

PROPOSAL FROM VARIOUS STAKEHOLDER ON THE AMENDMENT OF THE ADMINISTRATION OF CRIMINAL JUSTICE ACT (ACJA), 2015 COMPLIED BY THE CENTRE FOR SOCIO-LEGAL STUDIES (CSLS).

EXTANT LAW	PROPOSAL	JUSTIFICATION
<p>Long title</p> <p>An Act to provide for the administration of criminal justice in the courts of the Federal Capital Territory and other federal courts in Nigeria; and for related matters</p>	<p>An Act to provide for the Administration of Criminal Justice in the courts of the Federal Capital Territory Courts and other Courts¹ in Nigeria; and for related matters.</p>	<p>To give the Act a general application where practicable especially states when anti-craft agencies and others prosecute federal offences.</p>
<p>S. 3</p> <p>(1) A suspect or defendant alleged or charged with committing an offence established by an Act of the National Assembly shall be, arrested, investigated inquired into, tried or dealt with according to the provisions of this Act, except otherwise provided under this Act.</p>	<p>S. 3</p> <p>(1) A suspect or defendant alleged or charged with committing an offence established by an Act of the National Assembly shall be investigated, arrested, inquired into, tried or dealt with according to the provisions of this Act, except otherwise provided under this Act.</p> <p>(2) <u>Where there is a reasonable suspicion that a suspect has committed an offence which attracts a term of imprisonment exceeding two years the investigator shall ensure that the investigation of such offence is conducted in conjunction with designated law officers or other legally qualified persons.</u></p> <p>(3) <u>Upon a request by the Police, the Attorney-General of the Federation shall, not later than 3 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.</u></p>	<p>Investigation should precede arrest in line with international best practice. New subsections (2) and (3) to ensure collaboration between investigators and law officers for effective prosecution of criminal cases.</p>
<p>S. 8 (4)</p> <p>The arraignment and trial of a suspect for a crime shall be in accordance with the provisions of this Act unless</p>	<p>S. 8 (4) The arraignment and trial of a suspect for a crime shall be in accordance with the provisions of this Act unless otherwise stated in this</p>	<p>Bill to amend the ACJA, 2015 sponsored by Sen. Orji Uzor Kalu.</p>

otherwise stated in this Act and the Constitution of Federal Republic of Nigeria.	<u>Act and the Constitution of Federal Republic of Nigeria</u>	
S. 9	S. 9 (2) <u>Searches may be conducted at any hour of the day.</u>	To specify the time when search may be conducted, ACJA did not provide for it.
S. 14(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.	S. 14 (3) Notwithstanding the provision of subsection (2) of this section, any such communication or legal advice shall be done <u>within a sighting distance in the presence</u> of an officer who has custody of the arrested suspect.	This subsection is altered to allow a suspect to have conversation with his/her lawyer without interference from the police. The amendment is taken from a Bill to amend the ACJA, 2015 sponsored by Sen. Orji Uzor Kalu.
S. 15 (1) (d) for the purpose of identification: (i) his height, (ii) his photograph, (iii) his full fingerprint impressions,	S. 15 (1) New (d)for the purpose of identification: (i) his height, (ii)his photograph, (iii)his full fingerprint impressions, <u>(iv)Bank Verification Number,</u> <u>(v)DNA whenever possible,</u> <u>(vi)national identity number,</u> <u>(vii) telephone number, or and²</u> (iv) such other means of his identification.	New sub paragraphs inserted as additional information that suspects would furnish to the authorities.
S. 15 (4) &(5) Where a suspect who is arrested with or without a warrant volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the statement shall be in writing and may be recorded electronically on a retrievable video compact disc or such other audio visual means.	S. 15 (4) Where a suspect who is arrested with or without a warrant volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the statement shall be in writing and <u>may</u> be recorded electronically on a retrievable video compact disc or such other audio visual means. However, the provision and sub (5) are moved to section 17(3) & (4)	This is to make electronic recording of confessions mandatory.
S. 16 (2)	S. 16 (2) New <u>The Central Criminal Record Registry shall maintain both electronic and manual forms of record of all persons arrested, discharged, acquitted or convicted in Nigeria.</u>	New subsection (2) inserted for the police to maintain both manual and electronic database.

² Subsection (1) amended to include information that suspect would furnish to the authorities.

S. 17 (2)

Such statement may be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council of Nigeria or an official of a Civil Society Organization or a Justice of the Peace 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.

S. 17 (2)

Such statement **may shall**³ be taken in the presence of a legal practitioner of his choice, or where he has no legal practitioner of his choice, in the presence of an officer of the Legal Aid Council of Nigeria or an official of a Civil Society Organization or a Justice of the Peace 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.

New subsection

(3) Where a suspect who is arrested with or without a warrant volunteers to make a confessional statement, the police officer shall ensure that the making and taking of the statement shall be in writing and may shall be recorded electronically on a retrievable video compact disc or such other audio visual means, provided that where such audio-visual recording is not practicable, it is mandatory that the confessional statement be made subject to subsection (2) of this section

(4) Notwithstanding the provision of subsection (3) of this section, an oral confession of arrested suspect shall be admissible in evidence.

5) 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.

(6) Any objection to the admissibility to such confessional statement shall be recorded and shall be ruled upon

Subsection (2) is amended by substituting the word “may” with “shall” to make it mandatory for a defendant’s lawyer or other persons listed to witness the statement taking process.

This section was originally in section 15(4) and amended by replacing the word ‘may’ with shall and inserted a proviso to take care the current realities in Nigeria. It is not every police station in Nigeria that is equipped with audio-visual recording.

Moved from section 15(5).

New subsections inserted to abolish trial-within-trial which has equally been abolished in England from whence we borrowed it.

³ Subsection (2) is amended by substituting the word “may” with “shall” to make it mandatory for a lawyer to present or other persons listed to witness the statement taking process.

<p>(3) Where a suspect does not understand or speak or write in the English language, an interpreter shall record and read over the statement to the suspect to his understanding and the suspect shall then endorse the statement as having been made by him, and the interpreter shall attest to the making of the statement.</p>	<p><u>by the Court while delivering judgment in the substantive case.</u> <u>(7) The conduct of trial-within-trial to prove the voluntariness or involuntariness of a confessional statement is prohibited</u> (8) 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, <u>such interpreter may be at the instance and choice of the suspect held in custody.</u></p>	<p>To afford a defendant the opportunity of appointing his interpreter.</p>
<p>S. 21</p>	<p>S. 21 A <u>suspect person</u> found committing an offence involving injury to property may be arrested without a warrant by the owner of the property or his servants, agent or persons authorised by him <u>or any other person.</u></p>	
<p>S. 34 (1) The Chief Magistrate, or where there is no Chief Magistrate within the police division, any Magistrate designated by the Chief Judge for that purpose, shall, at least every month, conduct an inspection of police stations or other places of detention within his territorial jurisdiction other than the prison.</p>	<p>S. 34 (1) The Chief Magistrate, or where there is no Chief Magistrate within the police division, any Magistrate designated by the Chief Judge for that purpose, shall, at least every month, conduct an inspection of police stations or other places of detention within his territorial jurisdiction other than the <u>prison correctional centre.</u></p>	
<p>New section 34A</p>	<p><u>34A Where an application is made to a court that, for the purpose of preserving the subject-matter of an investigation, the leave of the court is required granting an interim order to preserve the subject-matter of the investigation from being dissipated or otherwise disposed to frustrate the investigation, the court may give such an interim order in favour of the application for a limited period</u></p>	<p>To aid investigation and preserve evidence while investigation is being undertaken.</p>

	<u>of one week, liable for good cause to further extensions to determinate period, and require anybody adversely affected by the said order to show cause why the order ought to be discharged.</u>	
S. 35(2) New subsection.	S. 35(2) New subsection. <u>Before a court issues a warrant of arrest upon application made to it, it shall satisfy itself that from the evidence on oath before it, there is a probable cause for its issue</u>	A new subsection is inserted to ensure accountability.
S. 36 (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.	S. 36 (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. <u>Provided that without further leave of court the suspect shall not be kept arrested beyond the period a person may be detained without being charged to court</u>	This is to avoid flippant abuse of rights of suspects.
S. 37 (2) New	S. 37 (2) New <u>Where a court is satisfied by affidavit that a suspect has refused to answer an invitation, and there is ground to believe that unless the suspect is arrested he may not be available to aid in on-investigation, the court may issue a warrant for the arrest of the suspect provided that without further leave of court the suspect shall not be kept arrested beyond the period a person may be detained without being charged to court.</u>	New subsection inserted to enable the court to issue a warrant of arrest to aid investigations even when a charge has not been filed, provided there is probable cause, for the limited purpose of investigation.
S. 45(2) The endorsement shall specify: (a) the number of sureties, if any; (b) the amount in which they and the suspect named in the warrant are, respectively, to be bound; or are to provide as cash security on the request of the surety or suspect;	S. 45(2) The endorsement shall specify <u>the</u> : (a) <u>the</u> number of sureties, if any; (b) <u>the</u> amount in which they and the suspect named in the warrant are, respectively, to be	Redrafted

<p>(c) the court before which the arrested suspect is to attend; and</p> <p>(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.</p>	<p>bound; or are to provide as cash security on the request of the surety or suspect;</p> <p>(c) the court before which the arrested suspect is to attend; and</p> <p>(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.</p>	
<p>S. 88</p> <p>(1) A person may make a complaint against any other person alleged to have committed or to be committing an offence.</p>	<p>S. 88</p> <p>(1) A person may make a complaint <u>directly to the court</u> against any other person alleged to have committed or to be committing an offence.</p>	<p>This amendment is necessary to distinguish between complaint to the police that might activate the putting up of First Information Report (FIR) and complaint made directly to the court as a mode of instituting criminal proceeding.</p>
<p>S. 89(4)</p> <p>A complaint shall be for one offence only, but the complaint shall not be avoided by describing the offence, or any material act relating to it in alternative words according to the language of the law constituting such offence.</p> <p>(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.</p>	<p>S. 89</p> <p>(4) A complaint shall be for one offence only, may contain several offences but they shall arise from the same transaction or state of affairs but the complaint shall not be avoided by describing the offence, or any material act relating to it in alternative words according to the language of the law constituting such offence.</p> <p>(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 <u>recognizance is taken of the offence by the court.</u></p>	<p>The part that is struck through is to be expunged, it is illogical and promotes multiplicity of complaints. The proposal is from the FCT Magistracy.</p> <p>Reworded.</p>
<p>S. 98 (2)</p>	<p>S. 98 (2)</p> <p>The power of the Chief Judge referred to in subsection (1) of this section shall not be exercised where the prosecution has called witnesses <u>unless there is cause to</u></p>	
<p>S. 89A</p>	<p><u>(1) A court taking cognizance of an alleged offence may refuse to proceed with the case if, if after examining the complaint, if any,</u></p>	<p>There is a need to reproduce s150 of the CPC vesting general authority on a Magistrate to peremptorily bring some cases</p>

	<p><u>and considering the result of any investigation it may have further ordered there is in its opinion no sufficient ground for proceeding; it shall thereupon record briefly is reasons for refusing;</u></p> <p><u>(2) Where the defendant is in custody or on bail he shall be discharge when the court refuses under of this section to proceed;</u></p> <p><u>(3) A person aggrieved by a refusal of the court to proceed with a case may apply to the appropriate appeal court with an affidavit setting out the facts for an order directing the transfer to another court with jurisdiction to hear and determine the cause or matter.</u></p>	<p>not deserving of hearing to an end. FCT Magistrate.</p>
<p>S. 98(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.</p>	<p>S. 98(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 <u>unless there is cause to do so upon receipt of the report in subsection (3) justifying such a transfer</u></p>	

	<p><u>106(3) On receipt of a complaint of a complaint relating to the commission of an offence punishable with death, or such other offences as may be specified in any other law, the Attorney-General of the Federation may assign a Law Officer to support the police in the investigation of the said offence.</u></p> <p><u>It shall be the responsibility of the Inspector-General of Police or Commissioner of Police of the Federal Capital Territory to, within 7 days of the commission of any offence covered by subsection (5) of this section, notify the Attorney-General of the Federation.</u></p> <p>(a)</p>	<p>To ensure early engagement and collaboration between police and Ministry of Justice for effective prosecution. This is to ensure speedy investigation of criminal cases in line with the spirit of the Act.</p>
<p>S. 106A NEW</p>	<p>S. 106A NEW</p> <p><u>(1) In determining to institute criminal proceeding on behalf of the state based on facts presented to the relevant authority or bodies in a particular case, such authority must be satisfied that there is a reasonable prospect of conviction based on evidence that is likely to be available at trial, and, that in all of the circumstances, the prosecution would best serve the public interest, taking the following factors into account:</u></p> <p><u>(a) the strength of the evidence before the court;</u></p> <p><u>(b) any reasonable doubt as to the defendant’s actual guilt;</u></p> <p><u>(c) the extent of the harm caused by the offence;</u></p> <p><u>(d)the proportionality of the potential punishment to the particular offence or the offender;</u></p> <p><u>(e)the motives of the nominal complainant;</u></p> <p><u>(f)the victim’s willingness to testify;</u></p> <p><u>(g)any improper conduct by law enforcement actors in the matter (likely to prejudice any prosecution);</u></p> <p><u>(h)the degree to which prosecuting the case would undermine any the</u></p>	<p>There is need for prosecutorial guidelines to improve prosecutorial accountability and transparency. This is to guard against whimsical exercise of prosecutorial discretion in determining cases to prosecute, thereby building public confidence and avoiding waste of scarce public resources.</p>

policy that similarly situated persons be treated equally;
(i)the potential collateral impact on third-parties, including witnesses or victims;
(j) the degree to which the defendant assists in prosecuting others;
(k)the particulars of the offender’s character, or his situation;
(l) changes in the evidence, legal rules, disposition of similar cases, or in
(m)the larger cultural context, including that the statute has fallen into desuetude;
(n) the effect on the public welfare of the decision either to prosecute or to decline to prosecute;
(o) the fair and efficient distribution of limited prosecutorial resources;
(p) the expense and cost of prosecuting the case relative to the outcome; and
(q) the availability and likelihood of prosecution by another jurisdiction or whether the offence is most suitably and best tried in another jurisdiction.

(2)The relevant officer vested with the duty to determine whether or not to prosecution shall make a record of the basis for his decision in the case file; and

(3)A victim aggrieved by any exercise of discretion in favour of not prosecuting an offence may challenge such decision by way of judicial review before the court that would ordinarily have had jurisdiction over the offence but any decision given by the court shall not be liable to be appealed against

New

106B
(1) The Attorney-General of the Federation may recommend to the Federal 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

A new provision which amongst other empowers the Attorney-General of the Federation to incentivize informant.

	<p><u>unrest, communal or religious conflicts or clashes between groups of persons in the Federal Capital Territory.</u></p> <p>(b) <u>Information or other assistance to the law enforcement agencies for preventing serious crimes, injury to communal relations or social harmony, or damage to public to public property.</u></p> <p>(c) <u>other forms of support or aid to the law enforcement agencies towards peace and social harmony in the Federal Capital Territory.</u></p> <p>(2) <u>The Attorney-General of the Federation shall provide easily accessible facilities for the reception of such assistance from the informant.</u></p> <p>(3) <u>Where necessary, the Attorney-General of the Federation 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.</u></p> <p>(4) <u>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 to a term of imprisonment not less than five year without an option of fine.</u></p>	
<p>107(2) (2) Where the suspect: (a) has been committed to prison, he shall be released; or (b) is on bail, the recognizance shall be discharged.</p>	<p>107(2) Where the suspect: (a) has been committed to prison <u>correctional centre</u>, he shall be released; or (b) is on bail, the recognizance shall be discharged.</p>	
<p>S.109(1)</p>	<p>S. 109(1)</p>	<p>The AGF already has power to commence criminal actions in</p>

<p>(b) in the High Court, by information of the Attorney-General of the Federation, subject to section 104 of this Act;</p>	<p>(b) in the High Court by information of the Attorney-General of the Federation, subject to section 104 of this Act;</p>	<p>the High Courts by way of information or charge, This should be stated in ACJA.</p>
<p>S. 110(6) (c) (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 293 of this Act.</p>	<p>(c)congestion of prisons correctional centres is reduced to the barest minimum; and (d)persons awaiting trial are, as far as possible, not detained in prison correctional centre eustody for a length of time beyond that prescribed in section 293 of this Act.</p>	
<p>S. 111(1) (1) The Comptroller-General of Prisons shall make returns every 90 days to the Chief Judge of the Federal High Court, Chief Judge of the Federal Capital Territory, the President of the National Industrial Court, the Chief Judge of the State in which the prison is situated and to the Attorney-General of the Federation of all persons awaiting trial held in custody in Nigerian prisons for a period beyond 180 days from the date of arraignment.</p>	<p>S. 111(1) The Comptroller-General of Prisons the Correctional Service shall make returns every 90 days to the Chief Judge of the Federal High Court, Chief Judge of the Federal Capital Territory, the President of the National Industrial Court, the Chief Judge of the State in which the prison centre is situated and to the Attorney-General of the Federation of all persons awaiting trial held in custody in Nigerian prisons Correctional Service for a period beyond 180 days from the date of arraignment.</p>	
<p>S.112(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.</p>	<p>S.112(8) Where upon hearing the information, the alleged suspect admits the commission of the offence contained in the First Information Report, or any other related or agnate offence, 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.</p>	<p>This take into account the peculiar nature of FIR where one offence is alleged but the offence admitted by the suspect or suggested to have been committed by the suspect might be different</p>
<p>S.120 A summons issued by a court under this Act 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.</p>	<p>S. 120 <u>A summons issued by a court under this Act shall be in writing, made in duplicate, signed by the presiding officer of the court or by such other</u></p>	<p>This is necessary to correct the drafter's error.</p>

	<p><u>officer as the Chief Judge may specify, from time to time.</u></p> <p><u>Nothing contained in section 117, 118 or 119 of this Act shall oblige any magistrate to issue any such summons in any case where the application for an order may by law be made ex parte.</u></p>	
<p>A summons shall be served by a police officer or by an officer of the court issuing it or other public officer, or through a courier service company duly registered with the Chief Judge as a process service agent of the court under this Act.</p>	<p>A summons shall be served by a police officer or by an officer of the court issuing it or other public officer, or <u>by e-mail or</u> through a courier service company duly registered with the Chief Judge as a process service agent of the court under this Act.</p>	<p>Amended for inclusion as a form of service (electronic service).</p>
<p>S. 129(b) detained in custody or committed to prison for such time not exceeding 14 days as the court may deem fit.</p>	<p>S.129(b) detained in custody or committed to <u>prison-correctional centre</u> for such time not exceeding 14 days as the court may deem fit.</p>	
<p>S. 159(1) Where a suspect or defendant is detained in a <u>prison-correctional centre</u>, police station or any other place of detention, the court may issue an order to the officer in charge of the <u>prison-correctional centre</u>, police station or other place to produce the suspect or defendant at the time and date specified in the order before the court.</p>	<p>S.159(1) Where a suspect or defendant is detained in a <u>prison-correctional centre</u>, police station or any other place of detention, the court may issue an order to the officer in charge of the <u>prison-correctional centre</u>, police station or other place to produce the suspect or defendant at the time and date specified in the order before the court.</p>	
<p>S. 162 A defendant charged with an offence punishable with imprisonment for a term exceeding three years shall, on application to the court, be released on bail except in any of the following circumstances:</p>	<p>S. 162 A defendant charged with an offence punishable with imprisonment for a term exceeding three years shall, on application to the court <u>either orally or by a motion on notice</u>, be released on bail except in any of the following circumstances:</p> <p><u>(2) The burden shall be on the prosecutor or any person claiming the existence of the circumstances in subsection (1) to satisfy the court that those circumstances exist.</u></p>	<p>Modify into two subsections. For bail application to be by a motion on Notice and a judge may grant on its motion grant bail to a defendant.</p> <p>A new subsection inserted.</p>
<p>S. 163</p>	<p>S.163</p>	

<p>In any other circumstance other than those referred to in sections 161 and 162 of this Act, the defendant shall be entitled to bail, unless the court sees reasons to the contrary.</p>	<p>In any other circumstance other than those referred to in sections 161 and 162 of this Act, the defendant shall be <u>entitled admitted</u> to bail, <u>with or without any application</u> unless the court sees reasons to the contrary.</p>	
<p>S. 165 New subsection</p>	<p>S. 165(4) <u>(4) At the expiration of two months after the defendant was admitted to bail but the defendant has not been able to meet the conditions of bail imposed by a Magistrate Court, whether on application by the defendant or on its own motion, the Magistrate Court may review and vary the conditions upon which the defendant was earlier admitted to bail</u></p>	<p>A new subsection inserted. Since bail is at the discretion of the judge, a judge, may review bail where a defendant cannot meet the bail conditions. This is to improve the justice system and reduce number of awaiting trial detention.</p>
<p>S. 167 (3) New subsections</p>	<p>S. 167 <u>(3)Where a defendant is granted bail, the registrar shall cause to be taken in the prescribed form, the following records of the surety:</u> <u>(a) his full name, occupation, residential and e-mail address;</u> <u>and</u> <u>(b) for the purpose of identification:</u> <u>(i) his height,</u> <u>(ii) his passport photograph,</u> <u>(iii) full fingerprint impressions,</u> <u>(iv)(iv) Bank Verification Number,</u> <u>(v) telephone number, and</u> <u>(vi) such other means of identification.</u></p> <p><u>(4)The prosecutor and the investigating officer shall verify the information supplied by the defendant or surety.</u></p> <p><u>(5) Where ownership of a landed property is stipulated as one of the bail 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</u></p>	<p>New subsections (3), (4) and (5) inserted to abolish or phase out the practice of ‘professional sureties’ who in most cases are not traceable if the defendant absconds.</p>
<p>S. 168(2) – New</p>	<p>S. 168(2) <u>Where the High Court has exercised any of its powers under subsection (1) above, the order of the Court shall be transmitted to</u></p>	<p>The current section is constituted into two subsections, while a new paragraph is added to enforce the decision of the High Court.</p>

	<u>the Magistrate Court or police station seised of the matter for enforcement.</u>	
S. 169 Where a defendant has been admitted to bail and circumstances arise which, in the opinion of the Attorney-General of the Federation would justify the court in cancelling the bail or requiring a greater amount, a court may, on application being made by the Attorney-General of the Federation, 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.	S. 169 Where a defendant has been admitted to bail and circumstances arise which, in the opinion of the Attorney-General of the Federation would justify the court in cancelling the bail or requiring a greater amount, a court may, on application being made by the Attorney-General of the Federation, issue a warrant for the arrest of the defendant and, after giving the defendant an opportunity of being heard, may commit him to <u>prison correctional centre</u> to await trial, or admit him to bail for the same or an increased amount.	
S. 170(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.	S. 170(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 <u>prison correctional centre</u> .	
S. 171(1)(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.	S.171(1)(b) where he is in <u>prison correctional centre</u> 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 <u>prison correctional centre</u> or such other place of detention and the official on receipt of the order shall immediately release him.	
S. 174(b) (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	S.174(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 <u>prison correctional centre</u> until the trial, unless	

considers it fit to admit him to bail on further recognizance.	the court considers it fit to admit him to bail on further recognizance.	
S. 175(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.	S. 175(b) after giving him an opportunity of being heard, commit him to <u>prison correctional centre</u> to await trial or admit him to bail for the same or an increased amount as the court may deem just.	
S. 181 (a) charged with an offence and released on bail, an order committing him to prison until he is brought to trial, discharged or finds sufficient sureties, or meets such other conditions as the court may direct in the circumstances; or (b) ordered to give security for good behaviour, an order committing him to <u>prison correctional centre</u> for the remainder of the period for which he was originally ordered to give security or until he finds sufficient sureties.	S. 181 (a) charged with an offence and released on bail, an order committing him to <u>prison correctional centre</u> until he is brought to trial, discharged or finds sufficient sureties, or meets such other conditions as the court may direct in the circumstances; or (b) ordered to give security for good behaviour, an order committing him to <u>prison correctional centre</u> for the remainder of the period for which he was originally ordered to give security or until he finds sufficient sureties.	
S. 221 Objections shall not be taken or entertained during proceeding or trial on the ground of an imperfect or erroneous charge	S.211 Objections shall not be taken or entertained during proceeding or trial on the ground of an imperfect or erroneous charge	Certain objections go to the root of the matter; hence the section should be expunged. Also, the provision is in a contradiction to section 396 (2) of ACJA.
S. 223 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 Act, he may be convicted of the offence, which he is shown to have committed although he was not charged with it	S. 223 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 Act, he may be convicted of the offence, which he is shown to have committed although he was not charged with it	The provision is an infringement on section 36 CFRN. It should be expunged.
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 ⁴ .	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.	The provision should be deleted for infringing section 36 CFRN.
S. 250	S. 250	

<p>(1) When a person attending court and who is required to give evidence, without any sufficient excuse or reason:</p> <p>(a) refuses to be sworn or to affirm as a witness;</p> <p>(b) having been sworn or having taken affirmation refuses to answer any question put to him; or</p> <p>(c) refuses or neglects to produce any document or anything which he is required by the court to produce,</p> <p>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.</p>	<p>(1) When a person attending court and who is required to give evidence, without any sufficient excuse or reason:</p> <p>(a) refuses to be sworn or to affirm as a witness;</p> <p>(b) having been sworn or having taken affirmation refuses to answer any question put to him; or</p> <p>(c) refuses or neglects to produce any document or anything which he is required by the court to produce,</p> <p>the court may adjourn the hearing of the case and may in the meantime by warrant, commit the person to <u>prison</u> <u>correctional facility</u> or other place of safe custody for a period not exceeding 30 days.</p>	
<p>S. 270</p> <p>(1) Notwithstanding anything in this Act or in any other law, the Prosecutor may:</p> <p>(a) receive and consider a plea bargain from a defendant charged with an offence either directly from that defendant or on his behalf; or</p> <p>(b) offer a plea bargain to a defendant charged with an offence.</p> <p>(2) The prosecution may enter into plea bargaining with the defendant, with the consent of the victim or his representative during or after the presentation of the evidence of the prosecution, but before the presentation of the evidence of the defence, provided</p>	<p>S. 270</p> <p>(1) Notwithstanding anything in this Act or in any other law, the Prosecutor may:</p> <p>(a) receive and consider a plea bargain from a defendant charged with an offence either directly from that defendant or on his behalf; or</p> <p>(b) offer a plea bargain to a defendant charged with an offence.</p> <p><u>(2) The prosecution may enter into plea bargaining with the defendant at any time during trial but before judgment, 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.</u></p> <p><u>(a) Where the defendant has agreed to return the proceeds of the crime or</u></p>	<p>The requirement for consent is limited offence affecting the human body. The provision is redrafted as the grounds stated in the paragraphs showed that no <i>prima facie</i> case exist to proceed against a defendant in the first place.</p>

that all of the following conditions are present:

(a) the evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt;

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

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

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

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

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

make restitution to the victim or his representative or

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

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

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

(a) the 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 ~~(3)~~ (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

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

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

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

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

- (i) the defendant's willingness to cooperate in the investigation or prosecution of others,
- (ii) the defendant's history with respect to criminal activity,
- (iii) the defendant's remorse or contrition and his willingness to assume responsibility for his conduct,
- (iv) the desirability of prompt and certain disposition of the case,
- (v) the likelihood of obtaining a conviction at trial and the probable effect on witnesses,
- (vi) the probable sentence or other consequences if the defendant is convicted,
- (vii) the need to avoid delay in the disposition of other pending cases,
- (viii) the expense of trial and appeal, and
- (ix) the defendant's willingness to make restitution or pay compensation to the victim where appropriate.

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

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 **returns the proceeds of the crime or** pay compensation to the victim where appropriate.

NEW subsection

(6) The requirement of subsection (5)(a) of this section may be dispensed with if the prosecutor is satisfied that consultation with the police responsible for the investigation of the case will delay the proceeding to such an extent that it could:

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

<p>representations to the prosecutor regarding:</p> <p>(a) the content of the agreement; and</p> <p>(b) the inclusion in the agreement of a compensation or restitution order.</p> <p>(7) An agreement between the parties contemplated in subsection (3) of this section shall be reduced to writing and shall:</p> <p>(a) state that, before conclusion of the agreement, the defendant has been informed:</p> <p>(i) that he has a right to remain silent,</p> <p>(ii) of the consequences of not remaining silent, and</p> <p>(iii) that he is not obliged to make any confession or admission that could be used in evidence against him;</p> <p>(b) state fully, the terms of the agreement and any admission made;</p> <p>(c) be signed by the prosecutor, the defendant, the legal practitioner and the interpreter, as the case may be; and</p> <p>(d) a copy of the agreement forwarded to the Attorney-General of the Federation.</p> <p>(8) The presiding judge or magistrate before whom the criminal proceedings are pending shall not participate in the discussion contemplated in subsection (3) of this section.</p> <p>(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</p>	<p>(7) The prosecution shall afford the victim or his representative the opportunity to make representations to the prosecutor regarding:</p> <p>(a) the content of the agreement; and</p> <p>(b) the inclusion in the agreement of a compensation or restitution order.</p> <p>(8) An agreement between the parties contemplated in subsection (3) (4) of this section shall be reduced to writing and shall:</p> <p>(a) state that, before conclusion of the agreement, the defendant has been informed:</p> <p>(i) that he has a right to remain silent,</p> <p>(ii) of the consequences of not remaining silent, and</p> <p>(iii) that he is not obliged to make any confession or admission that could be used in evidence against him;</p> <p>(b) state fully, the terms of the agreement and any admission made;</p> <p>(c) be signed by the prosecutor, the defendant, the legal practitioner and the interpreter, as the case may be; and</p> <p>(d) a copy of the agreement forwarded to the Attorney-General of the Federation.</p> <p>(9) The presiding judge or magistrate before whom the criminal proceedings are pending shall not participate in the discussion contemplated in subsection (3) (4) of this section.</p> <p>(10) 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</p>	
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shall then inquire from the defendant to confirm the terms of the agreement.

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

- (a) he is satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant on his plea of guilty to that offence, and shall award the compensation to the victim in accordance with the term of the agreement which shall be delivered by the court in accordance with section 308 of this Act; or
- (b) he is for any reason of the opinion that the defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the defendant has pleaded guilty or that the agreement is in conflict with the defendant's right referred to in subsection (6) of this section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.

(11) Where a defendant has been convicted under subsection (9) (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;

(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.

magistrate shall then inquire from the defendant to confirm the terms of the agreement.

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

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

(b) he is for any reason of the opinion that the defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the defendant has pleaded guilty or that the agreement is in conflict with the defendant's right referred to in subsection ~~(6) (8) (a)~~ of this section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.

(12) Where a defendant has been convicted under subsection ~~(9) (a)~~, (11) (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

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

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

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

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

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

(16) Where a trial proceeds as contemplated under subsection (15)

(a) or de novo before another presiding judge or magistrate as contemplated in subsection (15) (b):

(a) no references shall be made to the agreement;

(b) no admission contained therein or statements relating thereto shall be admissible against the defendant; and

sentence agreed, impose the lesser sentence; or

(c) of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he considers to be appropriate **and the provision of subsection 17 shall apply.**

(13) 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.

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

(15) Any person who, willfully and without just cause, obstructs or impedes the vesting or transfer of any money, asset or property under this Act, commits an offence and is liable on conviction to imprisonment for 7 5 years without an option of fine.

NEW subsection

(16) **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 the sentencing, in which event the**

(c) the prosecutor and the defendant may not enter into a similar plea and sentence agreement.

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

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

presiding judge or magistrate shall proceed with the sentencing; or

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

(17) Where the defendant has been informed of the heavier sentence as contemplated in subsection (12) (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.

(18) Where a trial proceeds as contemplated under subsections **(16) or (17) of this section-(a) or *de novo* before another presiding judge or magistrate as contemplated in subsection (15) (b)**

(a) no references shall be made to the agreement;

(b) no admission contained therein or statements relating thereto shall be admissible against the defendant; and

(c) the prosecutor and the defendant may not enter into a similar plea and sentence agreement.

It fair to give the state the same right accorded the defendant where the presiding Judge/Magistrate decides to impose a lesser sentence.

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

(20) ~~The judgment of the court contemplated in subsection 10 (a) of this section shall be final and no appeal~~

This subsection has been struck-down by the Court of Appeal in CA/A/767c/2019. Pursuant to the Judgement of the Court

		<p>presided over by Hon. Justice Abdu Aboki, JCA which declared that Section 270(18) of the ACJA is unconstitutional.</p>
	<p><u>S.270A</u></p> <p>(1) <u>Without prejudice to the powers of the Attorney-General of the Federation or any other authority vested with prosecutorial powers, the victim of an act which is the subject of a criminal trial before a court may retain a legal practitioner to watch the proceedings on his behalf and offer assistance to the prosecution; and offer assistance to the prosecution;</u></p> <p>(2) <u>A legal practitioner watching proceedings on behalf of the victim being tried, may examine in chief the witnesses of the prosecution or cross-examine the witnesses of the defence, provided he shall be allowed to ask questions of prosecution witnesses tending to prejudice the case of the prosecution or ask questions in cross-examination which have been sufficiently covered by the prosecution;</u></p> <p>(3) <u>In taking decision regarding progress of the case, including adjournments, the interest of the legal representing the victim shall be taken into account</u></p>	<p>There is a need to specify the role of victim of crime in trials or the extent of a victim's participation in a criminal matter.</p>
<p>S. 287 Where a defendant is confined under sections 281 (3) and (5), 285 or 286 of this Act, 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</p>	<p><u>S. 287</u> Where a defendant is confined under sections 281 (3) and (5), 285 or 286 of this Act, the medical officer of the prison <u>correctional centre</u>, where such defendant is confined in a prison <u>correctional centre</u>, or the medical officer attached to the asylum or other facility, where he is confined in any</p>	

<p>under observation in order to ascertain his state of mind and such medical officer shall make a special report for the information of the Attorney-General of the Federation as to the state of mind of such defendant at that time or times as the Attorney-General of the Federation shall require.</p>	<p>asylum or such facility shall keep him under observation in order to ascertain his state of mind and such medical officer shall make a special report for the information of the Attorney-General of the Federation as to the state of mind of such defendant at that time or times as the Attorney-General of the Federation shall require.</p>	
<p>S. 288 Where a defendant is, under the provisions of section 279 of this Act, confined in a <u>prison correctional centre</u>, 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</p>	<p>S. 288 Where a defendant is, under the provisions of section 279 of this Act, 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</p>	

<p>S. 289 (1)</p> <p>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 281, 285 or 286 of this Act certifies that the defendant in his judgment may be discharged without the danger of him causing injury to himself or to any other person, the Attorney-General of the Federation 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.</p>	<p>(1) Where the medical officer of a <u>prison correctional centre</u> or the medical officer attached to an asylum or other facility in which a defendant is confined under sections 281, 285 or 286 of this Act certifies that the defendant in his judgment may be discharged without the danger of him causing injury to himself or to any other person, the Attorney-General of the Federation may, on the receipt of that report, order the defendant to be discharged or to be detained in custody or in <u>prison correctional centre</u> or to be in custody or be transferred to an asylum where he has not already been sent to an asylum.</p>	
<p>S. 290</p> <p>Where a defendant is confined in a prison or an asylum, the Attorney-General of the Federation 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.</p>	<p>S. 290</p> <p>Where a defendant is confined in a <u>prison correctional centre</u> or an asylum, the Attorney-General of the Federation may direct his transfer from one <u>prison correctional centre</u> or asylum to any other <u>prison correctional centre</u> or asylum as often as may be necessary or may at any time order for his release from detention as he may consider necessary.</p>	
<p>S. 292</p> <p>Where it is necessary to remove a prisoner to a prison or asylum under the provisions of this Part, an order for the removal given under the provisions of this Part shall be sufficient authority for the removal and the detention of the prisoner in any prison or such other place of detention within the Federation.</p>	<p>S. 292</p> <p>Where it is necessary to remove a prisoner to a <u>prison correctional centre</u> 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 <u>prison correctional centre</u> or such other place of detention within the Federation.</p>	
<p>S. 293</p> <p>(1) A suspect arrested for an offence which a magistrate court has no jurisdiction to try shall, within a reasonable time of arrest, be brought before a magistrate court for remand.</p> <p>(2) An application for remand under this section shall be made ex parte and shall:</p>	<p>S. 293</p> <p>(1) A suspect arrested for an offence which a magistrate court has no jurisdiction to try shall, within a reasonable time of arrest, be brought before a magistrate court for remand.</p> <p><u>(1) A suspect arrested for an offence may within a reasonable time of arrest be brought before a Court of</u></p>	<p>The provision was mended to enable a suspect to be before the appropriate court having jurisdiction over the offence as opposed to magistrate only whose jurisdiction is limited.</p>

<p>(a) be made in the prescribed “Report and Request for Remand Form” as contained in Form 8, in the First Schedule to this Act; and (b) be verified on oath and contain reasons for the remand request.</p>	<p><u>competent jurisdiction, and the Court may order the remand of the suspect in custody</u> <u>Or</u> (1) <u>A suspect arrested for an offence which a Magistrate Court has no jurisdiction to try shall within a reasonable time of the arrest be brought before a magistrate court for remand where it is impracticable to take the suspect directly to the court with jurisdiction to try him.</u> (2) <u>Upon taking cognizance of the offence, the Magistrate may order the remand of the suspect in custody.</u> (3) An application for remand under this section shall be made <i>ex parte</i> and shall:</p> <p>(a) be made in the prescribed “Report and Request for Remand Form” as contained in Form 8, in the First Schedule to this Act; and</p> <p>(b) be verified on oath and contain reasons for the remand request.</p>	
<p>294 – A court may remand in prison.</p>	<p>294 – A court may remand in <u>prison correctional facility</u> custody.</p>	<p>Section heading amended according to change the word prison.</p>
<p>S. 297(1) (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.</p>	<p>S. 297(1) (b) on its own motion or on application, including an application by a person in charge of the <u>prison correctional centre</u> or other place of custody where the suspect remanded is detained.</p>	
<p>S. 299 A suspect committed to prison under this Act shall be remanded in prison or other place of safe custody.</p>	<p>S. 299 A suspect committed to prison under this Act shall be remanded in prison or other place of safe custody.</p>	<p>This is to curb the abuse of the remand protocol provisions where some the arresting authorities once a remand order is obtained they go to sleep.</p>

	<u>A place for remand pending legal advice shall be the Nigerian Correctional Centres</u>	
S. 302 The court may, on its own motion or on application by the a 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.	S. 302 <u>Where a criminal proceeding is instituted by way of a charge or information</u> , the court may, on its own motion or on application by the a 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.	The procedure for ‘no case submission’ only applies to proceedings commenced by way of a ‘charge’ or ‘information’. It does not apply to proceedings commenced by way of FIR or direct complaint (applicable in the Magistrate Court) where it is the Magistrate that drafts the charge after hearing evidence from the prosecution witnesses.
S. 305 (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,	S. 305 (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,	The gives room for delay in trial, given that the provisions of S.305 (1) (b) and (c) has already taken care of the perceived delay.
S. 306 An application for stay of proceedings in respect of a criminal matter before the court shall not be entertained.	S. 306 <u>Subject to the provisions of the Constitution of the Federal Republic of Nigeria</u> , an application for stay of proceedings in respect of a criminal matter before the court shall not be entertained.	This is necessary not to make to the operation of the section absolute but subject to the dictates of the constitutional provisions as to fair hearing.
S. 314A	S. 314 A <u>(1) Where a court adjudges that compensation is due in favour of a victim or that fine should be imposed, the court may, in lieu of or in addition to any other penalty that it may impose, make an order attaching equity in any corporate body standing to the credit of the person penalized in favour of the</u>	To recognize ‘equity fine’ as new models of sentencing especially in cases where the offence was committed by a corporate body or a person established to have huge share-capital holdings or where the harm suffered by a victim is likely to be lingering and long-lasting.

victim or, where culpable party is a corporate body, order the issue of equity of no less premium as that held by any other equity holder, in favour of the victim;

(2) Where a sum of money is imposed as compensation in favour of a person the court considers vulnerable, the court making the order may further order that the sum so awarded shall be applied solely or partially in acquiring equity in a going business concern; and

(3) Where the order in subsections (1) and (2) above is made, subject to the determination of any appeal filed against the order, every authority by law vested with the function of registering such transmission of interest shall give effect to same upon receipt of the enrolled order of the court to that effect.

S. 317

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.

S. 317

A warrant under the hand of the Judge or Magistrate by whom a convict has been sentenced or committed to **prison correctional centre** for non-payment of a penalty or fine grants full authority to the officer in charge of any **prison correctional centre** and to all other persons for carrying into effect the sentence described in the warrant not being a sentence of death.

S. 327

(3) The Court may also, in the exercise of the powers referred to in subsection (1) of this section, order that the 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.

S. 327

(3) The Court may also, in the exercise of the powers referred to in subsection (1) of this section, order that the of the sentence of imprisonment on a convict who has been committed to **prison correctional facility** 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.

<p>(4) Where the fine or any instalment of the fine is not paid in accordance with an order under this section, the authority making the order may enforce payment of the fine or of the balance outstanding, by any means authorised in this Act 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.</p>	<p>(4) Where the fine or any instalment of the fine is not paid in accordance with an order under this section, the authority making the order may enforce payment of the fine or of the balance outstanding, by any means authorised in this Act and may cause the offender to be arrested and may commit or recommit him to <u>prison correctional facility</u> under the sentence of imprisonment in default of payment of the fine.</p>	
<p>S. 349</p> <p>(1) Where a defendant charged before the court is not represented by a legal practitioner, the court shall:</p> <p>(a) inform him of his rights to a legal practitioner of his choice; and</p> <p>(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.</p> <p>(2) Where the legal practitioner who had appeared on behalf of the defendant ceases to appear in court in two consecutive sessions of the Court, the Court shall enquire from the defendant if he wishes to engage on his own another legal practitioner or a legal practitioner engaged for him by way of legal aid.</p> <p>(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.</p> <p>(4) Where the defendant fails, or is unable to secure a legal practitioner arranged by him after a reasonable time, the Court may direct that a legal practitioner arranged by way of legal aid to represent the defendant.</p> <p>(5) The Court may assign to any legal practitioner whose place of</p>	<p>S. 349 (4)</p> <p>(1) Where a defendant charged before the court is not represented by a legal practitioner, the court shall:</p> <p>(a) inform him of his rights to a legal practitioner of his choice; and</p> <p>(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.</p> <p>(2) Where the legal practitioner who had appeared on behalf of the defendant ceases to appear in court in two consecutive sessions of the Court, the Court shall enquire from the defendant if he wishes to engage on his own another legal practitioner or a legal practitioner engaged for him by way of legal aid.</p> <p>(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.</p> <p><u>(4) Where the defendant fails or is unable to engage a legal practitioner for himself within a reasonable time, the Court may direct that the defendant be represented by a legal practitioner engaged by way of legal aid.</u></p> <p>(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</p>	<p>Subsection 4 redrafted.</p>

practice is within the jurisdiction of the court, any case of a defendant who has no legal representation, and the legal practitioner shall undertake the defence of the defendant with all due diligence, in which case, the legal practitioner shall not pay any filing fee or service fee in respect of the case so assigned.

- (6) Where the defendant chooses to represent himself, the court shall:
- (a) inform him of all his rights under the Constitution of the Federal Republic of Nigeria, 1999 and under this Act; and
 - (b) indicate the fact of having so informed the defendant on the record, but a defendant charged with a capital offence or an offence punishable with life imprisonment shall not be allowed to represent and defend himself.
- (7) A legal practitioner, other than a law officer, engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant until final judgment, unless allowed for any special reason to cease from acting by the court of its own motion or upon application by the legal practitioner.
- (8) Where a legal practitioner intends to disengage from a matter, he shall notify the court, not less than 3 days before the date fixed for hearing and such notice shall be served on the court and all parties.

practitioner shall undertake the defence of the defendant with all due diligence, in which case, the legal practitioner shall not pay any filing fee or service fee in respect of the case so assigned.

(6) A legal practitioner so engaged shall be paid such reasonable sum as may be determined by the Attorney-General of the Federation.

- (7) Where the defendant chooses to represent himself, the court shall:
- (a) inform him of all his rights under the Constitution of the Federal Republic of Nigeria, 1999 and under this Act; and
 - (b) indicate the fact of having so informed the defendant on the record, but a defendant charged with a capital offence or an offence punishable with life imprisonment shall not be allowed to represent and defend himself.
- (8) A legal practitioner, other than a law officer, engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant until final judgment, unless allowed for any special reason to cease from acting by the court of its own motion or upon application by the legal practitioner.
- (9) Where a legal practitioner intends to disengage from a matter, he shall notify the court, not less than 3 days before the date fixed for hearing and such notice shall be served on the court and all parties.

(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.

A new subsection 6 for payment of the fees of court-appointed lawyers. This is equivalent to section 362 (6) ACJL Plateau State.

		<p>New subsection 10 inserted to award cost against lawyers in breach of the section.</p>
<p>S. 350</p> <p>(1) Trial shall be held summarily:</p> <ul style="list-style-type: none"> (a) in the High Court in respect of perjury; (b) in respect of an offence which by an Act of the National Assembly is triable summarily; and (c) in respect of a trial for an offence punishable with less than 3 years imprisonment in the Magistrate Court or tribunal. <p>(2) In a trial in the Magistrate Court or Tribunal, the prosecution shall, provide the defendant all materials that the prosecution intends to rely on at the trial, before or at the commencement of the trial.</p>	<p>S.350</p> <p>(1) Trial shall be held summarily in:</p> <ul style="list-style-type: none"> (a) in the High Court in respect of perjury; (b) in respect of an offence which by an Act of the National Assembly is triable summarily; and (c) in respect of a trial for an offence punishable with less than 3 years imprisonment in the Magistrate Court or tribunal. <p>(2) In a trial in the <u>High Court or</u> Magistrate Court or Tribunal, the prosecution shall, provide the defendant all materials that the prosecution intends to rely on at the trial, before or at the commencement of the trial.</p>	
<p>S. 352</p> <p>(2) Where the defendant is afterward arrested on a bench warrant, he shall be brought before the court immediately which may then commit him by warrant to prison or to such other place of safe custody as it deems fit, and order him to be brought before the court at a certain time and place.</p> <p>(4) Where the Court, in exercise of its discretion, has granted bail to the defendant and the defendant, in disregard for the court orders, fails</p>	<p>S. 352</p> <p>(2) Where the defendant is afterward arrested on a bench warrant, he shall be brought before the court immediately which may then commit him by warrant to <u>prison correctional facility</u> 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.</p> <p>(4) Where the Court, in exercise of its discretion, has granted bail to the defendant and the defendant, in disregard for the court orders, fails to surrender to the order of court</p>	<p>The should be expunged because it does not only conflicts with sections 135 and</p>

<p>to surrender to the order of court or fails to attend court without reasonable explanation, the court shall continue with the trial in his absence and convict him unless the court sees reasons otherwise, provided that proceedings in the absence of the defendant shall take place after two adjournments or as the court may deem fit.</p> <p>(5) The Court shall impose a sentence only when the defendant is arrested or surrenders to the custody of the court.</p>	<p>or fails to attend court without reasonable explanation, the court shall continue with the trial in his absence and convict him unless the court sees reasons otherwise, provided that proceedings in the absence of the defendant shall take place after two adjournments or as the court may deem fit.</p> <p>(5) The Court shall impose a sentence only when the defendant is arrested or surrenders to the custody of the court, <u>sentence of the convict shall commence immediately upon his arrest</u></p>	<p>266 of ACJA but also a violation of a defendant's right to fair hearing enshrined in section 36 of the CFRN, hence it should be expunged. See Ngadi v. FRN (2018) LPELR43636 and Adamu v. State (2015) LPELR24748.</p> <p>This is to care the obvious lacuna on when the court may impose sentence</p>
<p>S. 355</p> <p>Where a complainant, at any time before a final order is made in a case, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the complaint and shall thereupon acquit the defendant.</p>	<p>Where a complainant, at any time before a final order is made in a case, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the complaint and shall <u>may</u> thereupon acquit the defendant.</p>	<p>There is trial on the merit hence, may should be used instead of shall.</p>
<p>S. 364</p> <p>(1) Without prejudice to section 348 (2) of this Act, court proceedings may be recorded electronically and verbatim such that at the end of each day's proceeding a transcript of such recording shall be printed to enable certification or authentication by the Judge or Magistrate who conducted the proceedings.</p> <p>(2) Where court proceedings are not recorded as stated in sub-section (1), the court shall in every case take notes in writing of the oral evidence it considers material, in a book to be kept for that purpose and the book shall be signed by the court at the conclusion of each day's proceedings.</p>	<p>S. 364</p> <p>(1) Without prejudice to section 348 (2) of this Act, court proceedings may be recorded electronically and verbatim such that at the end of each day's proceeding <u>a transcript of such recording shall be printed to enable certification or authentication by the Judge or Magistrate who conducted the proceedings.</u></p> <p><u>(2) Where a Judge or Magistrate is assigned a part-heard matter previously conducted by another judge or magistrate, the new Judge or Magistrate shall inform himself of the court proceedings conducted by the former judge by watching the court video recordings and</u></p>	<p>It is not practicable for court to produce a transcript at the end of each day's court proceeding.</p> <p>New subsections (2) & (3) added to provide for procedures where a new judge takes over an on-going criminal matter.</p>

<p>(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.</p> <p>(4) A person is not entitled, as of right, to inspection of or to a copy of the record so kept except as may be expressly provided for by the rules of the court or by any other law.</p> <p>(5) The record so kept or a copy of it purporting to be signed and certified as a true copy by the court shall, at all times, without further proof, be admitted as evidence of the proceedings as statement made by the witnesses.</p>	<p><u>requests for parties to address the court on the issue.</u></p> <p><u>(3) Where a Judge or Magistrate complies with sub-section (2) of this section and he is satisfied that he fully understands the proceedings conducted by the previous judge or magistrate, he may continue with the trial from where the previous judge stopped and it shall not be necessary for the new Judge or Magistrate to start the trial <i>de novo</i>.</u></p> <p>(4) Where court proceedings are not recorded as stated in sub-section (1), the court shall in every case take notes in writing of the oral evidence it considers material, in a <u>book file</u> to be kept for that purpose and the <u>book file</u> shall be signed by the court at the conclusion of each day's proceedings.</p> <p>(5) The transcript of the recordings of the court shall be signed or otherwise authenticated by the presiding Judge <u>or Magistrate</u> 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.</p> <p>(6) 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.</p> <p>(7) The record so kept or a copy of it purporting to be signed and certified as a true copy by the court shall, at all times, without further proof, be admitted as evidence of the proceedings as statement made by the witnesses.</p>	
S. 371	S. 371	New subsection 2 inserted for the court to have recourse to the

<p>(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 Act.</p>	<p>(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 Act.</p> <p><u>(2) Notwithstanding the provisions of this Act, the provisions of Child's Rights Act relating to bail shall apply to bail proceedings in respect of a child.</u></p>	<p>Child's Rights Act on bail proceedings when dealing with a child.</p>
<p>S. 376</p> <p>(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 of the Federation.</p> <p>(2) The Attorney-General of the Federation 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.</p> <p>(3) Where the Attorney-General of the Federation 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:</p> <p>(a) police or the head of the police legal unit through whom the police case file was sent to the Attorney-General of the Federation;</p> <p>(b) court before whom the suspect was remanded in prison, where he is in remand custody, or before whom the suspect was granted bail, where he is on bail; and</p> <p>(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.</p>	<p>S. 376</p> <p>(1) Where an offence for which the Magistrate Court has no jurisdiction to try is preferred against a defendant, <u>the police may apply to a Magistrate Court for an order to remand the defend pending conclusion of investigation in accordance with section 293 of this Act.</u></p> <p><u>(2) The police shall at the end of investigation submit the original case file to the office of the Attorney-General of the Federation for legal advice.</u></p> <p>(3) The Attorney-General of the Federation 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.</p> <p>(4) Where the Attorney-General of the Federation 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:</p> <p>(a) police or the head of the police legal unit through whom the police case file was sent to the Attorney-General of the Federation;</p> <p>(b) court before whom the suspect was remanded in <u>prison correctional centre</u>, where he is in remand custody, or before whom the suspect was granted bail, where he is on bail; and</p>	

(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, dismiss the charge against the suspect and accordingly discharge the suspect.

(7) The Attorney-General of the Federation shall send a Law Officer in his office to the court where the order of remand was made and ensure the discharge of the remand order and of the suspect.

(8) Where the Attorney-General of the Federation 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 of receipt of the form, ensure that a legal practitioner of the Legal Aid Council as stipulated under this subsection or any other organization providing free legal representation for the defendant, and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.

(9) A form as prescribed in the First Schedule to this Act, indicating a

(c) suspect in respect of whom legal advice is preferred through the **prison correctional centre** authority, where the suspect is remanded in custody, or through his legal representative, if any.

(5) 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.

(e) a list of all pre-trial applications and voir direns that are proposed to be made before trial, as well as the anticipated duration and proposed dates for each; and

(f) where a material thing which the prosecution wishes to rely on is of such character whether due to its size, fragility or susceptibility to tampering that it cannot accompany a charge or First Information Report or complaint, the prosecution must disclose the existence of such material to the defence and, where required, allow access to it.

(6) The police or the officer in charge of the **Prison Correctional Centre** 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.

(7) The court referred to in subsection **(4)** **(3)** (b) of this section, shall, on receipt of the legal advice, dismiss the charge

There are some pre-trial applications that ought to be taken before a trial begins, such as objections, bail, etc. This is to improve the speed of trial in criminal cases.

desire to be represented by legal practitioner of his choice or by a legal practitioner from the Legal Aid Council or any other organisation providing free legal representation to defendants shall be attached to each legal advice for the purpose of endorsement by the person in respect of whom legal advice is preferred and against whom the information is filed.

(10) Where the defendant indicates in the form referred to in subsection (8) of this section that, he wishes to be represented by a legal practitioner of the Legal Aid Council or any other organisation providing free legal representation, he shall forward the form to the Chief Registrar of the court before whom the charge or information for his trial has been filed and the Chief Registrar shall, within 14 days of receipt of the form, ensure that a legal practitioner of the Legal Aid Council as stipulated under subsection 10 or any organization providing free legal aid representation for the defendant, and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.

(11) The Chief Register shall, upon getting the form, forward same to the Director-General of the Legal Aid Council or to the nearest Legal Aid Council office where the court is located.

against the suspect and accordingly discharge the suspect.

(8) The Attorney-General of the Federation 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.

(9) Where the Attorney-General of the Federation is of the opinion, as contained in the legal advice, that the suspect has a prima facie case to answer, he shall file and serve the charge or information in accordance with the provisions of this Act.

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

(11) Where the defendant indicates in the form referred to in subsection ~~(8)~~ (9) of this section that, he wishes to be represented by a legal practitioner of the Legal Aid Council or any other organisation providing free legal representation, he shall forward the form to the Chief Registrar of the court before whom the charge or information for his trial has been filed and the Chief Registrar shall, within 14 days of receipt of the form, ensure that a legal practitioner of the Legal Aid Council as stipulated under this subsection or any other organization providing free legal representation for the defendant, and by notice in writing inform the

	<p>defendant of the particulars of the legal representation arranged for him.</p> <p>(12) The Chief Register shall, upon getting the form, forward same to the Director-General of the Legal Aid Council or to the nearest Legal Aid Council office where the court is located.</p>	
<p>S. 379</p> <p>(1) An information <u>or a charge</u> shall be filed in the registry of the High Court before which the prosecution seeks to prosecute the offence, and shall include:</p>	<p>S. 379</p> <p>(1) An information <u>or a charge</u> shall be filed in the registry of the High Court before which the prosecution seeks to prosecute the offence, and shall include:</p> <p><u>(x) a deposition on oath by the investigator stating that all investigation into the matter had been concluded.</u></p> <p><u>(c) Where a material thing which the prosecution wishes to rely on is of such character whether due to its size, fragility or susceptibility to tampering that it cannot accompany an information or a charge the prosecution must disclose the existence of such material to the defence and, where required, allow access to it.</u></p> <p>(3) The information <u>or charge</u> and all accompanying processes shall be served on the defendant or his legal representative, if any.</p> <p><u>(4) Not later than two weeks after the prosecution may have provided to the defendant or his counsel the materials as required under this section and under section 350 or 376, as the case may be, the defendant shall file a Defendant's Statement and have copies served on the prosecution and every co-defendant, showing:</u> <u>(a) the nature of the defendant's defence, including any particular defences on which he intends to rely,</u></p>	<p>Added 'charge'.</p> <p>Added a new paragraph (x).</p> <p>There is need for full disclosure of all the evidence that the prosecution will on at the trial. This is done in practice and there is a need to for ACJA to specifically provide for it.</p>

(b) indicating the matters of fact on which he takes issue with the prosecution,

(c) setting out, in the case of each such matter, why he takes issue with the prosecution,

(d) setting out particulars of the matters of fact on which he intends to rely in his defence, and

(e) indicating any point of law (including any point as to the admissibility of evidence or an abuse of process) which he wishes to take, and any authority on which he intends to rely for that purpose;

(5) Where the defendant is not represented by a counsel, the court shall state the requirements in subsection (4) to the defendant and record his responses in the court of the court;

(6) Where a defendant declines or neglects to make a defendant's statement, or if the defendant had failed to mention a fact under questioning under caution or after being charged with an offence, which, in the circumstances then prevailing, he could reasonably have been expected to mention, but he later purports to rely on such fact in his defence at trial, in determining whether the defendant is guilty of the offence charged, the court may draw such adverse inferences from the failure as appear "proper", including an ascription of a consciousness of guilt.

S. 381

An information may be filed by:
(a) the Attorney-General of the Federation or officers in his office;

(b) a public officer acting in his official capacity;

S. 381

An information **or a charge** may be filed by:

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

(b) a public officer acting in his official capacity;

<p>(c) a private legal practitioner authorised by the Attorney-General of the Federation; or</p> <p>(d) a private person, provided the information is endorsed by a law officer that he has seen such information and declined to prosecute at the publi</p>	<p>(c) a private legal practitioner authorised by the Attorney-General of the Federation; or</p> <p>(d) a private person, provided the information <u>or charge</u> is endorsed by a law officer that he has seen such information <u>or charge</u> and declined to prosecute at the public instance and the private person enters into a bond to prosecute diligently and to a logical conclusion.</p>	
<p>S. 382</p> <p>(1) Where an information has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to a court for trial within 15 working days of its filing.</p> <p>(2) On assigning the information, the court to which the information is assigned shall within 10 working days of the assignment issue notice of trial to the witnesses and defendants and a production warrant properly endorsed by the Judge in respect of the defendant charged, where he is in custody, for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information not more than 3 days from the date they are issued.</p> <p>(3) Where the defendant named in the information is in custody, the notice of trial and the information shall be delivered to him through the officer in charge of the prison in which he is detained, and the warrant for his production shall be served on the officer of the prison.</p> <p>(4) Where the defendant is not in custody, the notice of trial and the information shall be served on him personally.</p> <p>(5) Where it is impossible or impracticable to effect personal service of the notice of trial and information on the defendant, they</p>	<p>S. 382</p> <p>(1) Where an information <u>or a charge</u> has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the information <u>or charge</u> filed is assigned to a court for trial within 15 working days of its filing.</p> <p>(2) On assigning the information <u>or charge</u>, the court to which the information <u>or charge</u> is assigned shall within 10 working days of the assignment issue notice of trial to the witnesses and defendants and a production warrant properly endorsed by the Judge in respect of the defendant charged, where he is in custody, for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information <u>or charge</u> not more than 3 days from the date they are issued.</p> <p>(3) Where the defendant named in the information <u>or charge</u> is in custody, the notice of trial and the information <u>or charge</u> shall be delivered to him through the officer in charge of the <u>prison correctional centre</u> in which he is detained, and the warrant for his production shall be served on the officer of the <u>prison correctional centre</u>.</p> <p>(4) Where the defendant is not in custody, the notice of trial and the information <u>or charge</u> shall be served on him personally.</p> <p>(5) Where it is impossible or impracticable to effect personal</p>	

<p>may be served on him, with leave of court, through his legal practitioner, if any, or on his surety or sureties, or on an adult in his household or in such other manner as the court shall deem fit and the service shall be deemed to be duly served on the defendant.</p> <p>(6) Nothing in this section shall prevent the defendant from being tried by reason only that the notice of trial and the information were served on him less than 3 days before the date of trial, where he consents to being so tried.</p>	<p>service of the notice of trial and information <u>or charge</u> on the defendant, they may be served on him, with leave of court, through his legal practitioner, if any, or on his surety or sureties, or on an adult in his household or in such other manner as the court shall deem fit and the service shall be deemed to be duly served on the defendant.</p> <p>(6) Nothing in this section shall prevent the defendant from being tried by reason only that the notice of trial and the information <u>charge</u> were served on him less than 3 days before the date of trial, where he consents to being so tried.</p>	
<p>S. 383(1)</p> <p>(b) the private legal practitioner shall enter into a recognizance in:</p> <p>(i) such sum as may be fixed by the court, with a surety, to prosecute the information to conclusion from the time the defendant shall be required to appear,</p>	<p>S. 383(1)</p> <p>(b) the private legal practitioner shall enter into a recognizance in:</p> <p>(i) such sum as may be fixed by the court, with a surety, to prosecute the information <u>or charge</u> to conclusion from the time the defendant shall be required to appear,</p>	
<p>S. 384</p> <p>Where a private legal practitioner has complied with the provisions of section 383 of this Act, the information shall be signed by such private legal practitioner who shall be entitled to prosecute the information</p>	<p>S. 384</p> <p>Where a private legal practitioner has complied with the provisions of section 383 of this Act, the information <u>or charge</u> shall be signed by such private legal practitioner who shall be entitled to prosecute the information.</p>	
<p>S. 396</p> <p>(2) After the plea has been taken, the defendant may raise any objection to the validity of the charge or the information at any time before judgement provided that such objection shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgement.</p>	<p>S. 396</p> <p>(2) After the plea has been taken, the defendant may raise any objection to the validity of the charge or the information at any time before judgement provided that such objection shall only be considered along with the substantive issues and a ruling thereon made at the time of delivery of judgement. <u>Such objection shall be brought by way of Motion on Notice to the Court.</u></p>	

<p>(5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days inclusive of weekends.</p> <p>(7) Notwithstanding the provision of any other law to the contrary, a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part-heard criminal matter pending before him at the time of his elevation and shall conclude the same within a reasonable time.</p>	<p>(5) Where it is impracticable to conclude a criminal proceeding after the parties have exhausted their five adjournments each, the interval between one adjournment to another shall not exceed seven days inclusive of weekends.</p> <p>(7) Notwithstanding the provision of any other law to the contrary, a Judge of the High Court who has been elevated to the Court of Appeal shall have dispensation to continue to sit as a High Court Judge only for the purpose of concluding any part-heard criminal matter pending before him at the time of his elevation and shall conclude the same within a reasonable time.</p>	<p>This would give room for further adjournments of case, thereby eroding the gains in (4). It should be expunged.</p> <p>Expunged in view of the Supreme Court's decision in Ude Jones Udeogu v Federal Republic of Nigeria (unreported Appeal No SC. 662C/2019), section 396 (7) of Administration of Criminal Justice Act, 2015 was declared illegal and unconstitutional.</p>
<p>S. 400 A person who fails to attend as witness in either of the cases mentioned in sections 397 and 398 of this Act is liable, on the summary order of the court, to a fine in a reasonable sum to be fixed by the court, but not less than N5,000.00 and, in default of payment, to imprisonment for a term corresponding to the fixed sum, but the period of imprisonment shall not exceed a period of one month</p>	<p>S. 400 A person who fails to attend as witness in either of the cases mentioned in sections 397 398 and 398 399 of this Act is liable, on the summary order of the court, to a fine in a reasonable sum to be fixed by the court, but not less than N5,000.00 and, in default of payment, to imprisonment for a term corresponding to the fixed sum, but the period of imprisonment shall not exceed a period of one month.</p>	<p>Wrong cross-reference</p>
<p>S. 404 (1) Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her but its execution shall be suspended until the baby is delivered and weaned.</p>	<p>S. 404 (1) Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her but its execution shall be suspended until the baby is delivered and weaned. <u>Or</u> <u>(1) Where a woman found guilty of a capital offence is pregnant, her death sentence shall be suspended until she gives birth and weans her baby.</u> <u>(2) The period for weaning the child shall be three years.</u> <u>Or</u> <u>(1) Where a woman found guilty of a capital offence is pregnant, the</u></p>	

	<p><u>sentence of death shall be commuted to life imprisonment.</u></p> <p><u>(2) After the delivery, the baby shall be in the care of the mother in a section of the correctional facility nursing mother.</u></p> <p><u>(3) It is only after the baby has been weaned and united with a responsible member of his extended family, that the convicted mother be transferred to the general section for inmates.</u></p>	
Where a convict who, in the opinion of the court, had not attained the age of 18 years at the time the offence was committed is found guilty of a capital offence, sentence of death shall not be pronounced or recorded but in lieu of it, the court shall sentence the child to life imprisonment or to such other term as the court may deem appropriate in consideration of the principles in section 401 of this Act.	Where a convict who, in the opinion of the court, had not attained the age of 18 years at the time the offence was committed is found guilty of a capital offence, sentence of death shall not be pronounced or recorded but in lieu of it, the court shall sentence the child to life imprisonment or to such other term as the court may deem appropriate in consideration of the principles in section 401 of this Act <u>and the Child's Rights Act.</u>	Amended for the courts to have recourse to the Child's Rights Act when sentencing a child.
S. 408 (a) hand two copies of the certificate issued by the Judge under the provisions of section 407 of this Act to the Commissioner of Police, one copy of which shall be retained by the Commissioner of Police and the other handed to the superintendent or other officer in charge of the prison in which the convict is to be confined;	S. 408 (a) hand two copies of the certificate issued by the Judge under the provisions of section 407 of this Act to the Commissioner of Police, one copy of which shall be retained by the Commissioner of Police and the other handed to the superintendent or other officer in charge of the <u>prison correctional facility</u> in which the convict is to be confined;	
S. 408 (1) (b) desires to have his case considered by the Committee on Prerogative of Mercy, he shall forward his request through his legal practitioner or officer in charge of the Prison in which he is confined to the Committee on Prerogative of Mercy.	S. 408(1) (b) desires to have his case considered by the Committee on Prerogative of Mercy, he shall forward his request through his legal practitioner or officer in charge of the <u>Prison Correctional Centre</u> in which he is confined to the Committee on Prerogative of Mercy.	
S. 411 (1) Where the President decides that the sentence should be commuted or that the convict should be otherwise pardoned or reprieved,	S. 411 (1) Where the President decides that the sentence should be commuted or that the convict should be otherwise pardoned or reprieved, he shall issue	

<p>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.</p>	<p>an order, one copy of which shall be sent to the superintendent or other officer in charge of the <u>prison correctional centre</u> 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.</p>	
<p>S. 414 – Copy of order to be sent to prison official.</p> <p>A copy of the order issued by the President 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.</p>	<p>S. 414 - Copy of order to be sent to <u>prison correctional facility</u> official.</p> <p>A copy of the order issued by the President shall be forwarded to the official in charge of the <u>prison correctional facility</u> in which the person sentenced is confined, and the official in charge of the <u>prison correctional facility</u> shall give effect to the order of execution.</p>	
<p>S. 416 (2)</p> <p>(d) a trial court shall may not pass the maximum sentence on a first offender;</p> <p>(e) the period spent in prison custody awaiting or undergoing trial shall be considered and computed in sentencing a convict;</p> <p>(h) where there is doubt as to whether the defendant or convict has attained the age of 18, the court should resolve the doubt in <u>his</u> favour <u>of the defendant</u>;</p>	<p>S. 416(2)</p> <p>(d) a trial court <u>shall may</u> not pass the maximum sentence on a first offender;</p> <p>(e) the period spent in <u>prison correctional facility</u> custody awaiting or undergoing trial shall be considered and computed in sentencing a convict;</p> <p>(h) where there is doubt as to whether the defendant or convict has attained the age of 18, the court should resolve the doubt in <u>his</u> favour <u>of the defendant</u>;</p>	<p>Amended by substituting the word ‘shall’ with ‘may’ to give the judge or magistrate discretion depending on the circumstance.</p>
<p>S. 429(3)</p> <p>(3) Where before the expiration of the time allowed, the convict surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of the sum and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may, if it thinks fit, issue a warrant committing him to prison.</p>	<p>S. 429(3)</p> <p>Where before the expiration of the time allowed, the convict surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of the sum and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may, if it thinks fit, issue a warrant committing him to <u>prison correctional facility</u>.</p>	
<p>S. 431</p>	<p>S. 431</p>	

<p>Where a convict is brought to a prison to be imprisoned by virtue of a warrant of commitment, there shall be endorsed on the warrant the day on which the convict was arrested by virtue of it and the imprisonment shall be computed from that day and inclusive.</p>	<p>Where a convict is brought to a <u>prison correctional centre</u> to be imprisoned by virtue of a warrant of commitment, there shall be endorsed on the warrant the day on which the convict was arrested by virtue of it and the imprisonment shall be computed from that day and inclusive.</p>	
<p>S. 432 Where a person has been committed to prison by the court for default in finding a surety or sureties, the court may, on application made to it by the person or by some person acting on his behalf, inquire into the case of the person, and if on new evidence produced to the court or proof of a change of circumstances the court deems fit, having regard to all the circumstances of the case that it is just to do so, the court may:</p>	<p>S. 432 Where a person has been committed to <u>prison correctional facility</u> by the court for default in finding a surety or sureties, the court may, on application made to it by the person or by some person acting on his behalf, inquire into the case of the person, and if on new evidence produced to the court or proof of a change of circumstances the court deems fit, having regard to all the circumstances of the case that it is just to do so, the court may:</p>	
<p>433. (1) Where a person has been committed to prison by the court for non-payment of a sum of money adjudged to be paid by an order, the person may pay or cause to be paid to the officer in charge of the prison the sum mentioned in the warrant of commitment together with the amount of the costs, charges and expenses, if any, and the officer in charge of the prison shall receive the sums and discharge the person, unless he is in custody for some other matter.</p>	<p>S. 433 (1) Where a person has been committed to <u>prison correctional facility</u> 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 <u>prison correctional facility</u> the sum mentioned in the warrant of commitment together with the amount of the costs, charges and expenses, if any, and the officer in charge of the <u>prison correctional facility</u> shall receive the sums and discharge the person, unless he is in custody for some other matter.</p>	
<p>S. 438 (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 Act or in any other law, liable to be detained in a prison or asylum or such other place as provided under this Act or any law as the Attorney-General of the Federation may</p>	<p>S. 438 (1) Where a person is ordered to be detained in a safe custody or suitable place other than <u>prison correctional centre</u> or mental health asylum, he is, notwithstanding anything in this Act or in any other law, liable to be detained in a <u>prison correctional centre</u> or asylum or such other place as provided under this Act or any law as the Attorney-General of the</p>	

direct and whilst so detained shall be deemed to be in legal custody	Federation may direct and whilst so detained shall be deemed to be in legal custody.	
S. 459 (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.	S. 459(4) A defendant so remanded in custody may be committed during remand to a <u>prisons correctional facility</u> to which the court having power to convict or sentence him has power to commit prisoners.	
S. 460 (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;	S.460 (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 <u>prisons correctional facilities</u> ;	
New 461(3)(a)	S. 461(3)(a) <u>(vi) Bank Verification Number,</u> <u>(vii) telephone number,</u>	The community service centre should also have adequate Data of their offenders.
S. 468(1) Where the Comptroller-General of Prisons makes a report to the court recommending that a prisoner: (a) sentenced and serving his sentence in prison is of good behaviour, and (b) has served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment,	S. 468 <u>(1)Where the Comptroller-General of Prisons Corrections</u> makes a report to the court recommending that a prisoner: (a) sentenced and serving his sentence in prison is of good behaviour, and (b) has served at least one-third of his prison term, where he is sentenced to imprisonment for a term of at least 15 years or where he is sentenced to life imprisonment, <u>All prisoner who fulfill subsection (1) of this section may be granted parole.</u>	Parole is a privilege that should be enjoyed by any prisoned that have conducted his or her well in custody.
S. 469 There is established the Administration of Criminal Justice	(1) There is established <u>the Administration of Criminal Justice Monitoring Bureau,</u> the Administration of Criminal Justice	

<p>Monitoring Committee (in this Act referred to as “the Committee”).</p> <p>(2)(e) the Comptroller-General of the Nigerian Prisons Service or his representative not below the rank of Comptroller of Prisons;</p>	<p>Monitoring Committee (in this Act referred to as “<u>the Bureau,</u> the Committee”).</p> <p>(2)(e) the Comptroller-General of the Nigerian <u>Prisons Correctional</u> Service or his representative not below the rank of Comptroller of <u>Prisons Corrections</u>;</p> <p>New sub-paragraph (g) <u>(g) the Executive Secretary of the Monitoring Bureau who shall be the Secretary;</u> <u>new</u> <u>(6)The Committee shall meet every quarter or such other time as the Secretary may request with the consent of the Chairman.</u></p>	
	<p><u>New</u> <u>469A. Powers of the Committee under this Act.</u> <u>The Committee is responsible for:</u></p> <p>(a) <u>setting out the general policy guidelines for the operation of the Monitoring Bureau;</u></p> <p>(b) <u>approving the plans and programmes of the Monitoring Bureau to ensure the delivery of the functions of the Committee under this Act;</u></p> <p>(c) <u>appoint such number of staff as it considers necessary for the efficient performance of the running of the affairs of the Monitoring Bureau under this Act;</u></p> <p>(d) <u>generally overseeing the activities of the Monitoring Bureau in line with the principles and objectives of this Act.</u></p>	
	<p><u>469B. Establishment of the Administration of Criminal Justice Monitoring Bureau.</u></p> <p>(1) <u>There is established the Administration of Criminal</u></p>	

	<p><u>Justice Monitoring Bureau (in this Act referred to as ‘the Monitoring Bureau’).</u></p> <p>(2) <u>The Monitoring Bureau shall carry out such duties as may be conferred on it under this Act and under the overall supervision and directions of the Committee.</u></p> <p>(3) <u>The Headquarters of the Monitoring Bureau shall be located in the Federal Capital Territory, Abuja with offices at such locations in Nigeria as may be determined by the Committee.</u></p>	
<p>S. 470</p> <p>(1) The Committee shall be charged with the responsibility of ensuring effective and efficient application of this Act by the relevant agencies.</p> <p>(2) Without prejudice to the generality of subsection (1) of this section, the Committee shall ensure that:</p> <p>(c) congestion in prisons is reduced to the barest minimum;</p> <p>(d) persons awaiting trial are, as far as possible, not detained in prison custody;</p> <p>(f) collate, analyse and publish information in relation to the administration of criminal justice sector in Nigeria; and</p>	<p>S. 470 – Functions of the <u>Monitoring Bureau and the</u> committee.</p> <p>(1) The <u>Monitoring Bureau, in conjunction with</u> the Committee shall be charged with the responsibility of ensuring effective and efficient application of this Act by the relevant agencies.</p> <p>(2) Without prejudice to the generality of subsection (1) of this section, the <u>Monitoring Bureau and</u> the Committee shall ensure that:</p> <p>(c) congestion in a <u>prison correctional centres</u> is reduced to the barest minimum;</p> <p>(d) persons awaiting trial are, as far as possible, not detained in a <u>prison correctional centre</u> custody;</p> <p>(f) <u>coordinate and assist other criminal justice oversight in the country towards efficient and effective administration of criminal justice;</u></p>	
<p>S. 471</p> <p>(1) The Committee shall establish and maintain a secretariat with such number of staff as it considers</p>	<p>S. 471</p> <p>(1) The <u>Monitoring Bureau</u> Committee shall establish and maintain a secretariat with such number of staff</p>	

necessary for the efficient running of its affairs.

(2) The Secretariat shall be headed by a Secretary who shall be appointed by the Attorney-General of the Federation on the recommendation of the Committee.

(3) The Secretary shall be a legal practitioner of not less than 10 years post call experience and shall possess sound knowledge of the practical functioning of the criminal justice system and adequate experience in justice system administration.

(4) The Secretary shall be responsible for the execution of the policy of the Committee and the day-to-day running of the affairs of the Committee.

(5) The Secretary shall hold office for a term of 4 years and may, subject to satisfactory performance of his functions, be re-appointed for another term of 4 years 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.

as it considers necessary for the efficient running of its affairs.

~~(2) The Secretariat shall be headed by a Secretary who shall be appointed by the Attorney-General of the Federation on the recommendation of the Committee.~~

(2) The Attorney-General of the Federation shall appoint, on the recommendation of the Committee, an Executive Secretary for the Bureau, who shall –

(a) be a legal practitioner of not less than ten years post call experience; and

(b) possess sound knowledge of the practical functioning of the criminal justice system and adequate experience in justice system administration.

(3) The **Executive** Secretary shall be responsible for the execution of the plans and policies of **the Monitoring Bureau in addition to running the day-to-day affairs of the Monitoring Bureau.**

(4) The **Executive** Secretary shall hold office for a term of four years **in the first instance** and may, subject to satisfactory performance of his functions, be re-appointed for another term of four years and no more.

(5) The **Executive** Secretary shall hold office on such terms as to emoluments **as provided under the Certain Political, Public and Judicial Office Holders (Salaries and Allowances, etc) Amendment Act, 2008** or as otherwise specified in his letter of appointment.

(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.

New

471A. Other Staff of the Monitoring Bureau.

- (1) **The Committee shall have the power to appoint for the Monitoring Bureau either directly, on transfer or secondment from any public office of the Federation such number and category of employees as it may require to assist the Monitoring Bureau in the effective performance of its functions under this Act.**
- (2) **The Committee shall be responsible for determining the job description, title, terms, qualifications and salaries, including allowances of the employees of the Bureau, subject to the approval of the National Income, Salaries and Wages Commission in the case of remunerations.**
- (3) **The Committee shall make rules relating generally to the conditions of service of employees of the Monitoring Bureau, including rules providing for the appointment, promotion, advancement, determination of appointment, and disciplinary control, of those employees.**
- (4) **Service in the Monitoring Bureau shall be subject to the Pension Reform Act (Act No. 4, 2014), provided that nothing in this section shall exclude the Monitoring Bureau from**

employing staff on non-pensionable terms and conditions.

(5) The Monitoring Bureau has powers –

(a) to set up Departments, special units, technical committees, working groups and task forces to assist it in the performance of its functions under this Act;

(b) request law officers on secondment to assist the Monitoring Bureau in the performance of its functions under this Act; and

(c) to make changes to its structure, with the approval of the Committee.

(6) There is appointed for each of the Departments and special units, a principal officer who shall be known by such designation as the Bureau may determine.

471B. Co-operation with other relevant organisations or agencies. In the performance of its functions under this Act, the Monitoring Bureau shall cooperate with relevant organisations and any other person or authority involved in the administration of criminal justice under this Act or any other law relating to administration of criminal justice.

<p>S. 472 – Fund of the Committee.</p> <p>(1) There is established for the Committee a fund into which shall be paid:</p> <p>(a) budgetary allocation to it through the Office of the Attorney–General of the Federation;</p> <p>(b) such monies as may, from time to time, be provided to the Committee by any public, private or international organisation by way of a grant, support or assistance on such terms as are consistent with its functions; and</p> <p>(c) such monies as may be received by the Committee in relation to the exercise of its functions under this Act. (2) The Secretary of the Committee shall be the accounting</p>	<p>S. 472 – Fund of the <u>Monitoring Bureau</u>.</p> <p>(1) There is established for the <u>Bureau</u> a fund (<u>in this Part referred to as “the Fund”</u>) into which shall be paid –</p> <p>(a) <u>take off grants, annual subventions and other budgetary allocations received from the Federal Government;</u></p> <p>(b) such monies as may <u>be granted to the Monitoring Bureau by the Government of the Federation;</u></p> <p>(c) <u>gifts, grants, aids, and testamentary disposition, if the terms and conditions attached to any of them are not inconsistent with the functions of the Monitoring Bureau; and</u></p> <p>(d) such other sums of monies as may be received by the <u>Monitoring Bureau from other sources.</u></p> <p>(2) The <u>Executive</u> Secretary shall be the accounting officer for the purpose of controlling and disbursing monies from the Fund established under this section.</p>	
	<p><u>472A. Expenditure of the Monitoring Bureau</u> <u>The Executive Secretary, under the direction of the Committee, shall apply the funds at the disposal for the Monitoring Bureau to –</u></p> <p>(a) <u>the cost of administration of the Monitoring Bureau;</u></p> <p>(b) <u>pay the salaries, allowances and benefits of employees of the Monitoring Bureau;</u></p> <p>(c) <u>pay other overhead allowances and benefits, charges and</u></p>	

expenses of the Monitoring Bureau; and

undertake such other activities as are connected with the functions of the Monitoring Bureau under this Act.

S. 473 – Annual estimates of the Monitoring Bureau and accounts.

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

(1) The Monitoring Bureau shall not later than 30th September in each financial year prepare and present to the Committee who shall forward to the Attorney-General for onward transmission to the National Assembly, a statement of estimated income and expenditure for the succeeding financial year.

(2) Notwithstanding the provisions of subsection (1), the Monitoring Bureau may, where necessary due to unforeseen circumstances, submit supplementary or adjusted statements of estimated income and expenditure to the Committee who shall forward to the Attorney-General for onward transmission to the National Assembly for approval.

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

(3) The remuneration of the auditor shall be paid out of the funds of the Monitoring Bureau.

(4) The audited accounts of the Monitoring Bureau and the Auditor-General's report on those accounts shall form part of the Auditor-General's overall annual report to the National Assembly.

S. 474

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

S. 474

~~The Committee shall prepare and publish an annual report of its activities.~~

(1) The Executive Secretary shall, not later than 30th June in each financial year, submit to the Committee in respect of the preceding financial year an annual report on the activities of the Monitoring Bureau in such form as the Committee may direct.

(2) The report under subsection (1) shall include:

(a) information with regard to the activities of the Monitoring Bureau in that year;

(b) a copy of the audited accounts of the Monitoring Bureau in respect of that year together with the Auditor-General's report on the accounts; and

(c) such other information as the Committee may request.

(3) The Committee shall, on receiving the annual report, cause it to be submitted to the Attorney-General for onward transmission to the

	<p><u>National Assembly within the financial year.</u></p> <p>(4) <u>The Executive Secretary shall provide the Committee with such information relating to the affairs of the Monitoring Bureau as the Committee may request.</u></p>	
<p>S. 475</p> <p>(1) For the purpose of carrying out the functions conferred on the Committee under this Act, it:</p>	<p>S. 475</p> <p>(1) For the purpose of carrying out the functions conferred on <u>the Monitoring Bureau and</u> the Committee under this Act, <u>the Monitoring Bureau;</u></p>	
	<p><u>475A. Protection against institution of court actions</u></p> <p>(1) <u>The provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Bureau.</u></p> <p>(2) <u>No suit shall be commenced against a member of the Committee, the Executive Secretary, officer or employee of the Monitoring Bureau before the expiration of one month after written notice of intention to commence the suit shall have been served upon the Committee.</u></p>	
<p>S. 478</p> <p>Where a corporation is called upon to plead to any charge or information including a new charge or information framed under the provisions of this Act or charge or information added to or altered under the provisions of this Act, it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under this Act and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the</p>	<p>S. 478</p> <p>Where a corporation is called upon to plead to any charge or information including a new charge or information framed under the provisions of this Act or charge or information added to or altered under the provisions of this Act, it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under this Act and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall</p>	Redrafted

<p>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.</p>	<p>proceed as though the corporation had duly entered a plea of not guilty. it may: (a) <u>enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under this Act; or</u> (b) <u>if either the corporation does not appear by a representative or it does so fails to enter aforesaid any plea; or</u> (c) <u>where the corporation fails to send a representative or enter its plea in writing and the court is satisfied that the corporation is duly served, the court shall enter a plea of not guilty.</u></p>	
<p>S. 485(9) Without prejudice to the generality of subsection (8)(i) the brief of ground of appeal may set forth all or any of the following grounds:</p>	<p>S. 485(9) Without prejudice to the generality of subsection (8)(i) the brief of ground of appeal may set forth all or any of the following grounds:</p>	<p>This is obviously an error because the reference to subsection (8) does not have paragraph (i).</p>
<p>S. 490 The Chief Judge of the Federal High Court or of the Federal Capital Territory or the President of the National Industrial Court may make rules in respect of any or all of the following matters:</p>	<p>S. 490 The Chief Judge of the Federal High Court or of the Federal Capital Territory or the President of the National Industrial Court may make rules in respect of any or all of the following matters:</p>	<p>The National Industrial Court is expunged as it is a specialized court with jurisdiction to adjudicate on labour disputes.</p>
<p>S. 491</p>	<p>S. 491 (1) Where no other sanction is provided for in this Act, failure on the part of a person to discharge his responsibility under this Act without reasonable cause shall be treated as misconduct by the appropriate authority. (2) <u>Except for clear cases of error of judgment committed in good faith, where any duty is imposed by this Act on a law enforcement authority or the manner of doing anything has been prescribed under this Act but any particular officer of such law enforcement authority is shown to have intentionally, deliberately or</u></p>	<p>To dissuade flagrant disregard of the provisions of the Act by law enforcement authorities or their agents,</p>

	<u>recklessly ignored such duty or procedure, without prejudice to any liability that may attach to such law enforcement agency, personal liability may be imposed on such an officer for cost in favour of any person who has suffered a detriment as a result and such officer shall also be subject to the disciplinary procedures applicable to his employment.</u>	
S. 493 The Criminal Procedure Act CAP. C41 Laws of the Federation of Nigeria, 2004, Criminal Procedure (Northern States) Act Cap. C42 Laws of the Federation of Nigeria, 2004, and the Administration of Justice Commission Act Cap. A3 Laws of the Federation of Nigeria, 2004 are repealed.	S. 493 <u>(1) The Criminal Procedure Act CAP. C41 Laws of the Federation of Nigeria, 2004, Criminal Procedure (Northern States) Act Cap. C42 Laws of the Federation of Nigeria, 2004⁵ and the Administration of Justice Commission Act Cap. A3 Laws of the Federation of Nigeria, 2004 are repealed.</u> <u>(2) The provisions of the Criminal Procedure Code Act Cap. 491 LFN, 1990 (Abuja) shall continue to apply provided they are not inconsistent with any provision of this Act</u>	There is no independent statute creating the Magistrates Courts in the FCT. Also the Criminal Procedure Code Act Cap. 491 LFN, 1990 (Abuja) in appendix C listed the various offences in the Penal Code
S. 494 “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; “complainant” includes any informant or prosecutor in any case relating to summary trial “court” includes Federal Courts, the Magistrates’ Court and Federal Capital Territory Area Courts provided by legal practitioners; “High Court” means the Federal High Court or the High Court of the Federal Capital Territory;	S. 494(1) “asylum” includes a lunatic asylum, a mental or other hospital, a prison <u>correctional centre</u> and any other suitable place of safe custody of person of unsound mind for medical observation; “complainant” includes any informant or prosecutor in <u>a private capacity in</u> any case relating to summary trial; “court” includes Federal Courts, the Magistrates’ Court and Federal Capital Territory Area Courts <u>provided by legal practitioners;</u> “court” <u>includes Federal Courts, State Courts, Magistrates’ Court and Area Courts presided by legal practitioners;</u>	The amendment is to widen the definition of court to make ACJA applicable in appropriate circumstances to courts in the state. The essence is to eliminate an obstacle faced by some anti-graft agencies in prosecution of its cases at state High Court especially in states that yet to enact the ACJL.

<p>“Plea bargain” means the process in criminal proceedings whereby the defendant and the prosecution work out a mutually acceptable disposition of the case; including the plea of the defendant to a lesser offence than that charged in the complaint or information and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the higher charge subject to the Court’s approval;</p>	<p>“High Court” means the Federal High Court, or the High Court of the Federal Capital Territory <u>or High Court of a state;</u> <u>“Monitoring Bureau” means the Administration of Criminal Justice Monitoring Bureau established under section 469B (1) of this Act;</u></p> <p>“Plea bargain” means the process in criminal proceedings whereby the defendant and the prosecution work out a mutually acceptable disposition of the case; including the plea of the defendant to a lesser offence than that charged in the complaint or information and in conformity with other conditions imposed by the prosecution, in return for a lighter sentence than that for the higher charge subject to the Court’s approval;</p> <p><u>“Plea bargain” mean the process in criminal proceedings whereby the defendant and the prosecution, subject to the approval of the court, work out a mutually acceptable disposition of the case without full trial, wherein, in return for the plea of guilt by the defendant to counts or charges agreed with the prosecution, the court may, in conformity with conditions agreed, adopt and impose such agreed lesser sentences or convict for fewer offences agreed;</u></p>	<p>The amendment is to enable a state High Court to apply the ACJA especially where a federal agency is prosecuting at the state or where the state is prosecuting a federal offence.</p>
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