TARABA STATE OF NIGERIA

TARABA STATE ADMINISTRATION OF CRIMINAL JUSTICE LAW, 2021

LAW NO: 11 2021

A LAW TO PROVIDE FOR THE ADMINISTRATION OF CRIMINAL JUSTICE IN THE COURTS OF TARABA STATE AND FOR OTHER PURPOSES CONNECTED THEREWITH.

(.....)

Date of Commencement.

Enactment.

BE IT ENACTED by the House of Assembly of Taraba State of Nigeria as follows:-

Citation, and Commencement.

1. (1) This Law shall be cited as Taraba State Administration of Criminal Justice Law, 2021.

(2) This Law shall come into operation on the ……day of.……2021.

Saving existing Appointments.

(3) Nothing in this Law shall affect the status, appointment or tenure of office of:

(a) Any magistrate appointed within the State before the commencement of this Law. Accordingly, every Magistrate shall be deemed to have been appointed under this Law and shall exercise his duties in the district in which he was serving before the commencement of this Law.

(b) Any officer performing duties in connection with a court constituted under any Law before the commencement of this Law shall be deemed to have been appointed as such under this Law.

Interpretation.

2. (1) In this Law unless the context otherwise requires:

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

"**Governor**" means the governor of Taraba State;

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

"**Attorney-General**" means the Attorney-General of Taraba State;

"**Charge**" means the statement of offence or statement of offences with which a defendant is charged in a trial.

"**Chief Judge**" means the Chief Judge of the High Court of Justice Taraba State;

"**Child**" means a person who has not attained the age of 18 years under the Child Right Law, 2005;

"**Committee**" means the Administration of Criminal Justice Monitoring Committee

established under section 466 (1) of this Law;

"**Complainant**" includes any informant or prosecutor in any case relating to summary trial

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

"**Court**" includes Area Courts presided over by a legal practitioner, Family Court, Magistrates' Court, Upper Area Court, and State High Court;

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

"**Custodial Centre**" means a place where individuals who are sentenced requiring imprisonment are kept or those remanded in custody by the order of the Court are kept.

"**Custodial Officer**" means officer of whatever rank appointed under the Nigeria Correctional Service Act.

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

"**District**" means a district into which the State is divided for the purposes of any law or 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

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

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

"**Functions**" includes powers and duties;

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

"**Governor**" mean the Governor of Taraba State;

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

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

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

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

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

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

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

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

"**Inmates on death row**" means inmates sentenced to death that have exhausted legal appeals and are waiting for execution.

"**Judge**" includes a Judge of a High Court, Magistrate or a Judge of the Upper Area Court and Area Court;

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

"**Director**" means Director of public prosecutions;

"**Law enforcement officer**" where the context so admits, includes any officer of any law enforcement agency established by an Act of the National Assembly or any law made by the House of Assembly;

"**Legal guardian**" in relation to an infant or child offender, means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

"**Licensed courier company**" means a courier company registered under the relevant law;

"**Magistrate**" means a Magistrate appointed in accordance with the law of Taraba State;

"**Magistrates' Court**" means Magistrates' Court established under the law of Taraba State;

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

"**Misdemeanor**" means an offence punishable by imprisonment for not less than 6 months, but less than 3 years or which is declared by law to be a misdemeanor;

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

"**Offence**" means an offence created by any law;

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

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

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

"**Part-heard criminal matter**" means a trial which has not been concluded by the court.

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

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

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

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

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

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

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

"**Public nuisance**" is as defined in the Taraba State Urban Areas Designation Law, 2011" or Taraba State Environmental Protection and Sanitation Agency Law;

"**Reasonable time**" is as defined in section 35 (5) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended);

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

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

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

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

"**Solicitor-General**" means the Permanent Secretary in the Ministry of Justice of the State;

"**State**" means Taraba State;

"**State law**" means any law enacted by the State House of Assembly;

"**Summary trial offence"** means an offence punishable by a High Court or a magistrates' court on summary trial 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) an Upper Area Court, Magistrate Court or Area Court Judge when sitting in court to hear and determine any matters within his power and jurisdiction either under the provisions of this Law or any other law, and the Judge when so sitting and presiding, and the Magistrate when so sitting, shall be deemed to be a "court" or ''summary court" within the meaning of this Law or any other law;

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

"**Superintendent in charge**" means custodial officer in charge of the custodial centre.

"**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;

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

PART 1
PRELIMINARY

Application.

3. Without prejudice to section 100 of this Law, the provisions of this Law shall apply to criminal trials for offences established by the Law of the State House of Assembly and other offences punishable in the State, except otherwise provided by any other law.

Trial of offences under other laws.

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

PART 2
THE CONSTITUTION AND POWERS OF CRIMINAL COURTS

Classes of State criminal courts.

5. There shall be the following classes of Criminal Courts in Taraba State, namely:

(a) The High Court;

(b) Courts of the Chief Magistrates of the first grade;

(c) Courts of the Chief Magistrates of the second grade;

(d) Courts of the Senior Magistrates of the first grade;

(e) Court of the Senior Magistrates of the Second grade;

(f) Courts of the Magistrates of the first, second and third grade;

(g) The Upper Area Court:

(h) The Area Court;

(i) The Family Court, and

Any other court that may be created by the State House of Assembly.

Power to divide the State into division or districts.

6.(1) The Chief Judge may:

(a) divide the State into Magisterial Districts for the purpose of establishing Magistrates' Courts;

(b) constitute any part of the State as a Magisterial District for the purpose of establishing a Magistrate Court;

(c) Distinguish such Magisterial Districts by such names or numbers as he may deem appropriate.;

(d) vary the limit of any such Magisterial Districts; and

(e) Create or designate divisions of the High Court to handle specific criminal matters solely or in addition to other matters or causes.

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

Establishment and jurisdiction of magistrate's court in each district.

7. (1) In each Magisterial District, there is hereby established a court, to be called the Magistrate Court.

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

Presiding officer not to exceed powers.

8. (1) Subject to the provisions of this Law:

(a) the Magistrate of each Magisterial District shall be the Presiding Magistrate of the court of such District wherein he shall have and exercise all the jurisdiction and the powers conferred upon him by his appointment; and accordingly;

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

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

Appointment of magistrates.

9. (1) Magistrates shall be the Chief Magistrates of the first, second and third grades, senior Magistrates of the first, and second grades and Magistrates of first, second and third grades.

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

(a) The appointment of Magistrates shall be made in accordance with the provisions of this Law and any other law made by the State House of Assembly.

(b) Notwithstanding any other law, the Judicial Service Commission may appoint Magistrate grade III and place them on grade level 10.

(3) The grades of the Area Courts shall be as specified in the law establishing it.

Territorial jurisdiction of magistrates.

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

Power of Chief Judge to direct a Magistrate to assist another Magistrate.

11. Notwithstanding the provisions of section 10, a Chief Judge may direct a magistrate in one of the districts within a group to assist another magistrate within the same group, and may direct to the best of his ability the movements of any additional magistrate within the group.

Offences under the Penal Code and the Jurisdiction of Area courts.

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

Appendix A

(2) Any offence under the Penal Code, other than sections 56(b), (59(1), (59(2), 79, 80, 81, 82, 83, 84, 85, 86,87, 88 , 89, 90, 245, 256, 257, 258, 279, 280, 283, 287, 289, 355, 338, 343, 344, 345, 346, 347, 348, 349, 350, 351 and 370, may be tried by any Area Courts by which such offence is shown in the seventh column of Appendix A to be triable or by any court with greater powers.

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

Offences under other laws.

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

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

Provided that in trying any such offence:

(a) a Chief Magistrate of the first grade or an Upper Area Court shall try such an offence punishable with imprisonment for a term up to twenty-one years or with a fine up to five hundred thousand Naira;

(b) a Chief Magistrate of the second grade shall try such an offence punishable with imprisonment for a term up to fourteen years or with a fine up to three hundred thousand Naira;

(c) a Senior magistrate of the first grade shall try such an offence punishable with imprisonment for a term up to ten years or with a fine up to one hundred thousand Naira;

(d) a Senior Magistrate of the second grade shall try such an offence punishable with imprisonment for a term up to eight years or with a fine up to seventy thousand Naira;

(e) a Magistrate of the first grade shall try such an offence punishable with imprisonment for a term up to five years or with fine up to fifty thousand Naira;

(f) a Magistrate of the second grade shall try such an offence punishable with imprisonment for a term up to three years or with a fine up to forty thousand Naira;

(g) Magistrates of the third grades shall try such an offence punishable with imprisonment for a time up to two years or with a find up to twenty thousand Naira;

(h) An Area Court shall try such offences punishable with imprisonments or fines as prescribed in the law establishing it.

(3) Nothing in subsection (2) shall be deemed to confer upon any court any jurisdiction in excess of that conferred upon that court by sections 15 to 20 of this Law.

Jurisdiction of the High Court.

14. The High Court may pass any sentence authorized by law

Jurisdiction of the Magistrates to pass sentence

15. The Chief Magistrate Court may pass any sentence authorized by law.

(1) A Chief Magistrate of the first grade and an Upper Area Court may pass the following sentence:

(a) Imprisonment for a term not exceeding twenty one year;

(b) fine not exceeding Three Million Naira;

(c) Detention under section 35 of the Penal Code.

(2) A Chief Magistrate of the second grade may pass the following sentences:

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

(b) fine not exceeding One Million, Eight Hundred Thousand Naira; and

(c) Detention under section 35 of the Penal Code.

(3) A Senior Magistrate of the first grade may pass the following sentences:

(a) imprisonment for a term not exceeding ten years;

(b) fine not exceeding Six hundred thousand Naira; and

(c) Detention under section 35 of the Penal Code.

(4) A Senior Magistrate of the second grade may pass the following sentences:

(a) imprisonment for a term not exceeding eight years;

(b) fine not exceeding five hundred thousand Naira; and

(c) Detention under section 35 of Penal Code.

(5) A Magistrate of the first grade may pass the following sentences:

(a) imprisonment for a term of not exceeding five years;

(b) fine not exceeding three hundred thousand Naira; and

(c) Detention under section 35 of the Penal Code.

(6) A Magistrate of the second grade may pass the following sentences:

(a) imprisonment for a term not exceeding three years;

(b) fine not exceeding Two hundred and fifty thousand Naira; and

(c) Detention under section 35 of the Penal Code.

(7) A Magistrate of the third grade may pass any of the following sentences:

(a) imprisonment for a term not exceeding two years:
(b) Fine not exceeding Two hundred Thousand Naira; and
(c) Detention under section 35 of the penal court.

(8) An area court may pass the sentences provided in the law establishing it.

Power of the House of Assembly to increase jurisdiction.

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

Combination of sentences.

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

Imprisonment in default of payment of fine

18. Any court may award any term of imprisonment in default of payment of a fine which it is authorized by section 37 of the Penal Code, provided that the term of imprisonment shall not be in excess of the powers of the court under section 15 of this Law.

Sentences in case of conviction of several offences at one trial

19. (1) Where a person is convicted at one trial of two or more distinct offences, the court may, subject to the provisions of section 39 of the Penal Code, sentence him for such offences to the several punishments prescribed thereof which such court is competent to impose to run consecutively or concurrently.

(2) In cases falling under this section a court shall not be limited by the provisions of section 15 of this Law but shall not impose consecutive sentences exceeding in the aggregate twice the amount of punishment which is in excess of its ordinary jurisdiction.

Power to bind parties to be of good behaviour.

20. A court may, whether the defendant is discharged or not, bind over the complainant or defendant, or both, with or without sureties, to be of good behaviour and may order any person so bound, in default of compliance with the Order, to be imprisoned for a term not exceeding three months in addition to any other punishment to which that person is liable.

PART 3
ARREST, BAIL AND PREVENTIVE JUSTICE

Arrest Generally.

21. (1) A Police Officer may arrest:

(a) With or without a court order or warrant only in the circumstances mentioned in Section 37 of this Law.

(b) Where there is a reasonable suspicion that any suspect has committed an indictable offence, the Commissioner of Police may ensure that the investigation of such offence is conducted in conjunction with designated law officers from the Ministry of Justice of the State.

(c) Such designated law officer shall not be below the rank of Senior State Counsel who must have undergone a strategic training to equip him/her with the requisite critical knowledge and skills for the detection, investigation and control of crimes by the Nigeria Police.

(2) Upon a request by the Commissioner of Police, the Attorney-General shall not later than 5 days of receiving such request assign a law officer to work with the Police in the investigation provided that this provision shall not derogate from the powers of the Police to conduct investigation speedily. Provided that where the Attorney-General is absent, the Solicitor-General shall act on his behalf.

(3) The Investigation referred to in subsection (2) of this section shall be completed within six (6) months (180 days).

Mode of arrest.

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

Manner of arrest.

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

No unnecessary restraint.

24. A suspect or defendant shall not be handcuffed, bound or be subjected to restraint except:

(a) there is reasonable apprehension of violence or an attempt to escape;

(b) the restraint is considered necessary for the safety of the suspect or defendant; or

(c) by order of a court.

Notification of cause of arrest and rights of suspect.

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

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

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

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

(c) free legal representation by the Legal Aid Council of Nigeria or Office of the Public Defender where applicable and or any legal practitioner of his choice.

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

Arrest in lieu prohibited.

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

Humane treatment of arrested suspect.

27. (1) A suspect shall:

(a) be accorded humane treatment, having regard to his right to the dignity of his person; and

(b) not be subjected to any form of torture, cruel, inhuman or degrading treatment.

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

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

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

Search of suspect.

28. (1) Where a suspect is arrested by a police officer or a private person, the officer making the arrest or to whom the private person hands over the suspect:

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

(b) Shall keep in safe custody all articles other than necessary wearing apparel found on the suspect.

(2) Where a suspect is admitted to bail and bail is furnished, he shall not, subject to the provisions of section 30 of this Law, be searched unless there are reasonable grounds for believing that he has on his person any:

(a) stolen articles;

(b) instruments of violence or poisonous substance;

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

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

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

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

Inventory of property of suspect.

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

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

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

(4) Where any property has been taken under this section from a suspect, a police officer may, upon request by either the owner of the property or parties having

interest in the property, release such property on bond pending the arraignment of the suspect before a court.

(5) Failure by the person to whom the property is released on bond to produce the property when required or to attend court as a witness shall be an offence of interference with the due administration of justice, and shall be liable to a term of imprisonment of not less than 90 days or a fine of N20,000.00.

(6) Where a police officer refuses to release the property to the owner or any person having interest in the property under subsection (4) of this section, the police officer shall within 21 days from the date of request make a report to the court of the fact of the property taken from the arrested suspect and the particulars of the property.

(7) Where the police officer refuses to comply with the provision of subsection (6) of this section, the owner of the property or any other interested in the property may apply to the court for the property to be released to him.

(8) The court to which a report is made under subsection (6) 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.

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

Examination of suspect.

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

Search of place entered by suspect sought to be arrested.

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

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

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

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

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

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

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

Suspect to be taken immediately to police station.

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

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

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

Recording of arrests.

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

(a) the alleged offence;

(b) the date and circumstances of his arrest;

(c) his full name, occupation and residential address; and

(d) for the purpose of identification:

(i) his height,
(ii) his photograph,
(iii) his full fingerprint impressions,
(iv) his Bank Verification Number,
(vi) his telephone number, and
(vii) such other means of his identification.

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

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

Central Criminal Records Registry.

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

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

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

(4) The State Police Command shall ensure that the decisions of the court in all criminal trials are transmitted to the Central Criminal Records Registry within 30 days of the judgment.

Record of statement of suspect

36. (1) Where a suspect is arrested on allegation of having committed an offence, if he so wishes to make a statement, the taking of the statement shall be concluded within sixty (60) days.

(2) Where a suspect who is arrested with or without a warrant volunteers to make a confessional statement, the police officer may ensure that the making and taking of such statement is recorded on video or such other audio – visual means, 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 may be in writing and made in the presence of a legal practitioner of his choice who may endorse same by appending:

(a) his name;
(b) his address,
(c) his telephone;
(d) his signature; and
(e) the date on which he signed.

(3) Where a legal practitioner refuses to endorse the confessional statement as stipulated under subsection (2) of this section, it shall not affect the admissibility of the confessional statement.

(4) Where the suspect has no legal practitioner of his choice, his confessional statement may be made in the presence of an officer of the Legal Aid Council of Nigeria or an official of a Civil Society or any other person of his choice.

Provided that the Legal Practitioner or any other person mentioned in this subsection shall not interfere while the suspect is making his statement, except for the purpose of discharging his role as a legal practitioner.

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

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

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

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

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

(10) An oral confession of an arrested suspect may be admissible in evidence.

Arrest by police officer without warrant.

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

(a) whom he suspects on reasonable grounds of having committed an offence against a law of the State or against the law of any other State, unless the law creating the offence provides that the suspect cannot be arrested without a warrant;

(b) who commits any offence in his presence;

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

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

(e) whom he suspects on reasonable grounds of being a deserter from any of the armed forces of Nigeria;

(f) whom he suspects on reasonable grounds of having been involved in an act committed at a place outside the State which, if committed in the State, would have been punished as an offence, and for which he is, under a law in force in the State, liable to be apprehended and detained in the State;

(g) having in his possession without lawful excuse, any implement of housebreaking, car theft, firearm or any offensive or dangerous weapon, the burden of proving same shall lie on such person;

(h) whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in Nigeria;

(i) found in the State taking precautions to conceal his presence in circumstances, which afford reason to believe that he is taking such precautions with a view to committing an offence;

(j) whose arrest warrant has been issued or whom he is directed to arrest by a Judge, Magistrate, or superior police officer;

(k) whom he reasonably suspects to be designing to commit an offence for which the police may arrest without a warrant, if it appears to him that the commission of the offence cannot be otherwise prevented;

(l) required to appear by a public summons issued under this Law or any other law, or

(m) Whom he reasonably suspects to be damaging any public property.

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

Refusal to give name and residence.

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

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

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

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

Arrest by private person and owner of property.

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

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

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

Handing over of an arrested suspect by private person.

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

(2) Where there is reason to believe that the arrested suspect comes under the provisions of section 37 (1) of this Law, a police officer shall re-arrest him.

(3) Where there is reason to believe that the suspect has committed an offence, and he refuses on the demand of a police officer to give his name and address, or gives a name or address which the officer reasonably believes to be false, he shall be dealt with under the provisions of section 38(2) of this Law.

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

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

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

(7) The provisions of section 34 of this Law do not apply to this section unless the suspect arrested and handed over has been re-arrested in accordance with sub

section (2) of this section.

Arrest for offence committed in presence of Judge or Magistrate.

41. (1) Where an offence is committed in the presence of a Judge or Magistrate within the division or district in which the Judge is sitting or to which the Magistrate is assigned, the Judge or Magistrate may himself arrest or order a person to arrest the suspect and may thereupon, subject to the provisions contained in this Law as to bail, commit the suspect to custody.

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

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

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

When public is bound to assist in arrest.

42. A person is bound to assist a Judge or Magistrate, police officer or other person reasonably demanding his aid in arresting or preventing the escape of a suspect whom the Judge, Magistrate, police officer or other person is authorized to arrest.

Pursuit of suspect into other jurisdictions.

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

Quarterly report of arrests to the Attorney-General.

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

(2) The report shall contain the full particulars of arrested suspects as prescribed by section 34 of this Law.

(3) A register of arrests containing the particulars prescribed in section 34 of this Law shall be kept in the prescribed form at every police station or agency authorised by law to make arrests, and every arrest, whether made with or without warrant, within the local limits of the police station or agency, shall be entered accordingly by the officer in charge of the police station or official in charge of the agency as soon as the suspect is brought to the station or agency.

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

Release on bail of a suspect arrested without warrant.

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

(2) The officer in charge of a police station shall release the suspect on bail on his entering into a recognizance with or without sureties upon the execution of a bond

to appear before the court or at the police station at the time and place named in the recognizance.

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

Power to release on bail before charge is accepted.

46. (1) Where a suspect is taken into custody, and it appears to the officer that the inquiry into the case cannot be completed forthwith, he may discharge the suspect on his entering into a recognizance, with or without sureties upon the execution of a bond, to appear at the police 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 conditional recognizance for the appearance of the said suspect before a Magistrate's Court or the place in which the police station named in the recognizance is situate.

Remedy of suspect detained in custody.

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

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

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

Police to report monthly to supervising Magistrates.

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

(2) The report shall contain the particulars of the suspects arrested as prescribed in section 34 of this Law.

(3) The Magistrate shall on receipt of the report, forward same to the Administration of Criminal Justice Monitoring Committee which shall analyze the report and forward it to the Attorney-General to offer his advice on the mode of arrests, bail and related matters.

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

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

Chief Magistrate to visit police stations every quarter.

49. (1) (a) The Chief Magistrate, or where there is no Chief Magistrate within the police division, any Magistrate designated by the Chief Judge for that purpose, shall, at least

every quarter, conduct an inspection of police stations or other places of detention within his territorial jurisdiction other than the prison

(b) For the purpose of the visit in subsection (1) of this section, the visiting Magistrate may invite the Legal Aid Council of Nigeria, the National Human Rights Commission or any Civil Society organization involved in access to justice and human rights.

(2) During a visit, the Magistrate may:

(a) inspect the detention facility where suspects are kept;

(b) call for and inspect the record of arrests;

(c) direct the arraignment of suspects;

(d) Where bail has been refused, grant bail to any suspect where appropriate if the offence for which the suspect is held is within the jurisdiction of the Magistrate.

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

(a) the full record of arrest and record of bail;

(b) applications and decisions on bail made within the period; and

(c) any other facility the Magistrate requires to exercise his powers under that subsection.

(3) Where there is default by an officer in charge of a police station or official in-charge of an agency authorized to make arrest to comply with the provisions of subsection (3) of this section, the default shall be treated as a misconduct and the Attorney-General shall make a report and demand for disciplinary action from the relevant institution.

PART 4
WARRANTS

General authority to issue warrant.

50. Where under a law, there is power to arrest a suspect without warrant, a warrant for his arrest may be issued.

Form and requisites of warrant of arrest.

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

(a) bear the date of the day of issue;

(b) contain all necessary particulars*;* and

(c) be signed by the Judge or Magistrate by whom it is issued.

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

Warrant to be issued on complaint only.

52. 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 either by the complainant himself or by a material witness.

Warrant may be issued on any day.

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

Warrant, to whom directed and duration.

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

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

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

Warrant of arrest may in exceptional cases be directed to other persons.

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

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

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

Publication of public summons.

56. (1) A public summons shall be published:

(a) in a newspaper that enjoys wide circulation or circulated in any other medium as may be appropriate;

(b) by affixing it to some conspicuous part of the house or the premises or to some conspicuous place in the town or village in which the persons to be served ordinarily resides; or

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

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

Execution of warrant and procedure.

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

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

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

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

Power to arrest on warrant but without the warrant.

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

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

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

(2) The endorsement shall specify:

(a) the number of sureties, if any;

(b) the amount in which the sureties and the suspect named in the warrant are, respectively, to be bound; or are to provide as cash security on the request of the surety or suspect;

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

(d) the time at which the suspect is to attend, including an undertaking to appear at a subsequent time as may be directed by any court before which he may appear.

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

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

(5) Subject to the provisions of section 60 of this Law, the provisions of subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside the State.

Procedure on arrest of suspect outside division or district of court issuing warrant.

60. (1) Where a warrant of arrest is executed in the State outside the division or district of the court by which it was issued, the suspect shall, unless security is taken under section 59 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 suspect, on such inquiry as the court considers necessary, appears to be the suspect intended to be arrested by the court which issued the warrant, direct his removal in custody to that court, but if the suspect has been arrested in respect of any matter other than an offence punishable with death and:

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

(b) Where a direction has been endorsed under section 59 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 the court which issued the warrant.

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

under section 45 of this Law.

Execution of warrant.

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

(2) A warrant issued under this section may be executed in accordance with section 58 of this Law.

Re-arrest of suspect escaping.

62. Where a suspect in lawful custody escapes or is rescued, the person from whose custody he escapes or is rescued or any other person may pursue and re-arrest him in any place in Nigeria.

Provisions of sections 31 and 32 to apply to arrests under section 62.

63. The provisions of sections 31 and 32 of this Law shall apply to arrests under section 62 of this Law, although the person making such arrest is not acting under a warrant and is not a police officer having authority to arrest.

PART 5
PREVENTION OF OFFENCES AND SECURITY FOR GOOD BEHAVIOUR

Police to prevent commission of offence and injury to public property.

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

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

Information of design to commit offence.

65. 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 police to prevent offences.

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

Prevention by other public officers of offences and injury to public property.

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

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

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

(b) in the suppression of a breach of the peace or in the prevention of any damage to any property, movable or immovable or to any railway, canal, water supply, telecommunication system, oil pipeline or gas 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 Magistrate to require execution of recognizance for keeping peace.

68. (1) Where a Magistrate is informed that a suspect is likely to:

(a) commit a breach of the peace or disturb the public tranquility, or

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

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

(a) in the State, and

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

Security for good behaviour for suspected persons.

69. Where a Magistrate is informed that:

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

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

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

Security for good behaviour for habitual offenders.

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

(a) is by habit an armed robber, a housebreaker, or a thief;

(b) is by habit a receiver of stolen property, knowing the same to have been stolen;

(c) habitually protects or harbors thieves, or aids in the concealment or disposal of stolen property;

(d) habitually commits or attempts to commit, or aids or abets the commission of any offence relating to property;

(e) habitually commits or attempts to commit, or aids or abets in the commission of offence involving a breach of the peace; or

(f) is so desperate or dangerous as to render his being at large without security hazardous to the community, such Magistrate may, in the manner provided in this Law, require such suspect to show cause why he should not be ordered to enter into a recognizance with sureties for his good behaviour for such period, not exceeding 3 years, as the Magistrate deems fit.

Order to be made.

71. Where a Magistrate acting under sections 68, 69 or 70 of this Law considers it necessary to require a suspect to show cause under the section, he shall make an order in writing setting out:

(a) the substance of the information received;

(b) the amount of the recognizance to be executed;

(c) the term for which it is to be in force; and

(d) the number, character, and class of sureties, if any, required.

Procedure in respect of suspect present in court.

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

Summons or warrant in case of suspect not present.

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

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

Copy of order under section 73 to accompany summons or warrant.

74. A summons or warrant of arrest issued under section 73 of this Laws hall be accompanied by a copy of the order made under section 71 of this Law, and the copy shall be delivered by the officer serving or executing the summons or warrant to the suspect served with or arrested under it.

Power to dispense with personal attendance.

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

Inquiry as to truth of information.

76. (1) Where an order under section 71 of this Law has been read or explained under section 72 of this Law to a suspect in court, or where the suspect appears or is brought before a Magistrate in compliance with or in execution of a summons or warrant issued under section 73 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 tranquility; or

(b) the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the suspect in respect of whom the order under section 71 of this Law has been made, to enter into a recognizance, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry,

and may detain the suspect in custody until the recognizance is entered into or, in default of execution, until the inquiry is concluded.

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

(a) a suspect against whom proceedings are not being taken under section 68 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 71 of this Law; and

(c) a suspect shall not be remanded in custody under the powers conferred by this section for a period exceeding 30 days at a time.

(5) For the purposes of this section, the fact that a suspect comes within the provisions of section 70 of this Law may be proved by evidence of general repute or otherwise.

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

Order to give security

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

(a) a suspect shall not be ordered to give security of a nature different from or of an amount larger than or for a period longer than that specified in the order made under section 71 of this Law;

(b) the amount of a recognizance shall be fixed with due regard to the circumstances of the case and shall not be excessive; and

(c) Where the suspect in respect of whom the inquiry is made is a child, the recognizance shall be entered into as provided in Child's Rights Law **No. 4 of 2005 Taraba State.**

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

Discharge of suspect informed against.

78. Where on an inquiry under section 73 of this Law it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the suspect in respect of whom the inquiry is made should enter into a recognizance, the Magistrate shall make an entry on the record to that effect, and shall, if the suspect is:

(a) in custody only for the purpose of the inquiry, release him; or

(b) not in custody, discharge him.

PART 6
PROCEEDINGS IN ALL CASES SUBSEQUENT TO ORDER TO FURNISHSECURITY

Commencement of period for which

79. (1) Where a suspect in respect of whom an Order requiring security is made under

security is required.

section 71 of this Law is, at the time the order is made, sentenced to or undergoing a sentence of imprisonment, the period for which the security is required shall commence on the expiration of the sentence.

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

Conditions of recognizance.

80. The recognizance to be entered into by a suspect under section 71 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, counseling, 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 sureties.

81. 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 failure of suspect to give security.

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

Power to release suspect imprisoned for failure to give security.

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

Power of High Court to cancel recognizance.

84. The High Court may at any time, for sufficient reasons to be recorded in writing, cancel any recognizance for keeping the peace or for good behaviour executed under any of the preceding sections by order of any lower court.

Discharge of sureties.

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

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

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

(5) An order made under subsection (3) of this section shall, for the purposes of sections 79, 80, 81 and 82 of this Law, be deemed to be an order under section 76 of this Law.

PART 7
PUBLIC NUISANCE

Conditional order for removal of nuisance.

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

(a) within a time fixed in the order to cease committing the offence and to

amend or remove the cause of the nuisance in such manner as is specified in the order; or

(b) to appear before the court at a time and place to be fixed by the order and apply to have the order set aside or modified in the manner hereinafter provided.

Service of order.

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

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

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

88. A suspect against whom an Order under section 91 of this Law is made shall:

(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 of failure to obey order or to appear.

89. Where a suspect against whom an order under section 91 of this Law is made does not perform the act specified in the order or appears 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 ₦100,000.00 for an individual or imprisonment for a term of six months and not less than ₦1,000,000.00 in case of a corporate body.

(b) Threatens human life, to a fine of not less than ₦200,000.00 or imprisonment for a term of 12 months for an individual and not less than ₦2,000,000.00 in case of a corporate body. Provided that any repetition of the nuisance shall attract not less than one hundred per cent of the initial fine.

Procedure where suspect appears.

90. (1) Where a suspect against whom an order under section 86 of this Law is made to appear, applies to have the Order set aside or modified, the court shall take evidence in the matter in the same manner as in a summary trial.

(2) Where the court is:

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

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

Consequences of disobedience to order made absolute.

91. Where the acts directed by an order under section 86 of this Law which is made absolute under section 89 or 90(2) (a) of this Law is not performed within the time fixed and in the manner specified in the Order, the court may cause it to be performed and may recover the cost of performing it either by:

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

(b) seizure and sale of any other movable property of the person against whom the order under section 86 of this Law was made in the manner prescribed in this Law for the recovery of a fine.

Order pending inquiry.

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

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

Award of compensation to victims of nuisance.

93. Where the public nuisance causes an injury which may be physical or otherwise to any member of the public, the court shall make an appropriate award against the defendant to the victim and in the event of death, the compensation shall be paid to the estate of the deceased.

PART 8
ATTACHMENT WHERE A PERSON DISOBEYS SUMMONS OR WARRANT

Attachment of property of suspect absconding.

94. A Judge or a Magistrate may, at any time after action has been taken under section 60 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, including freezing the bank accounts belonging to a suspect the subject of the public summons or warrant.

Order to attach property.

95. (1) An order under section 94 of this Law shall authorize a public officer named in it to attach any property belonging to a suspect named in the Order as the owner of the property within the area of jurisdiction of the Judge or Magistrate by seizure or in any other manner by which for the time being the property may be attached by way of civil process.

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

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

Restoration of attached property.

96. (1) Where within one year from the date of the attachment, a suspect, whose property is or has been at the disposal of the court under section 95 of this Law , appears voluntarily or being arrested is 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 public summons or warrant as to enable him to attend within the time specified therein, that property, so far as it has not been sold, and the net proceeds of any part of it which has been sold shall, after satisfying from the proceeds all costs incurred in consequence

of the attachment, be delivered to him.

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

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

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

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

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

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

Power to take bond for appearance.

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

Provisions of this Part generally applicable to summons and warrant.

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

PART 9
PROVISIONS RELATING TO CRIMINAL TRIALS AND INQUIRIES IN GENERAL

Application of Part 9-30.

100. The provisions of Parts 9 to 30 of this Law shall apply to all criminal trials and proceedings unless express provision is made in respect of any particular court or form of trial or proceedings.

General authority to bring suspect before a court.

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

Right of making complaint.

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

(2) Notwithstanding anything to the contrary contained in any other law, a police officer may make a complaint in a case of assault even though the party aggrieved declines or refuses to make a complaint.

Form of complaint.

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

(2) Subject to the provisions of section 69 of this Law, a complaint may, unless some laws otherwise require, be made without oath.

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

(4) A complaint shall be for one offence only, but the complaint shall not be voided by describing the offence, or any material act relating to it in alternative words according to the language of the law constituting such offence.

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

(6) After the investigation, the police shall charge the suspect to court where the offence does not carry a capital punishment or life imprisonment or refer the matter to the Attorney-General.

(7) After investigation in capital offences or offences punishable with life imprisonment, the police shall refer the matter to the Attorney-General for legal advice.

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

Form of documents in criminal proceedings.

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

Rule as to statement of exception in a complaint.

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

Limitation of period for making a private complaint.

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

PART 10
PLACE OF TRIAL OR INQUIRY

Venue generally.

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

(a) the offence was wholly or in part committed, or some act forming part of the offence was done within its jurisdiction;

(b) the consequence of the offence has ensued within its jurisdiction;

(c) some offence was committed by reference to which the offence is defined; or

(d) a person against whom, or property in respect of which, the offence was committed is found, having been transported there by the suspect or by a person having knowledge of the offence.

(2) A criminal charge shall be filed and tried in the division or district where the alleged

offence was committed unless it can be shown that it is convenient to do otherwise for administrative, security or other reasons.

Offence committed on a journey.

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

Offence commenced and completed in different States.

109. Where an offence:

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

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

the suspect may be tried and punished as if the offence had actually or wholly been committed in the State

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

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

Chief Judge may transfer a case.

111. (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.

(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) Each of the legal practitioners referred to in subsection (3) of this section shall be selected from the private legal practitioners or academia, the official bar and the civil society.

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

When cases may be remitted to another court.

112. A court before which a person charged with having committed an offence is brought shall, where:

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

(b) in the opinion of the court, the offence ought to be conveniently inquired into or tried by another court, within a reasonable period not exceeding 7 days, send the case and all processes relating to the case to the head of court for re-assignment to that other court, and where appropriate, remand the defendant charged in custody or require him to give security for his attendance before that other court to answer the charges and to be dealt with accordingly.

Removal under warrant.

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

it is directed to:

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

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

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

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

114. Where a suspect is:

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

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

Court may assume jurisdiction under certain conditions.

115. (1) Notwithstanding the provisions of sections 107 and 111 of this Law, a Judge or Magistrate of a division or district in which a suspect:

(a) is arrested and charged with an offence, alleged to have been committed in another division or district;

(b) is in custody on the charge; or

(c) has appeared in answer to summons lawfully issued charging the offence, may, where he considers that justice would be better served and having regards to the accessibility and convenience of the witnesses, proceed to hear the charge, try and punish the suspect as if the offence had been committed in the division or district.

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

Assumption of jurisdiction after commencement of proceedings.

116. Where a case is commenced in any other division or district other than that in which it ought to have been commenced, the court may assume jurisdiction in accordance with the provisions of section 114 of this Law and all acts performed and all decisions given by the court during the trial or any other proceeding shall be deemed to be valid in all respect as if the jurisdiction had been assumed prior to the performance of the acts and the giving of the decisions.

PART 11
POWERS OF THE ATTORNEY-GENERAL

Charge by the Attorney-General.

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

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

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

(4) 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.

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

Prosecution of offences.

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

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

Reward for supporting law enforcement agencies

119. (2) Nothing in this section shall prevent a police officer from prosecuting any offence triable by any Magistrate's Court, Area Court and family court where practicable.

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(1) The Attorney-General may recommend to the State Executive Council for an appropriate reward in cash or in kind any person who provides:

(a) Information leading to recovery of illicit weapons, prevention of violence, social unrest, communal or religious conflicts or clashes between groups of persons in the State.

(b) Information or other assistance to the law enforcement agencies for preventing serious crimes, injury to communal relations or social harmony, or damage to public property.
(c) other forms of support or aid to the law enforcement agencies towards peace and social harmony in the State.

(2) The Attorney-General shall provide easily accessible facilities for the reception of such assistance from the citizens.

(3) Where necessary, the Attorney-General shall advise or work with the law enforcement agencies to provide protection for any person who provides the assistance referred to in subsection (1) of this section.

(4) Any person who discloses the identity or otherwise exposes an informant to danger of reprisal attack or victimization, is guilty of an offence and shall be punishable with a term of imprisonment of not less than three years without an option of fine.

PART 12
CONTROL OF CRIMINAL PROCEEDINGS BY THE ATTORNEY GENERAL

Discontinuance of criminal cases.

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

(2) Where the suspect:

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

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

(3) Where the suspect is not:

(a) before the court when the discontinuance is entered, the registrar or other proper officer of the court shall immediately cause notice in writing of the entry of the discontinuance to be given to the officer in charge of the prison or other place in which the suspect may be detained and the notice shall be sufficient authority to discharge the suspect; or

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

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

Withdrawals from prosecution in trials and inquiries before a court.

121. (1) In any trial or proceeding before a court, a Prosecutor may, on the instruction of the Attorney-General in case of offences against a law of the State House of Assembly, at any stage before judgment is pronounced, withdraw the charge against any defendant either generally or in respect of one or more of the offences with which the defendant is charged.

(2) Where the withdrawal is made:

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

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

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

(4) Where a private prosecutor withdraws from a prosecution for an offence under the provisions of this section, the court may, in its discretion, award costs against the prosecutor which shall be in favour of the defendant.

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

PART 13
INSTITUTION OF PROCEEDINGS

Different methods of instituting criminal proceedings

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

(a) in a Magistrates Court, by a complaint whether or not on oath or upon receiving a First Information Report;

(b)I. in the High Court by information containing a charge filed by or on behalf of the Attorney-General subject to section 117 of this Law;
ii. the information shall contain the proof of evidence consisting of:
(a) The list of witnesses
(b) The list of exhibits to be tendered
(c) Statement or summary statement of witnesses
(d) Statement(s) of the defendant
(e) Any other document, report of materials that the prosecution intends to use in support of its case at the trial.
(f) And any other relevant document as may be directed by the court.
iii. Contents of charge:
(a) name
(b) address
(c) sex
(d) occupation
(e) the charge or offence against his/her
(f) the time
(g) the place where the offence is allege to have been committed
(h) the signature of the law officer.

(c) by a charge filed in the court after the defendant has been summarily committed for perjury by a court under the provisions of this Law;

(d) by a charge filed in the court by any other prosecuting authority; or

(d) by a charge filed by a private prosecutor subject to the provisions of this Law.
(e) by written or oral complaint by any person who is a victim of the crime.

Mode of instituting criminal proceedings in a Magistrate court

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

(a) by bringing a suspect arrested without a warrant before the court on a complaint specifying the name, address, age, sex and occupation of the suspect charged, the charge against him and the time and place where the offence is alleged to have been committed; and the charge sheets

shall be signed by any of the persons mentioned in section 119 of this Law;

(b) upon receiving a First Information Report on the commission of an offence for which the police are authorized to arrest without a warrant and which may be tried by the court within the jurisdiction where the police station is situate; the particulars in the Report shall disclose the offence for which the complaint is brought and shall be signed by the police officer in charge of the case; or

(c) subject to the provision of section 103 of this Law, by complaint to the court, whether or not on oath, that an offence has been committed by a suspect whose presence the Magistrate has power to compel, and an application to the Magistrate, in the manner set out in this section for the issue of either a summons directed to, or a warrant to arrest the suspect.

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

(3) The trial of a charge preferred under subsection (1) (a) and (b) of this section shall commence not later than 30 days from the date of filing the charge, and the trial of the person brought under the charge shall be completed within one (1) year.

(4) Where a charge is preferred under subsection (1) (a) and (b) of this section and the trial does not commence within 30 days of bringing the charge, or trial has commenced but has not been completed after one (1) year of arraignment on that charge, the court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.

(5) A court seized of criminal proceedings shall make quarterly returns of the particulars of all cases, including charges, remand and other proceedings commenced and dealt with in his court within the quarter, to the Chief Judge.

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

(a) criminal matters are speedily dealt with;
(b) congestion of cases in courts is drastically reduced;
(c) congestion of prisons is reduced to the barest minimum; and
(d) persons awaiting trial are, as far as possible, not detained in prison custody for a length of time beyond that prescribed in section 310 of this Law.

(7) The Administration of Criminal Justice Monitoring Committee, shall have power to consider all returns made to the Chief Judge under subsections (4) and (5) of this section for the purpose of ensuring expeditious disposal of cases, and the National Human Rights Commission set up under the National Human Rights Commission Act shall have access to the returns on request to the Chief Judge.

Returns by Controller of Prisons.

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

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

and shall include:

(a) the name of the suspect held in custody or Awaiting Trial persons.

(b) passport photograph of the suspect;

(c) the date of his arraignment or remand;

(d) the date of his admission to custody;

(e) the particulars of the offence with which he was charged;

(f) the courts before which he was arraigned;

(g) name of the prosecuting agency;

(h) name of the prosecutor; and

i) any other relevant information.

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

PART 14
FIRST INFORMATION REPORT

Procedure for receiving complaint and First Information Report.

125. (1) Where a complaint is brought before a police officer in charge of a police station concerning the commission of an offence and is:

(a) one for which the police are authorised to arrest without a warrant, and

(b) triable by a Magistrate Court within which jurisdiction the police station is situated,

The police shall, if the complaint is made orally, reduce the complaint or cause it to be reduced into writing in the Police Diary.

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

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

(4) Where the officer is satisfied that no public interest may be served by prosecuting, he may refuse to accept the complaint provided that he notifies the complainant of his right to complain to a court under section 122 (a) of this Law.

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

(6) After complying with the provisions of subsection (3) of this section, the officer in

charge of the police station shall act as follows:

(a) he shall forthwith proceed to the scene and investigate the case and if the suspect is not in custody, take such steps as may be necessary for the discovery and arrest of the suspect or he may direct a police officer subordinate to him to do so and report to him;

(b) in cases involving death or serious injury to any person, the officer in charge of the police station shall arrange, if possible, for the person to be taken to the nearest hospital for such further examination as may be necessary;

(c) where the complaint is given against a person by name and the alleged offence is not of a serious nature, the officer in charge of a police station need not make or direct investigation on the spot;

(d) in the cases mentioned in paragraph (c) of this subsection, the officer in charge of the police station shall record in the book referred to in subsection (2) and in the First Information Report to the court his reason for not entering on an investigation or for not making or directing investigation on the spot or not investigating the case;

(e) where after the investigation, it appears that the complaints against the suspect are unfounded, the investigation shall be terminated and this fact shall be recorded in the Police Diary mentioned in subsection (2) of this section; and

(f) Where the officer considers that the prosecution of the alleged offence will serve the public interest, the officer shall reduce the complaint into the prescribed form called First Information Report and the officer shall take the alleged suspect with the First Information Report before a Magistrate within whose jurisdiction the police station is situated.

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

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

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

(10) Where the evidence referred to in subsection (9) of this section has been taken or at any stage of the case, the Magistrate is of the opinion that there is ground that the

suspect has committed an offence triable under this part, which such Magistrate Court is competent to try and which, in the opinion of the Magistrate, could be adequately punished, the Magistrate shall frame a charge, stating the offence and direct that the suspect be tried.

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

PART 15
ENFORCING APPEARANCE OF SUSPECTS

Compelling appearance of a suspect

126. (1)A Court may issue a summon or warrant as provided in this Law to compel the appearance before it of a suspect accused of having committed an offence in any place, whether within or outside the State, triable in the State.
(2) Where all efforts to secure the attendance of a defendant fails, the court shall make an order directing the Commissioner of Police to declare the defendant 'wanted' and endure his arrest.
(3) Such public declaration by the police may be made by one or more substituted means of service.

Summons and warrants.

127. 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 complaint and issue of process

128. (1) Subject to the provisions of section 104 of this Law, a person who believes from a reasonable or probable cause that an offence has been committed by another person whose appearance a Magistrate has power to compel, may make a complaint of the commission of the offence to a Magistrate who shall consider the allegations of the complainant and may:

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

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

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

PART 16
ISSUE, FORM AND SERVICE OF SUMMONS

Issue and service.

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

Issue of summons and its contents.

130. Where a complaint is made before a Magistrate as provided in section 128 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 consent before return date of

131. The court may, if it deems fit and with the consent of the parties, hear and

summons.

determine a complaint notwithstanding that the time within which the defendant was required to appear may not have elapsed.

Summons with immediate return date in special circumstances.

132. Where, on a complaint being made before a Magistrate as provided in section 128 of this Law, the Magistrate decides to issue a summons, the defendant may be directed to appear immediately in cases where an affidavit is made by the complainant either at the time of making the complaint or subsequently that the defendant is likely to leave the District within 48 hours.

Discrétion in *ex parte* application.

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

Sommons to be in duplicate.

134. 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 sommons.

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

Normal methods of effecting service.

136. The person effecting service of a summons shall effect it by delivering it on:

(a) an individual, to him personally; or

(b) a firm or corporation;

(i) to one of the partners,

(ii) to a Director,

(iii) to the Secretary,

(iv) to the chief agent within the jurisdiction,

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

(vi) to anyone having, at the time of service, control of the business of the firm;

(c) a Local Government Council, in accordance with the Local Government Law;
(d) the Commissioner of Police of the State; or the Divisional Police Officer within the jurisdiction of the issuing court;
(e) any State Government Ministry, Department or Agency, to the Attorney-General or to the Legal Department or Legal Adviser of such Ministry, Department or Agency;

(f) any arm of the armed forces, to the Director of Legal Services of the Service or Command concerned.

Service where person summoned cannot be found

137. Where service in the manner provided by section 136(a) of this Law cannot, by the exercise of due diligence, be effected, the serving officer may, with leave of the court, affix one of the duplicates of the summons to some conspicuous part of the premises or place in which the individual to be served ordinarily resides or works, and on doing so the summons shall be deemed to have been duly served.

Service on public officers

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

(2) The officer in charge of the department shall, on receiving the summons, cause it to be served in the manner provided by section 136 (a) of this Law and shall return the duplicate to the court under his signature, with the endorsement required by section 140 of this Law, which signature shall be evidence of the service.

Service outside jurisdiction of court

139. 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 when serving officer not present.

140. 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 of summons.

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

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

Person refusing to sign receipt may be arrested.

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

(a) arrested by the person serving the summons or any other person with powers of arrest under this Law and taken before the court which issued the summons; and

(b) Detained in custody or committed to prison for such time not exceeding 30 days as the court may deem fit.

Proof of service.

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

Summons Disobeyed, warrant may be issued

144. Where the court is satisfied that the suspect has been served with a summons and the suspect does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under section 148 of this Law, the court may issue a warrant for his arrest and production before the court.

Issue of warrant for suspect in the first instance.

145. Where a complaint is before a Magistrate as provided in this Law, and the Magistrate decides to issue a warrant, he shall issue a warrant to arrest the suspect and bring him before the court to answer the complaint and be dealt with according to law.

Application of sections 50 to 63 to such warrant.

146. Where a warrant of arrest is issued in consequence of a complaint on oath as provided under section 145 of this Law, the provisions of sections 50 to 63 of this Law shall apply to such warrant.

Warrant may be issued before or after return date of summons.

147. Notwithstanding the issue of a summons as in section 144 of this Law, a warrant may be issued at any time before or after the time appointed for the appearance of the suspect.

Power to dispense with personal attendance of defendant in certain cases

148 (1) Where a Magistrate issues a summons in respect of any offence for which the penalty is a fine exceeding ten thousand Naira or imprisonment for a term up to six months or both, the Magistrate, on application of the defendant:

(a) may dispense with his personal attendance; or

(b) Where the offence is punishable by fine only, the defendant may plead guilty in writing or by his legal practitioner.

(2) The Magistrate trying a case in which the presence of the defendant has been dispensed with, may in his discretion, at any subsequent stage of the proceedings, direct the personal attendance of the defendant and where necessary, enforce the attendance by means of the issuance of a warrant to arrest the defendant and bring him before the court.

(3) Where a Magistrate imposes a fine on a defendant whose personal attendance has been dispensed with under this section, the Magistrate may at the same time direct that if the fine is not paid within a stated time, the amount shall be recovered by distress or that the defendant shall be imprisoned for a period calculated in accordance with the provisions contained in this Law for the non-payment of a fine.

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

(5) Where the attendance of a defendant has been dispensed with, and his attendance is

subsequently required, the cost of any adjournment for that purpose shall be borne by him.

PART 17
MISCELLANEOUS PROVISIONS REGARDING PROCESS

Irregularities in summons, warrant, service, or arrest.

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

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

(b) the want of any complaint on oath; or

(c) any defect in the complaint, or any irregularity in the arrest or custody of the defendant.

Irregularities which vitiate proceedings.

150. Where a court is not empowered by law, does any of the following things:

(a) attaches and sells property under section 95 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 87 of this Law as to a public nuisance;

(g) prohibits, under section 93 of this Law, the repetition or continuance of a public nuisance;

(h) tries an offender; or

(i) decides an appeal;

the proceedings shall be void.

Variance between charge and complaint

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

Process valid notwithstanding death or vacation of office of person issuing.

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

PART 18
SAVING OF VALIDITY OF PROCESS

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

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

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

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

General addressee of process for issue and execution.

154. (1) All summonses, warrants of every description and processes of whatever description shall be sufficiently addressed for service or execution by being directed to the Sheriff.

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

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

Certain provisions applicable to all summonses and warrants in criminal matters.

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

PART 19
SEARCH WARRANTS

Application for search warrant.

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

Cases in which search warrants may be issued

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

(a) anything upon or in respect of which any offence has been or is suspected to have been committed,

(b) anything for which there is reasonable ground of believing will provide evidence to the commission of an offence, or

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

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

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

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

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

Discharge of suspected person.

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

Search warrant to be signed by Judge or Magistrate.

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

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

Search warrant to whom directed.

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

Time when search warrant may be issued and executed.

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

Person in charge of closed place to allow access.

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

(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 31 and 33 of this Law.

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

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

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

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

Occupant of place searched may attend.

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

Execution of search warrant outside jurisdiction.

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

Magistrate may direct search in his presence

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

Detention of articles recovered.

166. (1) Where upon the execution of a search warrant anything referred to in section 157 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.

Appendix D

(2) A list of all things recovered in the course of search and of the places in which they were found shall be drawn up by the person carrying out the search in accordance with section 162 (5) of this Law and a copy of the list forwarded to the Judge or Magistrate who issued the warrant for his information with indication as in the prescribed form set out in Appendix D to this Law on the search warrant of the things:

(a) seized, detained or caused to be detained; and

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

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

(a) restore to the person who appears to be entitled to them; and

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

(4) Where the police or any other agency carrying out the search is authorized or required by law to dispose of the items seized in accordance with the provisions of section 150 (a) of this Law, the police or agency shall release the proceeds of, or the disposal of the seized items to the person entitled to it.

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

Perishable articles may be disposed of by court.

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

Search for and disposal of gunpowder.

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

Disposal of counterfeit currency and other thing.

169. Where, in consequence of the execution of a search warrant, there is brought before a court any forged banknote, bank paper, counterfeit currency, instrument, or other thing for forgery or Counterfeiting, the possession of which, in the absence of lawful excuse, is an offence, the court may cause the thing to be defaced or destroyed.

Transmission to court of other State.

170. Where a search warrant is issued in respect of an offence against the law of the State and a summons has been issued for that offence or any person has been charged with that offence before a court, the court issuing the search warrant may, except he has disposed of the thing in accordance with section 166 (4) of this Law, transmit anything seized and brought before him to that court and in relation to anything so transmitted, the functions conferred on a Magistrate by this Law shall be exercised by that court instead of the Magistrate who issued the search warrant.

PART 20
BAIL AND RECOGNISANCES GENERALLY

General entitlement to bail.

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

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

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

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

Recognizance by parent or guardian of a child.

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

(a) the charge is one of homicide;

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

(c) It is necessary in the interest of the child to remove him from association with any reputed criminal or prostitute, release the child on a recognizance entered into by his parents or guardians, with or without sureties.

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

Bail where a suspect is charged with capital offence.

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

(2) For the purpose of exercise of discretion in subsection (1) of this section, "exceptional circumstance" includes:

(a) ill health of the applicant which shall be confirmed and certified by a qualified medical practitioner employed in a Government hospital, provided that the suspect is able to prove that there are no medical facilities to take care of his illness by the authority detaining him;

(b) extraordinary delay in the investigation, arraignment and prosecution for a period exceeding two years; or

(c) any other circumstances that the Judge may, in the particular facts of the case, consider exceptional.

Bail where a defendant is charged with offence exceeding three years imprisonment.

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

(a) where there is reasonable ground to believe that the defendant will, where released on bail, commit another offence;

(b) attempts to evade his trial;

(c) attempts to influence, intimidate witnesses, and or interfere with the investigation of the case;

(d) attempts to conceal or destroy evidence;

(e) undermines or jeopardizes the objectives or the purpose or the functioning of the criminal justice administration, including the bail system.

Bail where a defendant is charged with offence not exceeding three years imprisonment

176. In any other circumstance other than those referred to in sections 174 and 175 of this Law, the defendant shall be entitled to bail, unless the court sees reasons to the contrary.

Bail in respect of matters in other offences

177. Where a defendant is brought before a court on any process in respect of any matter not included within *S*ections 171 to 176 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 bail.

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

(2) The court may require the deposit of a sum of money or other security as the court may specify from the defendant or his surety before the bail is approved.

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

Recognizance in respect of a child.

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

Sureties

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

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

(3) Where a defendant is granted bail, the registrar shall cause to be taken in the prescribed form, the following records of the surety:

(a) his full name, occupation and residential address; and

(c) for the purpose of identification:

(i) his height,
(ii) his passport photograph,
(iii) his full fingerprint impressions,
(iv) his telephone number, and
(v) Such other means of his identification.

(4) The prosecutor and the registrar of court shall verify the information supplied by the defendant or surety.

(5) Where ownership of a Landed property is stipulated as one of the conditions for bail, the title document submitted by the surety or defendant to the court shall be forwarded to the Land Registry for necessary verification.

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

Judge may vary bail fixed by Magistrate or police

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

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

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

Reconsideration of bail.

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

Before whom recognizance may be executed.

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

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

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

Release on execution of recognizance.

184. (1) As soon as recognizance has been entered into in accordance with the provisions of section 177 of this Law or money or other security deposited in the registry of the court*:*

(a) the defendant for whose appearance it has been entered into or security executed shall be released; and

(b) Where he is in prison or police station or other place of detention, the court admitting him to bail shall immediately issue a written order of release to the official in charge of the prison or such other place of detention and the official on receipt of the order shall immediately release him.

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

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

Mode of entering into recognizance.

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

Continuous bail.

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

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

(a) vary the Order of release on bail of the defendant at any subsequent hearing; and

(b) at any subsequent stage of any proceeding, cause a defendant who has been released on bail to be arrested and be committed to custody: provided that the Judge shall state in his records the reason for the variation of the Order or Committal of the defendant.

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

187. Where an application is made before the court by information on oath by a complainant, surety or other person that a defendant bound by recognizance to appear before a court or police officer:

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

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

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

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

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

Variation of a recognizance if surety unsuitable.

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

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

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

Discharge of sureties.

190. (1) All or any of the Sureties to a recognizance may at any time apply to the court which caused the recognizance to be taken to discharge the bond either wholly or so far as 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 Surety and shall require the defendant to find other sufficient sureties or meet some other conditions and if he fails to do so, may make such order as it considers fit.

Order of fresh security upon original order.

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

Forfeiture of recognizance.

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

(2) Where sufficient cause is not shown and the penalty is not paid, the court may proceed to recover the penalty from a person bound, or from his estate if he is dead, in the manner laid down in this Law for the recovery of fines.

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

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

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

Mitigation of forfeiture

193. The court may at any time cancel or mitigate the forfeiture, on the person liable under

The recognizance applying and giving security to the satisfaction of the court, for the future performance of the condition of the recognizance and paying, or giving security for the payment of the costs incurred in respect of the forfeiture or on such other conditions as the court may consider just.

Where defendant fails to find surety.

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

(a) charged with an offence and released on bail, an order committing him to prison until he is brought to trial, discharged or finds sufficient sureties, or meet*s* 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 on conviction

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

(a) recognizance be forfeited; and

(b) Persons bound by it, whether as principal or as sureties or any of those persons, shall pay the sums for which they are respectively bound.

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

Where recognizance forfeited warrant may be issued

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

Arrest on failure to appear

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

Payment on recognizance

198. All sums paid or recovered in respect of a recognizance order by a court in pursuance of section 192 of this Lawto be forfeited shall be paid to the Treasury and a receipt issued which shall be produced in Court as evidence of payment.

Appeal.

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

Registration of bonds persons.

200. (1) The Chief Judge may make regulation for the registration and licensing of corporate bodies or persons to act as bonds persons within the jurisdiction of the court in which they are registered.

(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 license or in contravention of the regulation or terms of his license is liable to a fine of five hundred thousand naira or imprisonment for a term not less than 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 instances of gross violation of the terms of the license, revoke same.

(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 bondsperson is registered.

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

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

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

Bondsperson may arrest absconding defendant or suspect

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

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

(c) The defendant arrested shall be taken to the appropriate court within 48 hours.

PART 21
PROPERTY AND PERSONS

Methods of stating multiple ownership of property

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

(a) the property belongs to, or was in the possession of more than one person whether as partners in trade or otherwise, joint tenants, tenants in common or other joint owners or possessors, be described in the name of any one of those persons and another or others;

(d) the property belongs to a company, association, club or society, be described, subject to the provisions of any other law, as the property of the official of the company, association, club or society, or as belonging to the company, association, club or society by its legal or registered title;

(c) the property belongs to, or is provided for the use of a public establishment, service or department, be described as the property of the State, as the case may be;

(d) it is necessary to state the ownership of a church, chapel, mosque or building or place set apart for religious worship or of anything belonging to or being in the place, be stated as the property of a person in charge of or officiating in the church, chapel, mosque, or building or place, or thing, without naming him or them;

(e) it is necessary to state the ownership of any money or other property in the charge, custody, or under the control of, a public officer, be stated to be the money or property of the State, as the case may be;

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

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

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

(iii) anything provided for the use of any part or of any public institution or establishment, or of any materials or tools provided or used for repairing any work or building or any public road or highway, or

(iv) any other property whatsoever, whether movable or immovable, as

aforesaid, be sufficient to state as the property of the State or of the town, or village, or of any Local Government, as the case may be, without naming any of the inhabitants of the area or jurisdiction;

(g) the property belongs to a woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under any law in force in Nigeria, be stated as belonging to the married woman.

Description of persons in criminal process.

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

(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".

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

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

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

Husband and wife competent as witnesses.

205. In any proceeding taken under the provisions of section 204 of this Law, the husband and wife shall be competent and compellable witnesses in accordance with the provisions of the Evidence Act for the time being in force.

PART 22
THE CHARGE

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

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

Contents of a charge

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

(2) Where the law creating the offence:

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

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

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

Legal presumption of charge

208. 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

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

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

Proof of evidence, etc.

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

(a) the proof of evidence, consisting of:

(i) the list of witnesses,

(ii)A copy of statement of the witnesses or summary of the statements of the witnesses,

(iii) copies of statement of the defendant,

(iv) the list of exhibits to be tendered,

(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 the 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 if any;

(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.

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

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

Charge of criminal breach of trust.

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

Charge of criminal falsification of accounts

212. When a defendant is charged with falsification of accounts, fraudulent falsification of accounts or fraudulent conversion, it shall be sufficient to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular

day on which the offence was committed.

Charge may contain the manner in which the offence was committed

213. Where the nature of the offence is such that the particulars required by sections 207 and 209 of this Law do not give the defendant sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the offence was committed as will be sufficient for that purpose.

Sense of words used in charge.

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

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

Description of property and joint owners.

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

(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 202 of this Law.

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

Description of bank or currency notes.

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

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

Provision as to statutory offences.

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

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

Description of persons and documents

218. (1) The description or designation of the defendant in a charge or of any other person to whom reference is made therein may be in the manner set out in section 203 of this Law.

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

General rule as to description.

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

Statement of intent.

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

Defendants who may be charged jointly.

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

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

(b) an offence and another of abetting or being accessory to or attempting to commit the same offence;

(c) more than one offence of the same or similar character, committed by them jointly;

(d) different offences committed in the course of the same transaction;

(e) offences which include theft, extortion or criminal misappropriation and another accused of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named persons, or of abetment of or attempting to commit any of the last named offences; and

(f) dishonestly receiving stolen property or assisting in concealment of stolen property, or in respect of stolen property the possession of which has been transferred by one offence, and another accused of offences committed during a fight or series of fights arising out of another fight, and persons accused of abetting any of these offences.

Separate charges for distinct offences

222. For every Distinct offence with which a defendant is accused, there shall be a separate charge and every charge shall be tried separately except in the following circumstances:

(a) any three offences committed by a defendant within 12 months whether or not they are of the same or similar character or whether or not they are in respect of the same person or persons;

(b) any number of the same type of offences committed by a defendant;

(c) any number of offences committed by a defendant in the course of the same transaction having regard to the proximity of the time and place, continuity of action and community of purpose; or

(d) cases mentioned in sections 223 to 228 of this Law.

Attempt same as substantive offences.

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

Trial for more than one offence.

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

Offences falling within two definitions.

225. 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 and tried at one trial for each of those offences.

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

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

Where it is doubtful which offence has been committed.

227. 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.

Incidental offences in the same transaction.

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

PART 23
ALTERATION OR AMENDMENT OF CHARGES

Alteration and amendment of charge by permission of court.

229. (1) Where a defendant is arraigned on an imperfect charge, a court shall permit an alteration or amendment to the charge or framing of a new charge at any time before judgment is pronounced, provided it does not occasion any miscarriage of justice.

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

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

Procedure on alteration of charge.

230. (1) Where a new charge is framed or alteration made to a charge under the provisions of section 229 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 immediately after altering, adding to or framing charge.

231. (1) Where the charge as revised under section 229 or 230 of this Law is such that proceeding immediately with the trial is not likely in the opinion of the court, to prejudice the defendant in his defense or the prosecutor, as the case may be, in the conduct of the case, the court may in its discretion forthwith proceed with the trial as if the charge so revised had been the original charge.

(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 witnesses when charge is revised.

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

Effect of error.

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

Objection to a charge.

234. Objections shall not be taken or entertained during proceeding or trial on the ground of an imperfect or erroneous charge, provided it does not occasion any miscarriage of justice.

Effect of material error.

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

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

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

Where defendant charged with one offence may be convicted of another

236. Where a defendant is charged with one offence and it appears in evidence that he committed a similar offence with which he might have been charged under the provisions of this Law, he may be convicted of the offence, which he is shown to have committed although he was not charged with it.

Full offence charged, attempt proved.

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

Attempt charged-full offence proved.

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

Liability as to further prosecution.

239. Where a defendant has been convicted of an attempt under either section 237 or 238 of 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 an offence, conviction as accessory after the fact to that or connected offence may follow.

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

Defendant tried for lesser offence but a higher offence is proved.

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

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

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

Conviction of kindred offences relating to property.

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

Defendant charged with burglary may be convicted of kindred offence.

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

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

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

Procedure for trial on charge for certain offences requiring witness protection.

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

(2) The names, addresses, telephone numbers and identity of the victims 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 or other electronic means;

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

(c) receive written deposition of expert evidence; and

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

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

(a) offences mentioned under section 244 of this Law;

(b) offences of Armed Robbery, kidnapping, abduction and other crimes involving the use of force or threat of violence

(c) offences under the Terrorism (Prevention) (Amendment) Act;

(d) offences relating to terrorism under the Penal Code Law;

(e) offences relating to Economic and Financial Crimes;

(f) Trafficking in Persons and other related offences; and

(g) any other offence in respect of which a law of the State House of Assembly permits the use of such protective measures or as the Judge may consider appropriate in the circumstances.

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

(6) Upon the conviction of a sex offender, his particulars shall be entered into a Sexual Offenders Registry in the State which shall be published and kept in the public domain.

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

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

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

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

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

(a) convicted of manslaughter;

(b)found guilty of concealment of birth; or

(c) Acquitted on the ground that by virtue of an applicable law he was not criminally responsible, and dealt with accordingly or in accordance with this Law or any other law.

Where offence proved is not included in offence charged.

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

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

Withdrawal of remaining charges on conviction on one of several charges.

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

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

PART 25
PREVIOUS ACQUITTALS OR CONVICTION

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

250. (1) Without prejudice to section 239 of this Law, a defendant charged with an offence is not liable to be tried for that offence where it is shown that he has previously been:

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

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

(c) convicted for or acquitted of an offence by a competent court other than the offence charged, being an offence for which, apart from this section, he might be convicted by virtue of being charged 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 may be tried again on separate charge in certain cases.

251. A defendant acquitted or convicted of an offence may afterwards be tried for a distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of section 224 of this Law.

Consequences supervening or not known at previous trial.

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

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

Issue of summons for witness.

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

(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 summons and other processes on witness.

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

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

(3) A summons shall be served on the person to whom it is directed in the same Manner as is set out in sections 135 or 136 of this Law or, with leave of the court.

(4) Sections 138 and 141 to 144 of this Law shall apply to the summons.

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

(6) 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.

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

Warrant for witness after summons

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

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

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

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

Mode of dealing with witness arrested under warrant.

257. (1) A witness arrested under a warrant shall, if practicable and where the hearing of the case for which his evidence is required is fixed for a time which is more than 48 hours after the arrest, be taken before a Magistrate and the Magistrate:

(a) may, on the witness furnishing security by recognizance to the satisfaction of the Magistrate for his appearance at the hearing, order him to be released from custody; or

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

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

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

Penalty on witnesses refusing to attend.

258. (1) A witness who:

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

(b) departs from the premises of the court without the leave of the Judge or Magistrate hearing the case, is liable on summary conviction, to a fine not exceeding ten thousand Naira or to imprisonment for a term not exceeding two months.

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

Non-attendance of witness on adjourned hearing.

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

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

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

Manner of taking oath or affirmation.

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

Witness refusing to be sworn, or produce documents.

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

(a) refuses to be sworn or to affirm as a witness;

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

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

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

(2) Nothing in this section shall:

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

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

PART 27
WITNESSES: EXPENSES

Expenses of witnesses for the prosecution

263. Where a person attends court as a state witness, the witness shall be entitled to payment of such reasonable expenses as may be prescribed by the Attorney-General of the State.

Expenses of witnesses for the defence.

264. Where a person attends court as a witness to give evidence for the defence, the Attorney-General may in its discretion on application, order payment to such witness of 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 may be granted subject to witnesses' costs.

265. The court may permit an application of a party for an adjournment of the proceedings and in so doing, may order the party seeking the adjournment to pay to a witness present in court and whose evidence it has not been possible to take owing to the adjournment, such sum in the amount payable to a witness in accordance with section 263 of this Law, or such sum as the court may fix.

Ascertainment of witnesses expenses.

266. The amount of the expenses payable to a witness pursuant to section 263 of this Law shall be paid by the office of the Attorney-General to the witness.

PART 28
EXAMINATION OF WITNESSES

Application of the Evidence Act.

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

Power to call or recall witnesses.

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

Certificates of certain Government technical officers.

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

Right of reply.

270. 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 to have access to hearing.

271. (1) Subject to the provisions of *s*ections 245 and 272 to 274 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 the provisions of subsection (1) of this section, the Judge or Magistrate presiding over a trial may, in his discretion and subject to the provisions of section 272 of this Law, exclude the public at any stage of the hearing on the grounds of public policy, decency or expediency.

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

Court may exclude certain persons while taking evidence of a child.

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

(a) members or officers of the court, or

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

Order under section 271 or 272 not to apply to press and certain others.

273. (1) An order made under section 271 or 272 of this Law excluding the public from a court shall not unless specifically stated:

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

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

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

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

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

(a) he is the defendant charged with the alleged offence; or

(b) his presence is required as a witness or otherwise for the purposes of justice in which event he may remain for so long as his presence is necessary.

Visit by court to locus.

275. (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.

Determination of age.

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

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

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

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

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

Age in relation to offences.

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

Presence of defendant at trial.

278. A defendant shall, subject to the provisions of section 148 of this Law, be present in court during the whole of his trial unless:

(a) he misconducts himself in such a manner as to render his continuing presence impracticable or undesirable; or

(b) at the hearing of an interlocutory application.

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

279. (1) The complainant and defendant shall be entitled to conduct their cases by a legal practitioner or in person except in a trial for a capital offence or an offence punishable with life imprisonment.

(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 373 (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 control of prosecution by the Attorney-General.

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

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

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

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

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

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

Position in court of person summoned.

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

PART 29
PLEA BARGAIN AND PLEA GENERALLY

Plea bargain guidelines

282. (1) Notwithstanding anything in this Law or in any other law, the prosecutor 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 during or after the presentation of the evidence of the prosecution, but before the presentation of the evidence of the defence, provided that in any offence affecting the human body, the consent of the victim must first be sought and obtained before entering into a plea bargain.

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

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

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

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

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

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

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

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

(i) the defendant's willingness to cooperate in the investigation or prosecution of others by providing relevant information for the prosecution of other defendants,
(ii) the defendant's history with respect to criminal activity,
(iii) the defendant's remorse or contrition and his willingness to assume responsibility for his conduct,
(iv) the desirability of prompt and certain disposition of the case,
(v) the likelihood of obtaining a conviction at trial and the probable effect on witnesses,
(vi) the probable sentence or other consequences if the defendant is convicted,
(vii) the need to avoid delay in the disposition of other pending cases,
(viii) the expense of trial and appeal, and

(ix) The defendant's willingness to make restitution or return the proceeds of the crime or pay compensation to the victim where appropriate.

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

(a) the content of the agreement; and

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

(7) An agreement between the parties contemplated in subsection (4) of this section shall be reduced to writing and shall:

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

(i) that he has a right to remain silent,
(ii) of the consequences of not remaining silent, and
(iii) that he is not obliged to make any confession or admission that could be used in evidence against him;

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

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

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

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

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

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

(a) he is satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant on his plea of guilty to that offence, and shall award the compensation to the victim in accordance with the terms of the agreement which shall be delivered by the court in accordance with section 325 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 (7) of this section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.

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

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

(b) of the view that he would have imposed a lesser sentence than the sentence agreed, he shall inform the prosecutor of such lesser lesser sentence than the sentence agreed; or

(c) Of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he considers to be appropriate.

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

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

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

(15) where the prosecutor has been informed of the lesser sentence in subsection 11 (b) of this section, the prosecutor may:

(a) accept the lesser sentence subject to the prosecutor'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 the plea agreement, in which event the trial shall proceed*de novo* before another presiding judge or magistrate, as the case may be.

(16) 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.

(17) Where a trial proceeds as contemplated under subsection (15)

(a) no references shall be made to the agreement;

(b) no admission contained therein or statements relating thereto shall be admissible against the defendant; and

(c) The prosecutor and the defendant shall not enter into a similar plea and sentence agreement.

(18) Capital offences and sexually related offences shall be excluded from plea bargaining.

Plea to a charge

283. (1) Before a defendant takes his plea, the court shall inform him of his rights under the provisions of section 281 of this Law.

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

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

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

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

Proof of previous conviction.

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

Effect of plea of not guilty.

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

Effect of plea of guilty.

286. (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 facts of the case; and

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

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

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

Amending charge where defendant pleads guilty to offence not charged.

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

Failure to plead due to malice or otherwise.

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

(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.

Pelas: autrefois acquit or convict, pardon.

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

(a) by virtue of section 250 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.

(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 30
PERSONS OF UNSOUND MIND

Procedure when defendant is suspected to be of unsound mind.

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

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

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

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

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

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

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

(6) A court, before which a defendant suspected to be of unsound mind is 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 from medical officer.

291. Where the medical officer or such officer in charge of the asylum or other suitable place to which the defendant is referred for observation under the provisions of this section fails to submit a report as provided in section 291(4) and (7) of this Law within the period stipulated in those sub sections, the court may discharge the person, or shall release him on bail in accordance with the provisions of this Law relating to bail.

Certificate of medical officer.

292. (1) Where the medical officer certifies that the 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 defense, the court shall, where it is satisfied of the fact, postpone the proceeding.

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

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

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

Release of defendant of unsound mind pending investigation or trial.

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

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

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

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

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

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

defendant or the life of anyone else.

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

Resumption of proceedings or trial.

294. Where a proceeding or trial is postponed under section 291 or 292 of this Law, the court may at any time re-open the proceeding or re-commence the trial and require the defendant to appear or be brought before the court.

Resumption of proceedings after release under section 293.

295. Where the defendant has been released under section 293 of this Law, the court may at any time require the defendant to appear or be brought before it and may again proceed with the proceeding or trial.

Where defendant appears to have been of unsound mind.

296. Where the defendant appears to be of unsound mind at the time of any remand or similar pre-trial proceedings before a court, and the issue of the state of soundness of mind of the defendant is in issue, being a defence to the main offence for which he is arrested relating to insanity or intoxication, the court shall proceed to deal with the defendant in accordance with sections 291 to 303 of this Lawand 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 of defendant discharged.

297. Where the finding states that the defendant committed the act alleged, the court before which the trial has been held shall, where the act would have but for the finding of incapacity constituted an offence, order the person to be kept in safe custody in such place and manner as the court thinks fit and shall, within 31 days of the order, report the case to the Attorney-General.

Order of the Attorney-General in pursuance to section 297.

298. (1) The Governor may at his discretion order the defendant to be confined pursuant to section 297 in a mental health asylum, prison or other suitable place of safe custody.

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

Observation of prisoners of unsound mind.

299. Where a defendant is confined under sections 293 (3) and (5), 297 or 298 of this Law, the medical officer of the prison, where such defendant is confined in a prison, or the medical officer attached to the asylum or other facility, where he is confined in any asylum or such facility shall keep him under observation in order to ascertain his state of mind and such medical officer shall make a special report for the information of the Attorney-General as to the state of mind of such defendant at that time or times as the Attorney-General shall require.

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

300. Where a defendant is, under the provisions of section 291 of this Law, confined in a prison, asylum or other facility and is certified by the medical officer to whom the case is referred for his report to be capable of making his defence, the defendant shall be taken before the court at such time as the court appoints, and the court shall proceed with the trial or proceeding, as the case may be, and the certificate shall be receivable as evidence.

Procedure where defendant of unsound mind is reported fit for discharge.

301. (1) Where the medical officer of a prison or the medical officer attached to an asylum or other facility in which a defendant is confined under sections 293, 297 or 298 of this Law certifies that the defendant in his judgment may be discharged without the danger of him causing injury to himself or to any other person, the Attorney-General may, on the receipt of that report, order the defendant to be

discharged or to be detained in custody or in prison or to be in custody or be transferred to an asylum where he has not already been sent to an asylum.

(2) Where the Attorney-General orders a defendant to be transferred to an asylum, he may appoint two medical officers to report on the state of mind of the defendant and on any other facts the court may require, and on receipt of the report, the court may order his discharge or detention as it thinks fit.

Transfer from one place of custody to another.

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

Delivery of defendant of unsound mind to care of relative

303. (1) Where a relative or friend of a defendant confined under section 293 or 298 of this Law desires that the defendant be delivered over to his care and custody, the court may, on the application of the relative or friend and on his giving security to the satisfaction of the court that the defendant delivered shall be:

(a) properly taken care of; and

(d) prevented from doing injury to himself or to any other person, in its discretion, order the defendant to be delivered to the relative or friend on condition that the defendant shall be produced for the inspection of such officer and at such times as the court may direct.

(2) Where a defendant delivered to a relative or friend under subsection (1) of this section is confined under the provisions of section 290 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 293 and 299 of this Law shall apply, with necessary modifications, to a defendant delivered to the care and custody of a relative or friend under this section.

Removal to another State.

304. Where it is necessary to remove a prisoner to a prison or asylum under the provisions of this Part, an order for the removal given under the provisions of this Part shall be sufficient authority for the removal and the detention of the prisoner in any prison or such other place of detention within the State.

PART 31
REMAND PROCEEDINGS & TIME LIMITS

Application for remand or other interlocutory proceedings.

305. (1) A suspect arrested for an offence which a Magistrate Court has no jurisdiction to try may take cognizance of the offence brought before a magistrate within a reasonable time of the arrest and the magistrate upon taking cognizance of the offence, may order the remand of the suspect in custody.

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

Appendix D

(a) be made in the prescribed "Report and Request for Remand Form" as contained in Form 8, in the Appendix C to this Law; and

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

A court may remand in prison custody.

306. (1) Where the court, after examining the reason for the arrest and for the request for remand in accordance with the provisions of section 305 of this Law, is satisfied that there is probable cause to remand the suspect pending the receipt of a copy of the legal advice from the Attorney-General and arraignment of the suspect before

the appropriate court, as the case may be, may remand the suspect in custody.

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

(a) the nature and seriousness of the alleged offence;

(b) reasonable grounds to suspect that the suspect has been involved in the commission of the alleged offence;

(c) reasonable grounds for believing that the suspect may abscond or commit further offence where he is not committed to custody; and

(d) any other circumstance of the case that justifies the request for remand.

Court may grant bail in remand proceedings.

307. The court may, in considering an application for remand brought under section 305 of this Law, grant bail to the suspect brought before it, taking into consideration the provisions of sections 171 to 201 of this Law relating to bail.

Time and protocol for remand orders.

308. (1) Where an order of remand of the suspect is made pursuant to section 305 of this Law, the order shall be for a period not exceeding 21 days in the first instance, and the case shall be returnable within the same period.

(2) Where, on application in writing, good cause is shown why there should be an extension of the remand period, the court may make an order for further remand of the suspect for a period not exceeding 14 days and make the proceedings returnable within the same period.

(3) Where the suspect is still in custody on remand at the expiration of the period provided for under subsection (1) or (2) of this section, the court may, on application of the suspect, grant bail in accordance with the provisions of sections 171 to 201 of this Law.

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

(a) the Commissioner of Police and the Attorney-General,

(b) any relevant authority in whose custody the suspect is or at whose instance the suspect is remanded, and adjourn the matter within a period not exceeding 90 days of the expiration of the period of remand order made under subsection (2) of this section, to inquire as to the position of the case and for the Commissioner of Police or the Attorney-General to show cause why the suspect remanded should not be unconditionally released.

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

(a) may extend the remand of the suspect for a final period not exceeding 30 days for the suspect to be arraigned for trial before an appropriate court*;* and

(b) shall make the case returnable within the said period of 30 days from the date the hearing notice was issued pursuant to subsection (4) of this section.

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

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

When court may exercise power of remand.

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

(a) whether the suspect remanded is present in court or not; and

(b) on its own motion or on application, including an application by a person in charge of the prison or other place of custody where the suspect remanded is detained.

(2) The legal advice of the Attorney-General shall in all cases be copied to the court, and the court may act only on the copy of the advice to make any order that may be necessary in the circumstances.

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

Court may bring up person remanded or make any order during remand.

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

(2) The court may order that the suspect remanded be transferred to a hospital, asylum or any suitable place for the purpose of giving him medical treatment, or may make any order that it considers necessary to make at any time during the remand period.

Place of remand.

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

PART 32
PRESENTATION OF CASE BY PROSECUTION AND DEFENCE

Presentation of case.

312. (1) After a plea of not guilty has been taken or no plea has been made, the prosecutor may open the case against the defendant stating shortly by what evidence he expects to prove the guilt of the defendant.

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

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

(4) Where a defendant intends to open his case, he shall file his defence at the court's registry and attach all the documents or exhibits, list of witnesses, he intends to rely on for his defence.

No case submission at the instance of the Court.

313. The court may, on its own motion or on application by the defendant after hearing the evidence for the prosecution, where it considers that the evidence against the defendant or any of several defendants is not sufficient to justify the continuation of the trial, record a finding of not guilty in respect of the defendant without calling on him or them to enter his or their defence and the defendant shall accordingly be discharged and the court shall then call on the remaining defendant, if any, to enter his defence.

No case submission by the defence and replies

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

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

(3) In considering the application of the defendant under this section, the court shall, 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;

(e) any other ground on which the court may find that a prima facie case has not been made out against the defendant for him to be called upon to answer.

(4) Upon the failure of a case submission, the defendant shall file his defence and attached all the documents or exhibit and witnesses he intends to rely on for his defence.

Defence and prosecutor's right of reply.

315. (1) After the case for the prosecution is concluded, the defendant or the legal practitioner representing him, if any, is entitled to address the court at the commencement or conclusion of his case, as he deems fit, and if no witnesses have been called for the defence than the defendant himself or witnesses solely as to character of the defendant and no document is put in as evidence for the defence, the prosecution shall not be entitled to address the court a second time but if, in opening the case for the defence, the legal practitioner appearing for the defendant introduced a new matter without supporting it by evidence, the court in its discretion may allow the prosecution to reply.

(2) Where any witness, other than the defendant himself or witnesses solely as to the defendant's character, is called or any document is put in as evidence for the defence, the legal practitioner appearing for the defendant is entitled after evidence has been adduced to address the court a second time on the whole case and the prosecution shall have a right of reply.

(3) The provisions of this section shall not affect the right of reply by a law officer.

Reference to the Court of Appeal.

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

(a) adjourn the trial until the question has been considered and decided,

(b) conclude the trial and postpone the verdict until such time as the question has been considered and decided, or

(c) conclude the trial and pass sentence but suspend execution until such time as the question has been considered and decided, and in any such case the court in its discretion shall commit the defendant or convict to prison or admit him to bail in accordance with the provisions of Part 20 of this Law.

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

(a) continue the trial or discharge the defendant;

(b) acquit or convict the defendant; or

(c) order the execution of the sentence as the circumstance may require.

Stay of proceedings.

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

Consideration of case by court and announcement of finding.

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

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

Judgment to be in writing.

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

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

Defendant to be discharged where found not guilty.

320. Where the court finds a defendant not guilty, it shall immediately discharge him and record an order of discharge and acquittal accordingly.

Procedure on finding of guilty.

321. (1) Where the finding is guilty, the convict shall, where he has not previously called any witness to character, be asked whether he wishes to call any witness and, after the witness, if any, has been heard, he shall be asked whether he desires to make any statement or produce any necessary evidence or information in mitigation of punishment in accordance with section 322 (3) of this Law.

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

Sentence and sentencing hearing.

322. (1) Where the provisions of section 321 of this Law have been complied with, the court may pass sentence on the convict or adjourn to consider and determine the

sentence and shall then announce the sentence in open court.

(2) The court shall, in pronouncing sentence, consider the following factors:

(a) the objectives of sentencing, including the principles of reformation and deterrence;

(b) the interest of the victim, the convict and the community;

(c) appropriateness of non-custodial sentence or treatment in lieu of imprisonment; and

(d) previous conviction of the *c*onvict.

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

Recommendation for mercy.

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

Conviction on other charges pending.

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

(2) Where a desire is expressed under subsection (1) of this section and consent is given:

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

(b) the prosecution shall state the facts of the case in accordance with section 312 of this Law.

(3) Where the other charge pending against the defendant is considered in accordance with subsections (1) and (2) of this section and sentence passed on the defendant with consideration or in respect of the other pending charge, the defendant shall not, subject to the provisions of sections 248 to 249 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 to victim in judgment.

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

(2) The court in considering the award of compensation to the victim may call for additional evidence to enable it determine the quantum of compensation to award in subsection (1) of this section.

Delivery of judgment when Judge or Magistrate is unavoidably absent.

326. Where a Judge or Magistrate having tried a case is prevented by illness or other unavoidable cause from delivering his judgment or sentence, the judgment or the sentence, if it has been reduced into writing and signed by the Judge or Magistrate, may be delivered and pronounced in open court by any other Judge or Magistrate in the

presence of the defendant.

Warrant of commitment.

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

Authority for carrying out sentence other than of death.

328. A warrant under the hand of the Judge or Magistrate by whom a convict has been sentenced or committed to prison for non-payment of a penalty or fine grants full authority to the officer in charge of any prison and to all other persons for carrying into effect the sentence described in the warrant not being a sentence of death.

Error or omission not to affect legality of act.

329. The court may, at any time, amend any defect in an order or warrant of commitment and no:

(a) omission or error as to time and place; or

(c) 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 33
COSTS, COMPENSATION, DAMAGES AND RESTITUTION

Power of court to order payment of expenses or compensation.

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

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

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

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

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

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

Payment to be taken into consideration in subsequent civil suit.

331. (1) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into consideration any sum paid or recovered as compensation under this section.

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

Right of a victim

(3) Rights granted to a victim(s) under this Law or any other Act may be excised on behalf of the victim by an appropriate representative chosen by the victim for that purpose.

Power of court to order restitution.

332. (1) A court after conviction in a joint trial may adjourn proceedings to consider and determine the sentence appropriate for each convict:

(a) order for the restitution or compensation for the loss or destruction of the victim's property and in so doing the court may direct the convict:

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

(ii) where the return of the property is 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.

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

Cost against private prosecutor

333. (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 in cases of false and vexatious accusation.

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

(2) The court may, in default of payment of such compensation or any part of it, award a term of imprisonment against the person against whom the order was made, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set out in this Law or the court may sentence the person to Community Service in accordance with section 457 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. Provided that the amount ordered to be paid as compensation shall be paid into an interest yielding account in any manner as may be directed by the court pending the determination of the appeal.

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

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

(2) Where the person receives the compensation or where the convict, having been ordered to pay compensation, suffers imprisonment for non-payment, the receipt of the compensation, or the undergoing of the imprisonment, as the case may be, shall act as a bar to any further action for the same injury.

(3) Before making an order for compensation under this Law, the court shall explain the full effect of this section to the person to whom compensation is payable.

Monies paid as compensation, recoverable as fines.

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

Warrant for levy of fine.

337. (1)Where a convict is ordered to pay a fine, or a defendant is ordered to pay compensation to another person under section 330 of this Law, or a person is subject to recovery of penalty for forfeiture of a bond under this Law, the court passing the sentence or making the order may, notwithstanding that, in default of the payment of the fine or compensation or penalty, the convict or defendant may be imprisoned, issue a warrant for the levy of the amount by any means permitted by law, including:

(a) the seizure and sale of any movable property belonging to the defendant or convict;

(b) the attachment of any debt due to the defendant or convict; and

(c) Subject to the provisions of the Land Use Act, the attachment and sale of any immovable property of the convict situated within the jurisdiction of the court.

(2) A warrant for seizure and sale of the movable property of a person under this section shall be addressed to the court within whose jurisdiction it is to be executed.

(3) Where execution of a warrant is to be enforced by attachment of debts or sale of immovable property, the warrant shall be sent for execution to any court competent to execute orders for the payment of money in civil suits and the court shall follow the procedure for the time being in force for the execution of such orders.

Powers of court when convict is sentenced to only fine.

338. (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 337 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 installments;

(c) postpone the issue of a warrant under section 337 of this Law;

(d) without postponing the issue of a warrant under section 337 of this Law, postpone the sale of any property seized under the warrant; or

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

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

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

(4) Where the fine or any installment 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.

Wrongful conversion or detention of property and award of damages.

339. (1) Where in a charge of an offence relating to property and the court is of the opinion that the evidence is insufficient to support the charge, but that it establishes wrongful conversion or detention of property, the court may order that such property be restored and may also award reasonable damages to the person entitled to the property.

(2) The damages awarded under this section, shall be recovered in like manner, as prescribed in section 336 of this Law.

PART 34
CUSTODY, DISPOSAL, RESTORATION OF PROPERTY

Meaning of "property".

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

Order for custody and disposal of property pending trial.

341. Where any property regarding which an offence appears to have been committed or which appears to have been used for the commission of an offence is produced before a court during an inquiry or a trial, the court:

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

(b) where the property is subject to speedy decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of, and the proceeds dealt with as the court may direct.

Order for disposal of property after trial.

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

commission of an offence.

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

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

Custody or sale of property.

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

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

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

PART 35
SEIZURE, FORFEITURE, CONFISCATION AND DESTRUCTION OF INSTRUMENTALITY OF CRIME

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

344. The court may:

(a) order the seizure of any instrument, material or thing which there is reason to believe is provided or prepared, or being prepared, with a view to the commission of an offence triable by the court; and

(b) direct the instrument, material or thing to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 347 of this Law.

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

345. (1) Upon a conviction for an offence relating to obscene publication, the court may order the confiscation and destruction of all the copies of the publication or thing, including those that remain in the possession or power of the convict.

(2) Upon arrest 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 warrant may be used to search for things subject to section 344 or 345

346. 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, place +or anything in respect of which an order may be made under section 344 or 345 of this

Law, the court may issue a search warrant to search for the thing and where the thing is found, it shall be brought before a court and dealt with as that court may deem proper.

Restoration of possession of immovable property.

347. (1) Where a defendant is convicted of an offence carried out by criminal force, and it appears to the court that by that force a victim has been dispossessed of any immovable property, the court may, where it deems fit, order the possession of the property to be restored to the victim.

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

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

348. (1) The seizure by the police of property taken during arrest or investigation under this Law, or alleged or suspected to have been stolen or found in circumstances which create a suspicion of the commission of an offence, shall, within a period not exceeding two weeks in case of perishable property or two months for non-perishable property of the taking of the property or thing, be reported to a court, and the court shall make an order in respect of the disposal of the property or its delivery to the person entitled to its possession or such other orders as it may deem fit in the circumstances.

(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 where owner of property seized is unknown.

349. (1) Subject to the provision of the Police Act, where no person within the period referred to in section 348 of this Law establishes his claim to the property referred to in that section and where the person in whose possession the property was found is unable to show that it was lawfully acquired by him, the property shall be at the disposal of the court and may be sold in accordance with the order of the court and the proceeds forfeited to the State Government.

(2) At any time within six years from the date of the property coming into the possession of the police, the court may direct the property or the proceeds of the sale of the property to be delivered to any person proving his title to it, on payment by him, of any expenses incurred by the court in the matter.

Power to sell perishable property.

350. Where the person entitled to the possession of property referred to in section 348 of this Law is unknown or absent and the property is subject to speedy decay or, for the benefit of the owner, the court may, at any time, direct it to be sold and the provisions of sections 348 and 349 of this Law shall, as nearly as may be practicable, apply to the net proceeds of the sale.

Payment to innocent person of money found on defendant.

351. Where a defendant is convicted of an offence relating to property and it is proved that a person has bought the stolen property from him without knowing or having reason to believe that the property was stolen, and that money has, on the arrest of the convict been taken out of his possession, the court may:

(a) on the application of the purchaser; and

(b) on the restitution of the stolen property to the person entitled to the

possession, order that out of the money a sum not exceeding the price paid by the purchaser, shall be delivered to him.

Restitution and disposition of property found on defendant.

352. Where, on the arrest of a defendant charged with an offence, any property, other than that used in the commission of the offence, is taken from him, the court before which he is charged may order that the property or any part of it be:

(a) restored to the person who appears to the court to be entitled to it, and, where he is the person charged, that it be restored either to him or to such other person as he may direct; or

(b) applied to the payment of any costs or compensation directed to be paid by the defendant charged.

Restitution of stolen property.

353. (1) Where a defendant is convicted of an offence relating to property, the court convicting him may order that the property or any part of it be restored to the person who appears to it to be the owner, either on payment or without payment by the owner, to the person in possession of the property or any part of it, of any sum named in the order.

(2) This section does not apply to:

(a) a valuable security which has been paid or discharged in good faith by a person liable to pay or discharge the instrument; or

(b) a negotiable instrument which has been received in good faith by transfer or delivery by a person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen.

Destruction of articles relating to counterfeiting where charge is laid.

354. Where a defendant is charged with an offence relating to counterfeit currency and in that defendant's possession, actual or constructive, was found a counterfeit currency or thing intended to be used for the purpose of making counterfeit currency, then, whether the charge proceeds to conviction or not, the currency or thing shall not be returned to the defendant charged or to the person from whom it was taken but shall be destroyed in such a manner as the court may order.

Destruction of articles relating to counterfeiting where no charge is laid.

355. (1) Where a person comes into possession of a currency, which he believes to be counterfeit or which, in his opinion, is to be used for the purpose of making counterfeit currency, he may hand the currency or thing to any officer of the Central Bank of Nigeria designated by the Bank to receive it, or to any police officer not below the rank of an Inspector, and the officer of the Central Bank of Nigeria, or police officer if satisfied that the currency:

(a) is not counterfeit, or is not intended to be used for the purpose of making counterfeit currency shall return the currency or thing, as the case may be, to the person purporting to be the owner of it, if known, and

(b) is counterfeit or is intended to be used for the purpose of making counterfeit currencies and if no charge is to be preferred against a person in connection with the currency or thing may destroy, or cause to be destroyed the currency or thing in such manner and by such persons as may be approved by the Central Bank of Nigeria.

(2) Notice of an action to be taken under subsection (1) (a) of this section shall have been given to the person who appears to be the owner of a currency, matter or thing, where the person is known and can easily be found, that the coin or thing will be destroyed at the end of a specified number of days unless the owner shows that the currency is not counterfeit or that the thing is not intended to be used for the purpose of making counterfeit currency.

(3) A reasonable time shall be allowed for the person to provide proof that the currency is not counterfeit or that the thing is not intended to be used for the purpose of making counterfeit currency and the person who alleges that he is the owner of or otherwise entitled to the currency or thing shall have no claim against the officer of the Central Bank of Nigeria, police officer or the Federal Government in respect of the coin or thing so destroyed.

Detention and destruction of counterfeit currency, etc.

356. (1) Subject to the provisions of this section, sections 354 and 355 of this Law shall apply in relation to notes purporting to be legal tender in Nigeria as those sections apply in relation to currency.

(2) Any currency, matter or thing shall not be destroyed by virtue of the provisions of this Part except:

(a) a court orders its destruction, in connection with a conviction for an offence;

(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

(3) in the absence of a conviction for an offence in respect of the currency, matter or thing and any pending prosecution for the offence, and of an order or pending application for an order for its forfeiture, the currency, matter or thing:

(i) has been voluntarily surrendered by the person having possession of it, to the proper official of the Central Bank of Nigeria or a superior police officer, or

(ii) is discovered in a lodgment made with the Central Bank by a commercial bank.

Mode of dealing with forfeiture not pecuniary.

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

PART 36
SUMMARY PROCEDURE IN PERJURY

Summary procedure in perjury.

358. (1) Where it appears to a court that a person has committed perjury in any proceeding before it, the court, subject to the provisions of subsection (2) of this section and in addition, in the case of a Magistrate, to subsection (3) of this section, may:

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(a) commit him for trial on a charge of perjury and bind any person by recognizance to give evidence at his trial; or

(b) Try him summarily for contempt of court and where he is found guilty, commit him to prison for a period not exceeding 6 months or fine him in such sum in accordance with the scale of fine in the Appendix D to this Law.

(2) Where a court decides to try a person summarily under subsection (1) of this section for contempt of court, the court shall:

(a) specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies on which the charge is based; and

(b) Require him to give his explanation to the inconsistencies and record the explanation.

(3) Where a court orders a person to be imprisoned or to pay a fine under subsection (1) of this section, it shall:

(a) not issue a warrant of commitment or make an order for imprisonment for non-payment of the fine but shall either remand the person or release him on a recognizance with or without sureties, to come up before the court when called upon; and

(b) Immediately forward to the Chief Judge or such Judge as the Chief Judge may direct, a certified copy of the proceedings.

(4) The Chief Judge or Judge to whom a certified copy of the proceedings is forwarded pursuant to subsection (3) of this section:

(a) may, without hearing argument and in the absence of the person concerned, set aside or confirm the order or reduce the sentence of imprisonment or the amount of the fine; and

(b) Shall inform the court immediately of 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.

(a) 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 37
TRIALS AND SUMMARY TRIALS GENERALLY

Trials

359. (1) Trials shall be held in the High Court on a charge filed by way of information:

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

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

Non-appearance and non-representation of legal practitioner.

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

(a) inform him of his rights to a 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 on two consecutive sessions of the court, the court shall enquire from the defendant if he wishes to engage another legal practitioner or a legal practitioner engaged for him by way of legal aid.

(3) Where the defendant wishes to engage another legal practitioner of his choice, the court shall allow him reasonable time but not exceeding 30 days to do so.

(4) Where the defendant fails or is unable to engage a legal practitioner for himself within a reasonable time, the court may direct that the defendant be represented by a legal practitioner from the Office of Public Defender or legal practitioner engaged by way of legal aid.

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

(6) A legal practitioner so engaged shall be paid such reasonable sum as may be determined by the Chief Registrar.

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

(a) inform him of his rights under the Constitution of the Federal Republic of

Nigeria, 1999 and under this Law; and

(b) indicate the fact of having so informed the defendant on the record;

Provided a defendant charged with a capital offence or an offence punishable with life imprisonment shall not be allowed to represent and defend himself in person.

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

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

(10) Where a legal practitioner fails to comply with the provisions of subsection 9 of this section, he shall be liable to pay cost to the extent of expenses incurred by the witnesses present in court.

When summary trials shall be held

361. (1) Trial shall be held summarily in:

(a) the High Court in respect of perjury;

(b) respect of an offence which by a law made by the House of Assembly is triable summarily; and

(c) Respect of a trial for an offence punishable with less than 3 years imprisonment in the Magistrate Court.

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

Non-appearance of complainant.

362. (1) Where the case is called, the defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing, does not appear in person or in the manner 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 for other sufficient reason, it shall adjourn the hearing of the complaint to some future day on such terms as the court may deem just.

Non-appearance of defendant.

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

(a) satisfied that the summons, if any, has been duly served, may issue a bench warrant for his arrest; or

(b) not satisfied that the summons has been duly served or where a warrant had been issued, in the first instance, for the arrest of the defendant,

Shall adjourn the hearing of the case to some future day, in order that proper service

may be effected or, until the defendant is arrested, as the case may be.

(2) Where the defendant is afterwards arrested on a bench warrant, he shall be brought before the court as soon as practicable which may then commit him by warrant to prison or to such other place of safe custody as it deems fit, and order him to be brought before the court at a certain time and place.

(3) The complainant shall, by direction of the court, be served due notice of the time and place ordered under subsection (2) of this section.

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

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

Non-appearance of both parties.

364. (1) Where the case is called and neither the prosecutor nor the defendant appears, or the defendant appears and the prosecutor does not appear, the court shall make such order as the justice of the case requires.

(2) The court may, in the order, include such direction as to the payment of costs as the court considers fit.

Appearance of both parties.

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

Withdrawal of complaint.

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

Manner of hearing.

367. (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.

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

(3) Where the defendant pleads not guilty, the court shall direct all witnesses to leave the court and upon the direction, the provisions of section 212 of the Evidence Act, shall apply, but failure to comply with the provisions of this subsection shall not invalidate the proceedings but would affect the weight of evidence given by that witness who fails to leave the court on the direction being given.

(4) Notwithstanding the provision of subsections (1), (2) and (3), in capital offences the court shall proceed with the trial irrespective of the plea by the defendant.

(5) The court shall then proceed:

(a) to hear the prosecutor and such witnesses as he may call and such other evidence as he may adduce in support of the charge; and

(c) also to hear the defendant and such witnesses as he may call and such

other evidence as he may adduce in his defence;

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

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

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

Discharge of defendant when no case to answer.

368. Where at the close of the evidence in support of the charge, it appears to the court that a case is not made out against the defendant sufficiently to require him to make a defence, the court shall, as to that particular charge, discharge him being guided by the provisions of section 313 of this Law.

Defence.

369. (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 compelling production of evidence at instance of defendant

370. (1) The defendant may apply to the court to issue a process for compelling the attendance of a witness for the purpose of examination or the production of a document or any other thing.

(2) On an application by the defendant under subsection (1) 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 section 369 (a).

371. Failure to comply with the requirements of section 369 (a) 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 in reply.

372. Where the defendant adduces in his defence a new matter, which the prosecution could not foresee, the prosecution may, with the leave of the Court, adduce evidence to rebut the new matter or evidence.

Power to take deposition in certain cases.

373. (1) In certain exceptional circumstances, where the evidence of a technical, professional or expert witness would not ordinarily be contentious as to require cross-examination, the court may grant leave for the evidence to be taken in writing or by electronic recording device, on oath or affirmation of the witness, and the deposition shall form part of the record of the court.

(2) Where it appears to the court that a person who is seriously ill or hurt may not recover, but is able and willing to give material evidence relating to an offence and it is not practicable to take the evidence in accordance with the provisions of this Law, the Judge or Magistrate shall:

(a) take in writing the statement on oath or affirmation of the person and subscribe the statement and certify that it contains accurately the whole of the statement made by the person; and

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

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

When statement may be used in evidence.

374. (1) A statement taken under section 373 of this Law may afterwards be used in evidence on the trial of a defendant accused of an offence to which the statement relates in accordance with the provisions of 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 its genuineness.

Notes of evidence to be recorded electronically or in writing.

375. (1) Without prejudice to section 359 (2) of this Law, court proceedings may be recorded electronically and verbatim such that the transcript of previous recording may be printed to enable certification or authentication by the Judge or Magistrate who conducted the proceedings before the next adjourned date.

(2) Where court proceedings are not recorded as stated in sub-section (1), the court shall in every case take notes in writing of the oral evidence in a book or file to be kept for that purpose and the book or files shall be signed by the court at the conclusion of each day's proceedings.

(3) The transcript of the recordings of the court shall be signed or otherwise authenticated by the presiding Judge at an adjournment of the case or at the conclusion in a manner authorised from time to time by the Chief Judge in accordance with such condition as may be imposed by rules of court, and the signed transcript shall be taken as part of the record of the proceedings.

(5) 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.

(6) The record so kept or a copy signed and certified as a true copy by the court shall, at all times, without further proof, be admitted as evidence of the proceedings as statement made by the witnesses.

Local inspection.

376. A court trying a case summarily shall make or cause to be made such local inspection as the circumstances of the case may require.

Cross complaints.

377. Where a complaint is made by one or more parties against another party or parties and there is a cross-complaint by the defendant or defendants in the first named case, the court may, where it deems fit, hear and determine the complaints in the same proceeding.

Joinder of complaints.

378. 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.

379. On the conclusion of the hearing, the court shall either at the same or at an adjourned sitting give its decision on the case either by dismissing or convicting the defendant and may make such other orders as may seem just.

Power to bind parties to be of good behaviour.

380. (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 order pursuant to subsection (1) of this section or an order for imprisonment or any other punishment under subsection (2) of this section is made, the person to be affected by the order shall be given an opportunity to be heard.

Effect of judgment of dismissal on merits, not on merits and without prejudice.

381. (1) Where a charge is dismissed on merits, the dismissal has the same effect as an acquittal.

(2) Where a charge is dismissed but not on merits, or stated to be dismissal without prejudice, the dismissal does not have the same effect as an acquittal.

Summary trial of a child by Family Court.

382. (1) Where a child is proceeded against before a court for an offence, the court shall have regard to the provisions of the Child Rights Law.

(2)Where a child is alleged to have committed an offence, the provisions of the Child's Rights Law shall apply.

(3) Notwithstanding the provisions of this Law, the provisions of Child's Rights Law relating to bail shall apply to bail proceedings in respect of a child.

Power to remand.

383. Without prejudice to any other power which a Magistrate may possess, he may, for the purposes of ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged for a period not exceeding 48 hours or release him on bail.

Law officer may request case to be adjourned or dealt with specially.

384. (1) A law officer, in a case where a charge of an indictable offence is being proceeded with summarily by a Magistrate, may, at any time before judgment, request the Magistrate to deal with the case as one for trial on charge.

(2) On receipt of the request, the Magistrate shall adjourn the proceeding until such a time as the charge is filed in the High Court, provided that the 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 charge against the defendant has not been filed at the High Court, the Magistrate shall proceed on the return date to try the charge summarily where he has jurisdiction, or may make an order releasing the defendant on bail pending his arraignment on the charge as requested by the law officer.

Adjournment for law officer's decision.

385. (1) Where a charge for an offence is being tried summarily by a Magistrate, he shall, at the request of a person in charge of the prosecution made at any time before judgment, adjourn the hearing of the charge for consultation with a law officer with a view to obtaining a request to proceed in accordance with section 384 of this Law.

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

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

Security for peace in cases tried summarily.

386. (1) A defendant convicted of an offence tried summarily may, instead of, or in addition to any prescribed punishment, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit that he shall keep the peace and be of good behaviour for a reasonable period fixed by the court.

(2) The convict may be ordered to be imprisoned until the recognizance is entered into, but the imprisonment shall not:

(a) extend for a term longer than 1 year; and

(b) Together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine for the offence which he was convicted.

Case files, legal advice, and related proceedings.

387. (1) Where an offence for which the magistrate court has no jurisdiction to try is preferred against a defendant, the police shall at the end of investigation submit the original case file to the office of the Attorney-General.

(2)The Attorney-General shall, within 14 days of receipt of the police case, file, issue and serve his legal advice indicating whether or not there is a prima facie case against the defendant for which he can be prosecuted.

(3) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has no prima facie case to answer, he shall serve a copy of the legal advice on the:

(a) police or the head of the police legal unit through whom the police case file was sent to the Attorney-General;

(b) court before which the suspect was remanded in prison, where he is in remand custody, or before whom the suspect was granted bail, where he

is on bail; and

(c) suspect in respect of whom legal advice is preferred through the prison authority, where the suspect is remanded in custody, or through his legal representative, if any.

(4) Where the offence is one for which a magistrate court has jurisdiction to try, the prosecutor shall file the charge at the magistrate court, accompanied with:

(a) the list of witnesses;

(b) the list of exhibits;

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

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

(5) The police or the officer in charge of the prison in which the suspect is remanded in custody shall on receipt of the legal advice, release the suspect immediately from detention where there is no case to answer.

(6) The court referred to in subsection (4) (b) of this section, shall, on receipt of the legal advice, strike out the charge against the suspect and accordingly discharge the suspect.

(7)The Attorney-General shall send a Law Officer in his office to the court where the order of remand was made and ensure the discharge of the remand order and of the suspect.

(8) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has a prima facie case to answer, he shall file and serve the charge in accordance with the provisions of this Law.

(9) A form as prescribed in the Appendix E to this Law, indicating a desire to be represented by a 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 charge is filed.

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(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 which the charge for his trial has been filed and the Chief Registrar shall, within 14 days of receipt of the form, ensure that a legal practitioner of the Legal Aid Council, Office of the Public Defendantor any other organisation providing free legal representation as stipulated under this subsection for the defendant, and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.

(11) The Chief Registrar shall, upon receipt of the form, forward same to the Zonal Director or State Coordinator of the Legal Aid Council or to the nearest Legal Aid Council office where the court is located or any other organisation providing free legal representation.

PART 38
RULES RELATING TO CHARGES

Filing of charge.

388. A charge may be filed by way of information by:

(a) the Attorney-General or law officers in his office;

(b) a public officer acting in his official capacity;

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

A private person, provided the charge is endorsed by a law officer that he has seen such charge and declined to prosecute at the public instance and the private person enters into a bond to prosecute diligently and to a logical conclusion.

Assignment of charge and notice of trial.

389. (1) Where a charge has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the charge filed is assigned to a court for trial within 10working days of its filing.

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

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

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

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

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

Charge by private person.

390. (1) The registrar shall receive a charge from a private legal practitioner where:

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

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

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

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

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

(2) Where an application for consent to prosecute is made to the Attorney-General by a private legal practitioner and the Attorney-General declines to grant such consent, he may in written communicated to the applicant.

Condition for private prosecutors.

391. Where a private legal practitioner has complied with the provisions of section 390 of this Law, the charge shall be signed by such private legal practitioner who shall be entitled to prosecute the charge.

Venue.

392. The place of trial shall be determined in accordance with the provisions of this Law.

Change of venue.

393. Notwithstanding the provisions of section 392 of this Law:

(a) where a cause is commenced in any other division than that in which it ought to have been commenced, it may, notwithstanding, be tried in that division in which it was commenced, but where the defendant objects, the court may, where it considers the objection reasonable, transfer the case to the proper division in which it ought to have been commenced; and

(b) the prosecutor or the defendant may, whenever he considers that the ends of justice so require in any case, apply to the court either to transfer the hearing from one division to another or from one part of the division to another part of the same Division.

(c) no appeal shall lie from any order of transfer made under this section.

Effect of change of venue.

394. Where a case is transferred from one place in a division to another place in the same division or to another division, the case shall be tried and determined at the place or in the division to which it has been transferred; and all recognizance, subpoenas, and proceedings in or relating to the case are deemed to be returnable at the latter place or division and all witnesses who are or summoned to attend the trial shall be informed accordingly and shall attend at such latter place or division.

Form of notice of trial.

395. The registrar or any other person directed by the court, shall endorse on, or annex to, every charge delivered to the sheriff or proper officer, for service, a notice of trial and such notice shall specify the particular sessions at which the party is to be tried on the charge and shall be in the following form or as near to it as may be.

Copy of charge and notice of trial to be delivered to Sheriff.

396. The registrar or other proper officer shall deliver, or cause to be delivered, to the Sheriff or proper officer serving the charge, a copy, with the notice of trial endorsed on or annexed to it, and where there are more parties charged than one, then as many copies as there are parties, together with a similar notice for service on each witness bound to attend the trial.

Time and mode of summoning parties on charge.

397. The Sheriff or other proper officer shall, on receipt of the charge and notice of trial, serve the person named in the notice at least 7 working days before the date specified on the notice.

Service of notice of trial on witnesses.

398. Notice of trial at the same time shall be served on all the witnesses, and the service of the notice on the witnesses shall be in the like manner as service on a defendant who is not in custody.

Registered courier companies may serve processes.

399. The Chief Judge may engage the services of a reputable courier company for the purpose of undertaking service of criminal processes, and such company shall serve the processes in accordance with this Law.

Return of service.

400. The officer of such courier company serving the copy of the charge and notices shall immediately make to the registrar or other proper officer a return of the mode of service with the necessary endorsement of service on the person named for service on the notice or charge.

Warrant where defendant does not appear.

401. Where a defendant against whom a charge has been duly preferred, and on whom the charge and notice of trial have been duly served, does not appear to plead to the charge, whether he is under recognizance to appear or not, the court may issue a warrant for his arrest.

Law officer or legal practitioner for State and defence in capital cases.

402. Where a defendant is accused of a capital offence or offence punishable by life imprisonment, the State shall be represented by a law officer, or a legal practitioner, and where the defendant is not defended by a legal practitioner, the court shall assign a legal practitioner for his defence.

Time for raising certain objection, day-to-day trial and adjournment.

403. (1) The defendant to be tried on a charge shall be arraigned in accordance with the provisions of this Law relating to the taking of pleas and the procedure on it.

(2) After the plea has been taken, the defendant may raise any objection to the validity of the charge at any time before judgment provided that such objection shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgment.

(3) Upon arraignment, the trial of the defendant shall proceed from day-to-day until the conclusion of the trial.

(4) Where day-to-day trial is impracticable after arraignment, no party shall be entitled to more than ten adjournments from arraignment to final judgment provided that the interval between each adjournment shall not exceed 21 working days.

(5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their ten adjournments each, the interval between one adjournment to another shall not exceed thirty days inclusive of weekends

(6) If in the course of trial, the case is adjourned for four (4) consecutive times at the instance of the prosecution without a reasonable cause, the case may be struck out, and if the adjournment on the other hand, is at the instance of the Defendant without a reasonable cause, his defence maybe foreclosed and the case determined on the strength of the case of the prosecution..

(7) Where a Judge or Magistrate conducting a trial is transferred to another jurisdiction he shall be given a dispensation by the Chief Judge to conclude any part-heard matters in his last jurisdiction within a reasonable time after assuming office in the new jurisdiction.

(8) Notwithstanding the provision of any other law to the contrary, a Judge of the High

Court 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.

(9) The expenses incurred by the Judge or Magistrate pursuant to subsections (7) and (8) of this section shall be defrayed by the Chief Registry of the High Court.

Attendance of witness bound by recognizance to attend.

404. A person who is summoned as a witness, whether for the prosecution or for the defense, shall be bound to attend the court on the day fixed for the trial of the case and on subsequent dates until the conclusion of the case or until he has been discharged by the court from further attendance.

Warrant for arrest of witness not attending on recognizance.

405. Where a person who has been summoned to attend as a witness, whether for the prosecution or for the defense, does not attend the court on the day fixed for the trial of the case or on any further adjourned date, and he offers no reasonable excuse for his absence, despite the fact that he was duly served with the notice of the trial, the court may issue a bench warrant that the person be arrested and be brought before the court, at a time to be mentioned in the warrant, in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant for arrest of a witness disobeying summons.

406. Where a person named on a summons or writ of subpoena willfully refused to accept service of the summons or writ of subpoena, the court shall issue a warrant for the person to be arrested and be brought before the court at a time to be mentioned in the warrant in accordance with the summons or writ of subpoena.

Fine for non-attendance.

407. A person who fails to attend as witness in either of the cases mentioned in sections 405 and 406 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 ₦5, 000.00 and, in default of payment, to imprisonment for a term corresponding to the fixed sum, but the period of imprisonment shall not exceed a period of two months.

PART 39
PROVISIONS RELATING TO SENTENCE OF DEATH

Construction of provisions relating to punishments.

408. (1) Subject to the provisions of any law relating to a specific offence or class of offence and to the jurisdiction conferred on any superior court or on a person presiding over the court, the provisions in this Part shall apply to sentences of death, imprisonment, fine, and non-custodial sentences.

(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:

(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 justice; and

(f) restitution, that is, the objective of compensating the victim or family of the victim of the offence.

Death

409. (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 sentence of death is to be carried out.

410. Where sentence of death has been passed, the sentence shall only be carried out in accordance with the provisions of this Part.

Sentencing in the case of pregnancy.

411. Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her but its execution shall be suspended until the baby is delivered, weaned and has attained the age of two years.

Sentencing in the case of a child defender.

412. Where a convict who, in the opinion of the court, has not attained the age of 18 years at the time the offence was committed is found guilty of a capital offence, sentence of death shall not be pronounced or recorded but in lieu of it, the court shall sentence the child to life imprisonment or to such other term as the court may deem appropriate in consideration of the principles in section 423 of this Law and the Child's Rights Law No. 5 of 2005.

Authority for detention of convict.

413. A certificate under the hand of the registrar, or other officer of the court, that a sentence has been passed, and naming the convict against whom it has been passed, shall be sufficient authority for the detention of the convict.

Judge's certificate of death sentence to be sufficient and full authority for execution of convict, unless he is pardoned or reprieved.

414. A Judge who pronounces a sentence of death shall issue, under his hand and the seal of the court, a certificate to the effect that sentence of death has been pronounced upon the convict named in the certificate, and the certificate shall be sufficient and full authority in law for the detention of the convict in safe custody until the sentence of death pronounced upon him can be carried into effect in accordance with the provisions of this Part.

Steps to be taken by the Registrar.

415. The registrar of the court that sentenced the convict to death shall, as soon as practicable after the sentence has been pronounced:

(a) hand a copy of the certificate issued by the Judge under the provisions of section 414 of this Law each to the Commissioner of Police, and the superintendent or other officer in charge of the prison in which the convict is to be confined;

(b) transmit to the Sheriff one copy of the certificate; and

(d) file one copy of the certificate with the record of the proceedings in the case.

Convict may send request to the Committee on

416. (1) Where a convict desires to have his case considered by the Committee on Prerogative of Mercy, he shall forward his request through his legal practitioner or

Prerogative of Mercy.

officer in charge of the Prison in which he is confined to the Committee on Prerogative of Mercy.

(2) The Committee on Prerogative of Mercy shall consider the request and make its Recommendation to the Governor.

State at which Governor is to consider report.

417. The Governor shall, after considering the recommendation made under section 416 (2**)** of this Law, may, decide to confirm the sentence or commute the sentence to imprisonment for life or that the sentence should be commuted to any specific period, or that the convict should be otherwise pardoned or reprieved.

Where a pardon or reprieved is granted.

418. (1) Where the Governor decides that the sentence should be commuted or that the convict should be otherwise pardoned or reprieved, he shall issue an order, one copy of which shall be sent to the superintendent or other officer in charge of the prison in which the convict is confined, and another copy of which shall be sent to the Sheriff, directing that the execution shall not be carried out.

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

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

Copy of order to be sent to Judge.

419. The Attorney-General shall communicate the decision referred to in section 418 (1) and (2) of this Law to the Judge who presided over the trial.

Where pardon or reprieve is not granted.

420. (1) Where the Governor decides that the sentence should not be commuted or that the convict should not be pardoned or reprieved, the order of the Governor shall be duly signed by him and sealed in accordance with Appendix G to this Law or as near to it as circumstances permit.

(2) The Order of the Governor:

(a) shall state the date and time the execution is to be carried out, and give directions as to the place of the burial or

(b) may direct that the execution shall take place at such time and such place and the body of the convict executed shall be buried at such place as shall be appointed by some officer specified in the order.

(3) When the place or time of execution or the place of burial is appointed by some person and is not stated in the order of the Governor, the specified officer shall endorse on the order his signature the place and time of execution and place of burial.

(4) Where the Governor fails or neglects to sign the execution order for a period of ten years, the sentence of death shall be commuted to life imprisonment.

Copy of order to be sent to prison official.

421. A copy of the order issued by the Governor shall be forwarded to the official in charge of the prison in which the person sentenced is confined, and the official in charge of the prison shall give effect to the order of execution.

PART 40
PROCEDURE WHERE WOMAN CONVICTED OF CAPITAL OFFENCE IS ALLEGED TO BE PREGNANT

Provision where woman is convicted of capital offence is alleged to be

422. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, the Court shall, before sentence is passed on her, determine the question whether or not she is pregnant.

pregnant.

(2) The question whether the woman is pregnant or not shall be determined by the court on such evidence as may be presented to the court by the woman or on her behalf or by the prosecutor.

(3) Where in proceedings under this section the court finds that the woman in question is:

(a) not pregnant, the court shall pronounce sentence of death upon her, or

(b) Pregnant, the court shall sentence her to death subject to the provision of section 411 of this Law.

(4) The test to confirm whether a convicted woman is pregnant under subsection (1) of this section shall be carried out in a government hospital.

PART 41
SENTENCING GENERALLY OTHER THAN CAPITAL SENTENCE

Court to determine term of imprisonment.

423. (1) On conviction, a court may sentence the convict to a term of imprisonment as prescribed by the law.

(2) In exercising its discretion of sentencing or review of sentence, the court shall take into consideration the following factors, in addition to the provisions of section 408 of this Law:

(a) each case shall be treated on its own merit;

(b) the objectives of sentencing, including the principles of reformation, shall be borne in mind in sentencing a convict;

(c) an appeal court may, in a proper case, reduce the sentence imposed by the trial court, especially where it is excessive or based on wrong principles, or an appeal court may increase the sentence imposed by the trial court especially where it is inadequate;

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

(e) the period spent in prison custody awaiting or undergoing trial may be considered and subtracted from the sentence of the convict;

(f) a trial court may conduct an inquiry into the convict's antecedents before sentencing;

(g) it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with section 322 of this Law;

(i) where there is doubt as to whether the defendant or convict has attained the age of 18,the court shall resolve the doubt in his favour;

(j) Sentencing to a term of imprisonment shall apply only to those offenders who should be isolated from society and with whom other forms of punishment have failed or is likely to fail.

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

424. (1) Where the court has power to pass a sentence of imprisonment, it may, in lieu of such sentence, order the convict to be detained within the precincts of the court or at a police station till such hour not later than eight in the evening on the day on which he is convicted, as the court may direct.

(2)The court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the convict's abode, where his abode is known or ascertained by the court, the court shall not make an

order of detention under this section as will deprive the convict of a reasonable opportunity of returning to his abode on the day on which the order of detention is made.

(3) Where a sentence of imprisonment is passed on a convict by a court, it may order that the sentence shall commence at the expiration of any term of imprisonment to which that convict has been previously sentenced by a competent court in Nigeria.

(4) Where two or more 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 from which sentence commences.

425. A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

Default in payment of fine.

426. (1) In the case of a conviction in the High Court, where no amount of fine is stipulated, the amount of the fine shall be at the discretion of the court, and any term of imprisonment imposed in default of payment of the fine shall not exceed 2 years.

(2) In the case of a conviction in a Magistrate Court:

Appendix E.

(a) the amount of the fine shall be at the discretion of the court but shall not exceed the maximum fine authorised by this Law to be imposed by the Magistrate or under the law by virtue of which he was appointed a Magistrate; and

(b) a term of imprisonment imposed in default of payment of the fine shall not exceed the maximum fixed in relation to the amount of the fine by the scale specified in the Appendix E of this Law.

(3) In no case shall any term of imprisonment imposed in default of payment of a fine which has been imposed by virtue of the power in that behalf contained in subsection (1) of this section, exceed the maximum term authorised as a punishment for the offence by the law.

(4) The provisions of this section shall not apply in a case where a law provides a minimum period of imprisonment to be imposed for the commission of an offence.

Execution of sentence on escape convict.

427. Where sentence of imprisonment is passed on an escaped convict, the sentence shall take effect after he has served imprisonment for a further period equal to that which at the time of his escape remained unexpired of his former sentence.

Fine in default of imprisonment.

428. A defendant convicted of an offence punishable by:

(a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment, or

(b) imprisonment or fine, and sentenced to pay a fine, may be ordered to serve imprisonment, in default of payment of the fine, for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

General provision on review of sums of amount.

429. (1)The Chief Judge may, from time to time, review the provisions for the amount of fines, compensation or other sums of money prescribed under this Law.

(2) Such provisions as may be reviewed shall be published in the Gazette.

General power of awarding imprisonment in default of payment of penalty. Appendix E.

430. Where by any law, the Court is empowered to impose a penalty for an offence for which it can convict summarily, it may, in the absence of express provisions to the contrary, Order a defendant who has been so convicted, in default of payment of the sum of money adjudged to be paid under the order, either immediately or at the time specified in the order, as the case may be, to be imprisoned, in accordance with the scale set out in Appendix D to this Law.

Scale of imprisonment for non-payment of money ordered to be paid.

431. 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 Appendix D to this Law.

Limitation of imprisonment in default of payment of fine.

432. A committal for non-payment of a fine shall not exceed two years, except where the law under which the conviction is made, allows a longer period.

Payment and allocation of fines and fees.

433. (1) A court, in fixing the amount of fine to be imposed on a convict, may take into consideration, amongst other things, the means of the convict.

(2) Where a fine is imposed, the payment of the court fees and other legal expenses payable in the case, up to, and including conviction, shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine or of such part as may be paid or recovered, shall be applied as follows:

(a) in the first instance, in the payment to the informant or complainant of any court or other fees paid by him and ordered by the court to be repaid to him;

(b) in the second instance, the payment of any outstanding court fee not already paid by the informant or complainant which may be payable under rules of court; and

(c) the balance, if any, remaining after the payments have been made shall be paid into general revenue of the State.

Power to commit defendant in certain cases.

434. 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:

(a) issue a warrant of committal;

(b) allow time for the payment of the said sum; and

(c)direct that the defendant liable to pay the said sum shall be at liberty to give, to the satisfaction of the court, security, either with or without a surety or sureties, for the payment of the said sum or any installment.

Allowance for time and payment by installments.

435. (1) Where time has been allowed for the payment of a sum adjudged to be paid upon conviction or order, further time may, on an application by or on behalf of the convict liable to pay the sum, be allowed by a court having jurisdiction to issue a warrant of committal in respect of the non-payment of that sum, the court may, subject as aforesaid, direct payment by installments of the sum so adjudged to be paid.

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

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

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

Payment of penalty to person executing warrant.

436. In all cases where a convict, against whom a warrant of committal for non-payment of a sum of money adjudged to be paid by an order is issued, pays or tenders to the person having the execution of the warrant the sum or sums mentioned in the warrant together with the amount of the expenses of the warrant up to the time of the payment or tender, the person having the execution of the warrant shall not execute the warrant.

Commencement of imprisonment pursuant to a warrant.

437. Where a convict is brought to a prison to be imprisoned by virtue of a warrant of committal, there shall be endorsed on the warrant the day on which the convict was arrested by virtue of it and the imprisonment shall be computed from that day.

Varying or discharging order for sureties

438. Where a person has been committed to prison by the court for default in finding a surety or sureties, the court may, on application made to it by the person or by some person acting on his behalf, inquire into the case , and if new evidence is produced in proof of a change of circumstances the court, having regard to such circumstances may:

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

(b) dispense with the surety or sureties; or

(c) Otherwise deal with the case as it deems fit.

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

439. (1) Where a person has been committed to prison by the court for non-payment of a sum of money adjudged to be paid by an order, the person may pay or cause to be paid to the officer in charge of the prison the sum mentioned in the warrant of committal together with the amount of the costs, charges and expenses, if any, and the officer in charge of the prison shall receive the sums and discharge the person, unless he is in custody for some other matter.

(2) In a case where under subsection (1) of this section a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court, the sum shall be applied:

(a) firstly, towards the payment in full or in part of any cost or damages or compensation which the court may have ordered to be paid to the complainant; and

(b) Secondly, towards the payment of the fine, if any, imposed on the prisoner.

(3) Subject to the provisions of subsection (2) of this section, where an amount is paid towards a fine:

(a) the imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the person is committed as the sum so paid towards the fine bears to the amount of the fine for which the person is liable; and

(b) the superintendent or other officer in charge of a prison in which a person who has made the part payment is confined shall, as soon as practicable thereafter, take the person before a court which shall:

(a) certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction, and

(ii) Make such order as the circumstances require.

(4) Where, in the opinion of the superintendent or other officer, the delay occasioned by taking the person before a court is such that the person will be detained beyond the date on which he should, by reason of the part payment, be released, the superintendent or other officer may release the person on the day which appears to the superintendent or other officer to be the correct day, endorse the warrant accordingly and shall, as soon as practicable thereafter, inform the court of the action taken and the court shall make such order it may consider to be appropriate in the circumstances.

(5) In reckoning:

(a) the number of days by which a term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account; and

(b) the sum which will secure the reduction of a term of imprisonment, fractions of a naira shall be omitted.

Fines may be ordered to be recoverable by distress.

440. Where, under the authority of a law, the court imposes a fine or a pecuniary penalty, whether or not that fine or penalty is accompanied by a power to impose imprisonment, and no special provision other than recovery by distress is made for the recovery of the fine or penalty, the court may:

(a) order the fine or penalty to be recovered by distress; and

(b) in default of the distress satisfying the amount of the fine or penalty, order that the convict be imprisoned, in accordance with the scale set out in Appendix D to this Law.

Warrant of distress.

441. Where the court orders a sum to be recovered by distress, it shall issue a warrant which shall be in writing and signed by the court authorizing the person charged with the execution of the warrant to take any money as well as any goods of the person against whom distress is levied, and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

Procedure on execution of distress warrant

442. In the execution of a distress warrant the following provisions shall have effect:

(a) a warrant of distress shall be executed by or under the direction of the Sheriff;

(b) where the person charged with the execution of the warrant is prevented in manner from executing the warrant , the Magistrate may, by writing under his hand endorse on the warrant, authorizing him to use such force as may be necessary to enable him execute the warrant;

(c) the wearing apparel and bedding of the person and of his family, the tools and implements of his trade, shall not be taken;

(d) except as provided in paragraph (e) of this subsection and so far as the person on whose movable property the distress is levied consents in writing to an earlier sale, the goods distained on, shall be sold at a public auction not later than 5 days and not more than 14 days after the making of the distress, but where consent in writing is so given, the sale may be in accordance with the consent;

(e) subject to paragraph (d) of this section, the goods distained shall be sold

within the time fixed by the warrant, unless the sum or charges, if any, of taking and keeping the goods distained, for which the warrant was issued are paid;

(f) where a person charged with the execution of a warrant of distress:

(i) willfully retains from the proceeds any property sold to satisfy the distress, or

(ii) otherwise exacts any greater costs or charges than those to which he is, for the time being, entitled by law or makes any improper charge, he is liable, on conviction, to a penalty not exceeding two hundred thousand Naira or imprisonment for a term not exceeding one year or both.

(g) a written account of the costs and charges incurred in respect of the execution of a warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the court, and the convict on whose movable property the distress was levied may, at any time within one month after the making of the distress, may be given a copy of the account;

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

(i) the amount may be applied in payment of the sum for which the warrant was issued, and of the proper costs and charges of the execution of the warrant, and

(ii) The surplus, if any, may be rendered to the person on whose movable property the distress was levied.

Part payment to reduce period of imprisonment.

443. Where a part only of the amount ordered to be recovered by distress is so recovered, the period of imprisonment ordered to be suffered in default of recovery of the amount imposed shall be reduced accordingly and shall bear the same proportion to the full period as the amount recovered bears to the total amount ordered to be recovered, and the warrant of commitment under the provisions of section 434 of this Law, shall apply.

PART 42
DETENTION IN A SAFE CUSTODY OR SUITABLE PLACE OTHER THAN PRISON OR MENTAL HEALTH ASYLUM

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

444. (1) Where a person is ordered to be detained in a safe custody or suitable place other than prison or mental health asylum, he is, notwithstanding anything in this Law or in any other law, liable to be detained in a prison or asylum or such other place as provided under this Law or any law as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

(2) A person detained in a safe custody or suitable place other than prison or mental health asylum may at any time be discharged by the Governor on license.

(3) The Governor may at any time revoke or vary a license and where a license has been revoked, the person to whom the license relates shall proceed to such place as the Governor may direct and if he fails to do so may be arrested without warrant and taken to the place.

PART 43
VICTIM OFFENDER MEDIATION

Procedure for victim offender mediation.

445. (1) A court may refer a criminal matter that is pending before it to mediation for an amicable settlement between the victim, suspect and their relatives to be facilitated by a Civil Society Organisation engaged in access to justice or mediation and reconciliation or the National Human Rights Commission, provided, the offence with which the defendant was charged is punishable with a term of imprisonment not exceeding ten years.

(2) Where the matter is referred to mediation as contained in subsection (1) of this section, the parties shall have up to three months within which to report back to the court.

(3) Upon application by either of the parties, the court may further extend the time but not exceeding three months for the parties to reach an amicable settlement.

(4)The presiding judge or magistrate before whom the criminal proceedings is pending shall not participate in the mediation.

(5) Where a resolution is reached, it shall be reduced into writing, signed by the parties or their representatives and filed in court. Provided that the presiding judge or magistrate shall inquire from the parties whether the resolution was made voluntarily and without undue influence and may where he is:

(a) satisfied that the resolution was made voluntarily and is reasonable, shall award the compensation to the victim in accordance with the terms of the agreement which shall be delivered as judgment of court subject to section 447 of this Law; or

(b) for any reason of the opinion that the resolution was unreasonable, shall set it aside and the trial shall proceed.

(6) Notwithstanding the provisions of any other law, the prosecutor shall take reasonable steps to ensure that any money, asset or property agreed to be forfeited or returned by the defendant under this Part are transferred to or vested in the victim, his personal representative or other person lawfully entitled to it.

PART 44
PROBATION AND NON-CUSTODIAL ALTERNATIVES

Meaning of probation order.

446. In this Part, "probation order" means an order containing a condition specified in section447of this Law.

Conditional release of defendant and payment of compensation for loss or injury and of costs.

447. (1) Where a defendant is charged before a court with an offence punishable by law and the court thinks that the charge is proved but is of opinion that having regard to:

(a) the character, antecedents, age, health, or mental condition of the defendant charged,

(b) the trivial nature of the offence, or

(c) the extenuating circumstances under which the offence was committed, it is inexpedient to inflict a punishment or any order than a nominal punishment or

That it is expedient to release the defendant on probation, the court may, without proceeding to conviction, make an order specified in subsection (2) of this section.

(2) The court may make an order under subsection (1) of this section discharging the defendant conditionally on his entering into a recognizance, with or without sureties, to be of good behaviour and to appear at any time during such period not exceeding 3 years as may be specified in the order.

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

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

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

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

(a) for the purpose of restating 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 orders and conditions of recognizance

448. (1) A recognizance ordered to be entered into under this Part shall, where the court so orders, contain a condition that the defendant be under the supervision of such person or persons of the same sex, to be called a probation officer, and may, with his consent, 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 circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

(3) The court making a Probation Order shall furnish to the defendant a notice in writing stating in simple terms the conditions he is required to observe.

Relieving probation officer of his duties.

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

Duties of probation officers.

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

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

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

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

(d) Advise and assist him if, and when necessary.

(2) The Chief Judge shall make regulations with respect to the appointment of probation officers, including designation of persons of good character as probation officers from which a court within the district or division where the probation officer resides may make its appointment under section 447 of this Law.

Variation of terms and conditions of probation

451. The court before which a defendant is bound by a recognizance under this Part to appear for conviction and sentence or for sentence may:

(a) at any time where it appears to it on the application of the probation officer that it is expedient that the terms or conditions of the recognizance should be varied, summon the defendant bound by the recognizance to appear before it and if he fails to show cause why the variation should not be made:

(i) vary the terms of the recognizance by extending or reducing the duration, which shall not exceed 3 years from the date of the original order, or

(ii) alter the conditions or insert additional conditions, or

(b) on application being made by the probation officer, and on being satisfied that the conduct of the defendant bound by the recognizance has been such as to make it unnecessary for him to be under supervision, discharge the recognizance.

Provisions in case of convict failing to observe conditions of release

452. (1) Where the court before which a defendant is bound by his recognizance under this Part, to appear for conviction or sentence is satisfied by information on oath that the defendant has failed to observe any of the conditions of his recognizance, it may issue a warrant for his arrest or may, where it thinks fit, instead of issuing a warrant in the first instance, issue a summons to the defendant and his sureties, if any, requiring him or them to appear in court at such time as may be specified in the summons.

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

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

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

(3) 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.

Suspended sentence and community service

453. (1) Notwithstanding the provision of any other law creating an offence, where the court sees reason, the court may order that the sentence it imposed on the convict be, with or without conditions, suspended, in which case, the convict shall not be required to serve the sentence in accordance with the conditions of the suspension.

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

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

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

(a) reduce congestion in prisons;

(b) rehabilitate prisoners by making them to undertake productive work; and

(c) Prevent convicts who commit simple offences from mixing with hardened criminals.

Arrangements of community service.

454. (1) The Chief Judge shall establish in every Judicial Division a Community Service Centre to be headed by a Registrar who shall be responsible for overseeing the execution of Community Service Orders in that Division.

(2) The Registrar shall be assisted by suitable personnel who shall supervise the implementation of Community Service Orders that may be handed down by the courts.

(3) The functions of the Community Service Centre shall include:

(a) documenting and keeping detailed information about convicts sentenced to Community Service including the:

(i) name of the convict,

(ii) sentence and the date of the sentence,

(iii) nature, duration and location of the Community Service,

(iv)residential address of the convict,

(iv) height, photograph, full fingerprint impressions,

(v) Bank Verification Number,

(vi) telephone number, and

(vii) other means of identification as may be appropriate;

(b) providing assistance to the court in arriving at appropriate Community Service Order in each case;

(c) monitoring the operation of community service in all its aspects;

(d) counseling offenders with a view to bringing about their reformation;

(e) recommending to the court a review of the sentence of offenders on community service who have shown remorse;

(f) proposing to the Chief Judge measures for effective operation of Community Service Orders;

(g) ensuring that supervising 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 reformative effect on the character of the convict.

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

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

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

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

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

Performance of community service order

455. (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.

(1) 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 convict in complying with community service order.

456. (1) Where at any time during the community service period, the Registrar of the Community Service Centre informs the court of the default of the convict in complying with the directives of the community service order, the court may issue a summons requiring the convict to appear before it.

(2) Where the convict fails, refuses or neglects to appear in obedience to the summons, the court may issue a warrant of arrest.

(3) Where it is proved to the satisfaction of the court that the convict has failed to comply with any of the requirements of the community service order, the court may:

(a) vary the order to suit the circumstances of the case; or

(b) impose on him a fine not exceeding one hundred thousand Naira or cancel the order and sentence the convict to any punishment which could have been imposed in respect of the offence, but the period of community service already performed may count in the reduction of the sentence.

(4) A supervising officer shall not employ the convict for his or her personal benefit.

(5) Where a supervising officer employs the convict for his or her personal benefit, the officer is liable to a fine of fifty thousand Naira or more, or such other punishment as the court considers fit.

Commission of further offence.

457. Where a convict has been ordered to undergo community service on conviction by an original court but has committed another offence during the period of community service, the following rules shall apply:

(a) the subsequent court may add to the sentence or impose a term of imprisonment which might have been passed by the original court and cancel the order of community service;

(b) the subsequent court may take into account the period of community service served in reduction of the term of imprisonment;

(c) where the original court is a High Court and the subsequent court is a subordinate court, the subordinate court shall send the copy of the proceedings to the High Court and, on receipt of the proceedings from the subordinate court, the High Court shall proceed under paragraphs (a) and (b) 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, review and discharge of community service orders.

458. (1) A convict undergoing community service who intends to change his or her place of residence shall inform the supervising officer of his intention to do so.

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

(3) On application by the Registrar of the Community Service Centre, the court shall

make appropriate amendment in the community service order and inform the court having jurisdiction for the area where the convict intends to reside.

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

Discharge of community service order.

459. (1) Where a convict has been ordered to undergo community service for a period of more than 4 months, the supervising officer shall, from time to time, give a report to the Registrar on the convict's performance and general conduct.

(2) The supervising court based on the report made by the Registrar, may reduce the period of the community service specified in the community service order by not more than one-third where the convict is of good conduct.

(3) The Registrar shall make a report to the supervising court on the termination of a community service order.

(4) The supervising officer who is to be responsible for the supervision of a convict shall be the officer designated by the Registrar of the Community Service Centre and if that supervising officer dies or is unable for any reason to carry out his duties, another supervising officer shall be appointed by the Registrar of the Community Service Centre.

(5) Where the convict is a female, the supervising officer shall be a female.

Confinement in Rehabilitation and Correctional Centre.

460. (1) A defendant convicted of an offence triable summarily may be sentenced and ordered to serve the sentence at a Rehabilitation and Correctional Centre established by the State Government 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 at Rehabilitation and Correctional Centre.

PART 45
PAROLE

Release of prisoner before completion of sentence.

461. Where the Controller of Prisons is of the opinion that a prisoner:

(a) sentenced and serving his sentence in prison is of good behaviour, and

(d) has served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment,

he may make a recommendation to the Committee on Prerogative of Mercy for its consideration.

(2) A prisoner released under subsection (1) of this section shall undergo a rehabilitation programme in a government facility where available or any other appropriate facility to enable him to be properly reintegrated into the society.

PART 46
THE ADMINISTRATION OF CRIMINAL JUSTICE MONITORING COMMITTEE

Establishment of the Administration of Criminal Justice Monitoring Committee.

462. (1) There is established the Administration of Criminal Justice Monitoring Committee (in this Law referred to as "the Committee").

(2)The Committee shall consist of:

(a) the Chief Judge who shall be the Chairman;

(b) Attorney-General or his representative not below the rank of a Director in the Ministry;

(c) a Judge of the High Court;

(e) Director of Public Prosecution or his representative not below the rank of Deputy Director

(e) the Commissioner of Police or his representative not below the rank of Chief Superintendent of Police;

(f) the Controller of the Nigeria Prisons in the State or his representative not below the rank of Chief Superintendent;

(g) the Zonal Director of the National Human Rights Commission or the officer next in rank to represent him;

(h) the Chairman of any of the local branch of the Nigerian Bar Association in the State to serve for two years only;

(i) State Director of Department of Security Service or his representative;

(j) the Zonal Director of the Legal Aid Council of Nigeria or the State Coordinator to represent him; and

(b) a representative of the Civil Society working on human rights and access to justice or women rights to be appointed by the Committee to serve for a period of two years only.

(3) A member not being a public officer may resign his appointment by a letter to the Chairman.

(4) Members of the Committee shall be paid such allowances as are applicable to State Boards, Commissions and Agencies.

Functions of the Committee.

463. (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, as far as possible, not detained in prison custody;

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

(f) collate, analyze and publish information in relation to the administration of criminal justice sector in the State;

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

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

Secretariat of the Committee.

464. (1) The Committee shall establish and maintain a secretariat with such number of staff as it considers necessary for the efficient running of its affairs Provided that the number of staff shall not exceed ten except with the approval of the Governor.

(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 5 years post call experience and shall possess sound knowledge of the practical functioning of the criminal justice system and adequate experience in justice system administration.

(4) The Secretary shall be responsible for the execution of the policy of the Committee and the day-to-day running of the affairs of the Committee.

(5) The Secretary shall hold office for a term of four years and may, subject to satisfactory performance of his functions, be re-appointed for another term of 4 years and no more.

(6) Subject to this section, the Secretary shall hold office on such terms as to emoluments and otherwise as may be specified in his letter of appointment.

Fund of the Committee.

465. (1)There is established for the Committee a Fund into which shall be paid:

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

(b) such monies as may, from time to time, be provided to the Committee by any public, private or international organization by way of a grant, support or assistance on such terms as are consistent with its functions; and

(c) Such monies as may be received by the Committee in relation to the

exercise of its functions under this Law.

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

Annual estimates and accounts.

466. (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 for 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 report.

467. The Committee shall prepare and publish an annual report of its activities.

Power to obtain information.

468. (1) For the purpose of carrying out the functions conferred on the Committee under this Law, 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 period of 7 days.

Proceedings and quorum of the Committee.

469. (1) The Committee may make standing orders regulating its proceedings.

(2) The quorum at a meeting of the Committee shall consist of the Chairman or his representative and five other members of the Committee.

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

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

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

(a) a vacancy in the membership of the Committee; or

(b) a defect in the appointment of a member of the Committee.

(6) A member of the Committee who has a personal interest in any proposal to be considered by the Committee shall disclose his interest and shall not vote on any issue relating to the proposal.

PART 47
TRIAL OF CORPORATION

Interpretation under this Part.

470. (1) In this Part "corporation" means anybody corporate, incorporated in Nigeria or elsewhere.

(2) In this Part "representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this Part authorised to do, but a

person so appointed shall not, by virtue only of his being appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

(3) A representative for the purposes of this Part need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this Part, shall be admissible without further proof as prima facie evidence that the person has been so appointed.

Plea by corporation.

471. Where a corporation is called upon to plead to any charge including a new charge under the provisions of this Law or charge added to or altered under the provisions of this Law, it may enter in writing by its representative a plea of guilty or not and if either the corporation does not appear by a representative or, though it does so appear, fails to enter a plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

Charge against a corporation.

472. A charge may be preferred against a corporation after the preparation of the proofs of evidence relating to the charge.

Joinder of counts in same charge.

473. A charge under section 476 may include, either in substitution for or in addition to counts of charge, such offence for which proofs of evidence have been prepared, counts which may be lawfully joined in the same charge if they are founded on facts or evidence disclosed in the proofs of evidence.

Power of representative.

474. A representative may, on behalf of a corporation:

(a) state, whether the corporation is ready to be tried on a charge or altered charge to which the corporation has been called on to plead;

(b) consent to the hearing and determination of a complaint before the return date of a summons;

(c) Express assent to the trial of the corporation on a charge, notwithstanding that a copy of the charge and notice of trial has not been served on the corporation 3 days or more before the date on which the corporation is to be tried.

Matters to be read, said or explained to representative.

475. Where a representative appears, any requirement of this Law that anything shall be done in the presence of the defendant, or shall be read or said or explained to the defendant, shall be construed as a requirement that, that thing shall be done in the presence of the representative or read or said or explained to the representative.

Non-appearance of representative.

476. Where a representative does not appear, any such requirement as is referred to in section 479 of this Law, shall not apply.

Saving under this Part and joint charge against corporation and individuals.

477 (1) Subject to the preceding provisions of this part, the provisions of this Law relating to the inquiry into and trial of offences shall apply to a corporation as they apply to an adult.

(2) A corporation may be charged jointly and tried with an individual for any offence.

PART 48
APPEALS FROM MAGISTRATE COURT TO HIGH COURT

Appeals from Area Courts.

478. Appeals from Area Courts in criminal matters shall be in accordance with the Area Court Laws, High Court Law or under this Law or any other laws, or any rules made under any such laws.

Appeals from other courts.

479. Where a defendant has been acquitted or an order of dismissal is made by an Upper Area Court or 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 court.

Appeals from Magistrate's Courts.

480. (1) Appeals from a Magistrate's Court to the High Court of the State in criminal matters shall be in accordance with the High Court Law or under this Law.

(2) An appeal, in accordance with the provisions of this Part, shall be commenced by the appellant giving notice to the registrar of the higher court in which the appeal is brought and such notice of appeal shall be signed by the appellant.

(3) The notice of appeal shall be given in every case before the expiration of the 30th day after the day on which the court has made the decision appealed against.

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

(1) An appellant, in an appeal brought in accordance with the provisions of this Part, shall, within 30 days of the pronouncement of the decision appealed against, file with the Registry of the lower trial court his Notice of appeal, setting forth the grounds of his appeal which shall be signed by the appellant or the legal practitioner representing him.

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

(7)) Without prejudice to the generality of subsection (7), the grounds of appeal may set forth all or any of the following

(8) Where the appellant relies upon the grounds of appeal mentioned in subsection (8) (d), the name of the court shall be stated and, if it is alleged that a decision has been made, date of such decision.

(a) that the lower court has no jurisdiction in the case;

(b) that the lower court has exceeded its jurisdiction in the case;

(c) that the decision has been obtained by fraud;

(d) that the case has already been heard or tried and decided by or forms the subject of a hearing or trial pending before a competent court;

(e) that admissible evidence has been rejected or inadmissible evidence has

been admitted by the lower court and that in the latter case there is no sufficient admissible evidence to sustain the decision after rejecting such inadmissible evidence;

(f) that the decision is unreasonable or cannot be supported having regard to the evidence;

(g) that the decision is erroneous in law;

(h) that some other specific illegality, not mentioned and substantially affecting the merits of the case, has been committed in the course of the proceedings; or

(i) that the sentence passed on conviction is excessive or in-adequate, unless the sentence is one fixed by law.

(9)Where the appellant relies upon the ground of appeal mentioned in subsection (8) (g), the nature of the error shall be stated and, where he relies upon the ground of appeal mentioned in subsection (8) (h), the illegality complained of shall be clearly specified.

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

(11) A sentence by a Magistrate Court shall take effect notwithstanding an appeal unless:

(a) a warrant has been issued under section 337 of this Law when no sale of property shall take place until the sentence has been confirmed, or

(b) an order for release on bail pending any further proceeding has been made by a competent court when the time during which the convicted person had been so released shall be excluded in computing the period of any sentence which he shall ultimately undergo.

(12) A sentence by a Magistrate Court shall take effect notwithstanding an appeal unless:

(a) a warrant has been issued under section 337 of this Law when no sale of property shall take place until the sentence has been confirmed or the appeal decided; or

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

PART 49
SUPPLEMENTARY PROVISIONS
Compounding of Offences

Compounding of offence

481. (1)The offences punishable under the section of the Penal Code described in the two columns of Appendixes A and C may, subject to the subsequent provisions of this section, be compounded by the persons mentioned in the third column of that Appendix.

(2) When any offence is compoundable under this section, the abetment of such offence or attempt is itself an offence, may be compounded in a similar manner.

(3) Where a person who would otherwise be competent to compound an offence is

under eighteen years of age, an idiot or a lunatic, any person competent to contract on his behalf may compound the offence.

(4) The offence mentioned in Part 1 of Appendix C may be compounded without the leave of the court at any time before the defendant has been convicted by the court or committed for trial to the High Court.

(5) The offences in Part II of Appendix C may be compounded before the defendant is convicted by a court or committed for trial only with the leave of the Court which has jurisdiction to try the defendant for the offence or commit him for trial.

(6) After a committal for trial, an offence shall not be compounded except with the leave of fine:

(a) Magistrate Court where trial has not commenced, or

(b) Court trying the case where the trial has commended and has not been concluded.

(7) After a trial has been concluded, an offence shall not be compounded except with the leave of the court to which an appeal would lie.

(8) The compounding of an offence under this section shall have the effect of an acquittal of the defendant.

(9) No offence shall be compounded except as provided under this section.

FEES AND MISCELLANEOUS PROVISIONS

Payment of fees.

482. Subject to the provisions of this Law, such fees as may be prescribed under this Law shall be paid in any proceeding before a court.

Suspension of payment of fees.

483. 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

State not required to pay fees.

484. Court may then direct the fees to be paid as costs by a party to the proceedings on whom the court has power to order costs to be paid or remit the payment of the fees.

Use of forms in the Appendix.

485. The provisions of this Law relating to fees and to giving of security shall not apply to the State or to a public officer acting in his official capacity.

Power to make Rules of Court.

486. Subject to the provision of this Law, if any, or the Rules of court, the forms and precedents contained in the Appendixes to this Law may, in accordance with any instructions contained in the forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply.

Procedure where no express provision is made.

487. The Chief Judge may make rules in respect of any or all of the following matters:

(a) fees, costs or compensations to be paid under this Law and periodic review of the same;

(b) forms to be used for the process and procedure of the courts;

(c) accounts to be rendered of monies received by any person under this Law;

(d) the method of issue of process under this Law, and the manner of receipt of and accounting for fees in respect of such process;

(e) prescribing anything or any person required to be prescribed under the

provisions of this Law;

(f) regulation and management of non-custodial punishments provided under this Law; and

(g) Generally carrying into effect the purposes of this Law.

Where there are no express provisions in this Law, the court may apply any procedure that will meet the justice of the case.

SAVINGS AND REPEAL

Saving as to other forms and procedure.

488. (1) Nothing in this Law shall affect the use or validity of any form in respect of a procedure or an offence specified under the provisions of a Law or the validity of any other procedure provided by any other Law.

(2) Nothing in this Law shall affect the validity of any investigation, prosecution, charge, or proceedings initiated or commenced under the Penal Code or any other Law before the coming into force of this Law.

The Criminal Procedure Code CAP. 43 Laws of the Taraba State, 1997, is hereby Repealed.

Repeal

489. The Criminal Procedure Code CAP. 63 Laws of Northern Nigerian 1963 as Applicable to Taraba State is hereby repealed.