 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, complaint or information to conclusion from the time the defendant shall be required to appear;

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

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

(2) Where an application for consent to prosecute is made to the Attorney-General 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 for385. Where a private legal practitioner has complied with section 384 of this Law, the charge, complaint or information shall be signed by such private legal practitioner who shall be entitled to prosecute the charge, complaint or information.

Venue 386. The place of trial shall be determined in accordance with this Law.

Change of387.(1) Notwithstanding section 386 of this Law-venue.

- (a) where a cause is commenced in any other division than that in which it ought to have been commenced, it may, notwithstanding, be tried in that division in which it was commenced, but where the defendant objects, the court may, where it considers the objection reasonable, transfer the case to the proper division in which it ought to have been commenced; and
- (b) the prosecutor or the defendant may, whenever he considers that the ends of justice so require in any case,

apply to the court either to transfer the hearing from one division to another or from one part of the division to another part of the same division.

(2) No appeal shall lie from any order of transfer made under this section.

Effect of 388. Where a case is transferred from one place in a change of division to another place in the same division or to venue 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.

Form of 389. The registrar or any other person directed by the notice of court, shall endorse on, or annex to, every trial. Charge, complaint or information delivered to the Sheriff or proper officer, for service, a notice of trial and such notice shall specify the particular sessions at which the party is to be tried on the charge, complaint or information and shall be in the following form or as near to it as may be-

“A.B. Take notice that you will be tried on the charge, complaint or information whereof this is a true copy, at the sessions to be held at ----- on the ----- day of ----- 20 -----

Also find attached is the “information on Legal Representations” Form which you must complete and return to the Registry of this court within 14 days of service on you of this notice of trial.

Copy of charge,delivered, or cause to be delivered to the Sheriff complaint or proper officer serving the charge, complaint or or information, a copy with the notice of trial information and notice of trial to be delivered to sheriff. 390.The registrar or other proper officer shall endorsed on or annexed to it, and where there are more parties charged than one, then as many copies as there are parties together with a similar notice for service on each witness bound to attend the trial.

Time and mode of summoning parties charge, complaint or information. 391. The Sheriff or other proper officer shall, on receipt of the charge, complaint or information and notice of trial, serve the person named in the notice at least 7 working days before the date specified on the notice.

Service of trial on notice on the witnesses shall be in the like manner as service on a defendant who is not in custody. 392.Notice of trial at the same time shall be served on all the witnesses,and the service of the trial on notice on the witnesses shall be in the like manner as service on a defendant who is not in custody.

Registered courier may serve. 393. The Chief Judge may engage the service of a reputable courier company for the purpose of undertaking service of criminal processes, and such company shall serve processes in accordance with this Law.

Return of394. The officer of such courier company serving the Service. copy of charge, complaint or information and notices shall immediately make to the registrar or other proper officer a return of the mode of service with the necessary endorsement of service on the person named for service on the notice or charge, complaint or information.

Warrant395. Where a defendant against whom an where charge complaint or information has been duly defendant preferred, and on whom the charge, complaint does not or information and notice of trial have appear. been duly served, does not appear to plead to the charge, complaint or information whether he is under recognizance to appear or not, the court may issue warrant for his arrest.

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 legal practitioner, and where the defendant is not defended by a legal practitioner, the court shall assign a legal practitioner for his defence.

Time for raising397.(1) The defendant to be tried on an certain objections, charge, complaint or information shall be day-to-day trial arraigned in accordance with the provision and adjournments. of this Law relating to the taking of plea and the procedure on it.

(2) After the plea has been taken, the defendant may raise any objection to the validity of charge, complaint or information at any time before judgement provided that such objection shall only be

considered along with the substantive issues and a ruling thereon made at the time of delivery of judgement.

(3) Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

(4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than five adjournment from arraignment to final judgment provided that the interval between each adjournment shall not exceed 14 working days.

(5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven 7 days inclusive of weekends

(6) In all circumstances, the court may award reasonable costs in order to discourage frivolous adjournments.

(7) Notwithstanding the provision of any other law to the contrary, a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part-heard criminal matter pending before him at

the time of his elevation and shall conclude the same within a reasonable time:

Provided that this subsection shall not prevent him from assuming duty as a Justice of the Court of Appeal.

Attendance of 398. A person who is summoned as a witness for the prosecution or for the defence, shall be bound to attend the court on the day fixed for the trial of the case and on subsequent dates until the conclusion of the case or until he has been discharged by the court from further attendance.

Warrant for 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 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 for400. Where a person named on a summons or writ of arrest of subpoena wilfully refused to accept service of witness dis- the summons or writ of subpoena, the court obeying shall issue a warrant for the person to be summons. arrested and be brought before the court at a time to be mentioned in the warrant in accordance with the summons or writ of subpoena.

Fine for non- 401. A person who fails to attend as witness in attendance of either of the cases mentioned in sections 398 witness. and 399 of this Law is liable, on the summary order of the court, to a fine in a reasonable sum to be fixed by the court, but not less than N5,000.00 or community service and in default of payment, to imprisonment for a term corresponding to the fixed sum but the period of imprisonment shall not exceed a period of one month.

PART 37 – PROVISIONS RELATING TO SENTENCE OF DEATH

Construction402.(1) Subject to the provisions of a law relating to of provisions a specific offence or class of offence and to relating to the jurisdiction conferred on any court or on a punishments. person presiding over the court, this part shall apply to sentences of death, imprisonment, fine, and non-custodial sentences.

(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.”

How death404. Where sentence of death has been passed, the sentence shall only be carried out in accordance with this part.

Death sentences 405. Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her, but execution shall be suspended until the baby is delivered and weaned.

Death Sentences406. 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 and is found guilty of a capital offence, sentence of death shall not be pronounced or recorded but in lieu of it, the court shall sentence the child to life imprisonment or to such other term as the court may deem appropriate in consideration of the principles in section 402 of this Law.

Authority for407. A certificate under the hand of the registrar, or other officer of the court, that a sentence has been passed, and naming the convict against whom it has been passed, shall be sufficient authority for the detention of the convict.

Judge's certificate 408. A Judge who pronounced a sentence of death shall issue, under his hand and the seal of the court, a certificate to the effect that sentence of death has been pronounced upon the convict named in the certificate, and the certificate shall be sufficient and full authority in law for the detention of the convict in safe custody until the sentence of death pronounced upon him can be carried into effect and for carrying the sentence of death into effect in accordance with and subject to this Part.

Steps to be409. The Registrar of the court by which the convict is sentenced to death shall, as soon as practicable after the sentence has been pronounced-

- (a) hand two copies of the certificate issued by the Judge under section 408 of this Law to the Commissioner of Police, one copy of which shall be retained by the Commissioner of Police and the other handed to the Superintendent or other officer in charge of the prison in which the convict is to be confined;
- (b) transmit to the Sheriff one copy of the certificate; and
- (c) file one copy of the certificate with the record of the proceedings in the case.

Convict may send request to Committee on Prerogative of Mercy. 410.(1) Where a convict-

- (a) has been sentenced to death and has exercised his legal rights of appeal against the conviction and sentence, and the conviction and sentence have not been quashed or the sentence, has not been reduced, or has failed to exercise his legal rights of appeal or having filed an application for leave to appeal, or an

appellant has failed to perfect or prosecute the application or appeal within the time prescribed by law; and

(b) desires to have his case considered by the Committee on Prerogative of Mercy;

he shall forward his request through his legal practitioner or officer in charge of the prison in which he is confined to the Committee on Prerogative of Mercy.

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

Consideration 411. The Governor shall, after considering the report made under section 410 of this Law, decide whether or not to commute the sentence to imprisonment for life, or that the sentence should be commuted to any specific period, or that convict should be otherwise pardoned or reprieved.

Where a pardon412.(1) Where the Governor decides that the sentence should be commuted or that the convict should be otherwise pardoned or reprieved, he shall issue a warrant 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 warrant issued under subsections (1) and (2) of this section.

Copy of order413. The Attorney-General shall communicate the decision referred to in section 412 (1) and (2) of this Law to the Judge who presided over the trial or to his successor in office sending to such Judge a copy of his warrant and such Judge shall cause the warrant to be entered in the record of the court.

Where pardon⁴¹⁴.(1) Where the Governor decides that the or reprieve issentence should not be commuted or that the not granted. convict should not be pardoned or reprieved, the order of the Governor shall be duly signed by himandsealed as in one of the forms set out in the Fourth Schedule Fourth Schedule.to thisLaw or as near to it as circumstances Form G. permit.

(2) The warrant of the Governor-

- (a) shall state the place and time, where and when the execution is to be and give directions as to the place of burial of the body; or
- (b) may direct that the execution shall take place at such time and such place and the body of the convict executed shall be buried at such place as shall be appointed by some officer specified in the warrant.

(3) When the place or time of execution or the place of burial is appointed by some person and is not stated in the warrant of the Governor, the specified officer shall endorse on the warrant over his signature the place and time of execution and place of burial.

Copy of order415. A copy of the warrant issued by the Governor to be sent to shall be forwarded to the official in charge of prison official.the prison in which the person sentenced is confined, and the official in charge of the prison shall give effect to the warrant of execution.

PART 38 - PROCEDURE WHERE WOMAN CONVICTED OF CAPITAL OFFENCE IS ALLEGED TO BE PREGNANT

Procedure where416.(1) Where a woman convicted of an offence punishable with death alleges that she is of capital offence pregnant, the court shall, before sentence is alleged to be passed on her, determine the question pregnant or who whether or not she is pregnant.
becomes 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 the 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 section 405 of this Law.

PART 39 – SENTENCING GENERALLY OTHER THAN CAPITAL SENTENCE

Court to417.(1)On conviction, a court may sentence the convict **determineto** a term of imprisonment as prescribed by the **term of law.**

imprisonment.

(2) In exercising its discretion of sentencing or review of sentence, the court shall take into consideration the following factors, in addition to section 402 of this Law-

(a) each case shall be treated on its own merit;

(b) the objectives of sentencing, including the principles of reformation, shall be borne in mind in sentencing a convict;

(c) an appeal court may, in a proper case, reduce the

sentence imposed by the trial court, especially where it is excessive or based on wrong principles, or an appeal court may increase the sentence imposed by the trial court especially where it is inadequate;

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

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

(f) trial court shall conduct an inquiry into the convict's antecedents before sentencing;

(g) it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with section 312 of this Law;

(h) where there is doubt as to whether the defendant or convict has attained the

age of 18, the court should resolve the doubt in his favour;

(i) a defendant may not be given consecutive sentences for two or more offences committed in the same transaction;

(ii) an appeal court may not increase the sentence of a lower court beyond the maximum number of years the lower court has power to impose;

and

(iii) 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 418.(1) Where the court has power to pass a **detention** for sentence of imprisonment, it may, in lieu of **one day** in passing

sentence of imprisonment, order ~~precincts of~~ the convict to be detained within the ~~the court.~~ 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 or ascertained by the court, the court shall not make an order of detention under this section as will deprive the convict of a reasonable opportunity of returning to his abode on the day on which the order of detention is made.

Consecutive 419.(1) Where a sentence of imprisonment is passed ~~sentence of~~ on a convict by a court, it may order that the ~~imprisonment.~~ 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.

(2) Where two or more sentences passed by a magistrate 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 from420. A sentence of imprisonment takes effect from and **which**includes the whole of the day of the date on which **sentence** it was pronounced. **commences.**

Default in421.(1) In the case of a conviction in the High Court, **payment**where no amount of fine is stipulated, the **of fine.** 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 a Magistrate court-

(a) the amount of the fine shall be at the discretion of the court but shall not exceed the maximum fine authorised to be imposed by the Magistrate or under the law by virtue of which he was appointed a Magistrate; and

(b) a term of imprisonment imposed in default of payment of the fine shall not exceed the maximum fixed in relation to the amount of the fine by the scale specified in the Fourth Schedule of this Law.

Fourth Schedule (3) In no case shall any term of Form H imprisonment imposed in default of payment of a fine which has been imposed by virtue of the power in that behalf contained in subsection (1) of this section, exceed the maximum term authorised as a punishment for the offence by the law.

(4) 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.

Execution of422. Where sentence of imprisonment is passed on an **sentence on**escape convict, the sentence shall take effect **escape convict**.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.

Fine in423. A defendant convicted of an offence **default of** punishable by- **imprisonment.**

- (a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment, or
- (b) imprisonment or fine, and sentenced to pay a fine.

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

General provision 424. (1) The Chief Judge shall review, from time to time, the provisions for the amount of sums of fines, compensation or other sums of money prescribed under this Law.

(2) Such provisions as may be reviewed and effective date shall be published in the Gazette.

General power 425. Where by any law, the court is empowered to award or impose a penalty for a summary conviction offence, it may, in the absence of express provisions to the contrary in the same or any other law, order a defendant who is convicted of such offences, in default of payment of the sum of money adjudged to be paid under the Fourth order, either immediately or at the time specified in the order, as the case may be, to be imprisoned, in accordance with the scale set out in the Fourth Schedule to this Law.

Scale of 426. 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 Fourth Schedule to this Law.

Limitation of427. A commitment for non-payment of a fine shall **imprisonment**not be for a longer period than two years, except in **default of**where the law under whichthe conviction has **payment** **oftaken** place prescribes or allows a longerperiod.
fine.

Payment and428.(1) A court, in fixing the amount of a fine to be **allocation of**imposed on aconvict, shall take into **fines and fees.**consideration, amongst other things, the means of the convict.

(2) Where a fine is imposed, the payment of the court fees and other legal expenses payable in the case, up to and including conviction, shall not be taken into consideration in fixing the amount of 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, 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.

Power to429. 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, in certain cases,

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

Allowance of430.(1) Where time has been allowed for the further time payment of a sum adjudged to be paid upon and payment conviction or order, further time may, on an application by or on behalf of the defendant liable to pay the sum, be allowed by a court having jurisdiction to issue a warrant of commitment in respect of the non-payment of that sum, the court may, subject as

aforesaid, direct payment by instalment of the sum so adjudged to be paid.

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

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

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

Payment of 431. In all cases where a defendant, against whom a penalty to warrant of commitment for non-payment of a person sum of money adjudged to be paid by an order is executing issued, pays or tenders to the person having the warrant execution of the warrant 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.

Commencement432. Where a convict is brought to a prison to be of imprisonment imprisoned by virtue of a warrant of pursuant to a commitment, there shall be endorsed on warrant the warrant the day on which the convict was arrested by virtue of it and the imprisonment shall be computed from that day and that day inclusive.

Varying or433. Where a person has been committed to prison discharging by the court for default in finding a surety or order for sureties, the court may, on application made to sureties. it by the person or by some person acting on his behalf, inquire into the case of the person, and if on new evidence produced to the court or proof of a change of circumstances the court deems fit, having regard to all the circumstances of the case that it is just to do so, the court may-

- (a) reduce the amount for which it was ordered that the surety or sureties should be bound;
- (b) dispense with the surety or sureties; or
- (c) otherwise deal with the case as the court may think just

Right of person434.(1) Where a person has been committed to imprisoned in prison by the court for non-payment of a default to be sum of money adjudged to be paid by an released on order, the person may pay or cause to be paying sum paid to the officer in charge of the prison and effect of the sum mentioned in the warrant of part payment. commitment together with the amount of the cost, 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) In a case where under subsection (1) of this section a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court, the sum shall be applied-

- (a) firstly, towards the payment in full or in part of any cost or damages or compensation which the court may have ordered to be paid to the complainant; and
- (b) secondly, towards the payment of the fine, if any, imposed on the prisoner.

(3) Subject to subsection (2) of this section, where an amount is paid towards a fine-

(a) the imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the person is committed as the sum so paid towards the fine bears to the amount of the fine for which the person is liable; and

(b) the Superintendent or other officer in charge of a prison in which a person who has made the part payment is confined shall, as soon as practicable thereafter, take the person before a court which shall-

(i) certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction; and

(ii) make such order as the circumstances require.

(4) Where, in the opinion of the superintendent or other officer, the delay occasioned by taking the person before a court is such that the person will be detained beyond the date on which he should, by reason of the part payment, be released, the Superintendent or other officer may release the person on the day which appears to the superintendent or other officer to be the correct day, endorse the warrant accordingly and shall, as soon as practicable thereafter, inform the court of the action taken and the court shall make such order or record as the court may consider to be required in the circumstances.

(5) In reckoning-

(a) the number of days by which a term of imprisonment would be reduced under this section, the first day of imprisonment shall 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 may435. Where, under the authority of a law, the court be ordered imposes a fine or pecuniary penalty, whether or to be not that fine or penalty is accompanied by a recoverable power to impose imprisonment, and no special by distress.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 recoverable by distress; and

(b) in default of the distress satisfying the amount of the fine or penalty, order that the convict be imprisoned, in accordance

Fourth Schedule. with the scale set out in form H
Fourth Schedule to this
Law.

Warrant of 436. Where the court orders a sum to be recoverable by distress.distress, it shall issue a warrant which shall be in writing and signed by the court authorising the person charged with the execution of the warrant to take any money as well as any goods of the person against whom distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

Procedure on 437. In the execution of a distress warrant the execution following shall have effect-
of distress
warrant.

(a) a warrant of distress shall be executed by or under the direction of the Sheriff;

(b) where the person charged with the execution of the warrant is prevented from executing the warrant by the fastening of doors or otherwise, the Magistrate may, by writing under his hand endorsed on the warrant, authorise him to use such force as may be necessary to

enable him execute the

warrant;

(c) the wearing apparel and bedding of the person and of his family, and to the value of N20,000.00, the tools and implements of his trade, shall not be taken;

(d) except as provided in paragraph (e) of this section and so far as the person on whose movable property the distress is levied consents in writing to an earlier sale, the goods distrained on shall be sold at public auction not less than 5 days and not more than 14 days after the making of the distress, but where consent in writing is so given, the sale may be in accordance with the consent;

(e) subject to paragraph (d) of this section, the goods distrained shall be sold within the time fixed by the warrant, unless the sum or charges, if any, of taking and keeping the goods distrained, for which the warrant was issued are sooner paid;

(f) where a person charged with the execution of a warrant of distress-

(i) wilfully retains from the proceeds any property sold to satisfy the distress, or

(ii) otherwise exerts any greater costs or charges than those to which he is, for the time being, entitled by law or makes any improper charge,

he is liable, on summary conviction before a Magistrate, to a penalty not exceeding N20,000.00: Provided that nothing in this paragraph shall affect the liability of the person to be prosecuted and punished for extortion, or for the return of the sum of money or value of the item extorted, by the person;

(g) a written account of the costs and charges incurred in respect of the execution of a warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the court, and the person on whose

movable property the distress was levied may, at any time within one month after the making of the distress, inspect the account, without payment of any fee or reward, at any time during office hours, and to take a copy of the account;

(h) a person charged with the execution of a warrant of distress shall sell the distress or cause the distress to be sold, and may deduct out of the amount realised 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.

Part payment438. Where a part only of the amount ordered to be to ~~reduced~~ recovered by distress is so recovered, the period ~~period of~~ of imprisonment ordered to be suffered in ~~imprisonment~~ default of recovery of the amount imposed shall **in proportion**.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 section 429 of this Law, shall apply.

PART 40 – DETENTION IN SAFE CUSTODY OR SUITABLE PLACE OTHER THAN PRISON OR MENTAL HEALTH ASSYLUM

Conditions attached439.(1)Where a person is ordered to be to ~~detention~~ detained in a safe custody or suitable **in a safe custody** place other than prison or mental health or **suitable place** asylum, he is, notwithstanding anything **other than prison** in this Law or in any other law, ~~liable to or mental asylum~~.be detained in a prison or asylum or such other place as provided under this Law or any law as the Attorney-General may direct and whilst so detained shall be deemed to be in legal custody.

(2) A person detained in a safe custody or suitable place other than prison or mental health asylum may at any time be discharged by the Attorney-General on licence.

(3) The Attorney-General may at any time revoke or vary a licence and where a licence has been revoked, the person to whom the licence relates shall proceed to such place as the Attorney-General may direct and if he fails to do so may be arrested without warrant and taken to the place.

PART 41 – CHILD OFFENDERS

Procedure for trying child offenders. (1) Where a child is alleged to have committed an offence, the provisions of the Child Rights Law shall apply.

(2) Notwithstanding subsection (1) of this section, the provisions of this Law relating to bail shall apply to bail proceedings of a child offender.

PART 42 – PROBATION AND NON – CUSTODIAL ALTERNATIVES

Meaning of probation order. In this part, “probation order” means an order containing a condition specified in section 443 of this Law.

Conditional 442.(1) Where a defendant is charged before a court with an offence punishable by such court and the court thinks that the charge is proved but is of opinion that having regard to the-
**of compensation
for loss or injury
and of costs.** (a) character, antecedents, age, health, or mental condition of the defendant charged; or
(b) trivial nature of the offence, or
(c) extenuating circumstances under which the offence was committed.

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

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

- (a) dismissing the charge; or
- (b) discharging the defendant conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear at any time during such period not exceeding

3 years as may be
specified in the order.

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

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

Probation orders443.(1) A recognizance ordered to be entered into **and conditions of**under this Part shall, where the court so **recognizance.orders**, contain a condition that the defendant be under the supervision of such person or persons of the same sex, called a probation officer, as may, with the consent of the probation officer, be named in the order during the period specified in the order.

(2) A recognizance under this Part may contain such additional conditions with respect to residence, abstention from intoxicating substance and any other matter

as the court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

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

Relieving444. A probation officer may at any time be relieved of **probation**his duties or in case of the death of the probation **officer** of officer named, another person may by consent be **his** **duties**.substituted by the court before which the defendant is bound by his recognizance to appear for conviction or sentence.

Duties of 445.(1) A probation officer shall, subject to**probation**the directions of the Court-**officers**.

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

- (b) see that he observes the conditions of his recognizance;
- (c) report to the court as to his behaviour; and
- (d) advise, assist, and befriend him and when necessary to endeavour to find him suitable employment.

(2) The Chief Judge shall make regulations with respect to the appointment of probation officer, including designation of persons of good character as probation officers from which list a court within the district or division where the probation officer resides may make its appointment under section 443 of this Law.

Variation of 446. The court before which a defendant is bound by a terms and recognizance under this Part to appear for conditions conviction and sentence or for sentence may-
of probation.

- (a) at any time where it appears to it on the application of the probation officer that it is expedient that the terms or conditions of the recognizance should be varied,

summon the defendant bound by the recognizance to appear before it and if he fails to show cause why the variation should not be made-

- (i) vary the terms of the recognizance by reducing or extending 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.

Provisions in 447.(1) Where the court before which a defendant is case of convict bound by his recognizance under this Part to failing to appear for conviction or sentence is satisfied observe conditions by information on oath that the defendant has of release. 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.

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

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

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

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

Suspended448.(1)Notwithstanding the provision of any other law sentence andcreating an offence, where the court sees communityreason, the court may order that thesentence it service. imposed on the convict be, with or without conditions,suspended, in which case, the convict shall not be required to serve the sentence in accordance with the conditions of the suspension.

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

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

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

- (a) reduce congestion in prison;
- (b) rehabilitate prisoners by making them to undertake productive work; and
- (c) prevent convicts who commit simple offences from mixing with hardened criminals.

Arrangements 449.(1) The Chief Judge shall establish in every **for community**Judicial Division a Community Service service.Centre to be headed by a Registrar who shall be responsible for overseeing the execution of community service order in the 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; and

(vi) other means of identification as may be appropriate;

(b) proving 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 convicts with a view to bringing about their reformation;

- (e) recommending to the court a review of the sentence of convicts on community service who have shown remorse;
- (f) proposing to the Chief Judge measures for effective operation of community service orders;
- (g) ensuring that supervising officers perform their duties in accordance with the law; and
- (h) performing such other functions as may be necessary for the smooth administration of community service orders.

(4) Where the court has made an order committing the convict to render community service, the community service shall be in the nature of-

- (a) environmental sanitation, including cutting grasses, washing drainages, cleaning the environment and washing public places;
- (b) assisting in the production of agricultural produce, construction, or mining; and
- (c) any other type of service which in the opinion of the court would have a beneficial and reformatory effect on the character of the convict.

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

(6) Before passing a community service order, the court shall consider the circumstances, character, antecedents of the convict and other factors that may be

brought to its attention by the Registrar of the community service centre.

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

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

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

Performance450.(1) The community service order shall be performed for a period of not more than 6 months and the convict shall not work for more than 5 hours a day.

(2) The convict shall be under the supervision of a supervising officer or officers or Non- Governmental Organizations as may be designated by the Community Service Centre.

(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.

Default of 451.(1) Where any time during the community service convict in period, the Registrar of the Community **complying** Service Centre informs the court of the default **with community** of the convict in complying with the directives **service order.** of the community service order, the court may issue a summons requiring 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 warrant of arrest.

(3) Where it is proved to the satisfaction of the court that the convict has failed to comply with any of the requirements of the community service order, the court may-

(a) vary the order to suit the circumstances of the case;
or

(b) impose on him a fine not exceeding N100,000.00 or cancel the order and sentence the convict to any punishment which could have been imposed in respect of the offence, but the period of community service already performed may count in the reduction of the sentence.

(4) A supervising officer shall not employ the convict for his or her personal benefit.

(5) Where a supervising officer employs the convict for his or her personal benefit, the officer is liable to a fine of N100,000.00 or more, or such other punishment as the court considers fit.

Commission of 452. Where a convict has been ordered to undergo further offence. 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) of this section; and
- (d) where the original court is a subordinate court and the subsequent court is a High Court dealing with the matter at first instance or on appeal,

the High Court shall
proceed under
paragraphs (a) and (b)
of this section.

Amendment,453.(1) A convict undergoing community service review and who intends to change his place of discharge of residence shall inform the supervising officer community of his intention to do so.
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 of454.(1) Where a convict has been ordered to undergo community community service for a period of more than service order.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 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 455.(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 Federal 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) A court may make an order directing that a child standing criminal trial be remanded in Rehabilitation and Correctional Centre.

PART 43 – PAROLE

Court may direct456. Where the Controller- General of Prisons **release of prisoner** makes a report to the court recommending **before completion** that a prisoner- **of sentence.**

- (a) sentenced and serving his sentence in prison is of good behaviour; and
- (b) has served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment,

The court may, after hearing the prosecution and the prisoner or his legal representative, order that the remaining term of his imprisonment be suspended, with or without conditions, as the court considers fit, and the prisoner shall be released from prison on the order.

(2) A prisoner released under subsection (1) of this section shall undergo a rehabilitation programme in a government facility or any other appropriate facility to enable him to be properly reintegrated into the society.

(3) The Comptroller – General of Prisons shall make adequate arrangement, including budgetary provision, for the facility.

PART 44 – THE ADMINISTRATION OF CRIMINAL JUSTICE MONITORING COMMITTEE

**Establishment
of the
Administration
Justice
Monitoring
Committee.**

457.(1) There is established the Administration of Criminal Justice Monitoring Committee (in this Law of Criminal
(2) The Committee shall consist of-

referred to as the

(a) the Chief Judge of the State who shall be the Chairman;

- (b) Attorney-General or his representative not below the level of a director in the Ministry;
- (c) A Judge from each judicial divisions of the High Court;
- (d) Director of Public Prosecution;
- (e) The Commissioner of Police or his representative not below the rank of Chief Superintendent of Police;
- (f) The Comptroller of Prison or his representative not below the rank of Deputy Comptroller;
- (g) The State Director of the National Human Rights Commission or his representative not below the level of a director.
- (h) Chairmen of all the local branches of Nigerian Bar Association in the State

- (i) The State Director-General of the Legal Aid Council of Nigeria or his representative not below the level of a director.
- (j) A representative of the Civil Society working on human right and access to justice or women rights to be appointed by the Committee to serve for a period of 2 years only; and
- (k) Deputy Chief Registrar.

(3) A member not being a public officer may resign his appointment by a letter to the Chairman.

Functions of458.(1) The Committee shall be charged with the responsibility of ensuring effective and efficient application of this Law by the relevant agencies.

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

- (a) criminal matters are speedily dealt with;
- (b) congestion of criminal cases in courts is drastically reduced;

- (c) congestion in prisons is reduced to the barest minimum;
- (d) persons awaiting trial are not detained in prison custody;
- (e) the relationship between the organs charged with the responsibility for all aspects of the administration of justice is cordial and there exists maximum co-operation amongst the organs in the administration of justice in State;
- (f) information in relation to the administration of criminal justice sector in the State is collated, analyse and published;
- (g) quarterly report is submitted to the Chief Judge to keep him abreast of developments towards improved criminal justice delivery and for necessary action; and
- (h) such other activities as are necessary for the effective and efficient administration of criminal justice are carried out.

Secretariat of 459.(1) The Committee shall establish and maintain the Committee.a secretariat with such number of staff as it considers necessary for the efficient running of its affairs.

(2) The Secretariat shall be headed by a Secretary who shall be appointed by the Attorney-General on the recommendation of the Committee.

(3) The Secretary shall be a legal practitioner of not less than 10 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 only.

(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. (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 of the State;
- (b) such monies as may, from time to time, be provided to the Committee by any public, private or international organisation by way of a grant, support or assistance on such terms as are consistent with its functions; and
- (c) such other 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.

Annual estimates and accounts. (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.

(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.

Annual report462. The Committee shall prepare and publish an annual report of its activities.

Power to463.(1) For the purpose of carrying out functions **obtain** conferred on the Committee under this Law, **information.it-**

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

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

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

Proceedings464.(1) The Committee may make standing orders and quorum regulating its proceedings. of the Committee.

(2) The quorum at a meeting of the Committee shall consist of the Chairman or his representative and two 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.

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

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

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

PART 45 – TRIAL OF CORPORATION

Interpretation465.(1) In this part-
under this Part.

“corporation” means anybodycorporate,
incorporated in Nigeria or elsewhere;

“representative” in relation to a corporation
means a person duly appointed by the
corporation to represent it for the purpose of
doing any act or thing which the
representative of a corporation is by this
Part authorised to do, but a person so
appointed shall not, by virtue only of being
so appointed, be qualified to act on behalf of
the corporation before any court for any
other purpose.

(2) A representative for the purposes of this
Part need not be appointed under the seal of
the corporation, and a statement in writing
purporting to be signed by a managing
director of the corporation, or by any person
(by whatever name called) having, or being
one of the persons having, the management
of the affairs of the corporation, to the effect
that the person named in the statement has
been appointed as the representative of the
corporation for the purposes of this Part,
shall be admissible without further proof as
prima facie evidence that the person has
been so appointed.

Plea by 466. Where a corporation is called upon to plead **corporation** to any charge, complaint or information including a new charge, complaint or information framed under this Law or charge, complaint or information added to or altered under this Law, it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under this Law and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

Information 467. A charge, complaint or information may be **against** a preferred **against** a corporation after the **corporation.** preparation of the proofs of evidence relating to the charge.

Joinder of 468. A charge, complaint or an information under **courts** in section 466 may include, either in substitution **same** for or in addition to counts charging the offence **information.** for which proofs of evidence have been prepared, counts which may be lawfully joined in the same charge, complaint or information and are founded on facts or evidence disclosed in the proofs of evidence.

Power of 469. A representative may, on behalf of a representative corporation-

- (a) state, whether the corporation is ready to be tried on charge, complaint or information or altered charge, complaint or, information to which the corporation has been called on to plead;
- (b) consent to the hearing and determination of a complaint before the return date of a summons; and
- (c) express assent to the trial of the corporation on a charge, complaint or information, notwithstanding that a copy of the charge, complaint or information and notice of trial has not been served on the corporation 3 days or more before the date on which the corporation is to be tried.

Matters to be read, said or explained to 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 representatives such requirements as is referred to in section 466 of this Law, shall not apply.

Saving under this part and joint part, the provisions of this Law relating to charge against the inquiry into and trial of offences shall apply to a corporation as they apply to an individual.

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

PART 46 – APPEALS FROM MAGISTRATE COURTS TO HIGH COURTS

Appeals from magistrates Court of the State in criminal matters shall be courts. (1) Appeals from a Magistrate court to the High Court of the State in criminal matters shall be courts. in accordance with the High Court Law of the State or any rule made under any such law.

(2) Where a defendant has been acquitted or an order of dismissal made by a Magistrate 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 court.

(3) An appeal, in accordance with this Part, shall be commenced by the appellant by giving notice to the registrar of the court from which the appeal is brought and such notice of appeal shall be signed by the appellant.

(4) The notice of appeal shall be given in every case before the expiration of the 30 days after the day on which the court has made the decision appealed against.

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

(6) An appellant, in an appeal brought in accordance with this Part, shall, within 30 days of the pronouncement of the decision appealed against, file with the registrar of the court from which the appeal is brought a memorandum of ground of appeal setting forth the grounds of his appeal which shall be signed by the appellant or the legal practitioner representing him.

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

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

(9) Without prejudice to the generality of subsection (8), the memorandum of grounds of appeal may set forth all or any of the following grounds that-

- (a) the lower court has no jurisdiction in the case;
- (b) the lower court has exceeded its jurisdiction in the case;
- (c) the decision has been obtained by fraud;
- (d) 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) 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) the decision is unreasonable or cannot be supported having regard to the evidence;
 - (g) the decision is erroneous on point of law;
 - (h) some other specific illegality, not mentioned and substantially affecting the merits of the case, has been committed in the course of the proceedings in the case; and

- (i) the sentence passed on conviction is excessive or in-adequate, unless the sentence is one fixed by law.

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

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

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

- (a) a warrant has been issued under section 327 of this Law when no sale of property shall take place until the sentence has been confirmed or the appeal decided; or

(b) an order for release on bail pending any further proceeding has been made by a competent court when the time during which the convicted person has been so released shall be excluded in computing the period of any sentence which he has ultimately to undergo.

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

PART 47 – FEES AND MISCELLANEOUS PROVISIONS

Payment of fees. 474. Subject to this Law, such fees as may be prescribed under this Law shall be paid in any proceeding before a court.

Suspension of fees. 475. A court may, in any proceeding in which good cause appears to the court for so doing, suspend payment of any fee payable until the conclusion of the proceedings and the court may then direct the

fees to be paid as costs by a party to the proceedings by whom the court has power to order costs to be paid or remit the payment of the fees.

State not required fees. 476. The provision of this Law relating to fees and to the giving of security shall not apply to the State or to a public officer acting in his official capacity.

Use of forms in Schedule. 477. Subject to the express provisions, if any, of the Rules of Court, the forms and precedents contained in the Schedules to this Law may, in accordance with any instructions contained in the forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply.

Power to make rules of court 478. The Chief Judge may make rules in respect of any or all of the following matters-

- (a) fees, costs or compensations to be paid under this Law and periodic review of the same;
- (b) forms to be used for the process and procedure of the courts;
- (c) accounts to be rendered of monies received by any person under this Law;

- (d) the method of issue of process under this Law, and the manner of receipt of and accounting for fees in respect of such process;
- (e) prescribing anything or any person required to be prescribed under this Law;
- (f) sentencing guidelines on a particular offence in order to promote consistently in sentencing;
- (g) regulation and management of non-custodial punishment provided under this Law; and
- (h) generally carrying into effect the purpose of this Law.

Non-479. Where no other sanction is provided for in compliance. this Law, failure on the part of a person to discharge his responsibility under this Law without reasonable cause shall be treated as misconduct by the appropriate authority.

Saving as to 480.(1) Nothing in this Law shall affect the use or other forms validity of any form in respect of a and procedure. procedure or an offence specified under the provisions of a written law or the validity of any other procedure provided by any other written law.

(2) Nothing in this Law shall affect the validity of any charge, complaint or information or proceeding initiated or commenced under any other law in so far as the proceeding was initiated or commenced before this Law came into force.

(3) Where there are no express provisions in this Law, the Court may apply any procedure that will meet the justice of the case

(4) The court may, as often as he deems fit and either before or after the expiration of the time appointed by this Law or by any judgment or order of the court, extend or adjourn the time for doing any act or taking any proceedings.

Repeals481. (1) Subject to subsection (2) of this 39 section, the Criminal Procedure Law Cap 39, Volume II

Laws of Oyo State is hereby repealed.

(2) Nothing in subsection (1) of this section shall affect the continued operation of Part II of the repealed law in a manner consistent with this Law

This printed impression has been carefully compared by me with the Law which has been passed by the Oyo State House of Assembly and found by me to be a true and correct printed copy of the Law.

.....
Paul Ishola Bankole mniRt. Hon. Adesina Michael Adeyemo
Clerk of the State Speaker of the State
House of Assembly House of Assembly

FIRST SCHEDULE

**FORMS
FORM NO 1**

GENERAL FORM OF TITLE OF PROCEEDINGS

**(i) (For use in the High Court)
IN THE HIGH COURT OF OYO STATE**

.....
In the Judicial Division

Holden at
Charge No 20

Between
.....Complainant,
And
.....Defendant.
Complaint

(ii) (For use in Magistrate Court)

IN THE MAGISTRATE COURT

In the Chief Magistrate Court of
In theMagisterial District
Holden at
Charge No20.....,
Between
..... Complainant,
And
..... Defendant.
Complaint

Section 55

FORM NO.2

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

(General Title- Form No. 1)

Before the High/ Magistrate Court of the
..... it is ordered that the defendant do forthwith to the satisfaction of enter into a recognizance in the sum of
With surety In the sum of (each) to keep the peace and be of good behaviour towards the State and all persons, and especially towards the complainant, for the term of now next ensuing:
And it is ordered that if the defendant fails to comply with this order he shall be imprisoned in the prison at For the space of unless he complies with the order.

If costs are ordered, add-

And it is ordered that the defendant pay to the said the sum of for costs (by instalments of for everydays, the first instalment to be paid) forthwith (or on the Day of 20.....):

And in default of payment it is ordered that the sum due be levied by distress and sale of the defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the said prison for the space of

Commencing at the termination of the imprisonment before ordered, unless the said sum (and all costs and charges of the (said distress and) commitment) be sooner paid.

.....
Judge (for Magistrate)

FORM NO 3

Section 90

COMPLAINT

(General Title- Form No.1)

The complaint of C.D (address and description), who upon oath (or affirmation) states that A,B of (address and description) on the day of20.....at.....in theabove-mentioned,did*

..... taken before me this day of

(*State concisely the substance of the complaint)

.....
Judge (or Magistrate)

FORM NO.4

Section 117

SUMMONS TO DEFENDANT

(General Title- Form No. 1)

To A.B of.....
Complaint has been made this day by
that you on the day of.....
20..... atin the
above-mentioned did*.....

(*State concisely the substance of the complaint)

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

Dated this day of20.....

.....
Judge (or Magistrate)

FORM No. 5

Section 131

WARRANT FOR ARREST OF DEFENDANT WHO HAS DISOBEYED SUMMONS

(General Title-Form No.1)

To Police Officer or To each and all Police Officers.
Complaint has been made on the day of 20 That A.B. hereinafter called the defendant on the Day of20in the above mentioned did*.....

(*State concisely the substance of the complaint)

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

An oath has been made that the defendant was duly served with the summons, but did not appear, and that such complaint is true. You are hereby commanded to bring the defendant before High/Magistrate's Court of the in the Judicial Division/Magisterial District sitting at forthwith to answer to the said complaint or be further dealt with according to law.

Dated the day of20.....

.....
Judge (or Magistrate)

FORM NO.6

Section 132

WARRANT FOR ARREST OF DEFENDANT IN FIRST INSTANCE

(General Title- Form No.1)

To.....Police OfficerComplaint on oath has been made on the day ofby that A,B, hereinafter called the defendant on the day of at.....in the above-mentioned did*

(*State concisely the substance of the complaint)

You are hereby commanded to bring the defendant before High/ Magistrate Court of the in the Judicial Division/Magisterial District sitting at to forthwith answer the said complaint and be dealt with according to law.

Dated the day of 20.....

.....
Judge (or Magistrate)

FORM NO.7

Section 143

SEARCH WARRANT

(TITLE OF PROCEEDING)

In the Magistrate Court of Magisterial District

To and

Whereas information on oath and in writing this day has been made that there is reasonable ground for believing that there is in (state the place to be searched and state what is to be searched for in the terms of (a), (b) or (c) of section 143 (1) of this Law.)

You are hereby commanded in the name of the Federal Republic of Nigeria, with proper assistance, to enter the above-named (state the to be searched) and there diligently search for the things aforesaid and where the same or any part thereof found on search, to bring the things found, and also the said (name the occupier of the place to be searched) before this Court to be dealt with according to law.

This warrant may be executed at any time on any day, including Sunday or public holiday and may also be executed at any hour during day or night.

Issued at thisday of
..... 20.....

.....
Magistrate

**INVENTORY OF ITEMS RECOVERED DURING EXECUTION OF
SEARCH WARRANT IN TERMS OF SECTION 143**

A. LIST OF ITEMS DETAINED AND PLACE OF SUCH DETENTION

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

B. LIST OF ITEMS RELEASED TO THE OWNER(S)

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

WITNESSES

.....
NAME/RANK/FORCE No. of OFFICER NAME/TITLE OF THE OCCUPIER
EXECUTIVE THE WARRANT. OF THE PLACE SEARCHED

.....
NAME/RANK/FORCE No OF ACCOUNTING OFFICER NAME/TITLE OF AN INDEPENDENT WITNESS

Dated theday of 20.....

FORM NO. 8

Section 181

FORFEITURE ON CONVICTION

(General Title-Form No. 1)

Before the High/ Magistrates Court of the
in the Judicial Division/Magisterial District sitting on the
 day of20
 A.B., hereinafter called the defendant, was by his recognizance entered into
 theday of, bound in the sum of
, and his sureties C.D and F.F. in the sum of
 each, the condition of the recognizance being that
 the said defendant should
 And it being now proved that the defendant was on theday of
convicted of the
 offence of having the same being a
 breach of the said condition:
 It is therefore ordered that the said recognizance be forfeited, and that the
 saidpay tothe
 sum ofand the further sum offor
 costs (by instalments of for everydays,
 the first instalment to be paid) forth with (or on the
 day of):

And in default of payment it is ordered that the sum due from the said
 under this order be levied by distress and sale
 of his goods, and in default of sufficient distress that the he be imprisoned
 in the prison atfor the peace of
 unless the said sums (and all costs and charges of the (said distress and)
 committed) be sooner paid.

.....
 Judge (or Magistrate)

FORM NO. 9

Section 240

SUMMONS TO WITNESS

(General Title-Form No.1)

To E.F
A.B has been charged by
for that he on theday of 20, at
.....in the *above-mentioned*, did*

.....
(*State concisely the substance of the complaint.)
and it appears to me by the oath of that
you are likely to give material evidence therein on behalf of the informant
(or complainant or defendant), and will not voluntarily appear for that
purpose.

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

Dated the day of20.....

.....
Judge (or Magistrate)

FORM NO. 10

Section 242

WARRANT FOR APPREHENSION OF A WITNESS

(General Title-Form No.1)

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

.....
(*State concisely the substance of the complaint)

.....
And it appearing to me by oath of that
E..F. is likely to give material evidence concerning the said matter,
and that it is probable he will not attend to give evidence unless
compelled to do so:

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

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

.....
Judge (or Magistrate)

Section 243

FORM NO 11

WARRANT FOR ARREST OF WITNESS IN FIRST INSTANCE

(General Title- Form No. 1)

To
A.B has been charged by for on the
Day of at in the aforesaid,
did* (*state concisely the substance of the complaint)

.....
And it appears to me by oath of That
E.F. is likely to give material evidence concerning the said matter, and that
it is probable he will not attend to give evidence unless compelled to do so:
You are hereby commanded to bring him before the High Magistrate Court
of the in the Judicial Division/Magisterial
District sitting at forthwith to
testify what he knows concerning the said matter.

Dated the day of 20.....

Section 249

FORM NO. 12

WARRANT TO COMMIT A WITNESS

(General Title-Form No. 1)

To and to the Superintendent of Prison. E.F ...
Having appeared or being brought before the High /Magistrate Court of the
..... in the Judicial Division/ Magisterial District sitting at
.....ondayof
to testify what he should know concerning a certain case against A..B.,
refused to take an oath (or having taken an oath) refused to answer any (or a
certain) question put to him concerning the case and did not offer any just
excuse for his refusal.

You, the said Police Officer are hereby commanded to convey the said E.F
safely to the said Prison, and there deliver him to the Superintendent
thereof, together with this Warrant, and you, the Superintendent of the said
Prison, to receive him into your custody, and keep him for the space of
..... unless he in the meantime consents to be examined
and to answer questions concerning the case.

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

.....
Judge (or Magistrate)

Form No.13

Section 292

FORM FOR REMAND PROCEEDINGS

(General Title Form No.1)

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 and occupation) of (state details of the Respondent' street address or where there is no precise street address, as near and close description as possible of the location of the Respondent's last known place of abode) in remand custody in _____(state the exact place of custody in which the applicant proposes to remand the Respondent such as the name and location of the prison or other detention place) who is reasonably suspected to have committed the offence of _____contrary to section _____of the _____within.....
Judicial 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 _____ 20_____

GROUNDS FOR THE REQUEST FOR REMAND

1. Place, time and circumstance of arrest: _____

2. Arrested with Exhibit(s) _____ Yes _____ No (Tick appropriately) (disregard (3) and (4) below if the Respondent was not arrested with Exhibit(s))

3. If arrested with Exhibits(s), state clearly the particulars of the Exhibit(s)

4. If arrested with Exhibit(s), state clearly how the items are related to or linked with the committal of the alleged offence: _____

5. State particulars of other evidence or report linking the Respondent to the committing of the offence such as forensic evidence, marks or finger prints, etc.

6. Confessional statement _____ Yes _____ No

7. Any previous conviction for the same or similar offence _____
Yes _____ No

8. If (7) above is Yes, state the particulars of previous conviction(s)

Found in custody or possession of offensive weapon, object or substance: _____ Yes _____ No

9. Identification by victim(s) or witness(es) _____ Yes _____
No

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

- (I) Name:
Age:
Sex:
Address:
Occupation:
- (ii) Name:
Age:
Sex:
Address:
Occupation:
- (iii) Name:
Age:
Sex:
Address:
Occupation:
- (iv) Name:
Age:
Sex:
Address:
Occupation:
- (v) Name:
Age:
Sex:
Address:
Occupation:
- (vi) Name:
Age:
Sex:
Address:
Occupation:

10. Need for further investigation _____ Yes _____ No

11. Period/duration required for further investigation _____
(state approximate days/weeks/ months required to complete investigation)

12. Any further relevant information _____

Signed
(Commissioner of Police/ Director of Public Prosecution/
Law officer/ Police officer)

FORM NO 14

Section 317

CONVICTION (IMPRISONMENT)

(General Title-Form No. 1)

Before the High/ Magistrate Court of the
in the Judicial Division/Magisterial District sitting at
on the Day of 20.....
A.B. hereinafter called the defendant, is this day convicted for
..... that he, on the day of
20..... at within the
Above-mentioned, did.....

And it is ordered that the defendant, for his said offence, be imprisoned in
the prison at And kept for
the period of
If costs are ordered, add-And it is ordered that the defendant pay to the said
..... sum of for costs (by instalments of
..... for everydays, the first instalment to
be paid) forthwith (or on the..... day of):
And in default of payment it is ordered that sum due be levied by distress
and sale of the defendant's goods and in default of sufficient distress that
the defendant be imprisoned in the prison at for
the space of Commencing at the termination of
the imprisonment before ordered, unless the said sum (and all costs and
charges of the (said distress and) commitment be paid)

.....
Judge(or Magistrate)

FORM NO.15

Sections 320,323 and 327

ORDER FOR MONEY (NOT A CIVIL DEBT)

(General Title- Form No.1)

Before the High/Magistrates' Court of the
in the Judicial Division/Magisterial District sitting at the
.....day of 20.....
A, B having made a complaint that C,D hereinafter called the defendant, on
theday of at
Within the above-mentioned, did

On hearing the said complaint, it is ordered that the defendant pay to said
.....the sum of and also
the sum of for costs (by
instalments of for every.....
Days, the first instalment to be paid) forthwith (or on the
.....day of):

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

.....
Judge (or Magistrate)

FORM NO. 16

Section 371

ORDER OF DISMISSAL

(General Title- Form No.1)

Before the High/Magistrate's Court of the in the Judicial
Division/Magisterial District sitting at the
..... day of 20.....
Complaint having been made by that A.B
hereinafter called the defendant, on the
day of at In the
above-mentioned, did

This Court having heard and determined the said complaint do dismiss same:*

(*on its merits or without prejudice to its being brought again.)

If costs are ordered, add-

And it is ordered that the complainant pay to the defendant the sum of for costs (by instalments of for every days, the first instalment to be paid) forthwith (or on the day of)

And in default of payment it is ordered that sum due be levied by distress and sale of the defendant's goods, and in default of sufficient distress that the defendant be imprisoned in the prison at for the space of, unless the said sum (and all cost and charges or the (said distress and) commitment be paid)

.....
Judge (or Magistrate)

FORM NO. 17

Section 377 (9)

INFORMATION ON LEGAL REPRESENTATION

This office of the Director of Public Prosecutions has determined that proceeding shall continue against you as per the attached legal advice.

Indicate whether you wish to be represented by a legal practitioner arranged by you or by the Legal Aid Council or any organisation providing free legal representation.

(1)If you wish to be represented by a legal practitioner arranged by you, please indicate below the particulars of such legal practitioner:

Name of Legal Practitioner: _____

Address of Legal Practitioner: _____

Telephone Number of Legal Practitioner: _____

E-mail of Legal Practitioner: _____

Signature of the Defendant: _____

Signature of the Prison official or Police official in charge of place of custody of Defendant: _____

(2) If you wish to be represented by a legal practitioner arranged by way of legal aid, please provide the relevant information below. If you do not know any organisation you wish to apply to provide legal practitioner to represent you, kindly enter the "Legal Aid Council" as the name of organisation:

Name of the Organisation: _____

Address of the Defendant (Place of custody or remand) _____

Signature of the Defendant: _____

Signature of the Prison official or Police official in charge of place of custody of defendant: _____

FORM NO. 18
FORM OF INFORMATION

Section 378

THE STATE VS C.D

In the High Court of

In the Judicial Division of

THE STATE VS C.D

The day of20.....

At the sessions holding at.....
on theday of..... 20.....,
the court is informed by the Attorney-General of the State on behalf of the
State that C..D is charged with the following offence. (or offences). (and
statement of offence (offences).

FORM NO. 19

Section 435

WARRANT OF DISTRESS (FOR PENALTY)

(General Title- Form No. 1)

To
A.B., hereinafter called the defendant, was on the day ofconvicted
before the High/ Magistrate’s Court sitting at
for that he on the day of at
.....In the above-mentioned, did
.....

And it was adjudged that the defendant for the said offence should be
imprisoned (or forfeit and pay the sum of)
and should also pay the sum of (for
compensation and) for costs (by instalments of
..... for every..... days, the first
instalment to be paid) forthwith (or on the
day of), and that in default the said sum (or sums)
should be levied by distress ,..... and default having been
made in payment.

You are hereby commanded forthwith to make distress of the goods of the
defendant (except the wearing apparel and bedding of him and his family,
and, the tools and implements of his trade) and if within the space of five
clear days next after the making of such distress, unless he consents in

writing to an earlier sale, the sum stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of that court, and if no such distress can be found, to certify the same to that court.

Dated the day of20

.....
Judge (or Magistrate)

N K

Amount ordered

Paid

Remaining due

Cost of issuing this warrant.....

Total amount to be levied.....

FORM NO. 20

Section 442

ORDER OF DISMISSAL WITH DAMAGES
(General Title-Form No. 1)

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

The..... day of20.....
Complaint having been made by A.B. that C.D. hereinafter called the
defendant, on theday
of 20..... at in
the Above-mentioned, did

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

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

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

.....
Judge (or Magistrate)

FORM NO. 21

ORDER FOR OTHER MATTERS

(General Title- Form No.1)

Before the High/Magistrate's Court of the in the
Judicial Division/Magisterial District sitting at
on the day of 20.....
A.B., having made a complaint that C.D hereinafter called the defendant, on
the day of at
..... in the
above mentioned, did

.....
On hearing the said complaint, it is ordered that the defendant
.....

If imprisonment is ordered, add-

And it is adjudged that if the defendant neglect or refuse to obey this order, he be imprisoned in the prison at for the space of days (or unless the said order be sooner obeyed).

If costs are ordered, add-

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

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

.....
Judge (or Magistrate)

NOTICE OF TRIAL

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

Also find attached is the "Information on Legal Representation" Form which you must complete and return to the Registry of this court within 14 days of service on you of this notice of trial.

SECOND SCHEDULE

CHARGES

Section 192

FORM OF CHARGE UNDER THE CRIMINAL CODE WITH ONE HEAD

A. CHARGES WITH ONE HEAD

Criminal Code section 118

1. That you on the day of at being a witness upon the trial of a case in the Magistrate's Court of the Magisterial District sitting at in which one was complainant and one was defendant, knowingly falsely swore that you saw on M.N. snatch a leather wallet from one Y, Z in the On the day of and thereby committed an offence punishable under section 118 of the Criminal Code

Criminal Code Section 120 (1)

2. That you, on the day of at with intent to mislead the court in the course of the trial of fabricated evidence by means other than perjury to wit: and thereby committed an offence against section 120 (1) of the Criminal Code.

Criminal Code Section 249 (a) (i)

3. That you, being a prostitute, on the day of at behaved in an indecent manner by exposing your naked person in Broad Street and thereby committed an offence punishable under section 249(a) (i) of the Criminal Code.

Criminal Code Section 325

4. That you on the day of at unlawfully killed C.D and thereby committed an offence punishable under section 325 of the Criminal Code.

Criminal Code Section 326(3)

5. That you on the day of at aided A.B in killing himself and thereby committed an offence punishable under section 326(3) of the Criminal Code.

Criminal Code Section 332(1)

6. That you on the day of at unlawfully wounded C.D with intent to maim, disfigure or disable or to do some grievous harm or to resist the lawful arrest of yourself and thereby committed an offence punishable under section 332(1) of the Criminal Code.

Criminal Code Section 338(1)

7. That you on the Day of at Unlawfully wounded C.D and thereby committed an offence punishable under section 338(1) of the Criminal Code.

Criminal Code Section 360

8. That you, on the day of at unlawfully and indecently assaulted M.S and thereby committed an offence punishable under section 360 of the Criminal Code.

Criminal Code Section 402

9. That you, on the day of at ... Robbed C.D of (state the thing and thereby committed an offence punishable under section 402 of the Criminal Code.

Criminal Code Section 419

10. That you, on the day of at with intent to defraud, obtained from S.P five yards of cloth by falsely pretending that you were a servant to J.S and that you had then been sent by the said J.S to S.P for the said cloth, and that you were then authorised by the said J.S to receive the cloth on behalf of the said J.S and thereby committed an offence punishable under section 419 of the Criminal Code.

11. That you, on the day of at, with intent to defraud, obtained from A.B by falsely pretending that you were able to double money and thereby committed an offence punishable under section 419 of the Criminal Code.

Criminal Code Section 430(1).

12. That you..... on the day of at....., had in your possession one gold watch reasonable suspected of having been stolen or unlawfully obtained and thereby committed an offence punishable under section 430 (1) of the Criminal Code.

Criminal Code Section 443

13. That you, on the day of at..... wilfully and unlawfully set fire to a house and thereby committed an offence punishable under section 443 of the Criminal Code.

Criminal Code Section 467 (2)(i)

14. That you, on the day of at....., forged an accountable receipt purporting to be the receipt of C.D., and thereby committed an offence contrary to section 467(2) (i) of the Criminal Code

(ii) CHARGES WITH TWO OR MORE HEADS

Criminal Code Section 230

15. First- That you, on the day of.....
at unlawfully supplied to C.D (state
thing supplied) knowing that it was intended to be unlawfully used to
procure the miscarriage of a woman and thereby committed an offence
punishable under section 230 of the Criminal Code.

Secondly – That you, on or about theday of
.....at.....
unlawfully procured for C.D (state thing procured) knowing that it was
intended to be unlawfully used to procure the miscarriage of a woman and
thereby committed an offence punishable under section 230 of the Criminal
Code.

Criminal Code Section 248

16. First – That you, on theday of.....,
at....., sold matches made with white (yellow) phosphorous and thereby
committed an offence punishable under section 248 of the Criminal Code.

Secondly – That you, on the day of
....., at..... had in
your possession for the purpose of sale of matches made with white
(yellow) phosphorous and thereby committed an offence punishable under
section 248 of the Criminal Code.

Criminal Code Section 390

17. First – That you, on the day of
..... at stole (state the
thing stolen) the property of C.D. and thereby committed an offence
punishable under section 390 of the Criminal Code

Secondly – That you, on the day of at
.....stole (state the thing stolen) which had been entrusted to you
by C.D. for

you to retain in safe custody and thereby committed an offence punishable under section 390 (8) (b) of the Criminal Code.

Thirdly – That you, on the day
of..... at.....
stole (state the thing stolen) which had been received by you for and on
account of C.D and thereby committed an offence punishable under section
390(8) (c) of the Criminal Code.

OTHER FORM OF CHARGE

BETWEEN:

THE STATE

VS

1. ABC

2. XYZ

At the session holden at Ibadan on the day of
.....20....., upon the complaint of the Director of Public
Prosecutions on behalf of the State the following persons; that is-

1. ABC

2. XYZ

Are charged with the following offences-

COUNT I

That you, ABC and XYZ

COUNT 2

Dated this.....Day of.....

.....
State Counsel

THIRD SCHEDULE

INFORMATION PRECEDENT

Section 379 (4)

STATEMENT OF OFFENCE

Perjury, contrary to section 118 of the Criminal Code

Particulars of offence

A,B., on the day of
20.....in the division of, being a witness
upon the trial of an action in the High Court in which one was
claimant, and one was defendant, knowingly
gave false testimony that (Name) of(Street/Town) saw one M.W
in the street called Agodi, Ibadan on the
..... day of
20

2

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 151 of the Criminal Code

Particulars of offence

A,B, on the day of
20,..... at market
in the division of uttered a counterfeit Naira,
Coins/Notes, knowing the same to be counterfeit.

3

STATEMENT OF OFFENCE

Murder, contrary to section 319 of the Criminal Code/

Particulars of offence

A,B, on the day of
20..... in the division of..... murdered J.S.

4 STATEMENT OF OFFENCE

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

Particulars of offence

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

5 STATEMENT OF OFFENCE

Manslaughter, contrary to section 325 of the Criminal Code

Particulars of offence

A,B, on theday of 20..... in the division
of, unlawfully killed J.S.

6 STATEMENT OF OFFENCE-FIRST COUNT

Wounded with intent, contrary to section 332, subsection (1) of the Criminal Code

Particulars of offence

A,B, on the day of 20 in the
division did cause grievous harm, or to resist the lawful arrest of him the
said A,B,

STATEMENT OF OFFENCE-SECOND COUNT

Wounding, contrary to section 338, subsection (1), of the Criminal Code

Particulars of offence

A,B, on the day of, 20..... in the division of unlawfully wounded C.D.

7 STATEMENT OF OFFENCE

Rape, contrary to section 358 of the Criminal Code

Particulars of offence

A,B, on the day of 20 in the division ofhad carnal knowledge of E.F. without her consent.

8 STATEMENT OF OFFENCE

Publishing defamatory matter, contrary to section 375, of the Criminal Code

Particulars of offence

A,B, on the day of, 20..... in the division of published defamatory matter affecting E.F, in the form of a letter (book, pamphlet, picture, or as the case may be)
(*innuendo should be stated where necessary*)

9 STATEMENT OF OFFENCE-FIRST COUNT

Stealing contrary to section 390, Criminal Code

Particulars of offence

A,B, on the day of, 20 in the division ofstole a bag, the property of the C.D.

STATEMENT OF OFFENCE-SECOND COUNT

Receiving stolen goods, contrary to section 427 of the Criminal Code

Particulars of offence

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

10 STATEMENT OF OFFENCE-FIRST COUNT

Stealing by clerks contrary to section 390(6) of the Criminal Code

Particulars of offence

A.B on the day of 20..... in the division Stole N200.00 which had been entrusted to him by H.S for him, the said A.B, to retain in safe custody.

STATEMENT OF OFFENCE-SECOND COUNT

Stealing by agents and others, contrary to section 390(8) (b) of the Criminal Code

Particulars of offence

A.B, on the day of 20..... in the division of,stole N200.00 which had been received by him for and on account of L.M.

11 STATEMENT OF OFFENCE

Robbery with violence, contrary to section 402 of the Criminal Code

Particulars of offence

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

12 STATEMENT OF OFFENCE

Demanding property by written threats, contrary to section 402 of the Criminal Code

Particulars of offence

A,B, on the day of 20..... in the division of, with intent to extort money from C.D. caused the said C.D. to receive a letter containing threats of injury or detriment to be caused to E.F.

13 STATEMENT OF OFFENCE

Attempt to extort by threats contrary to section 408, of the Criminal Code

Particulars of offence

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

14 STATEMENT OF OFFENCE

Obtaining goods by false pretences, contrary to section 419, of the Criminal Code

Particulars of offence

A,B, on the day of 20..... in the division of, with intent to defraud, obtain from S.P. five yards of cloth by falsely pretending that he, the said A.B. was a servant to J.S., and that he, the said A.B., had then been sent by the J.S., to S.P., for the said cloth, and that he, the said A.B., was then authorised by the said J.S., to receive the said cloth on behalf of the said J.S.

15 STATEMENT OF OFFENCE

Burglary, contrary to section 411, and stealing, contrary to section 390(4)(b) of the Criminal Code

Particulars of offence

A,B on the day of20....., in the division of....., did break and enter the dwelling-house of C.D., with intent to commit a felony therein, namely to steal therein, and did steal therein one watch, the property of S.T.

16 STATEMENT OF OFFENCE

Conspiracy to defraud, contrary to section 422 of the Criminal Code

Particulars of offence

A,B, on the.....day of.....20....., and on different days between that day and the day of, 20..... in the division of conspired together with intent to defraud by means of an advertisement inserted by them, the said A,B, and C,D, in the H.S.

newspaper, falsely representing that A.B. and C.D. were then carrying on a genius business as jewellers at, in the division of and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum of

17 STATEMENT OF OFFENCE FIRST COUNT

Fraudulent false accounting, contrary to section 438 of the Criminal Code.

Particulars of offence

A.B, on the day of, 20..... in the division of and on different days between that day and the day of 20....., being clerk or servant to C.D. with intent to defraud, made, or was privy to making a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day N200.00 had been paid to L.M.

STATEMENT OF OFFENCE-SECOND COUNT

Fraudulent false accounting, contrary to section 438 of the Criminal Code

Particulars of offence

A,B on theday of20.....in the division of....., being clerk or servant to C.D., with intent to defraud, omitted or was privy to omitting from a cash book belonging to the said C.D., his employer, a material particular that is to say, the receipt on the said day of N100.00 from H.S.

18 **STATEMENT OF OFFENCE**

Arson, contrary to section 443, of the Criminal Code

Particulars of offence

A,B, on theday of, 20..... in the division of wilfully and unlawfully set fire to a house.

19 **STATEMENT OF OFFENCE**

Arson, contrary to section 443, of the Criminal Code C,D,
accessory before the fact to same offence.

Particulars of offence

A,B, on the day of, 20.....in the division of wilfully and unlawfully set fire to a house, C,D, on the same day, in the division of, did counsel or procure the said A,B, to commit the said offence.

20. **STATEMENT OF OFFENCE-FIRST COUNT**

Offence under section 449, subsection (1), of the Criminal Code

Particulars of offence

A,B, on theday of,20.....in the division of, with intent to obstruct the use of the Nigerian Railway, displaced a sleeper belonging to the said railway.

STATEMENT OF OFFENCE-SECOND COUNT

Obstruction railway, contrary to section 459, of the Criminal Code

Particulars of offence

A,B, on the day of 20..... in the division of, by unlawfully displacing a sleeper belonging to the Nigerian Railway, caused an engine or vehicle in use upon the said railway to be obstructed in its passage.

21 STATEMENT OF OFFENCE

Damaging trees, contrary to section 451 of the Criminal Code

Particulars of offence

A,B, on theday of20.... in the division of wilfully and unlawfully damaged a cocoa tree from growing.

22 STATEMENT OF OFFENCE FIRST COUNT

Forgery, contrary to section 467(2), of the Criminal Code

Particulars of offence

A,B, on the day of 20..... in the division of,..... forged a certain will purporting to be the will of C.D.

STATEMENT OF OFFENCE SECOND COUNT

Uttering a false document, contrary to section 468 of the Criminal Code

Particulars of offence

A,B, on the..... day of....., 20..... in thedivision knowing and fraudulently uttered a certain forged will purporting to be the will of C.D.

23 STATEMENT OF PREVIOUS CONVICTION*

Prior to the commission of the said offence, the said A,B, has been previously convicted of burglary on the day of20....., at the Session held at

FOURTH SCHEDULE

Section 37

Form A

ENDORSEMENT ON WARRANT OF ARREST

Whereas proof has this day been made before me that the name..... subscribed to the within warrant is in the handwriting of the within mentioned..... I hereby authorise who brings me this warrant and all the other persons to whom this warrant was originally directed and also all police officers of the to execute this warrant within and to bring the said if arrested withinbefore me or before some Magistrate of the to be dealt with according to law.
GIVEN under my hand this 20.....

.....
Magistrate

FORM B
Section 112

COMPTROLLER-GENERAL OF PRISONS RETURNS OF PERSON(S)
AWAITING TRIAL

(Complete form in triplicate per individual)

To: The Chief Judge of..... and to the
Attorney General.

The Chief Judge of and the Attorney
General are hereby informed that these are the records of all persons
awaiting trial held in custody within the State for a period beyond 180 days
from the date of arraignment.

1. Name of person in
custody:.....

2. Date of
Arraignment:.....

3. Court where arraigned
.....

4. Particulars of the offence charged
with:.....

5. Date of his Admission to
custody:.....

6. Name of the Prosecuting
Agency:.....

7. Any other relevant
information:.....

.....
Comptroller-General of Prisons

FORM C

Section 183

**WARRANT TO ARREST A PERSON FAILING TO APPEAR
PURSUANT TO RECOGNIZANCE**

(TITLE OF PROCEEDINGS)

To

.....

And

Whereas.....of
is bound by recognizance to appear before this court on.....(state
when) but failed so to appear:

You are hereby commanded to arrest the said.....
..... and bring him before me
atwithout delay.

.....
Judge (or Magistrate)

FORM D

Section 244

RECOGNIZANCE OF WITNESS

In the Magistrate's Court ofC.D.
of(address and occupation or profession)
acknowledges that he/she owes to the State Government the sum of
..... payment thereof to be enforced against him/her by due
process of law if he/she fails to comply with the conditions endorsed
hereon.

Signature of C..D.....

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

.....
Magistrate (or Judge)

(Endorsement)

Conditions

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

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

FORM E

Section 318

WARRANT TO CARRY OUT SENTENCE

(TITLE OF PROCEEDINGS)

To and to the Superintendent of Prison:
The defendant was on the
day of20....., sentenced as follows-

No	Offence	Term, Fine, Compensation, Costs, or Strokes	Term in default

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

The imprisonment is to commence forthwith (upon the expiration of any other term of imprisonment which the defendant may be now serving)

The terms are to run concurrent (or consecutive, or concurrent as to the And and consecutive as to, or as the case may be).

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

Dated the day of 20.....

.....
Judge (or Magistrate)

Form F

Section 412

ORDER FOR COMMUTATION OF SENTENCE

WHEREAS on the day of.....20..... was duly convicted of a capital offence and was sentenced to death by the holding at

AND WHEREAS information derived from the records of the case or elsewhere having been duly taken into consideration at a meeting of the Committee on Prerogative of Mercy thereafter has decided to recommend to me that I should exercise my powers in relation to the person so convicted: AND WHEREAS I have decided in accordance with the advice of the appropriate authority to confirm the sentence:

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

..... be imprisoned for

GIVEN under my hand and the Public Seal of Oyo State of Nigeria this day of20.....

.....
Governor

To the Sheriff at
(for transmission to the appropriate prisons authority)

Form G

Order for Sentence of Death to be Carried Out

Public Seal

ORDER FOR EXECUTION

WHEREAS at the holding at on the dayof 20.....,one.....was duly convicted of a capital offence and was sentenced to death:

AND WHEEREAS information derived from the record of the case or elsewhere, having been duly taken into consideration at a meeting of the Executive Council of the State designated for the purpose in his own deliberate judgement thereafter has decided to recommend to me that I should exercise my power in relation to the person so convicted:

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

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

AND FOR SO DOING this shall be your Warrant. GIVEN under my hand and the Public Seal of Oyo State of Nigeria this day of 20.....

..... Governor

To the Sheriff at

Public Seal

Form H

SCALE OF IMPRISONMENT FOR NON-PAYMENT OF MONEY
ORDERED TO BE PAID

(Section 426)

Where the fine does not;	The period of imprisonment shall not exceed;
Exceed N2,000.00	7 days
Exceed N2,000.00 and does not exceed N5,000.00	14 days;
Exceed N 5,000.00 and does not exceed N20,000.00	1 month;
Exceed N 20,000.00 and does not exceed N60,000.00	2 months;
Exceed N 60,000.00 and does not exceed N100,000.00	3 months;
Exceed N 100,000.00 and does not exceed N200,000.00	4 months;
Exceed N 200,000.00 and does not exceed N400,000.00	5 months;
Exceed N 400,000.00 and does not exceed N600,000.00	6 month
Exceed N 600,000.00 and does not exceed N1,000,000.00	7 months
Exceed N 1,000,000.00 and does not exceed N2,000,000.00	8 months
Exceed N 2,000,000.00 and does not exceed N5,000,000.00	9 months
Exceed N 5,000,000.00 and does not exceed N10,000,000.00	10 months
Exceed N 10,000,000.00	To the discretion of the Judge from 18 months and above.

Form I

ENDORSEMENT ON WARRANT OF DISTRESS

Section 436

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

..... you..... are hereby ordered forthwith to make
distress of the goods of the defendant (except the wearing apparel and
bedding of him and his family, and, to the value of Naira the
tools and implements of his trade); and if within the space of the 5 clear
days next after making of such distress unless he consents in writing to an
earlier sale, the sum stated in the within warrant, together with the
reasonable cost and charges of making and keeping of the said distress, be
not paid, then to sell the said goods, and pay the money arising therefrom to
the registrar of this court, and if no such distress can be found, to certify the
same to this court.

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

.....
Judge (or Magistrate).

FORM J

**RECOGNIZANCE OF WITNESS CONDITIONALLY BOUND
OVER**

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

.....
(*address and occupation or profession*)

Signature of C.D.....

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

.....
Magistrate

(*Endorsement*)

Conditions

Whereas A,B, (hereinafter called the defendant) was this day charged before me(name of Magistrate), the above-mentioned Magistrate, with (state shortly particulars of offence): and Whereas C.D. has been informed that he/she is only conditionally bound over to give evidence at the trial of A,B, but that, after receiving a notice that he/she will be required to give evidence at the said trial, he/she will then be firmly bound by the following conditions:

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

FORM K

Notice to Witness that Defendant has not been Committed for Trial
In the Magistrate Court of

Whereas you C.D. of.....were on the
.....day of..... 20..... bound by a
recognizance in the sum of to
appear on a date to be notified to you at the High Court of
State and give evidence upon the trial of A,B:

This is to give you notice that the Magistrate has determined not to commit the said A,B, for trial and that consequently you will not be required to appear at the High Court for the purpose above-mentioned.

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

.....
Judge (or Magistrate)

FORM L

Notice to Witness bound over that he is to be treated as having been bound over conditionally

In the Magistrate Court of.....

Whereas you, C.D. of were on the day of 20..... bound by a recognizance in the sum of to appear at the High Court of State on a date to be notified to you, there give evidence upon the trial of A,B.

And whereas the Magistrate has since committed the said A,B. for trial at the High Court of State and has directed that you are to be treated as having been bound over to attend the trial conditionally upon notice being given to you:

This is to give you notice that you are not bound by the recognizance entered into by you until and unless you subsequently receive notice that you will be required to give evidence at the trial of the defendant A,B.

Dated theday of.....20.....

.....
Judge (or Magistrate)

FORM M

**NOTICE TO WITNESS BOUND OVER OR TREATED AS BOUND
OVER CONDITIONALLY**

In the High/Magistrate' Court of.....
Whereas you C.D. of
were on theday of.....
20..... bound over conditionally in the sum ofto
appear upon being given to you a notice to give evidence upon the trial of
A,B, (or, whereas you C.D. were given notice, after entering into a
recognizance to give evidence upon the trial of A,B, that you would not be
bound by such recognizance until and unless you subsequently receive
notice that you will be required to give evidence at the trial of A.B.):

This is to give you notice that you are required to appear and give evidence
at the High Court of at the trial of A,B, on the(or
on a date to be subsequently notified) and that unless you do so the said
recognizance will be forthwith enforced against you.

Dated theday of.....20.....

.....
Registrar of High/Magistrate Court

