THE IMO STATE ADMINISTRATION OF CRIMINAL JUSTICE BILL

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A LAW TO MAKE PROVISIONS FOR THE PROCEDURE TO BE FOLLOWED IN CRIMINAL CASES IN THE HIGH COURT AND MAGISTRATES' COURTS IN IMO STATE

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IMO STATE OF NIGERIA
ADMINISTRATION OF CRIMINAL JUSTICE BILL

Title.

A Law to make provisions for the procedure to be followed in Criminal Cases in the High Court and Magistrates' Courts in Imo State; and for related matters.

Enactment

Be it enacted by the House of Assembly of Imo State of Nigeria as follows –

CHAPTER 1 - PRELIMINARY

Citation **1.** (1) This Law may be cited as the Imo State Administration of Criminal Justice Law, 20---, and shall be deemed to come into effect on --- day of---, 20---.

Repeal of CPL Cap 31

(2) The Criminal Procedure Law Cap 31 is hereby repealed and shall cease to have effect from the commencement of this Law.

Purpose

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

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

Interpretation.

2. In this Law, unless the context otherwise requires-

"Act" means an enactment of the National Assembly, or any other enactment which has effect as such;

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

"Charge" means the statement of offences with which a defendant is charged in a summary trial before a court;

"Chief Judge" means the Chief Judge of the High Court of Imo State;

"Child" means any person who has not attained the age of eighteen years;

"Child Offender" means an offender who has not attained the age of eighteen years;

"Complainant" includes any victim or prosecutor in any case relating to a summary conviction offence;

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

"Court" includes the High Court and Magistrates' Court;

"Constitution" means the Constitution of the Federal Republic of Nigeria;

"Criminal Code" means the Criminal Code Law Chapter 30 Volume II, Laws of Eastern Nigeria, 1963 as amended or as may be amended;

"Defendant" means a person against whom a criminal Charge or complaint is brought before a court;

"District" means a Magisterial District created under the provisions of the Magistrates' Courts Law Cap. 82, as amended;

"Division" means a judicial division created under the provisions of the High Court Law;

"Federal Law" means any Act of the National Assembly or any other enactment which has effect as such;

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

"Fine" includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction;

"Future Law" means any law passed after the commencement of this Law.

"High Court" means the High Court established for the State under the Constitution;

"Indictable Offence" means any offence –

(a) Which on conviction may be punished by a term of imprisonment exceeding two years, or

(b) which on conviction may be punished by imposition of a fine exceeding ten thousand naira; or

(c) which is not declared by the written law creating the offence to be punishable on summary conviction;

"Indicted" means the filing of an information against a person after the preparation of proofs of evidence;

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

"Judge" means a Judge of the High Court;

"Justice of the Peace" means any person appointed under any written law to be a justice of the Peace of Imo State;

"Law" means an enactment of the Legislature of the State or any other enactment which has effect as such an enactment;

"Law Officer" means the Attorney-General of the State and includes such other qualified officers by whatever names designated to whom any of the powers of a law officer is delegated to by law.

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

"Magistrate" means a Chief Magistrate or a Magistrate appointed under the Magistrates' Courts Law;

"Minor" means the same thing as a child;

"Offence" means an offence against any Law or Act including any regulation, order, rule or proclamation made under any Law or Act;

"Officer in Charge of a Police Station" includes the officer in charge of a police station or any officer of any other law enforcement agencies, who acts in the absence of the officer-in-charge;

"Open Court" means any room or place in which any court shall be sitting to hear and determine any matters within its jurisdiction and to which the public may have access;

"Order" includes any conviction in respect of a summary conviction offence;

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

"Police Officer" includes any member of the police force established by the Police Act or any officer of any other law enforcement agencies ;

"Prescribed" means prescribed by rules made under the authority of this Law;

"Registrar" includes the Chief Registrar and a Registrar of the High Court and of a Magistrate's Court;

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

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

"Sheriff" means a sheriff within the meaning of the Sheriffs

and Civil Process Law and includes a deputy sheriff and any person authorized by the sheriff or a deputy sheriff to execute process of court;

"Summary Conviction Offence" means any offence punishable by a High Court or Magistrates' court on summary conviction, and includes any matter in respect of which a High Court or Magistrates' Court can make an order in the exercise of its summary jurisdiction;

"Summary Court" means unless the same is expressly or by necessary implication qualified –

(a) a Judge of the High Court when sitting in court and presiding over a summary trial, and

(b) any Magistrate when sitting in open court to hear and determine any matters within his jurisdiction either under the provisions of this Law or any other written law;

"Summary Trial" means any trial by a Magistrate and a trial by a Judge not on information;

"Superior Police Officer" has the same meaning as in the Police Act and includes any officer of an equivalent rank in other law enforcement agencies;

"The State" means Imo State, and **"a State"** means any other State of the Federation or the Federal Capital Territory;

"Young Person" means a person who has not attained the age of seventeen years.

Application.

3. (1) The general provisions of this Law shall apply to criminal trials and other criminal proceedings in the High Court and Magistrates' Courts except when express provision is made in this Law or in any Law in respect of any particular court or form of trial.

Saving of other forms and procedure

4. (1) Nothing in this Law shall affect the use or validity of any form in respect of a procedure or an offence specified under the provisions of a written law or the validity of any other procedure provided by any other written law.

(2) Nothing in this Law shall affect the validity of any charge, information or proceeding initiated or commenced under any other law in so far as the proceeding was initiated or commenced before this Law came into force.

(3) Where there are no express provisions in this Law, the Court may apply any procedure that will meet the justice of the case.

Construction of provisions relating to punishments

5. The provisions of Chapters 28, 29, 30, and 31 of this Law shall apply subject to the provisions of any written law relating to any specific offence or class of offences and to the jurisdiction conferred on any court or any person presiding over such court.

Inter–State service of process

6. Nothing in this Law shall be construed to restrict the power of a Court in issuing summons for execution outside the State.

CHAPTER 2. – ARREST

Arrest how made .

7.
(a) In making an arrest, the police officer or other person making the arrest shall touch or confine the body of the person to be arrested, unless there is a submission to the custody by word or action.
(b) A suspect shall be arrested, investigated, inquired into, tried and otherwise dealt with according to the provisions of this Law, except where there are specific provisions in the enactment in relation to the manner or place of arrest, inquiry or trial.

Arrest in lieu prohibited.

8. No person shall be arrested in the stead of another.

No unnecessary restraint.

9. A person arrested shall not be handcuffed, otherwise bound or be subjected to unnecessary restraint except-
(a) by order of a court;
(b) there is reasonable apprehension of violence or of an attempt to escape; or
(c) the restraint is considered necessary for the safety of the person arrested.

Notification of reason for arrest and rights of the arrested person

10.
1. Except when the person arrested is in the actual course of the commission of a crime or is pursued immediately after the commission of a crime or escapes from lawful custody, the police officer or other person making the arrest shall inform the person arrested of the reason for the arrest.
2. Any person arrested shall be accorded humane treatment, having regard to his right to the dignity of his person.
3. No arrested person shall be subjected to any form of torture, inhuman and degrading treatment.
4. No person shall be arbitrarily arrested, or arrested on allegation that borders on civil breach of contract, but the arrest shall be based on reasonable suspicion that the person arrested committed or is about to commit a criminal activity punishable as an offence under any law.
5. Any agency, police or persons authorized by any law to make arrest for any offence(s) shall comply with the provisions of this Law in effecting the said arrest.
6. Notwithstanding anything to the contrary in any written law, where a person(s) or officer(s) of any agency violate the provisions of this law in the course of an arrest and investigation, he shall be personally liable to pay compensation to the person or any injured person(s) as may be determined by the court.

Search of arrested person

11. 1. Whenever a person is arrested by a police officer or a private person, the police officer making the arrest or to whom the private person hands over the person arrested may search the person, using such force as may be reasonably necessary for such purpose, and place in safe custody all articles other than necessary wearing apparel found upon him;

Provided that whenever it is necessary to search a person, the search shall be made by a person of the same gender with a sense of decency.

2. Notwithstanding the other provisions of this section, any police officer or other person making an arrest may in any case take from the person arrested any offensive weapons which he has on his person.
3. Where any property has been taken under this section from a person charged before a court of competent jurisdiction with any offence, a report shall be made by the police to such court of the fact of such property having been taken from the person charged and of the particulars of such property, and the court shall, if of the opinion that the property or any portion thereof can be returned in the interests of justice and to the safe custody of the person charged, direct such property or any portion thereof to be returned to the person charged or to such other person as he may direct.
4. Where any property has been taken from a person under this section, and the person is not charged before a court but is released on the ground that there is no sufficient reason to believe that he has committed any offence, any property so taken from him shall be returned to him.
5. Notwithstanding the other provisions of this section, a police officer or any other person making an arrest may in any case take from the person arrested any instruments of violence or poisonous substance, which he has on his person.

Inventory of property of arrested person

12. 1. Upon arrest, a police officer making the arrest or to whom the private person hands over the person arrested, shall immediately record information about the arrested person and an inventory of the particulars of all items or properties recovered from the person arrested.
2. The police officer to whom a private person hands over the person arrested, shall ensure that information about the person arrested and inventory of all property recovered from him are duly recorded.
3. An inventory recorded under subsection (1) of this section shall be duly signed by the police officer, the arrested person, and where applicable, by a private person.
4. The person arrested, his legal representative, or such other person as the person arrested may direct, shall be given a copy of the inventory.
5. Where any property has been taken under this section

from a person charged of an offence before a court of competent jurisdiction, the officer shall upon request by the prosecution make a report to the court of the fact of the property having been taken from the person charged and of the particulars of the property.

6. The court to which a report is made under subsection (4) of this section shall, where it is of the opinion that the property or any portion of it can be returned in the interest of justice and to the safe custody of the person charged, direct the property or any portion of it to be returned to the person charged or to such other person as he may direct; Provided that where the police fail to make such a report to the court, the owner or any person having such interest in the property may apply to the court for its release.
7. Where any property has been taken from a person under this section, and the person is not charged before a court but is released on the ground that there is no sufficient reason to believe that he has committed an offence, any property so taken from him shall be returned to him.

Examination of arrested person

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

Search of place entered by person sought to be arrested

14.

1. Where a person or police officer acting under a warrant of arrest or otherwise having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any place, the person residing in or being in charge of the place shall, on demand by the police officer or person acting for the police officer, allow him free access to the place and afford all reasonable facilities to search the place for the person sought to be arrested.
2. If access to a place cannot be obtained under subsection (1) of this section, the person or police officer may enter the place and search it for the person to be arrested, and in order to effect an entrance into the place, may break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person or otherwise effect entry into such house or place, if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Power to break

15. Any police officer or other person authorized to make an

out of any house for purpose of liberation

arrest may break out of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

Recording of arrest.

16. 1. When a person is arrested, whether with or without a warrant, and taken to a police station or any other agency effecting the arrest, the police officer making the arrest or the officer in charge of the police station or agency shall cause to be taken immediately, in the prescribed form, the following record of the person arrested-

(a) the alleged offence;
(b) the date and circumstances of his arrest;
(c) his full name, occupation and residential address; and
(d) for the purpose of identification-
(i) his physical measurement,
(ii) his photograph,
(iii) his full fingerprint impressions, and
(iv) such other means of his identification, including but not limited to DNA samples.

2. The process of recording in subsection (1) of this section shall be concluded within a reasonable time of the arrest of the person, but not exceeding forty-eight hours.
3. Any further action in respect of the person arrested pursuant to subsection (1) of this section shall be entered in the record.

Arrested person to be taken at once to police station

17. 1. Any person who is arrested, whether with or without a warrant, shall be taken with all reasonable dispatch to a police station or other place for the reception of arrested persons, and shall without delay be informed of the reason for his arrest. Any such person while in custody shall be given reasonable facilities for obtaining legal advice, taking steps to furnish bail, and otherwise making arrangements for his defence or release.

2. Where any person who is arrested with or without a warrant volunteers to make a confessional statement, the police shall ensure that the making and taking of such statement is recorded on video or other retrievable electronic device, and the said recording and copies thereof may be produced at the trial; provided that in the absence of video facility, the said statement shall be made in writing in the presence of a private legal practitioner or any other person of his choice.
3. The legal practitioner or any other person referred to in subsection (2) shall also endorse with his full Particulars an indication of having witnessed the recording thereof.
4. The statement or its endorsement as in subsection (2) shall be made in the presence of the officer in charge of the Human Rights Desk, where available or a superior police officer in the absence of a Human Rights Desks officer.
4. Where a suspect does not understand or speak or write

in the English language, an interpreter of his own choice 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.

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

Central Criminal Record Registry

18.

1. There shall be established at the headquarters of the State Police Command, a Central Criminal Record Registry.
2. It shall be the duty of the Chief Registrar of the Courts in the State to transmit the decision of the courts in all criminal trials to the Central Criminal Record Registry within sixty days of delivery of final judgment.
3. Where there is default by the Chief Registrar to transmit the records referred to in this section within thirty days after judgment, he shall be liable to appropriate disciplinary measures by the Judicial Service Commission.
4. A police officer in charge of a police station, or officers in charge of an agency authorized by law to make arrest and take records as provided in section 16 (1) of this Law shall forward to the Central Criminal Record Registry on the first week of every month all record as described in that section taken at that station or agency in the manner provided for entry into the Registry.
6. The person arrested or his legal representative shall have access to all the information in the Registry with regard to his arrest or information relevant for his defence.
7. Without prejudice to the provisions of section 10(8) of this law, where there is default by an officer in charge of a police station or officer in-charge of an agency authorized to make arrest to comply with the provision of this section, the default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police Regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of the officer or officer of the agency.
8. There shall be established at the State Police headquarters or any appropriate location, a forensic laboratory.

Arrest by police officer without warrant

19.

1. A police officer may, without an order from a Magistrate and without a warrant, arrest a person-
   (a) whom he suspects on reasonable grounds of having committed an offence against a law in Nigeria or against the law of any other State, unless the written law creating the offence provides that the offender cannot be arrested without a warrant;
   (b) who commits any offence in his presence;

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

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

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

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

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

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

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

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

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

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

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

3. Any person, who is unlawfully arrested, shall be entitled to compensation by the particular police officer or officers effecting the arrest.

4. Any compensation awarded under subsection (3) of this section shall be paid by direct deduction from the salary of the particular police officer(s).

Refusal to give name and residence

20. 1. When any person who in the presence of a police officer has committed or has been accused of committing an offence triable summarily refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order

that his name or residence may be ascertained.

2. When the true name and residence of such person have been ascertained he shall be released on his executing recognizance, with or without sureties, to appear before a Magistrate if so required:
   Provided that where such person is not resident in Nigeria, the recognizance shall be secured by a surety or sureties resident in Nigeria.
3. Should the true name and residence of such person not be ascertained within 24 hours from the time of arrest, or should he fail to execute the recognizance, if so required to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.
4. Where such person on being brought before the Court still refuses, the Court may deal with him as it will deal with an uncooperative witness.

Arrest by private persons

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

Arrest by owners of property

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

Arrest of person doing damage to public property

23. A private person may arrest any person found damaging public property.

Handing over of a person arrested by private person

24.

1. A private person who arrests any other person without a warrant shall immediately *hand over the person so arrested to a police officer, or in the absence of a police officer,* shall take the person to the nearest police station, and the police officer shall make a note of the name, residence and other particulars of the private person making the arrest.
2. Where there is reason to believe that the person arrested comes under the provisions of section 19 of this Law, a police officer shall re-arrest him.
3. Where there is reason to believe that he has committed an offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence, which the officer has reason to believe to be false, he shall be dealt with under the provisions of section 20 of this Law.
4. Where a person so arrested by a private person is handed over to a police officer or to an official of an agency authorized by law to make arrests, the police officer or official shall take note of the name, residence and other particulars of the private person making the arrest, and the date, time and other circumstances of the arrest, and where the person arrested is taken to the police station or to the agency, the charge room

officer shall make the entries in the crime diary.

5. The police officer or official to whom the arrested person is handed over by the private person shall obtain from the private person, who made the arrest a formal witness statement setting out the facts and circumstances of the arrest.
6. Where there is sufficient reason to believe that the person handed over has committed an offence he shall immediately be re-arrested but if there is no sufficient reason to believe that he has committed an offence, he shall be released immediately.
7. The provisions of section 16 of this Law do not apply to this section unless the person arrested and handed over has been re-arrested in accordance with sub section 2 of this section.

Offence committed in presence of a Judge or Magistrate

25. When an offence is committed in the presence of a Judge or Magistrate within the State, the Judge or Magistrate may himself arrest or order a person to arrest the offender and may thereupon, subject to the provisions contained in this Law as to bail, commit the offender to custody.

Arrest by a Judge or Magistrate

26.

1. A Judge or Magistrate may arrest or direct the arrest of any person whose arrest upon a warrant he could have lawfully ordered if the facts known to him at the time of making or directing the arrest had been stated before him on oath by some other person.
2. Where a person is arrested in accordance with the provisions of either sections 19, 20, 21, 22 or 23 of this Law, the Judge or Magistrate making or directing the Making of such arrest may deal with the person so arrested in the same manner as if such last named person had been brought before him by or under the directions of any other person.

Arrest for offence committed in the presence of Judge, Magistrate or Justice of the peace

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

Public bound to assist in arrest

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

Pursuit of offender into other jurisdictions

29. A person authorized to effect the arrest of any other person may for the purpose of effecting the arrest pursue him into any part of the State and where the pursuit goes beyond the State, the provisions of the relevant Federal legislation shall apply.

Quarterly report

30.

1. The Commissioner of Police in the State and head of

of arrests to the Attorney-General by Commissioner of Police

every agency authorized by law to make arrest within the State shall remit quarterly, to the Attorney-General the State, a record of all arrests made within the State with or without warrant.

(a) where there is default to comply with the provisions of this section, such default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police Regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of an officer or official of the agency.

2. The report shall contain the full particulars of the persons arrested as prescribed by section 16 of this Law.
3. A Register of arrests containing the particulars prescribed in section 16 of this Law shall be kept in the prescribed form at every police station or agency authorized by law to make arrests, and every arrest, whether made with or without warrant, within the local limits of the police station or agency, or within the State , shall be entered accordingly by the officer in charge of the police station or officer in charge of the agency as soon as the arrested person is brought to the station or the agency.
4. The Attorney-General shall establish an electronic and manual database of all records of arrested persons in the State.

Release on bail of a person arrested without warrant

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

2. The officer in charge of a police station shall release the person arrested on bail on his entering into a recognizance with or without sureties for a reasonable amount of money to appear before the court or at the police station at the time and place named in the recognizance.
3. Where a person is taken into custody and it appears to the police officer in charge of the station that the offence is of a capital nature, the person arrested shall be detained in custody, and the police officer shall within forty eight (48) hours of such arrest refer the matter to the office of the Attorney-General for legal advice and where the advice is to prosecute, cause the person arrested to be taken before a court having jurisdiction with respect to the offence within a reasonable time.

Power to release on bail before charge is accepted

32. 1. Where a person is taken into custody, and it appears to the officer that the inquiry into the case cannot be completed forthwith, he may discharge the person on his entering into a recognizance, with or without sureties

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

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

Remedy of person detained in custody

33. 1. Where a person taken into custody in respect of a non-capital offence is not released on bail after forty eight hours, a court having jurisdiction with respect to the offence may be notified by application on behalf of the arrested person.

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

3. An application for bail may be made orally or in writing.

Police to report to supervising Magistrates

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

2. The report shall contain the particulars of the persons arrested as prescribed in section 16 of this Law.

3. The Magistrate shall on receipt of the reports, forward them to the Imo State Justice Sector Reform Team established under Section 525 of this Law, which shall analyze the reports and advice the Attorney-General as to the trends of arrests, bail and related matters.

4. The Attorney-General upon request by the National Human Rights Commission, the Legal Aid Council, Citizens Rights and Mediation Center or any registered Non-Governmental Organizations, may make the report available to them.

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

Chief Magistrate to visit police stations every month

35 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.

2. During a visit, the Magistrate may -

(a) call for, and inspect the Register of arrests;

(b) direct the arraignment of any suspect; or
(c) where bail has been refused, grant bail to any suspect, where appropriate and if the offence for which the suspect is held is within the jurisdiction of the Magistrate.

3. An officer in charge of a police station or officer in charge of an agency authorized to make arrest shall make available to the visiting Chief Magistrate or designated Magistrate exercising his powers under subsection (1) of this section-
   (a) the full record of arrest and record of bail;
   (b) applications and decisions on bail made within the period; and
   (c) any other facilities the Magistrate requires to exercise his powers under that subsection.
4. Where there is default by an officer in charge of a police station or official in-charge of an agency authorized to make arrest to comply with the provisions of subsection (3) of this section, the default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police Regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of the officer or official of the agency.

CHAPTER 3 - WARRANTS

PART A - WARRANT OF ARREST

General authority to issue warrant

36. Where under any written law, whether passed before or after the commencement of this Law, there is power to arrest a person without warrant, a warrant for his arrest may be issued.

Form and content of warrant of arrest

37. 1. Every warrant of arrest issued under this Law or, unless the contrary is expressly provided, under any other written law shall-
   (a) bear the date of the day of issue;
   (b) contain all necessary particulars; and
   (c) be signed by the court by whom it is issued.
2. Every such warrant shall state concisely the offence or m atter for which it is issued and shall name or otherwise describe the person to be arrested, and it shall order the police officer or officers to whom it is directed to apprehend such person and bring him before the court to answer the complaint or statement, or to testify or otherwise according to the circumstances of the case, and to be further dealt with according to law.

Warrant issued on complaint to be in writing on oath

38. No warrant of arrest shall be issued in the first instance in respect of any complaint or statement unless such complaint or statement is on oath either by the complainant himself or by a material witness.

Warrant may be issued on any

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

day

Warrant to whom directed and duration

40.

1. A warrant of arrest may be directed to a police officer by name or to all police officers and any other law enforcement agent or agency.
2. It shall not be necessary to endorse on the warrant any particular time when the officer to whom it is directed shall report back to the Judge or Magistrate who issued it and a warrant shall remain in force until it is executed or until it is cancelled by a Judge or Magistrate, as the case may be.
3. Where a warrant has been executed and the person arrested has been released, the warrant shall no more be valid for re-arresting the person.

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

41

1. Any court issuing a warrant of arrest may, if its immediate execution is necessary and no police officer is immediately available, direct it to some other person or persons and such person or persons shall execute the same.
2. Any such person, when executing a warrant of arrest directed to him, shall have all the powers, rights, privileges and protection given to or afforded by law to a police officer executing a warrant of arrest and shall conform with the requirement placed by law on such a police officer.

Procedure for execution of warrants

42.

1. Every warrant of arrest may be executed on any day including a Sunday or public holiday.
2. Every such warrant may be executed by any police officer at any time and in any place in the State other than within the actual court premises in which a court is sitting.
3. The person executing any such warrant shall, before making the arrest, inform the person to be arrested that there is a warrant for his arrest unless there is reasonable cause for abstaining from giving such information on the ground that it is likely to occasion escape, resistance or rescue.
4. Every person arrested on any such warrant shall, subject to the provisions of sections 44 and 45 be brought before the court which issued the warrant within 24 hours after he is so arrested.

Power to arrest on warrant but without the warrant

43. A warrant of arrest may be executed notwithstanding that it is not in the possession the person executing the warrant at the time of execution, but the warrant shall, on the demand of the person arrested, be shown to him within 24 hours after his arrest.

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

44.

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

as may be required in the endorsement.

2. The endorsement shall specify –
   (a) the number of sureties, if any;
   (b) the amount in which they and the person named in the warrant are respectively to be bound;
   (c) the court before which the person arrested is to attend; and
   (d) the time at which he is to attend, including an undertaking to appear at a subsequent time as may be directed by any court before which he may appear.
3. Where such an endorsement is made, the officer in charge of any police station or any other agency to which on arrest the person named in the warrant is brought, shall discharge him upon his entering into a recognizance, with or without sureties approved by that officer, in accordance with the endorsement, conditioned for his appearance before the court and at the time and place named in the recognizance.
4. Where security is taken under this section, the officer who takes the recognizance shall cause it to be forwarded to the court before which the person named in the recognizance is bound to appear.
5. The provisions of subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside the State.

Procedure on arrest of persons outside Division or District of Court issuing warrant

45. 1. Where a warrant of arrest is executed outside the division or district of the court by which it was issued, the person arrested shall, unless security is endorsed as provided under section 44 and such security as to bail of the person is taken, be taken before the court within the division or district in which the arrest was made.
2. The court shall if the person arrested, on such inquiry as the court considers necessary, appears to be the person intended to be arrested by the court which issued the warrant, direct his removal in custody to that court, but if the person has been arrested in respect of any matter other than an offence punishable with death and:
   (a) is ready and willing to give bail to the satisfaction of the court within the division or district of which he was arrested; or
   (b) if a direction had been endorsed under section 44 of this Law on the warrant and the person is ready and willing to give the security required by the direction, the court shall take bail or security, as the case may be, and shall forward the recognizance, if such be entered into, to the court, which issued the warrant.
3. Nothing in this section is deemed to prevent a police officer or officers of any other agency from taking security under section 31 of this Law.

Re-arrest of person escaping.

46. If a person in lawful custody escapes or is rescued, the person from whose custody he escapes or is rescued or any other person may pursue and arrest him.

Provisions of sections 14 and 15 to apply to arrest under section 46

47. The provisions of sections 14 and 15 of this Law shall apply to arrest under the last section, although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

Assistance to Judge, Magistrate or police officer

48. Every person is bound to assist a Judge, Magistrate, police officer or any other person reasonably demanding his assistance in the –

(a) arrest or prevention of escape of any other person whom the Judge, Magistrate, police officer or such other person is authorized to arrest; and

(b) prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed on any person or any property.

Arrest on breach of recognizance for appearance

49. Where any person who is bound by any recognizance entered into under this Law to appear before the court does not so appear, the officer presiding in such court may issue a warrant directing that such person be arrested and brought before him.

Public summons for person absconding

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

Publication of public summons

51. 1. A public summons shall be published as follows-

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

(b) By affixing it to some conspicuous part of the house or premises or to some conspicuous place in the town or village, in which the person ordinarily resides;

(c) By affixing a copy to some conspicuous part of the High Court or Magistrates' court building; and

(d) By affixing a copy of same to some conspicuous part of a place of worship.

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

PART B- SEARCH WARRANTS - ISSUE AND EXECUTION

Cases in which search warrants may be issued and application for search warrant

52. 1. Where a court or justice of the peace is satisfied by information upon oath and in writing that there is reasonable ground for believing that there is in the State in any building, carriage, receptacle, motor vehicle, aircraft or place –

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

(b) anything which there is reasonable ground for believing will afford evidence as to the commission of any offence; or

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing any offence, the court or justice of the peace may at any time issue a warrant, called a search warrant, authorizing an officer of the court, member of the police force, or other person therein named –

(i) to search such building, ship, carriage, receptacle, motor vehicle, aircraft or place for any such thing, and to seize and carry such thing before the court or justice of the peace issuing the search warrant or some other court to be dealt with according to law, and

(ii) to arrest the occupier of the house or place where the thing was found if the Magistrate thinks fit so to direct on the warrant.

2. In this section and section 53, "offence" includes an offence against a law of any other State of Nigeria, which would be punishable in the State if it had been committed therein.

Discharge of suspected persons

53. 1. Where the occupier of any building or the person in whose possession anything named in a search warrant is found, is brought before a court and complaint is not made that he has committed an offence, he shall forthwith be discharged by such court.

2. Every search warrant shall be under the hand of the court or justice of the peace issuing the same.

Search warrant to be signed by the court or justice of the peace duration

54. Every search warrant shall remain in force until it is executed or until it is cancelled by the court or justice of the peace that issued it.

Search warrant to whom directed

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

Time when search warrant may be issued and executed

56.

1. A search warrant may be issued and executed on any day including a Sunday or public holiday. It shall be executed between the hours of five o'clock in the fore noon and eight o'clock at night but the court or justice of the peace may, in its/his discretion, authorize by the warrant the execution of the warrant at any hour.
2. Where a court or justice of the peace authorizes the execution of a search warrant at any hour other than between the hours of five o'clock in the forenoon and eight o'clock at night such authorization may be contained in the warrant at the time of issue or may be endorsed thereon by any court or justice of the peace at any time thereafter prior to its execution

Person in Charge of closed place to allow access

57.

1. Whenever any building or other thing or place liable to search is closed, a person residing in or being in charge of the building, thing or place shall, on demand of the police officer or other person executing the search warrant, allow him free and unhindered access to it and afford all reasonable facilities for its search.
2. If access into such building, thing or place cannot be so obtained the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 14 and 15 of this Law.
3. Where a suspect in or about a building is reasonably suspected of concealing on his person any article, the suspect may be searched by an officer of the same sex and may be taken to a police station for that purpose.
4. A search under this part shall, unless the court or Justice of the Peace owing to the nature of the case otherwise directs, be made in the presence of two witnesses and the person to whom the search warrant is addressed may also provide a witness within the neighbourhood.
5. A list of all things found on his person and seized shall be drawn up by the person carrying out the search and shall be signed or sealed by the person to whom the search warrant is addressed, the person executing the search warrant and the witnesses, and a witnessed copy of the list shall be delivered to the person searched.

Execution of search warrant within the State

58.

1. A search warrant once issued shall operate within the State.

Magistrate may direct search in his presence

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

Detention of articles recovered

59. 1. Subject to section 52 of this Law, when upon the execution of a search warrant anything is recovered, it shall be brought before a court having jurisdiction and the court may detain or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the trial and if an information is preferred against any person after the preparation of the proofs of evidence, or if any appeal is made, the court may order it to be further detained in such manner and place and by such person as the court may direct for the purpose of the trial or pending the hearing of the appeal.

2. If no information is preferred against any person after preparation of proofs of evidence or no appeal is made, the court shall, except in the cases hereinafter mentioned, unless it is authorized or required by law to dispose of it, otherwise direct that –

(a) the property or a part thereof be restored to the person who appears to the court to be entitled thereto, and if he be the person charged, that it be restored, either to him or to such other person as the person charged may direct; or

(b) the property or a part thereof be applied to the payment of any costs or compensation directed to be paid by the person charged.

Perishable articles may be disposed of by court

60. Where anything recovered under a search warrant and brought before a court is of a perishable or noxious nature, such thing may be disposed of forthwith in such manner as the court may direct.

Search for and disposal of gunpowder, etc.

61. If the thing to be searched for under a search warrant is gunpowder, arms, ammunition, explosives or dangerous or noxious substance or thing, the person making the search shall have the powers and protection as are given by any written law for the time being in force to any person lawfully authorized to search for any such thing, and the thing itself shall be disposed of in the same manner as directed by any such written law, or, in default of such direction, as the court may direct or where it is impracticable to access the court, the Commissioner of Police may direct.

Destruction and disposal of forged banknote and coin

62. If, in consequence of the execution of a search warrant, there is brought before any court any forged banknote, banknote paper, counterfeit coin, instrument, or other thing, used for forgery or counterfeiting, the possession of which, in the absence of lawful excuse, is an indictable offence according to any enactment for the time being in force, the court may cause such thing to be defaced or destroyed.

Transmission to court of another State

63. Where a search warrant is issued in respect of an offence against the law of any other State of Nigeria and a summons has been issued for that offence, or any person has been

charged with that offence before a court of that State, the court issuing the search warrant may unless it has disposed of the thing in accordance with section 61, transmit anything recovered and brought before it to that court and in relation to anything so transmitted the functions conferred upon a court by sections 60, 61 and 63 of this Law shall be exercised and performed by that court instead of the court that issued the search warrant.

CHAPTER 4 – PREVENTION OF OFFENCES

Police to prevent offences and prevent damage to public property

64. 1. Every police officer may intervene for the purpose of preventing, and shall to the best of his ability prevent, the commission of any offence.

2. A police officer may of his own authority intervene to prevent any damage attempted to be committed in his view to any public property, movable or immovable, or the removal of or any damage to any public landmark or buoy or other mark used for navigation.

Information of a plan to commit an offence

65. Every police officer receiving information of a plan to commit any offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to prevent commission of an offence

66. Notwithstanding the provisions of this or any other written law relating to arrest, a police officer on reasonable suspicion of a plan to commit any offence may arrest, without orders from the court and without a warrant, the person so planning, if it appears to such officer that the commission of the offence cannot otherwise be prevented.

Power to make regulations

67. The Commissioner of Police or Controller of Prisons may make regulations for all or any of the following purposes –

(a) providing for the registration and photographing of suspects and persons detained by the police or in custody awaiting trial, and the manner, form, and places in which registers of suspects and such other persons shall be kept;

(b) prescribing the duties of officers of police or officers in charge of prisons in connection with the registration and photographing of convicts, suspects and persons detained or in custody awaiting trial;

(c) providing for the taking by any authorized person of the fingerprints of convicts, suspects and persons charged with or being suspected of having committed any felony, misdemeanour, or any other offence punishable by imprisonment for one month or more and for the taking of the fingerprints for comparison, of any person reasonably suspected of having made a

finger impression on any document or object likely to become an exhibit in a criminal case;

(d) generally, for the purpose of giving effect to the objects and purposes of this Law.

Power of Magistrate to Require execution of recognizance for keeping the peace

68. Whenever a Magistrate is informed on oath that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, the Magistrate may in the manner hereinafter provided, require such person to show cause why he should not be ordered to enter into a recognizance, with or without sureties, for keeping the peace for such period not exceeding one year, as the Magistrate thinks fit. Proceedings shall not be taken under this Section unless –

(a) the person informed against is in the State; and

(b) such person is within the district to which the Magistrate is assigned or the place where the breach of the peace or disturbance is likely to occur is within the district to which the Magistrate is assigned.

Security for good behavior for suspected persons

69. Whenever a Magistrate is informed on oath that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, such Magistrate may in the manner hereinafter provided, require such person to show cause why he should not be ordered to enter into a recognizance with sureties, for his good behaviour for such period not exceeding one year, as the Magistrate thinks fit.

Security for good behaviour for habitual offenders

70. Whenever a Magistrate is informed on oath that any person within the local limits of his jurisdiction –

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

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

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

(d) habitually commits or attempts to commit, or aids or abets in the commission of any offence punishable under Chapter 33, 34, 35 or 40 of the Criminal Code; or

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

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

Order to be made

71. When a Magistrate acting under sections 68, 69 or 70 of this Law deems it necessary to require any person to show

cause under such section, he shall make an order in writing s etting forth –

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

Procedure in respect of person present in court

72. Where the person in respect of whom such order is made is present in court, it shall be read over to him in the language he understands, or if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present

73. Where such person is not present in court, the Magistrate shall issue a summons requiring him to appear, or when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the court:

Provided that whenever it appears to such Magistrate, Upon the report of a police officer or upon other information, the substance of which report or information shall be recorded by the Magistrate, that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

Copy of order under section 71 to accompany summons or warrant

74. Every summons or warrant issued under the last preceding section shall be accompanied by a copy of the order under section 71 of this Law and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

Power to dispense with personal attendance

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

Inquiry as to truth of information

76.

1. When an order under section 71 has been read or explained under section 72 to a person in court or when any person appears or is brought before a Magistrate in compliance with or in execution of a summons or warrant issued under section 73, the Magistrate shall proceed to inquire into the truth of the information on which the action was taken, and to take such further evidence as may appear necessary.
2. Such inquiry shall be made, as nearly as may be practicable, in the manner hereinafter prescribed for conducting trials and recording evidence in trials before Magistrates' Courts.
3. Pending the completion of the inquiry under subsection (1), the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach

of the peace or disturbance of the public tranquility or the commission of any offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 71 was made to enter into recognizance, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such recognizance is entered into or, in default of execution, until the inquiry is concluded:

Provided that –

(a) no person against whom proceedings are being taken under section 68 shall be directed to enter into a recognizance for maintaining good behaviour; and

(b) the conditions of such recognizance, whether as to the amount thereof or as to the provisions of sureties or the number thereof or the pecuniary extent of their liability shall not be onerous than those specified in the order under section 71; and

(c) no person shall be remanded in custody under the powers conferred by this section for a period exceeding fifteen days at a time.

4. For the purposes of this section the fact that a person comes within the provisions of section 70 may be proved by evidence.

5. Where two or more persons have been associated together in the matter under inquiry, they may be dealt with.

Order to give security

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

Provided that:–

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 71;

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

(c) when the person in respect of whom the inquiry is made is a minor, the recognizance shall be entered into as provided in section 95.

1. Any person ordered to give security for good behaviour under this section may appeal to the High Court.

Discharge of person informed against

78. If on an inquiry under section 76 of this Law, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should

enter into a recognizance, the Magistrate shall make an entry on record to that effect, and, if such person is in custody only for the purpose of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

Commencement of period for which security is required

79. Where any person in respect of whom an order requiring security is made under section 77 of this Law, is at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

In other cases such period shall commence on the date of such order or such later date as the Magistrate may direct.

Conditions of recognizance

80. The recognizance to be entered into by such person shall bind him to keep the peace or be of good behavior. In the later case, the commission, the attempt to commit, the aiding, abetting, counseling or procuring the commission of any offence during the continuance of the recognizance, shall be a breach of the recognizance.

Power to reject sureties

81. A Magistrate may refuse to accept any surety offered under any of the preceding sections on the ground that such surety is an unfit person.

Procedure on failure of person to give security

82.

1. If any person ordered to give security as aforesaid does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case mentioned in subsection (2) of this section, be committed to prison. Where he is already in prison, he shall be detained in prison until such period expires or until such period he gives the security to the court which made the order requiring it.
2. When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the High Court, and the proceedings shall, as soon as possible, be laid before such court.
3. The High Court, after examining such proceedings and requiring from the Magistrate any further information or evidence which it thinks necessary, may make such order in the case as it thinks fit.
4. The period, if any, for which any person is imprisoned for failure to give security in any specified amount shall not exceed the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 415 of this Law.

3. If the security is tendered to the officer in charge of the prison, he shall forthwith refer the matter to the court or Magistrate who made the order and shall await the order of such court or Magistrate.

Power of the High Court to release persons imprisoned for failure to give security

83. Sequel to section 82 above, a person imprisoned or affected by the order may apply to the High Court in that jurisdiction for a variation of the order. The High Court if satisfied that the person no longer constitutes a hazard to the community may make any order it deems fit, including an order of discharge.

Power of High Court to cancel recognizance

84. The High Court may also at any time, for sufficient reasons shown, cancel any recognizance for keeping the peace or for good behaviour executed under any of the preceding sections.

Discharge of sureties

85.

1. Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a Magistrate to discharge any recognizance executed under any of the preceding sections within the district to which the Magistrate is assigned.
2. On such application being made, the Magistrate shall if satisfied that there is good reason for the application issue a summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.
3. When such person appears or is brought before the Magistrate, such Magistrate after hearing such person may discharge the recognizance and in such event order such person to give, for the unexpired portion of the term of such recognizance, fresh security of the same description as the original security. Every such order shall for the purposes of Sections 79, 80, 81 and 82 be deemed to be an order under section 71 of this Law.

CHAPTER 5 – BAIL AND RECOGNIZANCES

Release on bail of a person arrested without warrant

86

(1) When any person has been taken into custody without a warrant for an offence other than an offence punishable with death, any officer in charge of a police station or other agency may in any case, and shall, where it will not be practicable to bring such person before a Magistrate having jurisdiction with respect to the offence charged within twenty-four hours after he was so taken into custody, inquire into the case, where the offence appears to such officer to be of a serious nature, discharge the person upon his entering into a recognizance with or without sureties for a reasonable amount to appear before a court at the time and place named in the recognizance. Where such person is retained in custody he shall be brought before a court having jurisdiction with respect to the offence or empowered to deal with such person within

24 hours whether or not the police inquiries are completed

2. The officer in charge of a police station or any other agency may release the person arrested on bail upon his entering into a recognizance with or without surety to appear before the court or at the police station or agency at the time and place named in the recognizance.
3. Where the defendant fails to appear to take his trial, the surety shall be liable to pay the sum as stated in the bail bond except good cause is shown to the contrary.
4. Where a person is taken into custody and it appears to the police officer in charge of the station that the offence is of a capital nature, the police officer shall bring the person arrested before a court having jurisdiction with respect to the offence or empowered to deal with such person within a reasonable time.

Remedy of a detained person and power of court to release him on bail

87. 1. Where a person taken into custody is not released on bail, a court having jurisdiction with respect to the offence may be notified by an application on behalf of the arrested person.

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

Classification of bail

88. Notwithstanding any other provision of this law-

(a) In any offences punishable with death, bail may be granted only by the High Court.
(b) In offences punishable with life imprisonment, bail may be granted only by a Chief Magistrate and or a High Court.
(c) In other felonies punishable with other terms of imprisonment, misdemeanor or simple offences, bail may be granted by a Magistrates' or High Court.
(d) Each court shall create and maintain a bail register showing details of the defendant, offence charged, the conditions of bail, names, addresses and particulars of sureties (if any) and any other relevant information.
(e) There shall be created a divisional Bail Register at all judicial divisions which should be located at the office of the Registrar of the High Court in charge of the judicial division.
(f) There shall be created a central bail register at the State Judiciary headquarters in the office of the director of litigation.
(g) Where a High court has granted bail to a defendant, the same court or any other High Court shall try the substantive matter, provided that where the bail was granted by a vacation Judge, the matter can be assigned

to any other court.

Discharge of person for want of evidence

89. Where any person has been taken into custody without a warrant, for an offence other than an offence punishable with death, the officer in charge of the police station or other place for the reception of arrested persons to which such person is brought, if after the inquiry is completed, is satisfied that there is no sufficient reason to believe that the person has committed any offence, shall forthwith release such person.

Police to report arrest and detention

90. Officers in charge of police stations shall make quarterly report to the nearest Magistrate of the cases of all persons arrested without warrant within the limits of their respective stations whether such persons have been admitted to bail or not. The Magistrate shall notify the Chief Registrar of the High Court of such report who shall forward the same to the Chief Judge for necessary actions.

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

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

2. The endorsement shall specify –

(a) the number of sureties, if any;

(b) the amount in which they and the person named in the warrant are respectively to be bound;

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

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

3. Where such an endorsement is made, the officer in charge of any police station to which on arrest the person named in the warrant is brought, shall release him on bail upon his entering into a recognizance, with or without sureties approved by that officer, in accordance with the endorsement stipulating the condition for his appearance before the court and at the time and place named in the recognizance.

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

When bail may be granted by High Court only

92. (1) A person charged with any offence punishable with death shall not be admitted to bail, except by a Judge of the High Court.

When discretionary

(2) Where a person is charged with any felony other than a felony punishable with death, the court may, if it thinks fit, admit him to bail.

When to be ordinarily granted

(3) When a person is charged with any offence other than those referred to in the two last preceding subsections, the court shall admit him to bail, unless it sees good reason to the contrary.

Bail in respect of matters other than offences

93. Where any person is brought before a court on any process in respect of any matter not included within section 92, such person may in the discretion of the court be released upon his entering into a recognizance stipulating the condition for his appearance before such court.

Security for bail

94. The security for bail in any case shall be at the discretion of the court having regard to the circumstances of the case.

Recognizance in respect of minors

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

Sureties

96.

1. A defendant admitted to bail may be required to produce surety or sureties as will be sufficient to ensure his appearance in court.
2. The court shall impose conditions it deems necessary to ensure that the identity, residence and status of the surety is properly verified.
3. No person shall be denied or prevented from entering into any recognizance or standing as a surety or providing any security on the ground of gender.
4. The recognizance shall lapse with the death of the surety and the defendant shall be required to provide another surety, failing which the bail shall be revoked

Admission to bail after its refusal

97. A Judge of the High Court may, if he thinks fit, admit any person charged before a lower court subject to the jurisdiction of the High Court, to bail although the court before which the charge is made has not thought fit to do so.

Notice of right to apply for bail

98. An application by or on behalf of a defendant to a Judge of the High Court for bail, in any case where a lower court has refused bail to the defendant or where the offence is not bailable by a lower court, shall be made by a motion on notice.

Judge may vary bail fixed by Magistrate or police

99. Notwithstanding the provisions of sections 87 and 88, a Judge of the High Court may in any case direct that any person in custody be admitted to bail or that the bail required by a Magistrates' court or police officer be reviewed.

Before whom recognizance may be executed

100. When in respect of any recognizance the court has fixed the amount in which the sureties, if any, are to be bound, the recognizance shall be entered before the said court; Provided the said recognizance once entered shall be served on the detaining authority.

Mode of entering into recognizance

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

Conditional bail

102. Where a person is released on bail, the recognizance may be conditioned for his appearance at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned, without prejudice, however, to the power of the court to vary the order at any subsequent hearing.

Discharge from custody

103.

1. Where the entry of a recognizance is a condition of the release of any person, that person shall be released as soon as the recognizance has been entered into and if he is in prison or police custody, the court shall issue an order of release to the officer in charge of the prison or other place of detention and such officer on receipt of the order shall release him.
2. Nothing in this section or in any other section relating to bail shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the recognizance was entered into or to which the bail relates.

Person bound by recognizance absconding may be committed to prison

104. Where the court is satisfied by information on oath by a complainant, surety or other person that any person bound by recognizance to appear before any court or police officer is, for the purpose of evading justice, about to leave the jurisdiction 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 deems it fit to admit him to bail upon further recognizance.

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

105. Where a defendant has been admitted to bail and circumstances arise which, if the defendant had not been admitted to bail would, in the opinion of a prosecution, justify the court in refusing bail or in requiring bail of greater amount, the court, may on the circumstances being brought to his notice by the prosecution , issue a warrant for the re-arrest of the defendant and, after giving the defendant an opportunity of being heard may either commit him to prison to await trial or admit him to bail for the same or an increased amount as the court may think just.

Power to revoke or require higher bail

106. 1. When a defendant who has been admitted to bail by a Magistrate is indicted by a law officer for an offence which is not bailable by a Magistrate, the Magistrate shall, on being informed of the fact by any superior police officer, issue a warrant for the arrest of the defendant and commit him to prison.

2. For the purposes of this section, a person shall be deemed to be indicted when the information against him has been filed in the High Court.

Variation of a recognizance if surety unsuitable

107. If at any time after a recognizance has been entered into, it appears to the court that for any reason the surety or sureties are unsuitable, such court may issue a summons or warrant for the appearance of the principal, and upon his coming to the court may order him to execute a fresh recognizance with other surety or sureties, as the case may be.

Discharge of sureties on the appearance of another

108. 1. All or any of the sureties to a recognizance may at any time apply to the court which caused the recognizance to be taken to discharge the bond either wholly or so far as relates to the applicant; provided that the order for the discharge of the applicant shall not be made unless the defendant is present in the court.

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

Order of fresh security upon original order

109. When a surety to a recognizance becomes insane, insolvent or dies or otherwise becomes legally incapacitated or when a recognizance is forfeited, the court may order the person from whom the recognizance was demanded to furnish fresh security in accordance with the directions of the original order and, if the security is not furnished, the court may proceed as if there had been default in complying with the original order.

Death of surety

110. (1) Where a surety to a recognizance dies before the recognizance is forfeited, his estate shall be discharged from all liability in respect of the recognizance.

(2) Where a surety to a recognizance dies, the court shall issue a warrant of arrest of the defendant and upon his appearance in court shall impose fresh condition of bail.

Forfeiture of recognizance

111. 1. Whenever it is proved to the satisfaction of the court by which a recognizance has been taken or, when the recognizance bond is for appearance before a court and it is proved to the satisfaction of the court, that a recognizance ought to be forfeited, the court shall record the grounds of proof and shall call on the person bound

by the bond to pay the penalty thereof or to show cause why it should not be paid.

2. If sufficient cause is not shown or if the penalty is not paid, the court may proceed to recover the penalty from the person bound, or from his estate if he is dead, in the manner laid down in this Law for the recovery of fines.
3. A surety's estate shall only be liable under this section if the surety dies after the recognizance is forfeited.
4. When the penalty is not paid and cannot be recovered in manner provided in this Law, the person bound shall be liable to imprisonment for a term not exceeding six months.
5. The court may at its discretion remit any portion of the penalty and enforce payment in part only.

Mitigation of forfeiture

112. The court may at any time cancel or mitigate the forfeiture, upon the person liable under the recognizance applying and giving security, to the satisfaction of the court, for the future performance of the condition of the recognizance, and paying or giving security for the payment of the costs incurred in respect of the forfeiture or upon such other conditions as the court may think just.

Forfeiture on conviction

113. Where a recognizance to keep the peace and to be of good behavior or not to do or commit some act or thing, has been entered into by a person as principal or as surety before a court, the court, on proof that the person bound by the recognizance as principal has been convicted of an offence may by order, adjudge the recognizance to be forfeited and the persons bound by it, whether as principal or as sureties or any of those persons, to pay the sums for which they are respectively bound.

Evidence of conviction

114. A certified true copy of the judgment of the court by which such person was convicted of such offence shall be used as evidence in proceedings under section 113 and, if such certified copy is used, the court shall presume such offence was committed by such person until the contrary is proved.

Where Recognizance forfeited warrant may issue

115. Where a defendant who is bound by recognizance or a bond to appear before a court fails to appear, the court may issue a warrant for his arrest.

Payment on recognizance

116. All sums paid or recovered in respect of a recognizance declared or adjudged by a court in pursuance of section111 o f this Law to be forfeited shall be paid to the Chief Registrar of the court.

Appeal

117. Any order for forfeiture made under sections 111 or 113 shall be subject to appeal, in the case of Magistrate's order to the High Court and in the case of a judge's order to the Court of Appeal.

Registration of

118. 1. The Chief Judge may make a regulation for the

bondsperson

registration and licensing of corporate bodies or persons to act as bondsperson within the jurisdiction of the court in which they are registered.

2. A person shall not engage in the business of bail bond services without being duly registered and licensed in accordance with the subsection (1) of this section.
3. A person who engages in bail bond services without registration and license or in contravention of the regulation or terms of his license is liable to a fine of five hundred thousand naira or imprisonment for a term not exceeding twelve months or to both fine and imprisonment.
4. On conviction under this section, the court shall forward a report to the Chief Judge, and in instances of gross violation of the terms of the license the Chief Judge shall revoke the license.
5. A bonds person registered under subsection (1) of this section may undertake recognizance, act as surety, or guarantee the deposit of money as required by the bail condition of a person granted bail by the court within the division or district in which the bondsman is registered.
6. A person or organization shall not be registered as a bondsperson unless the person is, or the organization is composed of persons of unquestionable character and integrity and deposits with the Chief Judge sufficient bank guarantee in such amount as may be determined by the Chief Judge in the regulation, having regard to the registered class or limit of the bondsman's recognizance;
7. A registered bondsperson shall maintain with a bank or insurance company designated in his license, such fully paid deposit to the limit of the amount of bond or recognizance to which his license permits him to undertake.
8. The Chief Judge shall cause to be withdrawn the license of a bondsperson in the following circumstance-
   (a) where he contravenes the terms of his license;
   (b) where he unreasonably forfeits his bond for non-production of a defendant under his recognizance;
   (b) where he becomes insolvent, bankrupt or otherwise legally incapacitated; or
   (d) if he is convicted for an offence involving fraud or dishonesty.

Bondsperson may arrest absconding defendant or suspect

119. A bondsperson may arrest a defendant or suspect who is absconding or who he believes is trying to evade or avoid appearance in court and shall-

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

(b) the person arrested shall be taken to the appropriate court within forty eight hours.

CHAPTER 6 - ENFORCING APPEARANCE IN COURT OF DEFENDANT AND WITNESSES

General

120. Every court has authority to cause to be brought before it any

authority to bring persons before courts

person who is within the jurisdiction and is charged with an offence committed within the State, or which according to law may be dealt with as if such offence had been committed within the jurisdiction and to deal with such person according to law.

Compelling appearance of a defendant

121. A court may issue a summons or warrant to compel the appearance before it of any defendant for having committed in any place, whether within or outside Nigeria, any offence triable in the State.

Issue of summons and contents thereof

122. Where a complaint is made before a court as provided under this Law and the Magistrate decides to issue summons in the first instance, such Magistrate shall issue a summons directed to the person complained against, stating concisely the substance of such complaint and requiring him to appear at a certain time and place being not less than 48 hours after the service of such summons before the court to answer to the said complaint and to be further dealt with according to law.

Hearing by consent before return date of summons

123. The court may hear and determine a complaint notwithstanding that the time within which the defendant was required to appear may not have elapsed.

Discretion in ex-parte application

124. An application for summons under this Chapter may be made ex-parte and the court may make such orders as to notices as he deems fit in the circumstances.

Summons to be in duplicate

125. Every summons issued by a court under this Law shall be in writing, in duplicate, signed by the presiding officer of such court.

Service on any day

126. A summons may be served on any day including a Sunday or public holiday.

Service of summons

127. Every summons shall be served by a police officer or by an officer of the court issuing it or other public servant or through a courier service company duly registered with the office of the Chief Judge as a process serving agent of the court.

Normal methods of effecting service and the use of electronic mail

128. 1. The person effecting service of a summons shall effect it by delivering it –

(a) if on an individual, to him personally; or

(b) if on a firm or corporation:

(i) to one of the partners, or

(ii) to a director, or

(iii) to the secretary,

(iv) to the chief agent within the jurisdiction, or

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

(i) to anyone having, at the time of service, control of the business of the firm or corporation; or

(c) if on a local government council then in accordance with the provisions of the Local Government Law, relating to service of court processes; or

(d) if on the Nigeria Police Force or any police officer, to the office of the Commissioner of Police of the State;

(e) if on any other law enforcement agency or agent, in the office of the head of the agency within the state.

2. The Chief Judge may make regulations or Practice Directions on the use of electronic mails in service of summons or other processes under this Law.

129. If service in the manner provided by paragraph (a) of section 128 cannot be conveniently and safely effected, the court may order that service be effected either –

(a) by affixing one of the duplicates of the summons to a conspicuous place in the premises where the person to be served ordinarily resides; or

(b) where the court is satisfied that the person to be served is literate by publication of the summons in the State Official Gazette or any other mode the court deems fit and convenient or in a newspaper circulating within the jurisdiction of the court from which the summons issued;

Provided that before the court makes the order, the court shall also be satisfied that the person to be served ordinarily resides within the State and provided further that the court shall not make an order for substituted service of a summon unless it is satisfied that personal service cannot be conveniently and safely effected.

Service on Government servant

130. Where the person summoned is in service of Government, the court issuing the summons may send it in duplicate to the Director, Head of the Department in which the person is employed for the purpose of being served on such person, if it shall appear to the court that it may be most conveniently so served, and such Director or Head of Department or other staff acting on his behalf shall thereupon cause the summons to be served in the manner provided by paragraph (a) of section 128 and shall return the duplicate to the court under his signature, with the endorsement required by section 132. Such signature shall be evidence of the service.

Notwithstanding the provisions of subsection (1) of this section, a person in the service of Government, may by order of the court, be served in any of the modes set out in section 129 of this Law.

Proof of Service

131 Where the officer who served a summons is not present at the hearing of the case, proof of such service of summons referred to in section 121, shall be by affidavit of service deposed to by the officer who served the summons and the affidavit shall form part of the record.

132. The affidavit shall show the manner in which such summons was served and in the case of an affidavit may be attached to the duplicate of the summons and returned to the issuing court.

Acknowledgment of receipt of summons

133. 1. Where a summons has been served upon the person to whom it is addressed or is delivered to any other person, the person to whom it is addressed or the person to whom it is delivered, as the case may be, shall sign a receipt thereof on the back of the duplicate.
2. Where service is not effected by handing the summons to an individual but by some other method provided in this Law, the person effecting service shall endorse and sign on the duplicate particulars of the method by which he has effected service.

Person refusing to acknowledge receipt of summons may be arrested

134. Every person who is required to sign a receipt on the back of a duplicate summons to the effect that he has received the summons and fails to sign such receipt may be arrested by the person serving the summons and taken before the court which issued the summons and may be detained in custody or committed to prison for such time not exceeding 14 days as the court may think necessary.

Summons disobeyed, warrant may be issued

135. If the court is satisfied that the defendant has been served with a summons and the defendant does not appear at the time and place appointed in and by the summons, the court may issue a warrant to arrest him and cause him to be brought before such court.

Issue of warrant for defendant in the first instance

136. Where a complaint is made before a court as provided in section 38 and such court decides to issue a warrant in the first instance, he shall issue a warrant to arrest the person complained against and to bring him before the court to answer the said complaint and be dealt with according to law.

Application of sections 37 to 46 to such warrant

137. Where a warrant of arrest is issued in consequence of a complaint on oath as aforesaid, the provisions of sections 37 to 46, and 91 shall apply to such warrant.

Warrant may issue before or after return date of summons

138. Notwithstanding the issue of a summons as provided in section 176, a warrant may be issued at any time after the time appointed for the appearance of the defendant. Provided that the court in appropriate circumstances may Issue a summons for his appearance before the time appointed.

Power of court to order prisoner to be brought before it

139. 1. Where any person for whose appearance or arrest a court is empowered to issue a summons or warrant is confined in any prison, the court may issue an order to the officer in charge of such prison requiring him to cause such prisoner to be brought in proper custody at a

time to be named in the order before such court.

2. The officer so in charge, on receipt of such order, shall act in accordance therewith and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

Issue of summons for witnesses.

140. 1. Where the court is satisfied that any person is likely to give material evidence for the prosecution or for the defence, the court may issue a summons to such person requiring him to attend, at a time and place to be mentioned therein before the court, to give evidence respecting the case and to bring with him any specified documents or things and any other documents or things relating thereto which may be in his possession or power or under his control.

2. The witness to whom such summons is addressed, shall attend and his travelling expenses shall be borne by the State.

Service of summons on witness

141. Every such summons shall be served upon the person to whom it is directed in the same manner as set out in sections 128 or 130 or with leave of the court section 129 and the provisions of sections 131 to 134 shall apply to such summons.

Warrant for witness after summons

142. If the person to whom any such summons is directed does not attend before the court at the time and place mentioned therein, and there does not appear to the court on inquiry to be any reasonable excuse for such non-attendance, then, upon proof to the satisfaction of the court that the summons was duly served or that the person to whom the summons is directed willfully avoids service, the court, on being satisfied that such person is likely to give material evidence may issue a warrant to arrest him and to bring him at a time and place to be mentioned in the warrant, before the court in order to testify as aforesaid.

Issue of warrant for witness in first instance

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

Mode of dealing with witness arrested under warrant

144. 1. Every witness arrested under a warrant issued in the first instance, where the hearing of the case for which his evidence is required is appointed for a time which is more than twenty-four hours after the arrest, shall where practicable be taken before a Magistrate, and the Magistrate may, on his furnishing security by recognizance to the satisfaction of the Magistrate for his appearance at such hearing, order him to be released from custody, or shall, on his failing to furnish such security, order him to be detained for production at such hearing.

2. The provisions of this Law relating to bail of a defendant and of recognizance shall apply to a witness.
3. A witness arrested or detained under this section shall not be kept in the same room or place as the defendant in whose case he is to give evidence, if the defendant is in custody: Provided that non-compliance with this subsection shall not vitiate any proceedings.

Penalty on witnesses refusing to attend

145. Any witness who –

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

(b) departs from the precincts of the court without the leave of the court shall be liable on summary conviction, to a penalty not exceeding ten thousand naira or to imprisonment for any term not exceeding two months:

Provided that the complaint shall be made during the hearing of the case for which the evidence of the witness is required.

Non-attendance of witness on adjourned hearing

146. Every witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which such hearing or further hearing is so adjourned, shall be bound to attend at such time and place, and, in default of so doing, may be dealt with in the same manner as if he had refused or neglected to attend before the court in obedience to a summons to attend and give evidence.

Power to dispense with personal attendance of defendant in certain cases

147. 1. Whenever a court issues a summons in respect of any offence for which the penalty is a fine not exceeding ten thousand naira or imprisonment for a term not exceeding six months or both, the court on application of the defendant-

(a) may dispense with the personal attendance of the defendant where the offence is punishable by fine or imprisonment or both; and

(b) shall dispense with personal attendance of the defendant where the offence is punishable by fine only, if the defendant pleads guilty in writing and so pleads though his legal practitioner or agent.

2. The court trying a case in which the presence of the defendant has been dispensed with may, in its discretion , at any subsequent stage of the proceedings, direct the personal attendance of the defendant and, if necessary, enforce the attendance by means of the issue of a warrant to arrest the defendant and bring him before the court.
3. Where a court imposes a fine on a defendant whose personal attendance has been dispensed with under this section, the court may at the same time direct that if the fine is not paid within a stated time, the amount shall be recovered by distress or that the defendant shall be

imprisoned for a period calculated in accordance with the provisions contained in this Law for the non-payment of a fine.

4. Where, in any case under section the attendance of a defendant is dispensed with, but previous convictions are alleged against him, the court may adjourn the proceedings and direct the personal attendance and, if necessary, enforce his attendance in the same manner as provided in subsection (2) of this section.

Persons in court may be require to give evidence though not summoned

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

Expenses of witnesses for prosecution

149. Where any person appears before the court on summons, recognizance or by virtue of a warrant to give evidence against any person accused of any offence, the court may order payment in accordance with the provisions of any rules of court, of the costs and expenses of such witness together with compensation for his inconvenience and loss of time.

Expenses of witnesses for defendant

150. The court may in its discretion, at the request of any person who appears before such court on summons, recognizance or by virtue of a warrant to give evidence on behalf of a defendant, order payment in accordance with the provisions of any rules of court to such witness of such sum of money as the court deems reasonable and sufficient to compensate him for the expenses, inconvenience and loss of time which he incurred or sustained in attending court.

State to bear expenses for medical and other bodily examination

151.

1. In cases involving death, the provisions of the Coroner's Law shall apply.
2. At any point where in the course of investigation, it becomes necessary to conduct a medical examination, including autopsy, the State shall appoint an appropriate medical practitioner to perform the examination at no cost to the complainant provided that the complainant and the defendant may, if they desire, nominate an appropriate medical personnel to be present at the examination, at their own cost.
3. Where the medical personnel appointed in accordance with (2) above declines or refuses to perform the examination, or demands any payment from either the complainant or defendant or induces any other condition on them, a report of such will be made to the Court, and the Court if satisfied of the truth of the allegation shall upon conviction under this section impose punishment of two months imprisonment or two hundred thousand naira (₦200,000) in lieu of imprisonment or both.

Establishment of Witness Support Unit And Witness Expenses Fund

152. 1. There shall be established a special unit in the office of the Chief Registrar of the High Court a Witness Support Unit, to be headed by an officer not below the rank of an Assistant Chief Registrar.

2. The Unit shall have the responsibility to -
   a. keep record of witnesses bound over for the State in each case,
   b. ensure that the expenses of the witnesses are paid for attending court,
   c. ensure that witnesses' summons are served and that they are duly complied with,
   d. to ensure that costs and compensations awarded by courts in criminal cases are paid,
   e. any other function that is incidental to the above.

Manner of taking oath or affirmation

153. A witness shall take an oath or make a solemn affirmation in accordance with the law.

Witness refusing to be sworn, or produce documents

154. 1. When a person attending court and who is required to give evidence, without any sufficient excuse or reason-
   (a) refuses to be sworn or to affirm as a witness; or
   (b) having been sworn or having taken affirmation refuses to answer any question put to him; or
   (c) refuses or neglects to produce any document or anything which he is required by the court to produce, the court may adjourn the hearing of the case and may in the meantime by warrant, commit the person to prison or other place of safe custody for a period not exceeding thirty days.

2. Nothing in this section shall-
   (a) affect the liability of the person to any other punishment for refusing or neglecting to do what is so required of him; or
   (b) prevent the court from disposing of the case in the meantime according to any other sufficient evidence taken by it.

Adjournment may be granted subject to costs to witnesses

155. In addition to any other power conferred on a court, it may if it considers it proper, on adjournment granted at the request of any party, direct that the amount payable to any witness in accordance with the provisions of this Law and any rules of court, or such sum not exceeding such amount aforesaid as the court may fix, shall be paid by the party requesting the adjournment to such witness as may be present and whose evidence it has not been possible to take owing to the granting of the adjournment.

Ascertainment of expenses of witnesses

156. The amount of the expenses and compensation payable to any witness attending before the court shall be ascertained by the registrar, certified under his hand and shall be paid out of the Fund to the witness as provided by this Law.

CHAPTER 7 – REMAND IN CERTAIN CIRCUMSTANCES

Adjournment on daily basis where bail is refused

157. Where in any proceedings before a court the defendant is in custody and not granted bail, the court shall as far as practicable hear the matter from day to day until conclusion.

Court may bring up person remanded during remand

158. During remand the court may nevertheless order the defendant to be brought before it.

Court may adjourn where defendant cannot appear

159. If a court is satisfied that a defendant, who has been remanded is, by any cogent reason, unable to appear personally before the court at such adjournment as in section 158 mentioned, such court may, in the absence of the defendant, order him to be further remanded for such time as may be deemed reasonable and cause him to be so informed in writing.

Place of commitment.

160. All persons committed to prison under this Law shall be committed to a Government prison or other place of safe custody.

CHAPTER 8 — EFFECT OF ERRORS IN THE COURT PROCESS

Irregularity in summons, warrant, service or arrest.

161. When any defendant is before a court whether voluntarily, or upon summons, or after being arrested with or without warrant, or while in custody for the same or any other offence, the proofs of evidence may be prepared or trial held notwithstanding any irregularity, defect, or error in the summons or warrant, or the issuing, service, or execution of the same, and notwithstanding the want of any complaint upon oath, and notwithstanding any defect in the complaint, or any irregularity in the arrest or custody of the defendant.

Variation between charge and complaint.

162. No variance between the charge contained in the summons or warrant and the offence alleged in the complaint, or between any of them and the evidence adduced on the part of the prosecution, shall affect the validity of any proceedings at or subsequent to the trial.

Process valid notwithstanding death or vacation of office of person issuing

163. A summons, warrant of any description or other process issued under any written law shall not be invalidated as long as the person who issued it, at the time of issuing it had the power to do so.

Validity of process.

164. The following provisions shall have effect in respect of warrants of commitment and warrants of distress -

(a) warrant of commitment shall not be held void by reason only of any defect therein, if it is therein alleged that the offender has been convicted, or ordered to do or to abstain from doing any act or thing required to be done or left undone, and there is a good and valid order to

sustain the same;

Warrant of commitment

(b) a warrant of distress shall not be held void by reason only of any defect therein, if it is therein alleged that an order has been made, and there is a good and valid order to sustain the same, and a person acting under a warrant of distress shall not be deemed a trespasser from the beginning by reason only of any defect in the warrant or of any irregularity in the execution of the warrant; but this enactment shall not prejudice the right of any person to satisfaction for any special damage caused by any defect in or irregularity in the execution of a warrant of distress.

Warrant of distress

165. 1. In addition to the provisions of this Law in respect of warrants of arrest, all summonses, warrants of every description and process of whatever description shall be sufficiently addressed for service or execution by being directed to the sheriff.

2. Notwithstanding the provisions of subsection (1) any such document may be addressed to a person by name or to an officer by his official designation.

3. Where a warrant of arrest is addressed to the sheriff such warrant may be executed by any police officer, officer of any agency authorized by any law to do so, or officer of a court.

CHAPTER 9 — CONTROL OF CRIMINAL PROCEEDINGS

Nolle prosequi in criminal proceedings.

166. 1. At any stage in criminal proceedings, but before judgment, the Attorney-General may enter a *nolle prosequi,* either by stating in court or informing the court in writing that the State intends that the proceedings shall not continue and thereupon the defendant shall at once be discharged in respect of the charge or information for which the *nolle prosequi* is entered.

2. Where the defendant has been committed to prison he shall be released, if on bail or the recognizance shall be discharged; where the defendant is not present in court, when such *nolle prosequi* is entered, the registrar or other proper officer of the court shall forthwith cause notice in writing of the entry of such *nolle prosequi* to be given to the officer in charge of the prison or other place in which the defendant may be detained and such notice shall be sufficient authority to discharge the defendant or if he is not in custody shall forthwith cause such notice in writing to be given to him and his sureties and shall in either case cause a similar notice in writing to be given to any witnesses bound over to prosecute.

3. Where a *nolle prosequi* is entered in accordance with the provisions of this section or section 167, the discharge of a defendant shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

Nolle Prosequi

167. 1. During the preparation of the proofs of evidence in a

during the preparation of proofs of evidence

charge in respect of an offence against a law of the State, the Attorney-General may enter a *nolle prosequi* by informing the Magistrate in whose court the defendant was charged that he intends that the proceedings shall not continue, and thereupon the defendant shall at once be discharged in respect of the charge for which the *nolle prosequi* is entered.

2. Where a *nolle prosequi* is entered under this section the provisions of subsection (2) of section 166 shall apply and the court shall cause the appropriate action to be taken.

Withdrawal of prosecution against a person

168. 1. In any trial before a Magistrate's court or during the preparation of the proofs of evidence in a criminal charge, any prosecutor with the consent of the court may, or on the instruction of the Attorney-General shall, at any time before judgment is pronounced or an information is preferred withdraw from the prosecution of any person either generally or in respect of one or more of the offences with which such person is charged and upon such withdrawal if it is made in the course of a trial-

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

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

Before whom recognizance may be executed.

Provided that in any trial before a Magistrate in which the prosecutor withdraws in respect of the prosecution of any offence before the defendant is called upon to make his defence the Magistrate may in his discretion order the defendant to be acquitted if he is satisfied upon the merits of the case that such order is a proper one and when any such order of acquittal is made the Magistrate shall endorse his reasons for making such order on the record.

2. Where any private prosecutor withdraws from a prosecution for any offence under the provisions of this section the Magistrate may, in his discretion, award costs against such prosecutor.

3. A discharge of a defendant under this section shall not operate as a bar to subsequent proceedings against him on account of the same facts.

Law officer may require case to be adjourned or dealt with specially

169. A law officer, where any charge of an indictable offence is being proceeded with summarily by a Magistrate under the provisions of this Law may, at any time before the decision thereof, by directive in writing under his hand, apply to such Magistrate to stop further proceedings and to transmit the case file and all statements and documents in the caset o the Attorney-General for the purpose of preparing the proof of evidence in respect of the charge with a view to preferring an information.

General control of prosecution

170. Where any person other than the Attorney-General prosecutes in any criminal proceedings for an offence

by the Attorney-General

against a law of the State or any public officer prosecutes in his official capacity in any such criminal proceedings, such person or public officer shall prosecute such case subject to such general or specific directions as may be given by the Attorney-General.

Names under which prosecution could be instituted

171. Where proceedings in respect of any offence against a law of the State within the criminal jurisdiction of a court are brought by a police officer in the exercise of his official duty and it is not provided by any written law that such proceedings shall only be brought by or in the name of some specified persons, such proceedings may, subject to any special or general directions given by the Attorney-General, be brought in the name of the public officer or Police officer instituting the proceedings or making the arrest, if any, or in the case of a member of the police force in the name of the Commissioner of Police.

CHAPTER 10. – INSTITUTION OF CRIMINAL CASES

Right of making complaint

172. Any person may make a complaint against any other person alleged to have committed or to be committing an offence, unless it appears from the enactment on which the compliant is founded, that any complaint for such offence shall be made only by a particular person or class of persons, in which case only the particular person or a person of the particular class may make such a complaint.

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

Form and requisites of complaint

173.

1. It shall not be necessary for any complaint to be in writing, unless it is required to be so by the enactment on which it is founded, or by some other enactment. If a complaint is not made in writing, the court or registrar shall reduce it into writing. Provided that where a registrar reduces such complaint into writing the person making complaint shall sign or thumbprint same.
2. Subject to the provisions of section 38, every complaint may, unless some enactment otherwise requires, be made without oath.
3. Every such complaint may be made by the complainant in person, or by a legal practitioner representing him, or by any person authorized in writing in that behalf, and shall be heard in private.
4. Every such complaint shall be for one or more offences.
5. All complaints made to the court directly under this section shall first be referred to the police and or other law enforcement officers depending on the subject matter for investigation before any action is taken by the court.

Form of

174. Every complaint, summons, warrant or other document laid, i

document in criminal proceedings

ssued or made for the purpose of or in connection with any proceedings before a court for any offence, shall be sufficient i f it contains a statement of the specific offence with which the defendant is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

Rule as to statement of exception

175. 1. Any person who believes from a reasonable or probable cause that an offence has been committed by any person whose appearance a Magistrate has power to compel, may make a complaint on oath thereof to a Magistrate who shall consider the allegations of the complainant and may, in his discretion, refuse to issue a process and record his reasons for refusal, or may issue a summons or warrant as he shall deem fit, to compel the attendance of the defendant before a Magistrate's court in the district.

2. The Magistrate shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant.

3. An exception, exemption, a proviso, condition, an excuse, or a qualification, whether or not it accompanies the description of the offence, may be proved by the defendant, even if it is not specified or refuted in the complaint.

Limitation of period for making a private complaint

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

Information by the Attorney-General

177. 1. Notwithstanding anything contained in this Law, the Attorney-General may exhibit to the High Court information for all purposes regarding the enforcement of the Criminal Code or any other written law creating offences and prescribing penalties therefor

2. Such proceedings may be taken upon every such information so far as the circumstances of the case and the practice and procedure of the High Court will admit.

Different methods of instituting criminal proceedings

178. Criminal proceedings may in accordance with the provisions of this Law be instituted-

(a) in Magistrates' courts, on a charge or a complaint whether or not on oath, and

(b) in the High Court-

(i) by information of the Attorney-General.

(ii) by information filed in the court after the defendant has been summarily committed for perjury by a Judge or Magistrate under the provisions of Chapter 12;

(iii) by information filed in the court after the preparation of the proofs of evidence;

(iv) on complaint whether on oath or not;

(v) by information or charge filed in the court by any other prosecuting authority;
(vi) by information or charge filed by a private prosecutor subject to the provision of this Law.

Procedure for instituting criminal proceedings in Magistrates' court

179. 1. Proceedings in a Magistrates' court may be instituted in either of the following ways –
(a) upon complaint to the court, whether or not on oath, that an offence has been committed by any person whose presence the Magistrate has power to compel, and an application to such Magistrate, in the manner hereinafter set forth for the issuance of either a summons directed to, or a warrant to arrest such person; or
(b) by bringing a person arrested without a warrant before the court on a charge contained in a charge sheet specifying the name, address, age, sex and occupation of the person charged, the charge against him and the time and place where the offence is alleged to have been committed.

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

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

4. Where a charge is preferred under subsection (1) paragraphs (a) and (b) of this section and the trial does not commence within thirty days of bringing the charge, or trial has commenced but has not been completed after the expiration of the time prescribed in section 257 of this Law, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial provided that the trial shall continue from day to day pending the directive of the Chief Judge.

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

6. In reviewing the returns made by a Court under subsections (4) and (5) of this section, the Chief Judge shall have regard to the need to ensure that-
(a) criminal matters are speedily dealt with;
(b) congestion of cases in courts is drastically reduced;
(c) congestion of prisons is reduced to the barest minimum; and
(d) persons awaiting trial are, as far as possible, not detained in prison custody for unreasonable length of time.

Front loading of processes

180. 1. Upon filing the charge sheet in the Magistrates' court the

at the Magistrates' court

prosecution shall within seven days serve on the defendant or his counsel all documents and description of material exhibits it intends to rely on in the prosecution of the case.

2. The Defendant shall serve on the prosecution on demand all documents and materials it intends to rely for his defence within 14 days of service on him by the prosecution.

Prosecution of offences

181. Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1999, as amended, or as the case may be, relating to the powers of prosecution by the Attorney-General of the State, prosecution of all offences in any court in the State shall be undertaken by-

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

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

(c) a legal practitioner authorized by this Law or any other enactment of the National Assembly;

(d) a member of the Nigeria Police Force with respect to offences, which on conviction may be punished with imprisonment not exceeding one year;

(e) any other person authorized by any law in the State to prosecute offences under such law.

Returns by Comptroller of Prisons

182. 1. The Comptroller of Prisons shall make return every quarter to the Chief Judge and to the Attorney-General of all persons awaiting trial held in custody within the State for a period beyond one hundred and eighty days from the date of arraignment.

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

(a) the name of the person held in custody or the Awaiting Trial Person (ATP);

(b) passport photograph of the person;

(c) the date of his arraignment or remand;

(d) the date of his admission to custody;

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

(f) the court before which he was arraigned;

(g) name of the prosecuting agency; and

(h) any other relevant information.

Summons and warrant.

183. In every case the court may proceed either by way of summons to the defendant or by way of warrant for his arrest in the first instance according to the nature and circumstances of the case.

Venue.

184. Subject to the powers of transfer contained in the law constituting any court, the place for the trial of offences by such court shall be-

Place of jurisdiction where offence committed.

(a) the court with jurisdiction in the place where the offence was committed;

(b) when a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be tried by a court having jurisdiction in the division or district in which any such thing has been done or omitted to be done, or any such consequence has ensued;

When offence constituted by relation to another offence

(c) when an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first mentioned offence may be tried by a court having jurisdiction in the division or district either in which it happened, or in which the offence, with which it was so connected happened.

When place uncertain or offence distributed.

(d) (i) when it is uncertain in which of several divisions or districts an offence was committed; or

(ii) when an offence is committed partly in one division or district and partly in another; or

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

(iv) when it consists of several acts committed in different divisions or districts, it may be tried by a court having jurisdiction in any of such divisions or districts;

Offence committed on a journey

(e) an offence committed while the offender is in the course of performing a journey or voyage may be tried by a court in or through or into the division or district of whose jurisdiction the offender or the person against whom or the thing in respect of which the offence was committed resides, is or passed in the course of that journey or voyage;

Offence at sea or out of Nigeria

(f) an offence committed at sea or elsewhere out of Nigeria, which according to law may be tried in Nigeria, may be so tried at any place in Nigeria to which the defendant is first brought, or to which he may be taken thereafter.

Judge to decide in case of doubt of venue

185. Whenever any doubt arises as to the Magistrates' court before which any offence shall be charged or tried, a Judge shall, upon the application of a Magistrate or the defendant, d ecide in which Magistrates' court the offence shall be charged or tried. Any such decision of a Judge shall be final and conclusive and not subject to appeal.

Defendant to be remitted in certain cases to another Magistrate

186. 1. A Magistrate, in this and in the next succeeding section referred to as the remitting Magistrate, before whom any person who is within the magisterial district of such Magistrate and is charged with having committed an offence within the magisterial district of another

Magistrate is brought shall, unless he is authorized to proceed in the case, send him in custody to the court within the magisterial district in which the offence was committed, or require him to give security for his surrender to such last mentioned court, there to answer the charge and to be dealt with according to law.

Courts having concurrent jurisdiction

2. Where such offence as is mentioned in subsection (1) is committed in a district within which one or more courts have concurrent jurisdiction, the remitting Magistrate shall, unless he is authorized to proceed in the case, send the person charged in custody, to the Administrative Chief Magistrate in that other district for assignment.

Transmission of documents

3. The authenticated copy of the charge, summons, warrant, and all other process or documents, relative to such person shall be transmitted with the order of remittance.

Removal under warrant

187. Where any person is to be sent in custody, a warrant shall be issued by the remitting Magistrate, and the warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named, and to carry him and deliver him up to the court to which the person charged is remitted for trial. The person to whom the warrant is directed shall execute it according to its tenor without any delay.

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

188. 1. Where the defendant is in custody and the Magistrate directing such transfer thinks it expedient that such custody should be continued, or, if he is not in custody, that he should be placed in custody, the Magistrate shall, by his warrant, commit the defendant to prison until he can be taken before a Magistrate of the district wherein the cause of complaint arose.

Complaint and recognizance to be transmitted

2. The complaint and recognizance, if any, taken by such first named Magistrate under the provisions of this Law shall be by him transmitted to the Magistrate before whom the defendant is to be taken; and such complaint and recognizance, if any, shall be treated to all intents and purposes as if they had been taken by such last mentioned Magistrate.

Defendant not retained or placed in custody

3. If the defendant is not retained or placed in custody as aforesaid, the Magistrate shall inform him that he has directed the transfer of the case as aforesaid, and thereupon the provisions of the last preceding subsection relating to the transmission and use of the documents in the case shall apply.

Courts may assume jurisdiction under certain conditions.

189. 1. Notwithstanding the provisions of sections 183, 184 and 185; of this Law, a person may be charged and tried by a Judge or Magistrate of a division or district in which the person-

(a) is arrested;
(b) is in custody on a charge;
(c) has appeared in answer to summons lawfully issued,

and if the Judge or Magistrate considers that justice will be better served and having regard to the accessibility and convenience of witnesses, may proceed to hear the charge.

2. The offence referred to in subsection (1) of this section shall for all purposes be incidental to or consequential on the prosecution, trial or punishment thereof and shall be deemed to have been committed in that division or district.
3. If at any time during the course of any proceedings taken against any person before any court in pursuance of this section it appears to the court that the defendant would suffer hardship if he were proceeded against and tried in the division or district aforesaid, the court shall forthwith, but without prejudice to a court's powers under this Law, cease to proceed further in the matter.
4. Where any person is charged with two or more offences, he may be proceeded against, tried and punished in respect of all those offences in any division or district in which he could be proceeded against, tried or punished in respect of any one of those offences, and all the offences with which that person is charged shall, for all purposes incidental to or consequential on the prosecution, trial or punishment thereof, be deemed to have been committed in that division or district.

Assumption of jurisdiction after commencement of proceedings

190. Where any cause is commenced in any other division or district than that in which it ought to have been commenced, the Judge or Magistrate, as the case may be, may assume jurisdiction in accordance with the provisions of Section 181 and all acts performed and all decisions given by the Judge or Magistrate during the trial or inquiry shall be deemed to be valid in all respects as if the jurisdiction had been assumed prior to the performance of the said acts and the giving of the said decisions.

Trials.

191. Trials shall be held-

(a) in the High Court –
  (i) on the information filed by a law officer or private prosecutor, or a legal practitioner in the Nigeria Police Force; or
  (ii) on the information filed in the court after the defendant has been summarily committed for perjury by a Judge or Magistrate under the provisions of Chapter 12; or
  (iii) on information filed by the Attorney-General; or
  (iv) summarily in accordance with the provisions of Chapter 11.

(b) in Magistrates' courts summarily in accordance with the provisions of Chapter 11.

CHAPTER 11 – SUMMARY TRIAL

Summary trials.

192. The provisions of this chapter shall apply to offences triable

summarily, to wit:

(a) all trials in the High Court other than on information;
(b) all trials in the High Court in respect of offences for which it is provided that a trial can be held in the High Court otherwise than on information and for which no special procedure is provided;
(c) all trials in any Magistrate's Court to the extent of the jurisdiction of the Magistrate adjudicating;
(d) all offences declared by any written law to be triable summarily or by a Magistrate;
(e) summary conviction offences.

Application of parts of the Law to processes under this Chapter

193. The provisions of this Law, other than those relating to the preparation of proofs of evidence where necessary, shall apply to trials under this chapter save that where the provisions of this chapter conflict with the provisions so applied, the provisions of this chapter shall prevail.

Time and place of hearing.

194. On the day and at the place mentioned in the summons or on the day and at the place on and to which the defendant is brought before the court under a warrant, as the case may be, the case with respect to which the complaint has been made shall be called for hearing in the court.

Non-appearance of complainant.

195. Where a case is called up and the defendant appears voluntarily in obedience to the same summons or is brought before the court under a warrant and the prosecution is not ready or willing to proceed with its case, the court may in appropriate circumstances, strike out the charge; Provided that where evidence has been led by the prosecution, the court shall close the case of the prosecution and call upon the defendant to open his case.

Non-appearance of defendant

196.

1. When a case is called up and the defendant does not appear and no sufficient excuse is offered for his absence then the court, if satisfied that the summons, if any, has been duly served, may issue a bench warrant, for his arrest or if not satisfied that the summons has been duly served or if a warrant had been issued, in the first instance, for the apprehension of the defendant the court may adjourn the hearing of the case to some future day, in order that proper service may be effected or until the defendant be apprehended, as the case may be.
2. If the defendant is afterwards apprehended, he shall be brought before the Magistrate who shall thereupon commit him to prison or to such other place of safe custody as the Magistrate may think fit, and order him to be brought at a certain time and place before the court; and of such time and place the complainant shall, by direction of the Magistrate, be served with due notice.

Non-appearance of both parties.

197.

1. When the case is called up and neither the complainant nor the defendant appears, the court shall make such order as the justice of the case requires.
2. Such order of the court may include such direction as to payment of costs as the court shall deem fit, and the payment of such costs may be enforced in the manner and subject to the conditions set forth in Chapter 31 as if it were a fine.

Appearance of both parties

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

Withdrawal of complaint.

199. Where a complainant at any time before a final order is made in any case under this chapter satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint the court may permit him to withdraw the same and shall thereupon acquit the accused u nless the court directs that the defendant instead of be ing acquitted shall be discharged.

Manner of hearing.

200. 1. At the commencement of the hearing, the court shall state or cause to be stated to the defendant the substance of the complaint, and shall ask him whether he is guilty or not guilty.

When defendant pleads guilt

2. If the defendant pleads guilty, the prosecutor shall state the facts of the case, and if the court is satisfied that the defendant intends to admit the offence and shows no cause or no sufficient cause why sentence should not be passed, the court shall proceed to convict and sentence. Provided that in capital offences where the accused pleads guilty the court shall enter a plea of not guilty and proceed with trial of the case.

Witnesses in general to be out of hearing

3. If the defendant says that he is not guilty the court shall direct that all witnesses shall leave the court and upon such direction the provisions of Section 212 of the Evidence Act shall apply:

Provided that the Judge or Magistrate may in his discretion permit professional and technical witnesses to remain in court:

Provided further that failure to comply with the provisions of t his subsection shall not invalidate the proceedings.

Hearing of complainant and witnesses

4. The court shall then proceed to hear the complainant or such witnesses as he may call and such other evidence as he may adduce in support of his complaint, and also to hear the defendant or such witnesses as he may call and such other evidence as he may adduce in his defence.

Asking of Questions

5. The complainant and the defendant may put questions to each witness called by the other side.

Unrepresented defendant

6. Where the defendant is not represented by a legal practitioner the court shall at the close of the examination of each witness for the prosecution ask the defendant whether he wishes to put any question to that witness, and shall record his answer, and such defendant may so proceed if he so wishes.

Discharge of defendant

201. 1. Where at the close of the evidence in support of the

when no case to answer

charge, it appears to the court that a case is not made out against the defendant sufficiently to require him to make a defence, the court shall as to that particular charge, discharge him.

Conditions upon which a no case submission may be upheld

2. In considering whether a case has been made out against the defendant under subsection (1) of this section, the court shall, in the exercise of its discretion, have regard to whether-
   (a) an essential element of the offence has been proved;
   (b) there is evidence linking the defendant with the offence with which he is charged;
   (c) on the face of the record, the evidence of the prosecutor has been so discredited and rendered unreliable by cross -examination that it would be unsafe to convict on such evidence;
   (d) the evidence so far led is such that no reasonable court or tribunal would convict on it; and
   (e) any other ground on which the court may find that prima facie case has not been made out against the defendant for him to be called upon to answer.

When a prima facie case has been made out

202. 1. At the close of the evidence in support of the charge, where it appears to the court that a prima facie case is made out against the defendant sufficiently to require him to make a defence, the court shall call upon him for his defence; and-
   (a) where the defendant is not represented by a legal practitioner, the court shall inform him of the alternatives open to him, namely-
      (i) he may give evidence in the witness-box, after being sworn as a witness; in which case he will be liable to cross-examination; or
      (ii) he may remain silent, if he so wishes; or
      (iii) he may call any witness or adduce any other evidence in his defence.
   (b) where the defendan is represented by a legal practitioner, the court shall call upon the legal practitioner to proceed with the defence.

2. If the defendant or his legal practitioner states that he has witnesses to call but that they are not present, the court may, in the circumstances set forth in section 140 to 148 take the steps therein mentioned to compel their attendance.

Saving as to section 202(1) (a)

203. Failure to comply with the requirements of paragraph 1(a) in section 202 shall not of itself vitiate the trial provided that the court called upon the defendant for his defence and asked him if he had any witnesses and heard the defendant and his witnesses and other evidence, if any.

New matters by defendant

204. If the defendant adduces in his defence new matter which the prosecution could not foresee, the prosecution may,

with the leave of the court, adduce evidence to rebut such new mentioned evidence.

Power to take evidence of persons seriously ill

205. Whenever it appears to the court that any person who is so seriously ill or hurt and may not recover is willing to give material evidence relating to any offence triable summarily and it is not practicable to take the evidence in accordance with the provisions of this Law, the court may take in writing the statement on oath or affirmation of such person, shall subscribe the same and certify that it contains accurately the whole of the statement made by such person, and shall add a statement of his reason for taking the same and of the date and place when and where the same was taken, and shall preserve such statement and file it for record.

Notice to be given to parties

206. 1. The court shall cause reasonable notice of the intention to take the evidence of the person who is seriously ill and of the time and place where it is to be taken, to be served upon the prosecutor and the defendant, and if the defendant is in custody he shall be brought by the person in whose charge he is, under an order in writing of the Magistrate to the place where the statement is to be taken. The court may allow the prosecutor and the defendant to cross-examine such person.

Transmission of statement

2. Where the statement relates to an offence in respect of which proofs of evidence are subsequently prepared, it shall be transmitted to the office Attorney-General.

When statement may be used in evidence

3. Such statement so taken may afterwards be used in evidence on the trial of any person accused of an offence to which the same relates in accordance with the provisions of Section 46 of the Evidence Act.

Signature, etc, prima facie proof

4. The signature and attestation of the Judge or Magistrate shall be sufficient *prima facie* proof of any statement, and that the same was taken in all respects according to law and such attestation and signature shall be admitted without further proof unless the court shall see reason to doubt the genuineness thereof.

Notes of evidence to be taken

207. 1. The court shall in every case take record of the oral evidence, or so much thereof as it considers material, in a book or other device kept for that purpose and such book shall be signed by the Judge or Magistrate at the conclusion of each day's proceedings.

2. No person shall be entitled, as of right, to inspection of or to a copy of the record so kept as aforesaid save as may be expressly provided by the rules.

3. The record so kept as aforesaid or a copy thereof purporting to be signed and certified as true copy by the court shall at all times, without further proof, be admitted as evidence of such proceedings and of the statements made by the witnesses.

Cross complaint

208. Where a complaint is made by one or more parties against an

other party or parties and there is a cross-complaint by the defendant or defendants in such first named case with reference to the same matter, the court may if it thinks fit, hear and determine such complaints in the same proceeding.

Joinder of complaints

209. Where two or more complaints are made by one or more parties against another party or parties and such complaints refer to the same matter, such complaints may, if the court thinks fit, be heard and determined in the same proceeding.

Procedure where offence appears unsuitable for determination by court of limited jurisdiction

210.
1. Where, in the course of the hearing, circumstances should appear which cause the court to be of the opinion that the offence, on account of its aggravated character or other sufficient reason, is not suitable to be disposed of by such court, then such court may instead of adjudicating, either of its own motion or on the direction of the Attorney-General, transmit the documents, statements or matters mentioned in section 180 and all other documents before the court pertaining to the case to the Attorney-General.
2. The Attorney-General shall thereupon cause proofs of evidence to be prepared in respect of the charge and may, thereafter, prefer an information against the defendant.

Giving of decision upon conclusion of hearing

211. Upon the conclusion of the hearing, the court shall either at the same or at an adjourned sitting, give its decision on the case either by dismissing or convicting the defendant and may make such other order as may deem just.

Power to bind parties to be of good behaviour

212.
1. On any trial the court may bind over either the complainant or defendant, or both, with or without a surety or sureties, to be of good behaviour.
2. Where any person so bound, is in default of compliance with the order, he may be imprisoned for any term not exceeding three months, in addition to any other punishment to which such person is liable.
2. Provided that before any such binding order, pursuant to subsection 1 of this section or order for imprisonment or any other punishment under subsection (2) of this section is made, the person to be affected shall be given an opportunity to be heard.

Effect of judgment of dismissal"on merits" and" without prejudice"

213.
1. Where a complaint is dismissed on merits, such dismissal shall have the same effect as an acquittal.
2. Where a complaint is struck out, or dismissed and not on merits or stated to be without prejudice, such dismissal shall not have the same effect as an acquittal.

CHAPTER 12. – SUMMARY PROCEDURE IN PERJURY

Perjury. Summary procedure

214. Where it appears to a court that a person has committed perjury in any proceeding before it, the court, subject to the provisions of section 216, may –

(a) commit him for trial upon information of perjury and bind any person by recognizance to give evidence at

his trial; or

(b) try him summarily for a contempt of court and if he is found guilty, commit him to prison for six months or impose a fine on him in accordance with the scale of fine as provided in this Law.

Decision to try summarily

215. Where a Judge or Magistrate decides to try a person summarily under section 214 for contempt of court, such Judge or Magistrate shall specify the perjury alleged and shall direct the attention of the person to be charged to the inconsistencies upon which such charge is based and shall require him to give his explanation to such inconsistencies and shall record such explanation.

When a person is ordered to be imprisoned or fined

216. 1. Where a Magistrate orders a person to be imprisoned or to pay a fine under section 214 he shall neither issue a warrant of commitment nor make an order for imprisonment for non-payment of the fine, but shall either remand such person or release him on a recognizance with or without sureties to come up before the court when called upon and shall forthwith forward to the Chief Judge or such Judge as the Chief Judge may direct a certified true copy of the proceedings and the Chief Judge or Judge as aforesaid may without hearing argument and in the absence of the person concerned, set aside or confirm such order or reduce the sentence of imprisonment or the amount of the fine and shall inform the Magistrate immediately of his decision.

Issue of warrant of commitment or order for payment of fine

2. If the Chief Judge or Judge does not wholly set aside the Magistrates' order, the Magistrate shall forthwith issue a warrant of commitment or make the necessary order for payment of the fine in accordance with the terms of the Chief Judge's or Judge's order.

Bar to other proceedings

217. Any imprisonment or fine ordered under this chapter shall be a bar to any other proceedings for the same offence except where the order of a Magistrate has been wholly set aside.

CHAPTER 13 – SUMMARY TRIAL BY MAGISTRATE OF ADULT CHARGED WITH AN INDICTABLE OFFENCE

Summary trial by Magistrate of indictable cases

218. Where a person who is an adult is charged before a Magistrate court with any indictable offence other than a capital offence or an offence punishable with imprisonment for life, the Magistrate may subject to the provisions of this Law or any other law for the time being in force and to the extent of the jurisdiction of the Magistrate adjudicating, deal summarily with the offence.

Summary trial by Magistrate of indictable offences

219. Any written law in force at the commencement of this law which relates to the summary trial by a Magistrate of indictable offences or which refers to indictable offences shall be construed to be part of this law.

Power to remand person charged

220. Notwithstanding the provisions of sections 222 to 225 of this Law, a Magistrate, without prejudice to any other power which he may possess and contained in this Law, may for the purpose of ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the person charged for a period not exceeding forty eight hours or release him on bail.

Security for keeping the peace, in indictable cases triable summarily

221. 1. Any person convicted of any indictable offence tried summarily may, instead of or in addition to any punishment to which he is liable, be ordered to enter into his own recognizance, with or without sureties, in such amount as the court thinks fit that he shall keep the peace and be of good behaviour for a reasonable period as may be fixed by the court.

2. Such person may be ordered to be imprisoned until such recognizance, with sureties if so directed, is entered into;

Provided that such imprisonment for not entering into recognizance shall not together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine.

CHAPTER 14 - REMAND AND OTHER INTERLOCUTORY PROCEEDINGS

Applications for remand or other interlocutory proceedings

222. 1. A person arrested for an offence which the Magistrate has no jurisdiction to grant bail shall within a reasonable time of arrest be brought before a Magistrates' court for remand.

2. An application for remand under this section shall-
   (a) be made in the prescribed "Report and Request for Remand Form" as contained in Form 27, in the First Schedule to this Law; and
   (b) be verified on oath and contain reasons for the remand request.

3. No charge or application for remand shall be entered in the Magistrates' court unless it is accompanied by the original case file, which shall be tendered as exhibit during the proceedings.

4. At the end of the proceedings of the day, the Magistrate shall transmit the original case file to the office of the Director of Public Prosecutions.

5. The investigation report of the Investigation Police Officer, or officer of any agency, shall be on oath and may at the trial be admitted as evidence in chief of such officer.

Magistrate may remand in prison custody

223. 1. Where the Magistrate, after examining the reason for the arrest and for the request for remand in accordance with the provisions of section 222 of this Law, is satisfied that there is probable cause to remand the person pending the receipt of a copy of the legal advice from the Director of Public Prosecutions and arraignment of the person before the appropriate court, as the case may be, may remand the person in custody.

2. In considering whether "probable cause" has been established for the remand of a person pursuant to subsection (1) of this section, the court may take into consideration the following-
   (a) the nature and seriousness of the alleged offence;
   (b) reasonable grounds to suspect that the person has been involved in the commission of the alleged offence;
   (c) reasonable grounds for believing that the person may abscond or commit further offence if he is not committed to custody; and
   (d) any other circumstances of the case that justifies the request for remand.

Court may grant bail in remand proceedings

224. The court may, in considering an application for remand brought under section 222 of this Law, grant bail to the person.

Time protocol for remand orders

225.
1. Where an order of remand of the person is made pursuant to section 223 of this Law, the order shall be for a period not exceeding fourteen days in the first instance, and the case shall be adjourned to a date not exceeding fourteen days.
2. Where, on application in writing, good cause is shown why there should be an extension of the remand period, the court may make an order for further remand of the person for a period not exceeding fourteen days and the case shall be adjourned to a date not exceeding fourteen days.
3. Where the person is still in custody on remand at the expiration of the period provided for under subsection (1) or (2) of this section, the court may on application of the person grant bail upon such conditions as the court may deem fit.
4. At the expiration of the remand order made pursuant to subsection (1) or (2) of this section, and if the person is still remanded with his trial having not commenced, or charge having not been filed at the relevant court having jurisdiction, the court shall issue a hearing notice on the Commissioner of Police or any other law enforcement agency concerned and the Attorney-General of the State and adjourn the matter within a period not exceeding fourteen days of the expiration of the period of remand order made under subsection (1) or (2) of this section, to inquire as to the position of the case and for the Commissioner of Police or the Attorney-General to show cause why the person remanded should not be unconditionally released.
5. Where the Commissioner of Police or Attorney-General shows good cause pursuant to subsection (4) of this section and make a request to that effect, the court -
   (a) may extend the remand of the person for a final period not exceeding fourteen days for the person to be arraigned for trial before an appropriate court or tribunal; and

(b) the case shall be adjourned to a date not exceeding fourteen days from the date the hearing notice was issued pursuant to subsection (4) of this section.

6. Where good cause is not shown for the continued remand of the person pursuant to subsection (4) of this section, or where the person is still on remand custody after the expiration of the extended period under subsection (5), the court shall, with or without an application to that effect, forthwith discharge the person on such condition(s) as the Magistrate may deem fit in the circumstances;

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

When court may exercise power of remand

226. 1. The powers conferred on the court under this Part may be exercised by the court:
(a) whether the person to be remanded is present in court or not; and
(b) on its own motion or on application, including an application by a person in charge of the prison or other place of custody where the person remanded or sought to be further remanded is detained.
2. The legal advice of the Attorney-General shall in all cases be copied to the Magistrate, and the Magistrate may act only on the copy of the advice to make any order that may be necessary in the circumstances.
3. Where the legal advice of the Attorney-General indicates that the person remanded has no case to answer, the Magistrate shall discharge the person forthwith.

Court may bring up person remanded or make any order during remand

227. 1. During further remand, the Magistrate may nevertheless order the person remanded to be brought before him.
2. The Magistrate may order that the person remanded be transferred to a hospital, asylum or any suitable place for the purpose of giving him medical treatment, or may make any order that he considers necessary at any time during the remand period.

Adjournment for Attorney-General's decision

228. Where an adult charged with an indictable offence is being tried summarily by a Magistrate, such Magistrate may, at the request of any person in charge of the prosecution, made at any time before judgment, adjourn the hearing of the charge in order that the Attorney-General may be consulted with a view to obtaining an directive as in section 169 to have the case dealt with as one for trial on information in accordance with the provisions of Chapter 16.

Provided that the order of the Attorney General shall be filed within fourteen days from the date the Magistrate grants such request of the prosecution, failing which the Magistrate shall proceed to try and conclude the case summarily.

CHAPTER 15.—SUMMARY TRIAL BY MAGISTRATE OF CHILD CHARGED WITH AN INDICTABLE OFFENCE

Summary trial of child by Magistrate for indictable offence.

229. Where a child is charged before a Magistrate with any indictable offence, other than a capital offence, the Magistrate, if he thinks it expedient so to do, may subject to the extent of his jurisdiction and without consulting the parent or guardian, deal summarily with the offence and, in case of the child or young person being found guilty, impose the same description of punishment as might have been inflicted if the case had been tried on indictment:

Provided that a child shall be dealt with in accordance with the Child Rights Law of Imo State.

Charge to be reduced to writing when offence tried summarily.

230. For the purpose of proceedings under this Chapter the Magistrate shall, at any time during the hearing of the case at which he becomes satisfied by the evidence that it is expedient to deal with the case summarily, cause the charge to be reduced into writing if this has not been already done.

No trial of an infant.

231. Nothing in this Chapter shall be construed as authorizing the trial of an infant.

CHAPTER 16 – TRIAL ON INFORMATION

Trial on information

232. Where a trial is to take place in the High Court after the preparation of proofs of evidence in respect of the charge, such trial shall be on information.

Case files, legal advice, and related proceedings

233.

1. Where an offence for which the Magistrate court has no Jurisdiction to try is preferred against a defendant, the police shall tender the original case file in the manner provided under section 222 of this Law for onward transmission by the Magistrate to the office of the Attorney-General.
2. The office of the Attorney General shall, within fourteen days of receipt of the police case file, issue his legal advice, and where he is of the opinion that the defendant has no *prima facie* case to answer, he shall serve a copy of the legal advice on-
   (a) the police or the head of the police legal unit or such other law enforcement agency that filed the charge.
   (b) the Magistrate before whom the person was remanded in prison, if he is in remand custody, or before whom the person was granted bail, if he is on bail; and
   (c) the defendant, or through the prison authority, if he is remanded in custody, or through his legal representative, if any;
3. The Magistrate shall on receipt of the legal advice, order

for the production of the defendant and discharge him.

4. Where the Director of Public Prosecutions is of the opinion that the person has a *prima facie* case to answer, he shall file and serve the charge or information in accordance with the provisions of this Law.

6. A form as prescribed in Form 28 in the First Schedule to this Law, indicating a desire to be represented by legal practitioner of his choice or by a legal practitioner from the Office of the Citizens Rights and Mediation Center, Legal Aid Council of Nigeria or any other organization providing free legal representation to defendants shall be attached to each legal advice for the purpose of endorsement ` by the person in respect of whom legal advice is preferred and against whom the information is filed.

6. Where the defendant indicates in the form referred to in subsection (5) of this section that he wishes to be represented by such legal practitioner or any other organization providing free legal representation, he shall forward the form to the Registrar of the court before whom the charge or information for his trial has been filed and the Registrar shall, within fourteen days of receipt of the form, inform the legal practitioner 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.

Form of information

234. Every information shall bear the date when it is signed and with such modifications as shall be necessary to adapt it to the circumstances of each case, and may be in the following form-

THE STATE VS. A.B.

IN THE HIGH COURT OF IMO STATE

IN THE .....JUDICIAL DIVISION

At the sessions holden at ..... on the ..... day of ....., 20..... the court is informed by the Attorney-General (or A.B.) on behalf of the State that C.D. is charged with the following offence (or offences).

Contents of information and indictment

235. 1. An information shall contain-

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

(b) a count of an information shall commence with a statement of the offence charged, called the

statement of offence;

(c) the statement of offence shall describe the offence briefly in ordinary language, avoiding as far as possible the use of technical terms and without necessarily stating all the essential elements of the offence, and shall contain a reference to the law under which it is predicated;

(d) Particulars of that offence shall be set out in ordinary language after the statement of the offence;

Provided that where the law limits the particulars of an offence which are required to be given in an Information nothing in this paragraph shall require any more particulars to be given than those so required;

(e) where an information contains more than one count, the counts shall be numbered consecutively;

(f) Proof of evidence.

2. The information and all accompanying processes shall be served on the defendant or his legal representative, in appropriate circumstances.

Contents of proof of evidence

236. 1. The proof of evidence shall consist of-

(a) the list of witnesses,

(b) the list of exhibits to be tendered,

(c) statement of all prosecution witnesses intended to be called at the trial,

(d) Police Investigation Report,

(e) copies of statement of the defendant and his witnesses, if any.

(f) any other document, report, or material that the prosecution intends to use in support of its case at the trial,

(g) particulars of bail or any recognizance, bond or cash deposit, if defendant is on bail,

(h) particulars of place of custody, if the defendant is in custody,

(i) particulars of any plea bargain arranged with the defendant,

(j) particulars of any previous interlocutory proceedings, including remand proceedings, in respect of the charge,

(k) any other relevant document as may be directed by the court;

2. Where at the close of the case for the prosecution, the defendant intends to call witnesses, whose statements are not in the proof of evidence, he shall within 30 days file and serve on the prosecution, written deposition of all such witnesses, list of documents and materials to be relied upon during trial, if any.

3. The prosecution and the defence may during trial, by leave of court, file and serve additional evidence on oath.

Procedure on information

237. 1. Subject to the provisions of this section an information shall be filed by the Attorney-General through the Director of Public Prosecutions or any officer in his department, or by any other person authorized by this Law to do so, before the High Court, charging any person with an offence.

Signing of information

2. An information shall be signed by a law officer or any person authorized by law in that regard**.**

3. Whenever an information has been filed in the court, the Chief Judge or Administrative Judge shall take appropriate steps to ensure that the information filed is assigned to a Judge within seven days of its filing.

4. On assigning the information, the appropriate court to which the information is assigned shall within fourteen days of such assignment issue hearing notices to the witnesses and the defendant and a production warrant properly endorsed by the Judge in respect of the defendant, if he is in custody, for the purpose of ensuring his appearance on the date of trial and the Registrar shall ensure the prompt service of the notice and information not less than three days from the date stated therein for the hearing of the information.

5. Where the defendant in the information is in custody, the notice of trial and the information shall be delivered to him through the Superintendent of Prisons in which he is detained, and the warrant for his production shall be served on such officer of the prison.

6. Where the defendant is not in custody, the hearing notice and information shall be served on him personally or on his legal representatives in appropriate circumstances.

7. Where it is impossible or impracticable to effect personal service of the hearing notice and information on the defendant, same may be served on him, with leave of court through his legal practitioner, if any, or on his surety or sureties, and such service shall be deemed to be due service on the defendant:

Provided that nothing in this section shall prevent the defendant from being tried by reason only that the notice of trial and information were served on him less than three days before the date of trial, if he consents to such trial.

Trial at the Magistrate Court

238. 1. In prosecuting a case at the Magistrates' court, the prosecution will at the trial -

(a) field its witnesses, who shall give oral testimonies and be cross-examined by the defendant or his legal representative,

(b) upon conclusion of case for the prosecution the defendant and his witnesses will be called upon to give his/their oral testimonies in defence and be cross-examined,

Information to contain only one capital offence

239. No other charge shall be joined with a charge punishable with death and not more than one count punishable with death shall be charged in the same information, except where the offences are committed in one transaction.

Information may be filed at the Registry of the High Court.

240. Subject to the provisions of this section an information charging any person with an indictable offence may be preferred in the High Court, and wherever an information has been so preferred the Registrar shall, if he is satisfied that the requirements of section 241 have been complied with, file the information and it shall thereupon be proceeded with accordingly:

Provided that if the Registrar shall refuse to file an information, a Judge, if satisfied that the said requirement has been complied with, may, on the application of the prosecution or on his own motion, direct the Registrar to file the information and it shall be filed accordingly.

Procedure on information for indictable offences.

241. Subject as hereinafter provided no information charging any person with an indictable offence shall be preferred unless either-

(a) the information is preferred after the preparation of the proofs of evidence in the charge, or

(b) the information is preferred pursuant to an order made under Chapter 12 to prosecute the person charged for perjury, or

(c) the information is preferred in cases other than those mentioned in paragraph (a) or (b) where because of the special circumstances of such cases the Attorney -General considers that an information should be filed without recourse to the procedure referred to in paragraph (a):

Provided that where the information is preferred after the preparation of the proofs of evidence it may include either in substitution for or in addition to counts charging the offence for which the proofs of evidence have been prepared, a ny counts founded on facts or evidence disclosed in the proofs of evidence being counts which may lawfully be joined in the same information.

When information should be preferred

242. If an information preferred otherwise than in accordance with the provisions of section 241 has been filed by the Registrar the information shall be liable to be quashed:
Provided that if the information contains several counts, and the said provisions have been complied with as respects one or more of them, those counts only that were wrongly included shall be quashed under this section.

Information not to be quashed on appeal except application for it made at trial

243. Where a person is convicted on an information, or on any count of an information, preferred under paragraph (a) or (b) of section 241, that information or count shall not be quashed under this section in any proceedings on appeal unless application was made at the trial that it should be

so quashed.

Information by private person

244. The Registrar shall receive an information from a private person where -

(a) the information is endorsed by a law officer to the effect that he has seen such information and declines to prosecute the offence set out in the information; and

(b) the private person has entered into a recognizance in such sum as may be fixed by the court, with or without surety, to prosecute the information to conclusion at the times at which the defendant shall be required to appear and pay such costs as may be ordered by the court, or, instead of entering into a recognizance has deposited in the registry of the court, such sum of money as the court may fix.

Conditions for private prosecutors.

245. Where any private person has complied with the provisions of section 244, the information shall be signed by such person and not by a law officer and such person shall be entitled to prosecute the information.

Venue.

246. The place of trial shall be determined in accordance with the provisions of section 184.

Change of venue: Cause commenced in wrong division

247. Notwithstanding the provisions of sections 184 and 185 of this Law –

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

(b) the prosecutor or the defendant may, whenever he considers that the ends of justice so require in any case, apply to the court either to transfer the hearing from one division to another or from one part of one division to another part of the same division.

Effect of change of venue

248. Where a case is transferred from one place in a division to another place in the same division or to another division, the case shall be tried and determined at the place or in the division to which it has been transferred; and all recognizances, subpoenas, and proceedings in or relating to the case are deemed to be adjourned to the latter place or division and all witnesses who are or summoned to attend the trial shall be informed accordingly and shall attend at such latter place or division.

Form of notice of trial

249. The Registrar or any other person directed by the court, shall endorse on, or annex to, every information delivered to the sheriff or proper officer, for service, a notice of trial

and such notice shall specify the particular sessions at which the party is to be tried on the Information and shall be in the following form or as near to it as may be:

NOTICE OF TRIAL

A. B. Take notice that you will be tried on the information of which this is a true copy, at the session to be held at ……on ……the …… day of……20….

Also find attached the "Information on Legal Representation" Form which you must complete and return to the Registry of t his court within fourteen days of service on you of this notice of trial.

Registered courier companies may serve processes

250. The Chief Judge may engage the service of a reputable company for the purpose of undertaking service of criminal processes, and such company shall serve all processes in accordance with this Law.

Return of service

251. The person serving the copy of information and notices shall immediately submit to the Registrar or other proper officer a return of the mode of service with the necessary endorsement of service of the documents on the person named for service on the notice or information.

Warrant where defendant does not appear

252. Where a person against whom an information has been duly preferred, and on whom the information and notice of trial have been duly served, does not appear to plead to the information, whether he is under recognizance, to appear or not, the court may issue a warrant for his arrest.

Time and mode of summoning parties on information

253. 1. The Sheriff or other proper officer aforesaid shall soon after receiving a copy of the information and notice of trial, and three days at least before the day specified therein for trial, or within such lesser time as the court may, for good cause order, by himself or his deputy or other officer, deliver to the party charged the said copy and notice and explain to him the nature thereof. When the said party is not in custody or has been admitted to bail but cannot readily be found the Sheriff shall leave a copy of the said information and notice of trial with someone of his household, in his dwelling-house, or with his surety, and if none of such can be found, shall affix the said copy and notice to the outer or principal door of the dwelling-house of the party charged or of any of his surety with leave of court.

Prisoner may be tried at once

Provided that —

(a) nothing herein contained shall prevent any person in custody or awaiting trial at the opening of or during any sessions, from being tried thereat, if he has been served with a copy of the information and

notice of trial not less than three days before the date on which he is to be tried;

(b) such last mentioned period of three days may be reduced to a shorter period if such person shall express his assent thereto and no special objection be made thereto on the part of the State.

2. The Sheriff or other proper officer shall in like manner deliver to each witness the said notice of trial.

Bench warrant where accused person does not appear.

254. Where any person against whom an information has been duly preferred, and who is then at large, does not appear to plead to such information, whether he is under recognizance to appear or not, the court may issue a warrant for his arrest. Provided that where the defendant rejects the legal practitioner assigned to him by the court, then he shall provide a lawyer of his choice failing which the trial shall proceed.

Counsel for state and defence in capital cases

255. 1. Where a person is accused of a capital offence the State shall be represented by a law officer, state counsel or legal practitioner and if the defendant is not defended by a legal practitioner, the court shall assign a legal practitioner for his defence.

2. The State shall set up and fund a Public Defence Fund at the Citizens Rights and Mediation Center for purpose of providing free legal services to indigent defendants.

Time for raising certain objections, day-to-day trial and adjournments

256. 1. The person to be tried on an information or charge shall be arraigned in accordance with the provisions of this Law relating to the taking of pleas and the procedure on it.

(a) An objection to the information or charge may be taken before the plea of the defendant. Thereafter, all objections to the charge shall be taken at the final address.

(b) Any interlocutory appeal in respect of an objection taken before plea shall not operate as a stay of proceedings in the trial court.

2 (a) Upon arraignment the trial of the defendant will proceed from day-to-day until the conclusion of the trial.

(b) Where day-to-day trial is impracticable after arraignment, each party shall be entitled to not more than two adjournments, and there shall not be more than two adjournments at the instance of the court. Provided that no adjournment during trial shall exceed 14 days inclusive of weekends.

(d) In all circumstances, the court may award reasonable costs in order to discourage frivolous adjournments against either party.

Time Standards

257. All criminal proceedings in the court shall be guided by the following time standards-

(a) For capital offences, a maximum period of 540 (five hundred and forty) days
(b) For other offences triable on information, a maximum period of 360 (three hundred and sixty) days
(c) For all summary trials, a maximum period of 180 (one hundred and eighty) days
(d) For bail applications, a maximum period of 30 days
(e) For all other interlocutory applications, a maximum period of 90 (ninety) days

Court may extend time

258. 1. Where for any cogent reason a case cannot be concluded within the stipulated time standards, the trial court may, suo motu, or on application of any party, extend the time to a period not exceeding half of the period originally stipulated:

Provided that in such proceedings, the court may-

(a) Award cost/Impose penalty on any party causing delay

(b) Reconsider the issue of bail

(c) Make any order or give such directives in any other manner the court considers fit in the circumstances of the case.

Provided also that if the matter is not concluded within the extended time, the matter shall proceed and the court shall report the matter to the Chief Judge.

2. In computing time, the period of court vacation, annual leave of a Magistrate, public holidays, industrial actions shall not be taken into account.

Case management register to be maintained by Chief Registrar

259. 1. A case management register shall be maintained in the office of the Chief Registrar, who shall submit quarterly reports of compliance with the time standards to the Judicial Service Commission of the State for appropriate disciplinary action in cases of default by any court.

2. For the purpose of this section, the 'Chief Registrar' means the Chief Registrar of the High Court.

Attendance of witness bound by recognizance to attend

260. 1. A person who is summoned as a witness whether for the prosecution or for the defence, shall be bound to attend the court on the day fixed for the trial of the case and on subsequent dates until the conclusion of the case or until he has been discharged by the court from further attendance.

2. Any person whose attendance as a witness, whether for the prosecution or for the defence, is required in any case, and who has not been bound by recognizance to attend as a witness on any date fixed for the trial of the case, may be summoned by a writ of subpoena.

Warrant for arrest of witness not attending on recognizance

261. Where a person who has been served and summoned to attend as a witness, whether for the prosecution or for the defence, does not attend the court on the day fixed for the trial of the case or on any further adjourned date, and offers no reasonable excuse for his absence, the court may

issue a bench warrant that the person be arrested and be brought before the court, at a time to be mentioned in the warrant, in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

Warrant for arrest of witness disobeying summons

262. Where a person named on a summons or writ of subpoena willfully refuses to accept service of the summons or writ of subpoena, the court shall issue a warrant for the person to be arrested and be brought before the court at a time to be mentioned in the warrant in accordance with the summons or writ of subpoena.

Fine for non-attendance of witness

263. A person who fails to attend as witness in either of the cases mentioned in sections 261 and 262 of this Law without reasonable explanation shall be 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 five thousand naira and, in default of payment, to imprisonment for a term corresponding to the fixed sum, but the period of imprisonment shall not exceed two months.

Service of subpoena

264. The Registrar, on being furnished with the names and places of abode of witnesses for the prosecution or defence whose attendance is required to be secured by subpoena, shall prepare and deliver to the sheriff for service a writ or writs of subpoena under section 261(2) of this Law directed to such witnesses, together with as many copies thereof as there may be witnesses named in such writ or writs.

Application of law to trials under this part

265. In addition to the provisions of this chapter and to the other express provisions of this or any other law relating to trials of indictable offences the provisions of this Law relating to evidence, adjournment, addresses, the discharge and sentencing of convicted persons, the awarding of compensation, costs and the directing and ordering of forfeitures and also all other incidental matters relating to the trial of a case shall be applicable to a trial on information.

Recording of judgment and sentence

266. The judgment and subsequent sentence of the court shall be endorsed by the Registrar on the information.

Trials

267.

1. Trials in the High Court may be recorded electronically by retrievable audio visual means such that where a trial Judge is unable to conclude a trial, another Judge may be assigned to conclude the proceedings without having to start *de novo;* Provided that non-recording of proceedings shall not vitiate a valid trial.
2. The transcript of the electronic recording of the proceedings of the court shall be produced and signed by the Judge and such signed transcript shall constitute proper signing of the record book of the court.

CHAPTER 17. —PREPARATION AND USE OF PROOFS OF EVIDENCE

Proofs of

268. 1. Notwithstanding the provision of any other law,

evidence to replace preliminary inquiry

preliminary inquiry or preliminary investigation into a criminal charge by a Magistrate or any court with a view to determining whether or not a person is to be committed to the High Court for trial shall cease to apply in the State.

2. Where formerly there is in the Criminal Procedure Law or any other existing law any provision which required or had the effect of requiring the holding of a preliminary inquiry or preliminary investigation (howsoever worded or expressed) by a court or Magistrate in any criminal charge, then instead of such preliminary investigation, there shall, in respect of any such charge be prepared the proofs of evidence for the purpose of determining whether or not an information may be preferred.

Proofs of evidence by law officers.

269. The proofs of evidence in respect of a criminal charge shall, subject to the direction and control of the Attorney-General, be prepared by law officers in the Ministry or, in the case of a private prosecution, by the private prosecutor in accordance with the provisions of this chapter.

Cases to which taking of proofs of evidence applicable

270. Proofs of evidence shall be prepared in all charges relating to —

(a) capital offences;
(b) offence punishable with imprisonment for life; and
(c) any indictable offence in respect of which the defendant has elected to be tried by the High Court under section 271 of this Law.

Indictable cases on election of the defendant

271. Where a charge for an indictable offence is filed at the Magistrate court, the defendant may, before his plea is taken, apply to the court that he elects to be tried at the high court.

Procedure by Magistrate after charge read or election made.

272.

1. Where the defendant applies for election under section 271 of this Law, the Magistrate shall record the said application and if he grants the application transmit the case file to the office of the Attorney-General for information at the High court.
2. The Magistrate may refuse to grant such application for election where the justice of the case so demands, and therewith shall proceed with the hearing of the case.

Contents of proofs of evidence

273.

1. The Prosecution shall file and serve on the defendant the proof of evidence which shall consist of –
   (a) a statement of the charge against the defendant
   (b) where the defendant has applied for election a statement that he elected to be tried by the High Court;
   (c) the name, address and statement of any material witness whom the prosecution intends to call;
   (d) the name, address and statement of any material witness whom the prosecution does not intend to call:

   Provided that the submission of such names shall not prevent the prosecution from calling any such witness at the trial if the prosecution later so desires;
   (e) the copy of any report, if available, made by a doctor about the state of mind of an defendant in custody;

(f) records of convictions, if any, affecting the credibility of any witness for the prosecution;
(g) statements of the defendant;
(h) an inventory of all the exhibits to be produced to the court at the trial,
(i) statement of all prosecution witnesses intended to be called at the trial
(j) report of the police investigating officer
(k) copies of documents to be relied upon and other exhibits intended to be relied upon,
(l) any other statement, report or document which the prosecution may consider relevant to the case

2. Where at the close of the case for the prosecution, the defendant intends to present a defense, he shall within 30 days file and serve on the prosecution, written statements of all his witnesses, list of all the exhibits intended to be tendered and copies of documentary evidence to be tendered.

Trial at the Magistrates' Court

274. In prosecuting a case at the Magistrate court, the prosecution shall file-

(a) statement of witnesses and documents it wishes to rely on and list of exhibits,
(b) the prosecution will give oral evidence in chief and be cross-examined,

Verification of statement of witness

275.

1. After the preparation of the proofs of evidence the Attorney-General may, if he deems it necessary or expedient so to do remit or cause to be remitted to the Magistrate before whom the charge was laid, or to any other Magistrate, the statement of any witness for the purpose of verification.
2. The Magistrate shall thereupon fix a date when the witness and the defendant shall be summoned before him for the purpose of the verification of the statement of such witness.
3. On the date fixed under subsection (2), the clerk of court shall read out the statement of the witness in the presence of the witness and the defendant and the witness shall then verify such statement on oath.
4. After the verification of the statement of the witness the Magistrate shall inform the defendant of his right, and shall give him the opportunity, to cross-examine the witness.
5. The defendant or his counsel may then proceed to cross-examine the witness if he desires to do so, and the answers of the witness to such cross-examination as well as the fact that the defendant was informed of his right and given the opportunity to cross-examine (where he or his counsel did not elect to do so) shall be recorded by the Magistrate, and shall form part of the proofs of evidence.
6. Such verified proofs of evidence which include the witness's answers given in cross-examination and the fact that the defendant was informed of his right and given the opportunity to cross-examine, shall be remitted to the Attorney-General by the Magistrate.

Binding over of witnesses.

276. 1. The Magistrate shall, after the charge has been read or after the defendant has elected to be tried by the High Court, as the case may be, or at any time thereafter bind over every witness present in court or brought before him subsequently to attend to give evidence at the trial of the defendant before the High Court, whether or not the prosecution intends to call all such witnesses.

2. Subject to the provisions of any other written law, if among the witnesses bound over under subsection (1), there be any that the prosecution does not intend to call at the trial such witness shall nevertheless continue to be present at the trial for such reasonable period as might enable the defendant or his counsel to make up his mind as to whether or not he will call any of them to give evidence for the defence.

3. Every witness bound over under this section shall enter into a recognizance and such recognizance shall specify the name and surname of the person entering into it, his occupation or profession, if any, and his address.

4. The recognizance shall be acknowledged by the person entering into it and be subscribed by the Magistrate before whom it is acknowledged.

5. A witness who refuses, without reasonable excuse, to enter into such recognizance may by a warrant issued by the Magistrate be committed to prison or to other place of safe custody, there to be kept until after the trial, or until the witness enters into a recognizance before Magistrate -

Provided that if the defendant is afterwards discharged, any Magistrate may order any such witness to be discharged forthwith.

Marking of exhibits

277. The Magistrate before whom the defendant is charged shall direct the prosecuting police officer to make inventory of, label, or otherwise mark all articles, if any, connected with the charge and it shall be the duty of such police officer or any other police officer generally or specially instructed in that behalf by the State Commissioner of Police to comply with such direction.

Prima-facie case- information to be preferred

278. Where at the conclusion of the taking of the proofs of evidence the Attorney-General is satisfied there is *prima facie* evidence from the record to put the defendant on trial on all or any of the charges against him, he shall prefer an information against the defendant in respect of such charge or charges.

Discharge of defendant when there is no prima facie case

279. Where the record of the proofs of evidence does not in the opinion of the Attorney-General disclose sufficient evidence to support the charge or charges against the defendant, the Attorney-General shall so inform the Magistrate in writing, and the Magistrate shall, soon as possible thereafter, summon the defendant to the court and discharge him.

Evidence by prosecutor

280. Nothing contained in this chapter shall prevent the prosecutor in any case from giving in evidence at the trial any admission or confession or other statement of the defendant made at any time which is by law admissible in evidence.

Information and proofs of evidence to be transmitted to High Court.

281. 1. Subject to subsection (3) where the Attorney-General prepares an information, after the preparation of the proofs of evidence under this chapter, he shall cause sufficient copies of the information and of the proofs of evidence to be transmitted to the Registrar of the High Court in which the trial is to take place.

2. Upon receipt of the documents mentioned in subsection (1), the Registrar shall proceed in accordance with Chapter 16 of this Law and any other law for the time being in force in the State in that regard, and shall furnish every defendant, free of charge, a copy of the information and of the proofs of evidence.

3. The records transmitted to the Registrar of the High Court under subsection (1) shall not include any particulars of the defendant's previous convictions. Such particulars shall be supplied to the High Court after the defendant has been convicted.

CHAPTER 18. — THE CHARGE

Form of charges in Second Schedule to be used and adapted .

282. Charges may be as in the form set out in the Second Schedule and may be modified in such respects as may be necessary to adapt them to the circumstances of each case.

Name of the Offence Section

283. Every charge shall state the offence with which the defendant is charged and if the written law creating the offence gives it any specific name the offence may be described in the charge by that name only.

Absence of name of the offence.

284. Where the written law which creates the offence does not give it any specific name so much of the definition of the offence must be stated as to give the defendant notice of the matter with which he is charged.

Written Law.

285. The section of the written law against which the offence is said to have been committed shall be set out in the charge.

Effect of making a charge.

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

Previous conviction.

287. Where the defendant has previously been convicted of any offence and it is intended to prove such previous conviction for the purpose of affecting the punishment which the court may award, the subsequent offence shall first be charged and then, if the previous offence is one, which under the provisions of any written law, may be so charged a statement of such previous offence containing the fact, date and place of such previous conviction shall be added.

Particulars of charge

288. The charge shall contain such particulars as to the time and place of the offence and the person, if any, against whom or the thing, if any, in respect of which it was committed as are reasonably sufficient to give the defendant notice of the

matter with which he is charged.

Breach of trust fraud, etc.

289. Where the defendant is charged with criminal breach of trust, fraudulent appropriation of property, fraudulent falsification of accounts or fraudulent conversion it shall be sufficient to specify that gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 304.

Description of the offence.

290. The particulars in the charge shall describe the offence briefly in ordinary language avoiding as far as possible the use of technical terms.

Insufficient particulars

291. Where the nature of the offence is such that the particulars required by sections 283 or 285 do not give the defendant sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the offence was committed as will be sufficient for that purpose.

Sense of words used in a charge.

292.
1. In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively in the written law creating such offence.
2. Figures and abbreviations may be used for expressing anything which is commonly expressed thereby.

Owner and value of property

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

Joint owners

294. Where property is vested in more than one person and the owners of that property are referred to in the charge, the property may be described as being owned in accordance with the appropriate provision set out in sections 335 to 341.

Description of Bank or currency notes

295.
1 Any bank or currency note may be described as money, and any averment as to money, regarding the description of the property, shall be sustained by proof of any amount of any bank or currency note, although the particular species of currency of which the amount was composed or the particular nature of the bank or currency note need not be proved.
2. In cases of stealing and defrauding by false pretences, the bank or currency note may be described by proof that the defendant dishonestly appropriated or obtained

any bank or currency note or any portion of its value, although the bank or currency note may have been delivered to him in order that some part of the value should be returned to the party delivering it or to any other person, and such part shall have been returned accordingly.

Proof of registered title

296. Where the ownership of the property is described as being in any company, association, club or society by its registered title, proof of the registration of the company, association or society shall not be required unless the court decides that such proof shall be given, in which case the further hear ing may be adjourned for the purpose or the court may, in its discretion, amend the proceedings by substituting the name of some person or persons for such registered title.

Provision as to Statutory offences

297. Where a written law constituting an offence states the offence to be the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omission, capacities, or intentions, or other matters stated in the alternative in the written law, may be stated in the alternative in the charge.

Provision as to negative provisions in offences

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

Description of persons

299. The description or designation of the defendant in a charge or of any other person to whom reference is made therein may be described in the manner set forth in section 342.

Description of document

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

General rule as to description

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

Statement of intent

302. It shall not be necessary to state an intent to defraud, deceive or injure any particular person, where the written law creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.

When persons may be charged jointly

303. The following persons may be charged or tried together or separately as the court may deem fit –

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

(b) persons accused of an offence and persons accused of abatement or of an attempt to commit the same offence;

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

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

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

Separate charges for distinct offences

304. For every distinct offence with which any person is accused there shall be a separate charge and every such charge shall be tried separately except in the cases mentioned in sections 305 to 309.

Three offences of the same kind within twelve months may be charged together

305. Subject to section 239 when a person is accused of more offences than one committed within the period of twelve months from the first to the last of such offence whether in respect of the same person or thing or not, he may be charged with and tried at one trial for any number of them not exceeding three.

Trial for more than one offence

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

Offences falling within two definitions

307. Where the acts or omissions alleged constitute an offence falling within two or more separate definitions in any written law for the time being in force under which offences are defined or punished, the person accused of them may be charged with and tried at one trial for each of such offences.

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

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

Where it is doubtful which offence committed

309. Where a single act or omission or series of acts or omissions is of such a nature that it is doubtful which of several offences, the facts of which can be proved, will constitute, the defendant may be charged with all or any of such offences and any number of such charges may be tried at once or he may be charged in the alternative with any of the said offences.

Procedure on imperfect charge

310. Where any person is arraigned for trial on an imperfect or erroneous charge, the court may permit or direct the framing of a new charge or add to or otherwise alter the original charge.

Court may alter charge

311.
1. Any court may permit any alteration or addition to any charge at any time before judgment is given or verdict returned.
2. Every such alteration or addition or new charge shall be read and explained to the defendant
3. No formal application shall be required for the alteration or amendment of a charge before any court.

Procedure on alteration of charge

312.
1. Where a new charge is framed or alteration made to a charge, the court shall forthwith call upon the defendant to plead thereto as if he has been arraigned for the first time.
2. Where the new or altered charge is such that proceeding immediately with the trial is likely, in the opinion of the court, to prejudice the defendant or the prosecutor, the court may either direct a new trial or adjourn the trial to such date as the court may consider necessary.
3. Where a charge is so amended, a note of the order for amendment shall be endorsed on the charge, and the charge shall be treated for the purpose of all proceedings in connection therewith as having been filed in the amended form.

Recall of witnesses when charge altered

313. When a charge is altered, amended or substituted after the commencement of the trial, the prosecutor and the defendant shall be allowed to recall or re-summon any witness who may have been examined and examine or cross-examine such witness with reference to such alteration.

Effect of error

314. No error in stating the offence or the particulars required to be stated in the charge and no omission to state the offence or those particulars shall be regarded at any stage of the case as material unless the defendant was in fact misled by such error or omission.

Objection to charge to be taken at plea

315. Subject to the provisions of section 256 of this Law, any objection to a charge for any formal defect on the face of such charge shall be taken immediately after the charge has been read over to the defendant but before plea is taken.

Objection cured

316. No judgment shall be stayed or reversed on the ground of

by verdict

any objection which if stated after the charge was read over to the defendant or during the progress of the trial might have been amended by the court because of any –

(a) variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the time at which the cause of complaint is alleged to have arisen if it is proved that such complaint was in fact made within the time, if any, limited by law for making the same; nor

(b) variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the place in which the cause of complaint is alleged to have arisen; nor

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

Full offence charged, attempt proved

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

Attempt charged, full offence proved

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

Liability as to further prosecution

319. Where a person has been convicted of an attempt under either sections 317 or 318 such person shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit.

Person tried for misdemeanor not to be acquitted if felony proved, unless court so directs

320. Where upon the trial of any person for any misdemeanor or simple offence, it shall appear that the facts proved in evidence amount in law to a felony, such person shall not by reason thereof be entitled to be acquitted of such misdemeanour or simple offence, and no person tried for such misdemeanour or simple offence shall be liable to be afterwards prosecuted for felony on the same facts, unless the court shall think fit, in its discretion, to stop the trial and to direct that such a person be charged for felony, in which case such person may be dealt with in all respects as if he had not been put upon his trial for such misdemeanour or simple offence.

When stealing is charged and receiving proved

321. Where a person is charged with stealing anything and it is proved that he received the thing knowing the same to have been stolen, he may be convicted of receiving stolen property under section 427 of the Criminal Code Law although he was not charged with that offence.

Person charged with burglary may be convicted

322. Where on any trial for burglary, house-breaking or related offence the facts proved in evidence justify a conviction for

of kindred offence

some other of the said offences and not the offence with which the defendant is charged, he may be found guilty of the said other offence and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such offence.

Conviction of false pretences on charge of stealing

323. Where a person is charged with stealing anything and it is proved that he obtained the thing in any such manner as would amount under the provisions of the Criminal Code to obtaining it by false pretences with intent to defraud, he may be convicted of obtaining it by false pretences with intent to defraud although he was not charged with that offence.

Conviction of stealing on charge of false pretences

324. Where a person is charged with obtaining anything by false pretences with intent to defraud and such thing is capable of being stolen and it is proved that the defendant stole the thing, he may be convicted of stealing it although he was not charged with that offence.

On charge of rape conviction under Sections 353 or 360 of Criminal Code or of indecent Assault may follow

325. Where on any trial for rape or sexual abuse of a child the facts proved in evidence authorize a conviction under Section 353 or 360 of the Criminal Code or for an indecent assault and not the offence with which the defendant is charged, he may be convicted of an offence under Section 353 or 360 of the Criminal Code or indecent assault, as the case may be, and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such offence or indecent assault.

On charge under Section 353 or 360 of Criminal Code conviction of indecent assault may follow

326. Where on any trial for an offence under Section 353 or 360 of Criminal Code, the facts proved in evidence warrant a conviction for an indecent assault and not the offence charged, the defendant may be convicted of indecent assault although he was not charged with that offence.

Where murder or infanticide is charged and concealment of birth is proved

327. Where upon the trial of any person for the murder of any child or for infanticide, it appears upon the evidence that such person was not guilty of murder or of infanticide, as the case may be, but was guilty of the offence of concealment of birth, such person may be found guilty of that offence.

Where murder Is charged and infanticide proved

328.

1. Where upon the trial of a woman for the murder of her newly born child, it appears upon the evidence that having regard to the provisions of Section 327A of the Criminal Code she was not guilty of murder but was guilty of infanticide, she may be found guilty of infanticide.
2. Nothing in this section shall be deemed to preclude a woman who is tried for the murder of her newly-born child from being convicted of manslaughter, or being found guilty but insane, or being found guilty of concealment of birth.

Where offence proved is included in offence charged

329. In addition to the provisions hereinbefore specifically made whenever a person is charged with an offence constituting of several particulars, a combination of some only of which constitutes a complete lesser offence and such combination is proved but the remaining particulars are not proved, he may be convicted of such lesser offence or may plead guilty thereto although he was not charged with it.

Where a lesser offence is proved, conviction may follow

330. When a person is charged with an offence and fact areproved which reduce it to a lesser offence he may be convicted of the lesser offence although he was notcharged with it.

Withdrawal of remaining charges on conviction on one of several charges

331. When more charges than one are made against a person and a conviction has been had on one or more ofthem, the prosecutor may with leave of the court, withdraw the remaining charge or charges or stay the trial of such charge or charges.

Court may proceed upon withdrawn charges in certain circumstances

332. Such withdrawal shall have effect of an acquittal on such charge or charges, unless the said conviction has been set aside, in

which case subject to a ny order of the court setting aside such conviction, t he court before which the withdrawal was made m ay, on the request of the p rosecutor, proceed upon t he charge or charges so withd rawn.

Procedure for trial on charge for certain offences

33. 1. A trial for the offences r eferred to in subsection (4) of this section may n ot, where the court so determines, be held in a n open court.

2. The names and identiti es of the victims of suc h offences or witnesses shall not be disclosed in any charge, infor mation, record or report of the proceedings and it shall be sufficient to designate the names wit h alphabets.

3. Where in any proceedings he court determines that it is necessary to protect t e identity of the victim or a witness, the court may take any or all of the following measures-

(a) receive evidence by v ideo link;

(b) permit the witness to be screened or masked;

(c) receive written depos ition of any expert witness;

(d) any other measure t hat the court considers appropriate in the ci rcumstance.

4. The provisions of this se ction shall apply to-

(a) Offences under sec tions 196, 198, 200, 203

, 204, 205, 209, 222 and Chapter 27 of the Criminal Code

(b) Offences under Prevention of Terrorism Act 2011

(c) Offences relating to trafficking in persons

(d) Any other offence that may be permitted by a law of the State House of Assembly or an Act of the National Assembly.

CHAPTER 19. – DESCRIPTION OF PROPERTY AND PERSONS IN THE COURT PROCESS

Methods of stating ownership of property

334. Where in any complaint, summons, warrant of anydescription, charge sheet, information or any documentwhatsoever issued by a court in the exercise of its criminal jurisdiction, it is necessary to refer to the ownership of any property whether movable or immovable which belongs to or is in the possession ofmore than one person, the provisions of sections 335to 337 shall apply.

Joint owners

335. If the property belonged to or was in the possession of more than one person whether as partners in trade or otherwise, joint tenants, tenants in common or joint owners or possessors it may be described in the name of any one of such persons and another or others.

Companies and associations

336. Property of a company, association, club or society

36. may subject to the provisions of any other written law be described as the property of an official of such company, association, club or society, or alternatively belonging to such company, association, club or society by its legal or registered title.

Public department

37. Property belonging to or provided for the use of any public establishment, service or department may be described as the property of the State.

Places of worship

38. Where it is necessary to state the ownership of any church, chapel, mosque or building or place set apart for religious worship or of anything belonging to or being in the same, it may be stated that such church, chapel, mosque or building or place, or such thing is the property of any clergyman, minister or other person officiating therein or of the church warden or churchwardens of such church, chapel, mosque or building or place, without its being necessary to name him or them.

The control of public offices

39. Where it is necessary to state the ownership of any money or other property whatsoever in the charge, custody, or under the control of any public officer such money or property may be stated to be the money or property of the State.

Public building, works or

40. Where it is necessary to

institutions

40. state the ownership of any work or building made, erected or maintained either wholly or in part at the expense of the public revenue of the State or of any town or village thereof or of any local government, or of anything belonging to or being in or used in relation to the same, or of anything provided for the use of any part or of any public institution or establishment, or of any materials or tools provided or used for repairing any such work or building or any public road or highway, or of any otherproperty whatsoever, whether movable or immovable as aforesaid, it shall be sufficient to state that such property is the property of the State or of the town orvillage, or of any local government as the case may be,without naming any of the inhabitants of any such areas or jurisdictions.

Married Women's property

341. Property belonging to a woman who has contracted a marriage under the Marriage Act or a marriage undernative law and custom may be stated as belongingto such married woman.

Description of persons in criminal process

342. Where in any complaint, summons, warrant of any description, charge sheet, information or any documentwhatsoever issued by a court in the exercise of

its criminal jurisdiction, it is necessary to refer to any person, the description or designation of that person shall be such as is reasonably sufficient to identify him ,without necessarily stating his correct name, or his abode, style, degree, or occupation, and if, owing to the name of the person not being known or for any other reason it is impracticable to give such a description or designation, such description or designation shall be given as is reasonably practicable in the circumstances, or such person may be described as " a person unknown."

Provided that no person who is accused of an offence shall be described as "a person unknown" except in the case of a verdict found upon a coroner's inquisition.

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

343. Every woman who has contracted a marriage under the Marriage Act shall have in her own name against all persons whatsoever, including the husband of such marriage, subject to the provisions of any other law, the same remedies and redress by way of criminal proceedings or the protection and security of her own separate property as if such property belonged to her as an unmarried woman.

Husband and wife competent witnesses

344. In any proceeding taken under the provisions of section 343 of this Law, t

he husband and wife sha ll be competent and c ompellable witnesses i n accordance with the provis ions of the Evidence Act.

CHAPTER 20. – DEFEND ANT – ATTENDANCE TO COURT A ND REPRESENTATION

Position in court of defendant

345. Where a defendant app ears before a court on a summons he may be requ ired to enter the dock or to stand or sit adjacent th ereto as may be ordered by the court.

Counsel for complainant and defendant

346. 1. Subject to section 255 of this Law a defendant shall be entitled to con duct his case in person or by a legal practition er.

Access to legal practitioners

2. Where the defendant is i n custody or on remand he shall be allowed t he access of such leg al practitioner at all reaso nable times.

Right of defendant to defend himself

3. Where the defendant el ects to defend himself in person, the court shall i nform him of all his rights within the trial and of th e possible consequences of such election.

CHAPTER 21.—DETERMI NATION OF AGE OF DEFEND ANT

Presumption and determination of age.

347. Where a person is before any court and it appears

to the court that such person is an infant, or a child, or a young person, or an adult, the court may make due inquiry as to the age of that person and for that purposemay take such evidence as may be forthcoming atthe time, or at the time to which then inquiry may be adjourned but an order or judgment of the court shall not be invalidated by any subsequent proof that the age of that person has not been correctly stated to the court, and the age presumed or declared by the court to be the age of that person shall for the purposes of this Law be deemed to be the true age of that person.

37. *Where defendant is presumed to be under or above a specific age at time of alleged offence*

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

age, as the case may be, unless the contrary is proved.

CHAPTER 22.–RIGHT OF THE PUBLIC TO ATTEND THE COURT SITTINGS

Public to have access to hearing

349. 1. Subject to the provisions of sections 350 to 352 and of any other written law specifically relating thereto the room or place in which any trial is to take place under this Law shall be an open court to which the public generally may have access as far as it can conveniently contain them.

2. The Judge or Magistrate presiding over such trial may, in his discretion and subject to the provisions of section 351, exclude the public at any stage of the hearing on the grounds of public policy, decency or expedience:

3. Where the court is sitting in a place other than in a building the authority given to exclude the public shall be construed as being authority to prevent the public approaching so near to where the court is sitting as, in the opinion of the Judge or Magistrate, to be able to hear what is taking place at the trial or be

able to communicate with any person allowed to be present thereat

Court may be cleared whilst child is giving evidence in certain cases

350. In addition to and not in mitigation of any powers which a court may possess to hear proceedings *in camera*, the court may, where a person who in the opinion of the court has not attained the age of eighteen is called as witness in any proceedings in relation to an offence against or any conduct contrary to decency or morality, direct that all or any persons not being members or officers of the court or parties to the case, their legal practitioners or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of such person.

Order under sections 349 or 350 not to apply to press and certain others

251. 1. An order made under sections 349 or 350 excluding the public from a court shall not unless specifically stated-

(a) authorize the exclusion of *bona fide* representatives of a newspaper or news agency, or

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

2. Where such an order is made the Judge or Magistrate, as the case may be, shall record the grounds upon which such decision is taken.

Prohibition on infant's presence in court at trial of other persons

352. No infant, other than an infant in arms, shall be permitted to be present in court during the trial of any person charged with an offence or during any proceedings preliminary thereto and if so present, shall be ordered to be removed unless he is the person charged with the alleged offence or his presence is required as a witness or otherwise for the purposes of justice, in which event he may remain for so long as his presence is necessary.

CHAPTER 23. – PLEA TO INFORMATION OR CHARGE

Pleading to indictment or charge

353. The person to be tried upon any charge or information shall be placed before the court unfettered unless the court shall see cause otherwise to order, and the charge or information shall be read over and explained to him to the satisfaction of the court by the Registrar or other officer of the court, and such person shall be called upon to plead instantly thereto, unless where the person is entitled to service and the court finds that he has not been duly served therewith.

Proof of previous conviction

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

Pleas of autrefois acquit or convict; pardon

355. 1. Any defendant against whom a charge or information is filed may plead-

(a) that he has been previously convicted or acquitted, as the case may be, of the same

offence; or

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

2. Where either of such plea is made in any case and denied to be true in fact, the court shall determine whether such plea is true in fact or not.

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

356.

1. Where the defendant when called upon to plead remains silent or refuses to answer, the court shall enter a plea of not guilty on his behalf.

2. Such plea shall have the same effect as if the defendant actually pleaded to the charge.

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

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

Effect of plea of guilty

357.

1. Where the defendant pleads guilty to any offence with which he is charged, the court shall record his plea as nearly as possible in the words used

by him.

2. The prosecution shall st ate the facts of the alleged offence to which the defe ndant has pleaded, and if satisfied that he intende d to admit the truth of all the essentials of the offen e to which he has pleaded guilty, the court shall con vict him of that offence and pass sentence upon o make an order against him unless there shall app ear sufficient cause to the contrary.

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

Amending charge where the defendant pleads guilt to an offence not charged

358. 1. Where the defendant ple ads guilty to any offence not contained in the cha rge or information on which he was arraigned, the court shall direct the prosecution to amend th e charge or information to include the admitted off ence.

2. In such a situation, a fr esh plea of the defenda nt shall be taken on the amer ded charge or information.

Effect of plea of not guilty

359. Every person who pleads n ot guilty shall be deeme d to have submitted himself for trial.

In Plea bargain defendant may plead guilty for lesser offence(s) than offence charged

360. 1. Notwithstanding anyt hing in this Law or an y other enactment, t he prosecution may rec eive, consider and accept the plea of guilt for a lesser offence by a person c harged with an offence wh ere the prosecution is

of the view that the acceptance of such agreement is in the interest of justice, the public interest, public policy and the need to prevent abuse of the legal process.

2. 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(s) 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.

3. The prosecutor may only enter into an agreement contemplated in subsection (2) of this section-

(a) after consultation with the police responsible for the investigation of the case and the victim, and

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

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

(a) the defendant's willi

ngness to cooperate in th e
investigation or pros ecution of others;
(b) the defendant's history with respect to criminal activity;
(c) the defendant's re morse or contrition and his willingness to assume responsibility for h is conduct;
(d) the desirability of pro mpt and certain disposition of the case;
(e) the likelihood of obt aining a conviction at trial,
(f) the probable effect o n witnesses;
(g) the probable senten ce or other consequences where the defe ndant is convicted;
(h) the need to avoid delay in the disposition of other pending cas es;
(i) the expense of trial a nd appeal; and
(j) the defendant's willi ngness to make restitution or pay compen sation to the victim whe re
appropriate.

5. The prosecution shall afford the complainant ,
victim of the alleged cri me or his representative th e opportunity to ma ke representations to t he
prosecutor regarding-
(a) the content of the ag reement; and
(b) the inclusion in the agreement of a compensati on or restitution ord er.

6. An agreement between the parties contemplate d in subsection (2) sha ll be reduced to writing and shall –

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

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

(ii) of the consequences of not remaining silent, or

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

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

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

7. The presiding Judge or Magistrate before whom the criminal proceedings are pending shall not participate in the discussion contemplated in subsection (2):

Provided that he may be approached by counsel regarding the contents of the discussions and he may inform them in general terms of the possible advantages of discussions, possible sentencing options or the acceptability of the proposed agreement.

8. Where a plea agreement is reached by the prosecution and the de

fence, the prosecutor s hall
inform the court that t he parties have reache d an
agreement and the pr esiding Judge or Magis trate
shall then inquire fro m the defendant to con firm
the correctness of the agreement.

9. The presiding Judge or Magistrate shall ascertain whether the defend ant admits the allegation in the charge to whi ch he has pleaded guilty and
whether he entered int o the agreement volunt arily
and without undue infl uence and may –

(a) Where satisfied that the defendant is gui lty of theoffence to which he has plead ed guilty, convict the defendant on his plea of guilty to that offence,or

(b) Where he is, for an y reason, of the opini on that
the defendant cannot be convicted of the off ence in respect of wh ich the agreement wa s reached and to whic h the defendant has pleaded guilty or that the agreement is in conflict with the defe ndant's
right referred to in s ubsection (6) of this s ection, he shall recor d a plea of not guilty in respect of
such charge and orde r that the trial procee d.

10. Where a defendant h

as been convicted in terms of subsection (9)(a), the presiding Judge or Magistrate shall consider the sentence as agreed upon and if he is –

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

(b) the court may reject the plea bargain where it is satisfied that the factors as provided in subsection (1) of this section was not taken into consideration by the prosecution in the plea bargaining.

11. When a person is convicted and sentenced under the provisions of subsection (10) 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.

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

(a) the evidence of the pr

osecution is insuffici ent to
prove the offence c harged beyond reas onable
doubt;

(b) where the defendan t has agreed to retu rn the
proceeds of the cr ime or make restitu tion to
the victim or his rep resentative; or

(c) where the defenda nt, in a case of co nspiracy,
has fully co-operat ed with the inves tigation
and prosecution o f the crime by p roviding
relevant informatio n for the suc cessful
prosecution of the offender.

13. Notwithstanding any provision contained unde r this section, no ple a agreement shall be ent ered
into without the writte n consent of the Attorn ey-
General of the State or a ny officer of his department authorized by him in writing.

Plea to information or charge

361. 1. Before a person takes his plea, the court shal l
inform him of his right s under the provisions o f
section 346 of this Law.

2. The person to be tried on a charge or an information shall be-

(a) brought before the c ourt unfettered unless th e court sees cause otherwise to order, and

the charge or information shall be read over and explained to him to the satisfaction of the court by the Registrar or other officer of the court; and

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

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

CHAPTER 24.– ADDUCING EVIDENCE AND EXAMINATION OF WITNESSES

Presentation of case for prosecution

36.2. After the defendant has pleaded not guilty to the charge or information the person appearing for the prosecution may open the case against the defendant and then adduce evidence in support of the charge.

Rule as to statement of exception

36.3 Any exception, exemption, proviso, condition, excuse,

. or qualification, whether it does or does not in any enactment creating an offence accompany in the same section the description of the offence, may be proved by the defendant, but need not be specified or negated in the complaint, and if so specified or negated, no proof in relation to the matter so specified or negated shall be required on the part of the complainant.

Application of the Evidence Act.

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

Witness refusing to be sworn or produce documents

365. 1. When any person attending either in obedience to a summons or by virtue of a warrant or being present in court and being verbally required by the court to give evidence in any case –

(a) refuses to be sworn as a witness; or

(b) having been so sworn, refuses to answer any question put to him by leave of the court; or

(c) refuses or neglects to produce any documents, which he is required by the court to produce;

without in any such case offering any sufficient excuse for such refusal or neglect, the court may adjourn the hearing of the case for any period not exceeding eight days where practicable, and may in the mean time, by warrant, commit such person to pri

son or to other place of safe custody, unless he consents to do what is so required of him.

2. Where such person, upon being brought before the court at or before such adjourned hearing again refuses to do what is so required of him, the court may adjourn the hearing of the case, and commit him for the like period, and so again from time to time until such person consents to do what is so required of him.

3. Nothing herein contained shall affect the liability of any such person to any other punishment or proceeding for refusing or neglecting to do what is so required of him, or shall prevent the court from disposing of the case in the meantime according to any other sufficient evidence taken by it.

Power to call or recall witnesses

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

Certificates of certain Government technical officers

367. Certificates signed by a Government chemist, pathologist, entomologist or superintendent of a forensic science laboratory, or the Accountant-General shall be admissible in evidence in accordance with the provisions of section 55 of the Evidence Act.

CHAPTER 25. – VISIT TO LOCUS

Locus Inspection

368. It shall be the duty of a court trying a case summarily tomake or cause to be made such locus inspection as thecircumstances of the case may require.

View by court of locus

369. 1. Where it appears to the court that in the interest of justice the court should have a view of any place, person or thing connected with the case, the court may, where the view relates to a place, either adjourn the court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.
2. The complainant and the defendant shall be present at the view.

No communication between defendant and witnesses during visit to locus

370. In the case of any view being had the court shall give such directions as may seem requisite for the purpose of preventing communication between th

e
witness and the defendant
:

Provided that a breac h of any such directi ons
shall not affect the va lidity of the proceedin gs
unless the court otherw ise directs.

CHAPTER 26. – ADDRES SES

In certain cases prosecution has no right of reply

371. (1) After the case for the prosecution is concluded, the defendant or the leg al practitioner representing him, if any, shall be ent itled to address the court at the commencement or conclusion of his case, as he thinks fit, and if no witnesses have been called for the defence, other tha n the defendant himself or witnesses solely as to th e character of the defendant and no document is put in as evidence for the defence, the person appe aring for the prosecution shall not be entitled to address the court a second time but if in the openin g case for the defence the person appearing for the defendant has in addressing the court introduced new matte r without supporting it by evidence, the court in
its discretion, may allo w the prosecution to repl y.

Addresses to be in writing

(2) Addresses under the provision of subsection (1) of this section shall be in writing unless otherwise directed by the court.

(3) Where the address is in writing the court may still allow the person making the address reasonable time to highlight certain points contained therein.

Cases in which prosecution may reply

372. Where any witness, other than the defendant himself or witnesses solely as to the character of the defendant, is called or any document is put in as evidence for the defence, the person appearing for the defendant shall be entitled after evidence on behalf of the defendant to address the court a second time on the whole case and the prosecution shall have a right of reply.

Reply by law officer or police officer who is a lawyer

373. The provisions of sections 371 and 372 shall not affect the right of reply by a law officer.

Right of reply

374. In cases where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the defendant has been called as a witness shall not of itself confer on the prosecution the right of reply:

Provided that a law officer or a police officer who is a legal practitioner when appearing personally

as counsel for the pr osecution shall in all ca ses have the right of reply.

Reference to the Court of Appeal

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

(a) adjourn the trial until the question has been considered and decided;

(b) conclude the trial and postpone the verdict until such time as the question has been considered and decided: or

(c) conclude the trial and pass sentence but suspend execution until such time as the question has been considered and decided, and in any such case the court in its discretion shall commit the defendant or convicted person to prison or admit him to bail in accordance with the provisions of this Law.

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

(a) continue the trial or discharge the defendant;

(b) acquit or convict the defendant; or

(c) order the execution of the sentence as the circumstance may require.

Stay of proceedings

376. Subject to the provisions of the Constitution, an application for stay of proceedings in respect of a criminal matter brought before the Court shall not be entertained until judgment is delivered.

CHAPTER 27. – JUDGMENT

Deliberation by court

377. When the case for both sides is closed, the court shallconsider its verdict and for this purpose may adjournthe matter for judgment.

Judgment to be in writing

378. The Judge or Magistrate shall record his judgment in writing and every such judgment shall contain the point or points for determination, the decision thereon

and the reasons for the decision and shall be dated and signed by the Judge or Magistrate at the time of pronouncing it;

Provided that in the case of a Magistrate, in lieu of writing such judgment, it shall be a sufficient

compliance under this section if the Magistrate –

(a) records briefly in the book his decision thereon and where necessary his reasons for such decision and pronounces it, or

(b) records such informati

on in a prescribed form.

Defendant to be discharged where found not guilty

379. Where the court finds the defendant not guilty, he shall forthwith be discharged and an order of acquittal recorded.

Defendant to be asked whether he has anything to say before sentence

380. Where the court convicts the defendant or he pleads guilty, it shall be the duty of the Registrar to ask the defendant whether he has anything to say why sentence should not be passed on him according to law, but the omission of the Registrar to ask him or his being so asked by a Judge or Magistrate instead of the Registrar shall have no effect on the validity of the proceedings.

Sentence

381. Where the court finds the defendant guilty the court shall either pass sentence on the accused or make anorder or reserve judgment and adjourn the case to some future date.

Conviction on other charges pending

382. 1. Where a defendant is found guilty of an offence, the court may in passing sentence take into consideration any other charge that is pending against him, if the defendant admits the other charge and desires that it be taken into consideration and if the prosecutor of

he other charge consents.
2. Where such a desire is exp
ressed and consent given,
the court shall enter or ca
use an entry to that effect
to be made on the record an
d upon sentence being
pronounced, the defendan
t shall not, subject to the
provisions of sections 51
5 to 517 or unless the
conviction which has bee
n heard is set aside, be
liable to be charged or trie
d in respect of any such
offence so taken into cons
deration.

Delivery of judgment when Judge or Magistrate is unavoidably absent

38. Where a Judge or Magistrate having tried a case is prevented by illness or other unavoidable cause from delivering his judgment or sentence, such judgment and the sentence, if the same has been reduced into writing and signed by the Judge or Magistrate, may be delivered and pronounced in open court in the presence of the defendant by any other Judge or Magistrate.

CHAPTER 28 – SENTENCES

Sentence and sentencing hearing

384. 1. The Court shall, in pronouncing sentence, consider the following factors in addition to sections 385 of
this Law:
(a) the objectives of sentencing, including the principles of reformation and deterrence;
(b) the interest of the victim, the convict and the community;
(c) appropriateness of non-custodial sentence or treatment in lieu of imprisonment;

(d) previous conviction of the convict.

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

Guiding objectives of sentencing

385. 1. On conviction, a court may sentence the convict to a term of imprisonment as prescribed by the enabling law.

2. In exercising its discretion of sentencing or review of sentence, the court shall take into consideration the following factors;

(a) each case should be treated on its own merit;

(b) the objectives of sentencing, including the principles of reformation, should be borne in mind in sentencing a convict;

(c) an appeal court may in proper case reduce the sentence imposed by the trial court, especially when it is excessive or based on wrong principles; or an appeal court in proper situation may increase the sentence imposed by the trial court especially when it is inadequate;

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

(e) the period spent in custody awaiting or

undergoing trial ou ght to be considered in sentencing a convict;

(f) trial court shall c onduct an inquiry into the defendant's ant ecedents before sentencin g;

(g) it may be desirable t o adjourn for sentencing in order to have tim e to consider any eviden ce adduced at the sentenc ng hearing in accordance with section 384 of this Law;

(h) where there is doubt as to whether the defendant or convict has attaine d the age of eighteen, the court should resolve the doubt in his favour;

(i) a defendant may not be given consecutiv e sentences for two or more offences committe d in the same transa ction;

(j) an appeal court shal l not increase the sentenc e of a lower court b eyond the maximum nu mber of years the lower cour t has power to impose; and

(k) sentencing to a term of imprisonment shall app ly only to those offen ders who should be isol ated from society and w ith whom other forms of punishment have fail ed or is likely to fail.

SUSPENDED SENTENCE

Security for coming up for judgment

38. When a person is convicted of any offence the court may, instead of passing sentence, release the offender

upon his entering into his own recognizance, with or without sureties, in such sum as the court may think fit, on the condition that he shall appear and receive sentence at some future sitting of the court or when called upon.

CHAPTER 29.—CAPITAL SENTENCE

Execution of sentence by death.

387. The punishment of death is inflicted by hanging the offender by the neck until he be dead.

Death sentence – how pronounced

388. Sentence of death shall be pronounced in the following form –

"The sentence of the court upon you is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul."

Prior formalities generally

389. Where sentence of death has been passed such sentence shall only be carried out in accordance with the provisions of this chapter.

Where pregnancy is found

390. Where a woman found guilty of a capital offence is found in accordance with the provisions of section 403 to be pregnant the sentence of death shall not be passed on her but in lieu thereof she shall be sentenced to imprisonment for life.

Where offender is a young person

391. Where a convict who in the opinion of the court had not attained the age of e

. ighteen 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 person to life imprisonment or to such other term as the court may deem appropriate inconsideration of the principles in section 385 of this Law.

Judge's Certificate

392. (1) A Judge who pronounces a sentence of death shall issue, under his hand and the seal of the court, a certificate to the effect that sentence of death has been pronounced upon the person named in the certificate, and the certificate shall be sufficient and full authority in law for the detention of the convict in safe custody until the sentence of death pronounced upon him can be carried into effect in accordance with the provisions of this Part.

(2) Where the court, either at trial or on appeal considers it appropriate, it may issue a report for the purpose of advice on the exercise by the Governor of the powers of prerogative of mercy under this Part, ar

d the report shall form

part of the record of pr
oceedings in the case.

Steps to be taken by the Registrar

393. The Registrar of the court by which the person is sentenced to death shall, as soon as practicable after sentence has been pronounced:

(a) hand a copy of the certificate issued by the Judge under the provisions of section 392 of this Law to the Commissioner of Police, and another copy to the Superintendent or other officer in chargeof the prison in which the convict is to be confined;

(b) transmit to the sheriff one copy of the certificate; and

(c) file one copy of the certificate with the record of the proceedings in the case.

Convict may send request to Committee on Prerogative of Mercy

394. 1. Where a person:

(a) has been sentenced to death and has exercised

his legal rights of appeal against the conviction

and sentence and the conviction and sentence

have not been quashed or the sentence has not

been reduced, or has failed to exercise his legal

rights of appeal or having filed an application for

leave to appeal, or an appellant has failed to

perfect or prosecute

the application or appeal within the time prescribed by law; or

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

2. The Committee on Prerogative of Mercy shall consider the request and make their report to the Governor of the State.

State at which Governor is to consider report

395. 1. Where a person –

(a) has been sentenced to death; and

(b) has exercise his legal rights of appeal against the conviction and sentence, and the conviction and sentence have not been quashed or the sentence has not been reduced, or has failed to exercise his legal rights of appeal or having filed an application for leave to appeal or an appeal, has failed to perfect or prosecute such application or appeal within the time prescribed by law; the Governor shall consider the report made under section 394 and after obtaining the advice of the Advisory Council on Prerogative of Mercy decide whether or not to commute the sentence to imprisonment for life or commute the sentence

to any specific period or decide whether the prisoner should otherwise be pardoned or reprieved.

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

Where no commutation, pardon or reprieve is granted

396. Where the Governor decides that the sentence should not be commuted or that the offender should not be pardoned or reprieved, he shall cause the Sheriff to be informed and the sentence of death pronounced upon the offender shall be carried into effect in accordance with the provisions of this Law and the sheriff shall make arrangements accordingly pursuant to the sentence of death pronounced upon the offender.

Where commutation, pardon or reprieve is granted

397. 1. Where the Governor decides that the sentence should be commuted or that the offender should otherwise be pardoned or reprieved, he shall issue a directive, a copy

of which shall be sent to the superintendent or other officer in charge of the prison in which the offender is confined, and another copy thereof shall be sent to the Sheriff, directing that the execution should not proceed and that the offender be in prison in accordance with the recommendation, or that the offender be released, subject to such conditions, if any, as may be specified.

2. The Sheriff and the superintendent or other officer in charge of the prison in which the offender is confined shall comply with and give effect to every directive issued under the provisions of subsection (1).

Application of sections 401 to 404

398. Section 394 to 397 shall apply where the sentence of death has been passed for an offence in respect of which the power of pardon is vested in the Governor.

Directive of Governor where pardon or reprieve is not granted

399. 1. Where the Governor decides that the sentence should not be commuted or that the convict should not be pardoned or reprieved, the directive of the Governor shall be duly signed by him and sealed as in one of the forms set out in the Fourth Schedule of this Law or as near to it as circumstances permit.

2. The directive of the Governor:

(a) shall state the place and time, where and when

the execution is to be and give directions as to the place of burial of the body; or

(b) may direct that the execution shall take place at such time and such place and the body of the person executed shall be buried at such place as shall be appointed by some officer specified in the directive.

3. When the place or time of execution or the place of burial is appointed by some person and is not stated in the directive of the Governor, the specified officer shall endorse on the directive over his signature the place and time of execution and place of burial.

Copy of directive to be sent to prison official

4. A copy of the directive issued by the Governor shall be forwarded to the official in charge of the prison in which the person sentenced is confined, and the official in charge of the prison shall give effect to the order of execution.

Endorsement on the directive by specified officer.

400. When the place or time of execution or the place of burial is appointed by some person and is not stated in the Governor's directive, the specified officer shall endorse on the directive over his signature the place and time of execution and place of burial or some one

or more of them according to the terms of the order.

Copy of directive to be sent to Sheriff.

401. A copy of the Governor's directive under his hand and the Public Seal shall be sent to the sheriff of the area in which the execution is to be carried into effect and the Sheriff shall have effect given thereto:

Provided that if for any reason a copy of the Governor's directive is not received by the Sheriff before the date fixed therein or endorsed thereon for execution, the said Sheriff shall nevertheless have the order carried into effect on the earliest convenient day after receipt thereof.

Directive to be sufficient authority

402. The said copy of the Governor's directive under his hand and the Public Seal or the directions issued by the Sheriff under the last preceding section shall be sufficient authority in law to all persons to carry the sentence into effect in accordance with the terms thereof.

Procedure where woman convicted of capital offence is alleged to be pregnant

403. 1. Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before or by which a woman is so convicted considers it necessary, the court shall, before sentence is passed on her behalf, determine the question whether or not she is pregnant.

Proof of pregnancy

2. The question whether the woman is pregnant or not shall be determined by the court on such evidence as may be presented to the court by the woman or on her behalf and by the prosecution.

Court pronounces sentence on the woman if she is not pregnant

3. Where the court finds that the woman in question is not pregnant the court shall pronounce sentence of death upon her.

Court of Appeal may quash the sentence

4. An appeal shall lie to the Court of Appeal against such finding and the Court of Appeal, if satisfied that the finding should be set aside, shall quash the sentence passed on her and in lieu thereof pass on her a sentence of imprisonment for life.

Substitution of death sentence

5. The rights conferred by section on a woman convicted of an offence punishable with death shall be in substitution for the of such a woman to allege in an applicatio stay of execution that she is pregnant.

Court reports to council

6. The court shall report to the Advisory Council on the Prerogative of Mercy any case in which the court passes a sentence of imprisonment for life under thissectio n.

CHAPTER 30.—IMPRISONMENT

Imprisonment to be with labour unless otherwise ordered

404. Imprisonment shall be with labour unless otherwise ordered by the court.

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

405. Where the court has power to pass a sentence ofimprisonment, the court may, in case of a

simple offence, in lieu of passing sentence of imprisonment, order that the offender be detained within the precincts of the court or at any police station till such hour, not later than eight in the evening on the day on which he is convicted, as the court may direct;

Provided that the court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the offender's abode, if his abode is known to or ascertainable by the court, and shall not make any such order of detention under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day on which such order of detention is made.

Consecutive sentences of imprisonment

406. Where a sentence of imprisonment is passed on any person by a court, the court may order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced by any

competent court or tribunal in Nigeria. However, where two or more sentences passed by a Magistrates' Court are ordered to run consecutively, the aggregate term of imprisonment shall not exceed four years or the limit of jurisdiction of the adjudicating Magistrate whichever is greater.

Date from which sentence commences

407. Subject to any order of court as to when the term ofimprisonment shall take effect, a sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

Power to order payment of fine in lieu of imprisonment

408. 1. A person convicted of an offence punishable by –
(a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment; or
(b) imprisonment or fine, and sentenced to pay a fine, may be ordered to serve imprisonment, on default of payment of the fine, for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.
2. In the case of a conviction in the High Court, the amount of the fine shall be at the discretion of the court, and any term of imprisonment imposed in default of payment of the fine shall not exceed t

wo
years.
3. In the case of a convictio n in a Magistrate's Court –
(a) the amount of the fin e shall be at the discretion of the court but sh all not exceed the maximu m fine authorized t o be imposed by the Magis trate by or under t he Magistrates' Court Law; and
(b) no term of imprison ment imposed in default of payment of the fin e shall exceed the maximum fixed in relation to the amount of the fine by the scale specified in section 415 of this Law.
4. In no case shall any ter m of imprisonment impos ed in default of payme nt of a fine which has been
imposed by virtue of the power in that beha lf
contained in subsectio n (1) exceed the maximu m
term authorized by th e written law for such offen ce.
5. The provisions of this se ction shall not apply in an y case where a writte n law provides a minim um period of impriso nment to be imposed fo r the
commission of an offenc e.
6. The table of fines can be varied by the Govern or
on the advice of the H onourable Attorney-Gener al.

Escaped prisoners; effect of escape on punishment

409. A person who escapes fr om lawful custody while undergoing a sentence invo

lving deprivation of liberty is liable upon recapture to undergo the punishment which he was undergoing at the time of his escape.

However, upon recapture he must complete the original term of imprisonment, whether at the time of his recapture the term of that sentence has expired or not.

Direct imprisonment

410. Where a sentence or conviction does not order the payment of money but orders that the offender be imprisoned the court shall issue a warrant of commitment accordingly.

Authority for carrying out sentences not capital

411. A warrant under the hand of the Judge or Magistrate by whom any person shall have been sentenced or committed to prison for non-payment of a penalty or fine shall be full authority to the superintendent of any prison and to all other person for carrying into effect the sentence described in such warrant not being a sentence of death.

Error or omission shall not affect legality of act

412. The court may at any time amend any defect in substance or in form in any order or warrant of commitment and no omission or error as to time and place and no defect in form in any order or warrant of commitment given under

this Law, shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant if it is therein mentioned, or may be inferred therefrom, that it is founded on a conviction or judgment sufficient to sustain the same.

CHAPTER 31 – FINES

Fines, Imprisonment in default of.

413. A person convicted of an offence punishable by –

(a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment; or

(b) imprisonment or fine, and sentenced to pay a fine, may be ordered to serve imprisonment, in default of payment of the fine, for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

General power of awarding imprisonment in default of payment of penalty

414. Where by any written law the court is empowered to impose a penalty for a summary conviction offence it may in the absence of express provision to the contrary in the same or any other written law, order a defendant who is convicted of such offence, in default ofpayment of the sum of money adjudged to be paid under the order, either fort

hwith or at the time specifi edin the order, as the case may be, to be imprisoned, withor without labour, in accordance with the scale set forthin section 415.

Scale of Imprisonment for non-payment of money adjudged to be paid

415. 1. The Governor shall have power to review from time to time the provisions for fines, compensation or sums of money under the law.

2. Subject to the provisions of the written law on which the order is founded, the period of imprisonment, whether with or without labour, which is imposed by the court in respect of the non-payment of any sum to be paid by an order, shall be such period as in the opinion of the court will satisfy the justice of the case but shall not exceed the maximum fixed in the following scale:

Limitation of imprisonment in default of payment of fine shall not exceed the following where the fine:

(a) does not exceed ₦3,000.00 …Seven days;

(b) above ₦3,000.00 but not exceeding ₦5,000.00 …Fourteen days;

(c) above ₦5,000.00 but not exceeding ₦10,000.00 …One month;

(d) above ₦10,000.00 not exceeding ₦20,000.00 …Two months;

(e) above ₦20,000.00 but not exceeding ₦50,000.00 …Six months;

(f) above ₦50,000.00 but not exceeding ₦100,000.00 …Eight months;

(g) above ₦100,000.00 …One year;

Limitation of

3. No commitment for non-p

Imprisonment in default of payment of fine

ayment of a fine shall be for a period longer than two years, except where the law under which the conviction has taken place enjoins or allows a lon ger period.

Payment and allocation of fines and fees

416. A court in fixing the amo unt of any fine to be impos ed on an offender shall take into consideration, among st other things, the means o f the offender so far as th ey appear or are known to the court and where a f ine is imposed, the payment of the court fees payable in the case up to and inclu ding conviction shall not be taken into consideration in fixing the amount of the fi neor be imposed in additio n to the fine, but the amou nt of the fine, or of such part thereof as may be paid or recovered, shall be applied as follows –

(a) in the first instance in t he payment to the informa nt, complainant or victi m of any court or other fee s paid by him and order ed by the court to be repai d to him;

(b) in the second instance the payment of any court fees not already paid by the informant, compla inant or victim which may be payable under the rules of court;

(c) the balance, if any, remaining after the ab ove payments have been m ade shall be paid into gene

ral revenue.

Power to commit defendant in certain cases

417. In any case where an order is made against any person for the payment of a sum of money and such person is in default of payment and liable to be imprisoned, the court may do all or any of the following;

(a) issue a warrant of commitment forthwith;

(b) allow time for the payment of the said sum;

(c) direct payment of the said sum to be made by installments; or

(d) direct that the person liable to pay the said sum shall be at liberty to give security, to the satisfaction of the court, either with or without a surety or sureties, for the payment of the said sum or any installments thereof.

Allowance of further time and payment by installments

418. 1. Where time has been allowed for the payment of a sum adjudged to be paid upon conviction or order, further time may on an application by or on behalf of the person liable to pay the sum, be allowed by a court having jurisdiction to issue a warrant of commitment in respect of the non-payment of that sum, the court may, subject as aforesaid, direct payment by installments of the sum so adjudged to be paid.

2. Where a sum of money is directed to be paid by installments and default is made in the payment of any installment, the same proceedings may be taken as if default has been made in the payment of all the installments then remaining unpaid.
3. If before the expiration of the time allowed, the person convicted surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of the sum and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may, if it thinks fit, issue a warrant committing him to prison.
4. A warrant of commitment issued under the provisions of this section may be executed on any day, including a Sunday or a public holiday.

Power to postpone issue of warrant of commitment

419. Where the person liable to pay any sum and to whom time has been given to pay either with or without a surety or sureties makes default in such payment or fails to enter into the security required by the court, the court shall issue its warrant of commitment requiring any police officer to take and convey such person

to
prison and there deliver h
im to the superintendent
of
prisons, and require him
to receive such person i
ntothe prison and thereto i
mprison him with or w
ithout
labour, as the case may be
, for such time as may
be directed and appointe
d by the warrant of commi
tment,unless the sum of
money adjudged to be pai
d by the
order and also all other c
osts, charges and expens
es
shall be paid.

Time and condition

420. Where application is made to the court for a warrant for committing a person to prison for non-payment of any sum of money adjudged to be paid by an order, the court may, postpone the issue of such warrant until such time and on such conditions, if any, as the court may deem just.

Execution of warrants

421. Any warrant of commitment issued under the provisions of this chapter may be executed on any day including Sunday or public holiday.

Payment of penalty to person executing warrant

422. In all cases where any person against whom a warrant of commitment for non-payment of any sum of money adjudged to be paid by an order is issued, pays or tenders to the person having the execution of the same, the sum or sums in such warrant mentioned together with t

he amount of the expenses of such warrant up to the time ofsuch a payment or tender, the person having the execution of such warrant shall cease to execute the same.

Commencement of imprisonment

423. Where any person is brought to any prison to be imprisoned by virtue of a warrant of commitment there shall be endorsed on such warrant the day on which such person was arrested by virtue thereof and the imprisonment shall be computed from such day and inclusive thereof.

Varying of or discharging order for sureties

424. Where any 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 such person or by some person acting on his behalf, inquire into the case of such person, and if upon new evidence producedto the court or proof of a change of circumstances the court thinks, having regard to all the circumstance of the case, that it is just so to do, the court may reducethe amount for which it was ordered that the surety or sureties should be bound, or dispense with surety or sureties, or otherwise deal with the case as the court may think just.

Right of Person imprisoned in default to be released on paying sum

425. 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 pay same into the court. Upon receipt of such sums the court shall order release of the person so committed, unless he is in custody for some other matter.

2. In a case where under subsection (1) of this section a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court, the sum shall be applied:

(a) firstly, towards the payment in full or in part of any costs or damages or compensation which the court may have ordered to be paid to the complainant; and

(b) secondly, towards the payment of the fine, if any, imposed on the prisoner.

3. Subject to the provisions of subsection (2) of this section, where an amount is paid towards a fine:

(a) the imprisonment shall be reduced by a number of days as are proportionate to the total number of days for which the person is committed as the sum so paid is proportionate to the amount of the fine for which the person is liable; and

(b) the superintendent or other officer in charge of a prison in which a person who has made the part payment is confined shall as soon as practicable thereafter take the person before a court which shall:

(i) certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction, and

(ii) make such order as the circumstances require.

4. In reckoning:

(a) the number of days by which a term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account; and

(b) the sum which will secure the reduction of a term of imprisonment, fractions of a naira shall be omitted.

Application of a sum received from prisoner

4 In any case where under
2 the last preceding section
6 a

. sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court such sum shall be applied firstly, towards the payment in full or in part of any cost, damages or compensation which the court may have ordered to be paid to the complainant, victim or his next-of-kin and, secondly, towards the payment of the fine, if any, imposed on the prisoner.

Part payment after commitment

427. 1. Subject to the provisions of section 426 where an amount is paid towards a fine the procedure as hereunder in this subsection set forth shall be followed –

(a) the imprisonment shall be reduced by a number of days proportionate to the total number of days for which such person is committed as the sum so paid is proportionate to the amount of the fine for which such person is liable,

(b) the superintendent or other officer in charge of a prison in which a person who has made such part payment is confined shall as soon as practicable take such person before a court and such court shall certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction and shall make such order as is required in the circumsta

nces;
2. In reckoning the numb er of days by which an y
term of imprisonment w ould be reduced under this
section, the first day of imprisonment shall not be
taken into account and i n reckoning the sum whic h will secure the reduc tion of a term of imprisonm ent,
fractions of a kobo shal l be omitted.

Fines may be ordered to be recoverable by distress

428. Where, under the author ity of a written law, th e
court imposes a fine or a pecuniary penalty wheth er
or not that fine or penalty is accompanied by a pow er to impose imprisonmen t, and no special provision other than recovery by dist ress is made for the reco very of
the fine or penalty, the co urt may:
(a) order the fine or pen alty to be recoverable b y
distress; and
(b) in default of the dist ress satisfying the amoun t of the fine or penalt y, order that the offend er be
imprisoned, in accord ance with the scale set o ut
in section 415 of this L aw.

Warrant of distress

429. Where the court orders a sum to be recoverable by
distress the court shall iss ue its warrant of distress for
the purpose of recovering t he same. Such warrant sh

allbe in writing and signed by the court, it shall authorize the person charged with the execution thereof to take any money as well as any goods of the person against whom distress is levied and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

Procedure on the execution of distress warrants

430. In the execution of a distress warrant the following provisions shall have effect:

(a) a warrant of distress shall be executed by or under the direction of the sheriff;

(b) where the person charged with the execution of the warrant is prevented from executing the warrant by the fastening of doors or otherwise, the court may, by writing under its hand endorsed on the warrant, authorize him to use such force as may be necessary to enable him to execute the warrant;

(c) the wearing apparel and bedding of the person and of his family, the tools and implements of his trade, shall not be taken;

(d) except as provided in paragraph (e) of this subsection and so far as the person on whose movable property the distress is levied consents in writing to an earlier sale, the goods distrained shall be sold at public auction not les

s than five days and not more than fourteen d ays after the making of the distress, but wh ere consent in writing is so given, the sale may be in accordance with the consent;

(e) subject to paragrap h (d) of this section, th e goods distrained s hall be sold within the t ime fixed by the warrant, unless the sum or charges, if any, of taking and keeping the goods distraine d, for which the warrant was issued are paid earlier than the date of sale;

(f) where a person charged with the execution of a warrant of distress:

(i) willfully retain s from the proceeds a ny property sold t o satisfy the distress, o r

(ii) otherwise exact s any greater costs o r charges than th ose to which he is, for th e time being, en titled by law or makes any improper charge, he is liable, on summar y conviction befo re a court, to a penalty not exceeding twenty thousand naira, but nothi ng in this paragr aph shall affect the liabil ity of the person to be prosecuted and p unished for extort ion; or for the return of th e sum of money or value of the item ext orted, by the pers on;

(g) a written account of the costs and charges incurred in respect of the execution of a warrant of distress

shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the court, and the person on whose movable property the distress was levied may, at any time within one month after the making of the distress,

inspect the account, without payment of any fee or reward, at any time during office hours, and to take a copy of the account;

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

(i) the amount may be applied in payment of the sum for which the warrant was issued, and of the proper costs and charges of the execution of the warrant, and

(ii) the surplus, if any, may be rendered to the person on whose movable property the distress was levied.

Part payment reduces period

4 Where a part only of the am

of imprisonment in proportion

31. ount ordered to be recovered by distress is so recovered the period of imprisonment ordered to be suffered in default of recovery of the amount imposed shall be reduced accordingly and shall be proportionate to the full period as the amount recovered is proportionate to the total amount ordered to be recovered. The warrant of commitment shall be drawn up accordingly.

CHAPTER 32. – COSTS, COMPENSATION AND DAMAGES

Power of court to order payment of expenses or compensation

432. 1. A court may, within the proceedings or while passing judgment, order that the defendant or convicted person shall pay a sum of money:

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

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

(c) in defraying expenses incurred in medical

treatment of a person injured by the defendant in connection with the offence.

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

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

433. 1. At the time of awarding compensation in any subsequent civil suit relating to the same matter the court shall take into consideration any sum paid or recovered as compensation under this section.

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

Power of court to order restitution

434. A court after conviction may adjourn proceedings, to consider and determine sentence appropriate for each particular convict:

(a) in addition to or in lieu of any other penalty authorized by law, order the convict to make restitution or pay compensation to any victim of the crime for which t

he offender was convicted, or to the victim's estate ;

(b) order for the restitution or compensation for the loss or destruction of t he victim's property and in so doing the court m ay direct the convict:

(i) to return the prop erty to the owner or to a person designate d by the owner,

(ii) where the return of t he property is impossible or impracticable, to pay an amount equal to the value of the prop erty, or

(iii) where the proper ty to be returned is inadequate or insuff icient, to pay an amount equal to the prop erty calculated on the ba sis of what is fair and just.

Cost against private prosecutor

435. 1. The court may, in a p roceeding instituted by a private prosecutor or on a summons or complaint of a private person, on acquittal of the defend ant, order the private p rosecutor or person to p ay to the defendant such reasonable costs as t he court may deem fit.

Order may not be made under certain conditions

2. No order as to costs as aforesaid may be made where the court con siders that the privat e prosecutor had reas onable grounds for making his complaint.

Costs may be awarded

436. Costs may be awarded un der this chapter and may b e in addition to any compe nsation awarded and acce pted under section 438.

Meaning of "private prosecutor"

437. In this chapter "private prosecutor" does not include any person prosecuting on behalf of the State, a public officer prosecuting in his official capacity or a police office prosecuting in his official capacity.

Compensation in case of false and vexatious charge

438. 1. Where a person causes the arrest, or arrest and charge of any person or persons and it appears to the Court that there was no sufficient ground for causing the arrest, or that the accusation is false, vexatious or frivolous, it may for reason recorded order the person to pay reasonable compensation to the person or persons arrested or arrested and charged.

2. The Court may, in default of payment of such compensation or any part of it, award a term of imprisonment against the person against whom the order was made, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set out in this Law or the Court may sentence the person to Community Service in accordance with provisions of this Law.

3. Subject to the

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

4. Where in any case before a court one or more persons is or are accused of any offence and the court which heard the case discharges or acquits any or all of the defendants and the court is of opinion that the accusation against any or all of them was false and either frivolous or vexatious the Court may for reason to be recorded, direct that compensation, to such an amount as the court deems fit, be paid to the defendant or to each or any of them by the person upon whose complaint the defendant(s) was or were charged.

Enforcement of award of compensation

439. Any compensation ordered to be paid under this Law or any other Law, relating to any criminal proceedings, may be enforced as if it were a fine.

Warrant for levy of fine

440. 1. Where a convict is ordered to pay a fine, or a person is ordered to pay compensation to another person under section 432 of this Law, or a person is subject to recover penalty for forfeiture of a

bond under this Law, the Court passing the sentence or making the order may notwithstanding that, in default of the payment of the fine or compensation or penalty, the person may be imprisoned, issue a warrant for the levy of the amount by any means permitted by law, including:

(a) by the seizure and sale of any movable property belonging to the person;

(b) by the attachment of any debts due to the person; and

(c) by the attachment and sale of any immovable property of the convict situate within the jurisdiction of the court.

2. A warrant for seizure and sale of the movable property of a person under this section shall be addressed to the court within whose jurisdiction it is to be executed.

3. When execution of a warrant is to be enforced by attachment of debts or sale of immovable property, the warrant shall be sent for execution to any court competent to execute orders for the payment of money in civil suits and the court shall follow the procedure for the time being in force for the execution o

f such orders.

Powers of court when convict is sentenced to fine only.

441. 1. Where a convict has been ordered by Court to pay a fine with or without a sentence of imprisonment, in default of payment of the fine, the Court may issue a warrant or exercise all or any of the following powers:

(a) allow time for payment of the fine;

(b) direct that the fine be paid by installments;

(c) postpone the issue of a warrant;

(d) without postponing the issue of a warrant, postpone the sale of any property seized under the warrant;

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

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

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

default of payment of a fin e, be suspended and that he be released but only su bject to the convict giving security as specified in su bsection (2) of this section.

4. Where the fine or any in stallment of the fine is n ot being paid in accor dance with an order un der this section, the Court making the order may enforce payment of th e fine or of the balanc e outstanding, by any means authorized in this Law and may cause th e offender to be arreste d and may commit o r recommit him to priso n under the sentence of imp risonment in default of payment of the fine.

Award of damages for wrongful conversion or detention of property

442. 1. Where in a charge of an offence relating to property and the Court is of th e opinion that the evidenc e is insufficient to support the charge, but that i t establishes wrongful c onversion or detention o f property, the Court may order that such propert y be restored and may also award reasonable damages to the person entitled to the property.

2. The damages awarded under this section, shall be recovered in like manner, as compensation or fine.

3. Any sum so awarded a s compensation shall be specified in the order of discharge or acquittal, as

the case may be, and t he court may order that in default of payment with in such time as the court

deems proper of any sum a warded for compensation, the person making defaul be imprisoned, with or without labour, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth i section 415.

Saving of express procedure for awarding costs and compensation

443. The provisions of sections 432 to 438 shall be subject to any express provision made in any written law relating to the procedure to be followed in awarding costs or compensation in respect of conditions specified in such written law.

Order to pay costs appealable

444. An appeal shall lie against any order awarding costs under this chapter, if made by a Magistrates' Court to the High Court and if made by a High Court to the Court of Appeal.

Injured person may refuse to accept compensation: payment of compensation is bar to further liability

445. 1. The person to whom compensation is awarded may refuse to accept any such order for compensation but where any person receives

compensation for an injury under the award of the court as above mentioned or where the offender, having been ordered to make compensation,

suffers imprisonment for non-payment thereof, the receipt of such compensation, or the undergoing of such imprisonment, as the case may be, shall be a bar to any action for the same injury.

2. Before making an order under subsection (1) the Court shall explain the full effect of that subsection to the person to whom compensation would be payable.

446. CHAPTER 33. -DAMAGES IN CASES OF DISHONESTY

Wrongful conversion or detention of property – where evidence insufficient to support charge

Where in a charge of stealing or receiving stolen property, the Court is of the opinion that the evidence is insufficient to support that charge, but that it establishes wrongful conversion or detention of property, the court may order that such property be restored, and may also award damages:

Provided that the value of such property and the amount of damages awarded shall not together exceed two hundred thousand naira.

CHAPTER 34. – PROBATI

ON AND NON-CUSTODIAL ALTERNATIVES

Conditional release of offenders

447. 1. Where a person is charged before a court with an offence, and the court thinks that the charge is proved but is of opinion that having regard to:

(a) the character, antecedents, age, health, or mental condition, of the person charged;

(b) the trivial nature of the offence; or

(c) the extenuating circumstances under which the offence was committed;

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

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

(a) dismissing the charge; or

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

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

(a) the offender to pay such damages for injury or compensatio

n for any loss suffered by a person by reason of the conduct or omission of the offender, and to pay such costs of the proceedings as the court thinks reasonable; and

(b) where the offender has not attained the age of eighteen years and it appears to the court that the parent or guardian of the offender has condoned (conduced) the commission of the offence, the Court may order the parent or guardian of the offender to pay the damages and costs specified in paragraph (a) of this section.

4. Where an order under this section is made, the order shall-

(a) for the purpose of reinvesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner; and

(b) as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

Compensation for loss or injury and costs may be awarded

448. In addition to any such order as in section 447, the court may order the offender to pay such damag

es
for injury or compensatio n for loss suffered by an y
person or to pay such cos ts of the proceedings as th e
court thinks reasonable a nd if the offender has n ot
attained the age of sevente en years and it appears to
the court that the parent or guardian of the offend er
has conduced to the com mission of the offence t he court may under and in accordance with the provi sions of Child Rights La w after hearing such pa rent or
guardian, order payment o f such damages and costs by such parent or guardia n.

Restitution of stolen property

449. Where an order under this section is made, the or der
shall, for the purpose of reverting or restoring sto len
property and enabling th e court to make orders as
to the restitution or deliver y of property to the own er
and as to the payment of money in connection wit h
such restitution or delivery , have the like effect as a
conviction.

Probation orders and conditions of recognizance

450. A recognizance ordered to be entered into under t his
Part shall, if the court so orders, contain a conditi on

that the offender be under the supervision of such person or persons of same sex as the convicted person,called a probation officer, and may, with the consentof the probation officer, be named in the order during the period specified therein.

Content of recognizance

45. A recognizance under this chapter may contain such additional conditions with respect to residence, abstention from intoxicating liquor and any other matters as the court may, having regard to the particularcircumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

The court makes a notice in writing

45. The court shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

Relieving probation officer of his duties

45. The person named in a probation order may at any time be relieved of his duties and in that case or incase of the death of the person so named, another person, who consents thereto, may be substituted by the court before which the offender is bound by his recognizance to appear for conviction or sentence.

Duties of probation officers

454. 1. A probation officer shall, subject to the directions of the court-

(a) where the person on probation is not actually with the probation officer, visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order but not less than each quarter or subject as the probation officer may think fit;

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

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

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

2. The Chief Judge shall make regulations with respect to the appointment of probation officers, including designation of persons of good character as probation officers from which list a court within the district or division where the probation officer resides may make its appointment.

Variation of terms and conditions of probation

455. The court before which a person is bound by a recognizance under this Part to appear for conviction and sentence or for sentence may-

(a) at any time it appears to it on the application of the probation officer that it is expedient that the

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

(i) vary the terms of the recognizance by extending or diminishing the duration, which shall not exceed three years from the date of the original order, or

(ii) alter the conditions or insert additional condition; or

(b) on application being made by the probation officer, and on being satisfied that the conduct of the person bound by the recognizance has been such as to make it unnecessary for him to be under supervision, discharge the recognizance.

Provisions in case of offender failing to observe conditions of release

456. Where the court before which an offender is bound by his recognizance under this chapter to appear for conviction or sentence is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his arrest or may where it deems fit instead of issuing a warrant in the first instance issue a summons to the offender and his sureties, if any, requiring him or them to a

ttend at such court and at
such time as may be specif ied in the summons.

Offender may be brought before another court

457. The offender when arr ested shall if not broug ht forthwith before the court before which he is bound b y his recognizance to appe ar for conviction or senten ce bebrought before anoth er court.

Bail or remand

458. The court before which an offender on arrest is broug ht or before which he a ppears in pursuance of such
summons as aforesaid ma y if it is not the court befo re
which he is bound by his recognizance to appear f or
conviction or sentence, re mand him in custody or o n bail until he can be brou ght before the last mentio ned
court.

Committal to prison during remand

459. An offender so remanded i n custody may be committ ed during remand to any prison to which the court havingpower to convict or sentence him has power t o commitprisoners.
In the case of a child or yo ung person he shall, whe re
remanded, be dealt wit h wherever practicable in
accordance with the provis ions of the Child Rights La w.

Conviction of original offence

460. A court before which a person is bound by his
recognizance to appear f or conviction and senten

ce
on being satisfied that he has failed to observe a nyof the conditions of his recognizance may forthwith,
without further proof of his guilt, convict and sentencehim for the original offence.

Suspended sentence and community service

461. 1. Notwithstanding the provision of any other legislation creating an offence, and where the court sees reason, the court may order that the sentence it imposed on the convict be, with or without conditions, suspended, in which case, the convict shall not be required to serve the sentence in accordance with the conditions of the suspension, if any.

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

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

(a) reduce congestion in prisons;

(b) rehabilitate prisoners by making them to under take productive work; and

(c) prevent minor offenders mixing with hardened criminals.

Provided that Suspended Sentence or Community Service shall not apply in o

ffences involving the use of violent weapon or firear m.

Arrangements for community service

462. 1. There shall be establis hed by the Chief Judge i n every Judicial Divisio n a Community Service C entre to be headed by a Registrar, who shall be a legal practitioner and shall be responsible for overseei ng the execution of Com munity Service Orders in that Division.

2. The Registrar shall be a ssisted by suitable person nel who shall superv ise the implementatio n of Community Service Ord ers that may be handed do wn by the courts.

3. The functions of the Community Service Centr e include:

(a) documenting and ke eping detailed information about offenders sent enced to Community Servi ce including the name of the offender, the sentence, the date of the sent ence, the nature, duration and location of the Community Service, the physical address of t he offender, the physical measurement, photo graph, full fingerprint impressions and other means of identification as may be appropriate;

(b) providing assistance to the court in arriving at appropriate Comm unity Service Order in each case;

(c) monitoring the oper ation of Community Servic

e in all its aspects;
(d) counselling offenders with a view to bringing about their reformation;
(e) recommending to the court a review of the Sentence of offenders on Community Service who have shown remorse;
(f) proposing to the Chief Judge measures for effective operation of Community Service Orders;
(g) ensuring that supervising officers perform their duties in accordance with the law; and
(h) performing such other functions as may be necessary for the smooth administration of Community Service Orders.

4. Where the court has made an order committing the offender to render community service, the community service shall be in the nature of:
(a) environmental sanitation, including cutting grasses, cleaning drainages, cleaning the environment and washing public toilets;
(b) assisting in the production of agricultural produce, construction, or mining; and
(c) any other type of service which in the opinion of the court would have a beneficial and reformative effect on the character of the offender.

5. The Community Service sentence shall be performed as close as possible to the place where the offender ordinarily resides to ensure that the community can monitor his movement.

6. Before passing a Community Service Order, the court shall consider the circumstances, character, antecedents of the offender and other factors that may be brought to its attention by the Registrar of the Community Service Centre.

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

8. Upon sentence to community service, an offender shall be required to produce a guarantor who shall undertake to produce the offender if the offender absconds from community service.

9. The guarantor shall be a relation of the offender or any other responsible person of adequate means or substance who shall produce the offender when required by the cou

rt, failing which the guaran tor shall be liable to a fine of one hundred tho usand naira or more or any other order as the circ umstances of each case may require .

Performance of Community Service Order

46. 1. The Community Service Order shall be performed for a period of not mor e than six months and t he offender shall not work f or more than five hours a day.

2. The offender shall be under the supervision of a supervising officer or officers or No n-Governmental Organizat ions as may be designated by the Community Se rvice Centre.

3. The Community Servic e Order shall contain such directives as the co urt may consider necessary for the supervision of the offender.

4. The Registrar of the cou rt making the Community Service Order shall forwa rd to the Registrar of the Community Service Cent re a copy of the Order together with any other d ocuments and information relating to the case.

Default of offender in complying with Community Service Order

46. 1. Where at any time durin g the community service period, the Registrar of the Community Service Centre informs the cour t of the default of the offender in complying wi th the directives of the Community Service Orde r, the court may issue a summons requiring the o ffender to appear before it.

2. Where the offender fai

ls, refuses or neglects to appear in obedience to the summons, the court may issue a warrant of arrest.

3. Where it is proved to the satisfaction of the court that the offender has failed to comply with any of the requirements of the Community Service Order, the court may:

(a) vary the Order to suit the circumstances of the case; or

(b) impose on him a fine not exceeding one hundred thousand naira or cancel the Order and sentence the offender to any punishment which could have been imposed in respect of the offence, but the period of community service already performed may count in the reduction of the sentence.

4. A supervising officer shall not employ the offender for his or her personal benefit.

5. Where a supervising officer employs the offender for his or her personal benefit, the officer is liable to a fine of one hundred thousand naira or more, or such other punishment as the court considers fit.

Commission of further offence

46. Where an offender has been ordered to undergo community service on conviction by an original court but has committed another offence during the period of community service, the fol

lowing rules shall apply-
(a) the subsequent court may add to the sentence or impose a term of imprisonment which might have been passed by the original court and cancel the order of community service;
(b) the subsequent court may take into account the period of Community Service served in reduction of the term of imprisonment;
(c) where the original court is a High Court and the subsequent court is a lower court, the lower court shall send the copy of the proceedings to the High Court and on receipt of the proceedings from the lower court, the High Court shall proceed under paragraphs (a) and (b) of this section; and
(d) where the original court is a lower court and the subsequent court is a High Court dealing with the matter at first instance or on appeal, the High Court shall proceed under paragraphs (a) and (b) of this section.

Amendment and review of Community Service Orders

46. 1. An offender undergoing community service who intends to change his or her place of residence shall inform the supervising officer of his intention to do so.
2. On receipt of the information, the supervising officer shall furnish the Registrar of the Community

Service Centre with the information giving the details of the case.

3. On application by the Registrar of the Community Service Centre, the court shall make appropriate amendment in the Community Service Order and inform the court having jurisdiction for the area where the offender intends to reside.

4. The court shall give the offender a copy of the amended Community Service Order which the offender shall present to the subsequent Community Service Centre.

Discharge of Community Service Order

467. 1. Where an offender has been ordered to undergo community service for a period of more than four months, the supervising officer shall, from time to time, give a report to the Registrar on the offender's performance and general conduct.

2. The supervising court based on the report made by the Registrar, may reduce the period of the Community Service specified in the Community Service Order by not more than one third where the offender is of good conduct.

3. The Registrar shall make a report to the supervising Court on the termination of a Community Service Order.

4. The supervising officer who is to be responsible for the supervision of an offender shall be the officer designated by the Registrar of the Community Service Centre and if that supervising officer dies or is unable for any reason to carry out his duties, another supervising officer shall be appointed by the Registrar of the Community Service Centre.

5. The supervising officer and the offender shall be of the same gender.

Confinement in rehabilitation and correction centre.

468. 1. A person convicted of an offence triable summarily may be sentenced and ordered to serve the sentence at a Rehabilitation and Correctional Centre in lieu of imprisonment.

2. A court in making an order of confinement at a Rehabilitation or Correctional Centre shall have regard to the following: the age of the person convicted; the fact that the person convicted is a first offender; any other relevant circumstances necessitating an order of confinement at a Rehabilitation or Correctional Centre.

3. A court may make an order directing that a child standing criminal trial be remanded at a Rehabilitation or Correctional Centre.
4. A person on probation shall not move away from the State or such locality as the court may order without the order of court until the period of his probation has expired.

CHAPTER 35 – PAROLE

Court may direct release of prisoner before completion of sentence

1. Where the Comptroller-General of Prisons makes a report to the court recommending that a person :

(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 fifteen years or where he is sentenced to life imprisonment, the court may, after hearing the prosecution and the prisoner or his legal representative, order that the remaining term of his imprisonment be suspended, with or without conditions, as the court considers fit, and the prisoner shall be released from prison on t

Subjection to the Child Rights Law No. 6 of 2004

70. he order.

2. A prisoner released under subsection (1) of this section shall undergo a rehabilitation programme in a Government facility or any other appropriate facility to enable him to be properly reintegrated to the society.

3. The Comptroller-General of Prisons shall make adequate arrangement, including budgetary provision, for the facility.

CHAPTER 37. —PUNISHMENT FOR CHILD OFFENDERS

The provisions of this Law are subject to the Child RightsLaw No. 6 of 2004.

CHAPTER 37.—SEIZURE, RESTITUTION, FORFEITURE AND DISPOSITION OF PROPERTY

Order for disposal of property regarding which offence committed

471. 1. Either before a charge is preferred or during or at the conclusion of any trial, the court may make such order as it thinks fit for the disposal whether by way of forfeiture, confiscation, delivery to any person or otherwise of any movable or immovable property produced before it regarding which any

offence appears to have been committed or which has been used for the commission of any offence. In the case of any immovable property, the production of title document, deed, certificate of occupancy or receipt of purchase of such property shall be deemed as production of the property itself before the court for the purposes of this section.

2. Where the court orders the forfeiture or confiscation of any property as provided in subsection (1) but does not make an order for its destruction or for its delivery to any person, the court may direct that the property shall be kept or sold and the same where sold, the proceeds thereof shall be held as it direct until some person establishes to the court's satisfaction a right thereto. Where no person establishes such a right within six months from the date of forfeiture or confiscation of such property, the proceeds thereof shall be paid into and form part of the general revenue.

3. The power conferred by subsection (1) and (2) upon the court shall include the power to make an order for the forfeitu

re or confiscation or or the destruction or for the de livery to any person of suc h property, but shall b e exercised subject to any special provisions regarding forfeiture, conf scation, destruction, de tention or delivery contain ed in the written law under which the convict on was had or in any other writte n law applicable to the cas e.

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

5. In this section, the term “property” incl udes, inthe case of p roperty regarding w hich an offence appe ars to have been c ommitted, not only suchproperty as has been originally in t he possessionor un der the control of a ny party, but also a ny property into or fo r which the same h as been converted or exchan ged and anything ac quired by such conversion or exchange, whether immediately or other wise.

Seizure of things intended to be used in commission of offence

472. The court may order the seizure of any instruments, materials or things which there is reason to believe are provided or prepared, or are being prepared with a view to the commission of any offence triable by the court and may direct the same to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 471.

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

473. On a conviction for an offence relating to seditious or obscene publication, the court may order the confiscation and destruction of all the copies of the publication or thing in respect of which the conviction was had and which are in the custody of the court andalso all those which remain in the possession or power of the person convicted.

Unfit or adulterated food

474. The court may on a conviction for an offence relatingto adulterated or unfit food, drink or drug, order thefood, drink or drug in respect of which convictionwas had and also all other unfit or adulterated food, drink ordrug which remain in the possession or power of the person convicted to be destroyed.

Search warrant may be used to search for things subject to

475 Where a Magistrate is satisfied by information on oath

sections 485 and 487.

. that there is reasonable gr ound for believing that th ere is in the State in any build ing, ship, carriage, recepta cleor place anything in re spect of which an order m ay be made under sections 472 and 474, such Magist rate mayissue a search wa rrant to search for any suc h thing andif such thing b e found the same shall be brought before any court and dealt with as the co urt may consider proper.

Restoration of possession of immovable property

476. 1. Whenever a person is con icted of an offence carried out by criminal force and it appears to the court that by such force any per on has been dispossessed of any immovable property the court may order the possession of the same to e restored to such person.

Effect of the order

2. No order under subsec tion (1) shall prejudice a ny right or interest to or i n such immovable prope rty which any person, incl uding the person convict ed, may be able to esta blish in a civil suit.

Payment to innocent person of money found on defendant

477. When any person is con victed of any offence whi ch includes or amounts to stealing or receiving stol en property and it is proved that any other person h as bought the stolen prop erty from him without kn owingor having reason to believe that the same wa s stolen,and that the mon ey has on the arrest of th e convicted person been taken out of h

is possession, the court m ay,on the application o f such purchaser and o n the
restitution of the stolen p roperty to the person entitl ed to the possession thereo f, order that out of such m oney a sum not exceeding the price paid by such p urchaser
shall be delivered to him.

Restitution and disposition of property found on person arrested

478. Where upon the arrest o f a person charged with a n
offence, any property, ot her than that used in t he
commission of the offence, is taken from him, the cou rt before which he is charg ed may order that the prop erty
or a part thereof be –

(a) restored to the perso n who appears to the court tobeen entitle d thereto, and, if he be the person charged, that it be restored either to him or
to such other person as he may direct; or

(b) applied to the payment f any costs or compensation directed to be paid by th person charged.

Restitution of property stolen

479. 1. Where any person is co nvicted of having stolen or
having received stolen p roperty, the court convicti ng him may order that s uch property or a part th ereof be restored to the person who appears to it to be the owner thereof, either on payment or witho ut payment by the owner to the person in whose po ssession such property o

r a part thereof is, of any sum named in such order.

Exceptions to restitution order

2. An order made under sub section (1) shall not apply to –

(a) any valuable security which has been *bona fide* paid or discharged by any person liable to pay or discharge the same; or

(b) any negotiable instrument which has been *bona fide* received by transfer or delivery by any person for a just and valuable consideration without notice or without any reasonable cause to suspect that it has been stolen.

Destruction of articles relating to counterfeiting where charge is laid

480. Where any person is charged with an offence relating to counterfeit note or coin and in that person's possession, actual or constructive, was found any counterfeit note or coin or any matter or thing intended to be used for the purpose of making counterfeit notes or coins then, whether such charge proceeds to conviction or not, such note or coin or matter or thing shall not be returned to the person charged or the person from whom the same was takenbut shall be destroyed in such manner as the court may order.

Destruction of articles relating

4 Where any person comes

to counterfeiting where no charge is laid

81. into possession of any note or coin which he believes to be counterfeit or of any matter or thing which in his opinion is to be used for the purpose of making counterfeit notes or coins, he may hand such note, coin, matter or thing to any administrative officer, officer of the Central Bank of Nigeria or any bank or to any police officer not below the rank of an Inspector, and such administrative officer, officer of the Central Bank of Nigeria or police officer, if satisfied that such note or coin –

(a) is not counterfeit, or that any of such articles are not intended to be used for the purpose of making counterfeit notes or coins, shall return the note, coin or such articles, as the case may be, to the person purporting to be the owner thereof, if known; and

(b) is counterfeit or such matter or thing is intendedto be used for the purpose of making counterfeit notes or coins and if no charge is to be preferredagainst any person in connection with any suchnote, coin, matter or thing, may destroy or cause to be destroyed such note, coin, matter or thing

in such manner and by such person as may be approved by the Central Bank of Nigeria or Commissioner for Finance:

Provided that notice shall have been given to the person who appears to be the owner of such note, coin, matter or thing, if such person is known and can easily be found, that such note, coin matter or thing will be destroyed at the end of a specified number of days unless such owner shows that the note or coin is not counterfeit or that the matter or thing shall have no claim against any such administrative officer, officer of the Central Bank of Nigeria, police officer or the Government in respect of any such note, coin, matter or thing so destroyed.

Mode of dealing with forfeiture not pecuniary

482. Subject to the express provisions of any written law relating thereto every article, not pecuniary, forfeited in respect of a summary conviction offence or the seizure, forfeiture or disposition of which may be enforced by the court may be sold or disposed of in such manner as the court may direct, and the proceeds of such sale shall be applied in the like manner as if the proceeds were a penalty imposed under the written law on which t

he
proceeding for the forfeiture is founded.

CHAPTER 38 – DETENTION DURING THE GOVERNOR'S PLEASURE

Conditions attached to detention during pleasure

483. Where any person is ordered to be detained during the Governor's pleasure he shall notwithstanding anything in this Law or in any other written law contained be liable to be detained in such place and under such conditions as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

Discharge of detainee by license

484. 1. A person detained during the Governor's pleasure may at any time be discharged by the Governor on license.

Form of license

2. A license under subsection (1) may be in such form and may contain such conditions as the Governor may direct.

Revocation of license

3. A license under this section may at any time be revoked or varied by the Governor and where a license has been revoked the person to whom the license relates shall proceed to such place as the Governor may direct and if he fails to do so, may be arrested without warr

ant and taken to such plac e.

CHAPTER 39 - DETENTI ON IN A SAFE CUSTOD Y OR SUITABLE PLA CE OTHER THAN PRISON OR MENTAL HEALTH AS YLUM

Conditions attached to detention in a safe custody or suitable place other than prison or mental asylum

4 8 5 .

1. Where a person is ordered to be detained in a safe custody or suitable place other than prison or mental health asylum, he is, notwithstanding anything in this Law or in any other written law, liable to be detained in such other place as provided under this Law or any law as the Attorney-General may direct and whilst so detained shall be deemed to be in legal custody.
2. A person detained in a safe custody or suit able place other than pris on or mental health as ylum may at any time be di scharged by the Governo r on the advice of th e Attorney-General.
2. The Governor on the advice of the Attorney-General may at any time revoke or vary a directive to discharge and where a directive has been revoked, the person to whom the directive relates shall proceed to such place as the

Governor may direct and if he fails to do so may be arrested without warrant and taken to the place.

CHAPTER 40. – PERSONS OF UNSOUND MIND

Interpretation

486. For the purposes of this chapter unless the context otherwise requires –
"asylum" includes a lunatic asylum, a mental home or other hospital, a prison and any other suitable place of safe custody for medical observation;
"medical officer" means the medical officer attached to any asylum or any medical officer from whom a court requires an opinion.

Procedure when defendant is suspected to be of unsound mind

487. 1. When the Court has reason to suspect that the defendant is of unsound mind and consequently incapable of making his defence, the Court shall in the first instance investigate the fact of such unsoundness of mind.

Procedure for Investigation in the absence of the defendant

2. The investigation may be held in the absence of the defendant if the court is satisfied that owing to the state of the defendant's mind it would be in the interests of the safety of the defendant or of other persons or in the interests of public decency that he should be absent, and the court may receive as

evidence a certificate in writing signed by a medical officer to the effect that such defendant is in his opinion of unsound mind and incapable of making his defence or is a proper person to be detained for observation in an asylum, or the court may if it sees fit, take oral evidence from a medical officer on the state of mind of such defendant.

Defendant is detained for observation if the court is not satisfied

3. Where the Court is not satisfied that such person is capable of making his defence, the court shall postpone the trial and shall remand such person for a period not exceeding one month to be detained for observation in an asylum.

The medical officer shall certify his finding

4. The medical officer shall keep such person under observation during the period of his remand and before the expiration of such period shall certify under his hand to the court his opinion as to the state of mind of such person, and if he is unable within the period to form any definite opinion, shall so certify to the court and shall ask for a further remand. Such further remand may extend to a period of two months.

Application for medical examination of defendant

48 Any court before which a person suspected to be of unsound mind is accused of

. any offence may, on the application of a law officer or defendant's legal practitioner made at any stage of the pr oceedings order that such person be sent to an asylum f or observation.

Detention of the defendant by medical officer for observation

4 8 9 . 1. The medical officer may , notwithstanding any oth er provision of law detain a ny such defendant for su ch period, not exceeding one month or such period as the Court may allow , as may be necessary to enable him to form an op inion as to the state of mind of such person, and shall forward a copy of his opini on in writing to the cour t.

Certificate of medical officer

2. Where such medical officer shall certify that t he defendant is of sound mind and capable of maki ng his defence, the court shall, unless it is satisfied by the defence that th e defendant is of unsoun d mind, proceed with the trial.

Court may postpone trial under certain circumstances

3. Where such medical offi cer shall certify that such person is of unsound min d and incapable of making hi s defence, the Court shall, where satisfied of the fact, fi nd accordingly, and postpo ne the trial.

The evidence proving soundness of mind is deemed a part of trial

4. The trial of the issue as to whether or not t he defendant is of unsou nd mind and incapable of making his defence sh all, where the finding is t hat he is of sound mind and capable of making

his defence, be deemed to be part of his trial before the court.

Evidence of medical certificate

5. The certificate of the medical officer shall be receivable as evidence under this section.

Defendant may not attend court

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

Release of person of unsound mind pending investigation or trial

491. Whenever a defendant is found to be of unsound mind and incapable of making his defence, the court, wherethe offence charged is bailable by the court, may,in its discretion, release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himselfor to any other person, and of his appearance whenrequired before the court or such officer as the court appoints in that behalf.

Magistrate informs the defendant of his right to apply to a Judge for bail

492. Where such a defendant is before a Magistrate charged with an offence which is bailable by a Judge only or where the offence is bailable by a Magistrate but the Magistrate refuses to grant bail, such Magistrate shallinform the defendant o

f his right to apply to a Ju dge forbail.

Procedure when offence is not bailable

493. 1. Where the offence c harged is not bailable by the Magistrates' Cou rt or where a Judge has r efused bail under sectio n 492 or after an applicat ion made under section 492 or where sufficient security is not given or where no application is made for bail the Judge may, in his d iscretion, order the defend ant to be confined in an asylum or other suitable place of safe custody and the Judge shall give effect to such order.

Resumption of trial

494. Whenever a trial is post poned under subsection (3)of section 487 the cou rt may continue with the trialor commence the t rial *de novo* depending on the circumstances of the case and require the defendant to appear or be brought befor e such court.

Resumption of proceedings

495. When the defendant has been released under sectio n 491 the court may at an y time require the defenda nt to appear or be brough t before it and may again proceedunder section 487.

Judgment of acquittal on ground of mental disorder

496. Whenever any person is a quitted upon the ground that at the time at which he i alleged to have committed a n offence he was by reasor of unsoundness of mind incapable of knowing the na re of the act alleged as constituting the offence or th it was wrong or contrary to law, the finding shall st e specifically whether he

committed the act or not.

Safe custody of person acquitted

497. 1. Whenever the finding states that the defendant committed the act alleged, the court before which the trial has been held shall, where such act would but for incapacity found have constituted an offence, order such person to be kept in safe custody in such place and manner as the court thinks fit.

Observation of prisoners of unsound mind

498. When any person is confined under section 493 or section 497 the medical officer of the prison where such person is confined in a prison, or the medical officer attached to the asylum where he is confined in any asylum, 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 Court or the Attorney-General, as the case may be, as to the state of mind of such person at such time or times as the Court or the Attorney-General shall require.

Procedure when person of unsound mind is reported fit for discharge

499. Where the medical officer of a prison or the medical officer attached to an asylum in which a person is confined under section

493 or section 497 certifies that such person in his judgment may be discharged without danger of his doing injury to himself or to any other person, the Governor on the advice of the Attorney-General may thereupon order him to be discharged or to be detained in custody or prison or to be transferred to an asylum where he has not already been sent to such an asylum, and in case he orders himto be transferred to an asylum may require the Director of Medical Services of the State to appoint two medical officers to report on the state of mind of such person and upon any other facts the Attorney-General may require and on receipt of such report the Governoron the advice of the Attorney-General may order his discharge or detention as he thinks fit.

Transfer from one place of custody to another.

500. Where a person is confined in prison or any asylum, the Court or the Attorney-General may direct his transfer from one prison or asylum to any other prison or asylum as often as may be necessary.

Delivery of person of unsound mind to care of relative.

501. 1. Whenever any relative or friend of any person confined under sections 493 or 497 desires that su

ch person shall be deli vered over to his care and custody, the Cour t upon the application o f such relative or friend and on his giving security to t he satisfaction of the Cou rt that the person deliver ed shall be properly take n care of and shall be prev ented from doing injury t o himself or to any other person, may in his di scretion order such per son to be delivered to such relativ e or friend.

Provided that if such person is confined u nder the provisions of s ection 493, the Court may furtherrequire suc h relative or friend to gi ve security to the satisf action of the Court that if at any time it shall appear to the Court th at such person is capab le of making his defen ce, such relative or fr iend shall produce such person fo r trial.

2. Whenever such person is so delivered to the ca re and custody of any pe rson, it shall be upon cond ition that he shall be pro duced for the inspection o f such officer and at su ch times as the Court direc ts.

3. Sections 498 and 4 99 shall *mutatis mutan dis* apply to persons deliver ed to the care and custo dy of persons under this section.

Removal to another State.

5 0 Whenever it shall be nec essary to remove a prison

2. er to a prison or asylum under the provisions of sections487 to 500, an order for such removal given under the provisions of the said sections shall be sufficient authority for such removal and the detention of such prisoner notwithstanding that such prison or asylum is situate in another State in Nigeria.

CHAPTER 41. – TRIAL OF CORPORATION

Application of this Chapter

503. The provisions of this chapter shall apply to all trials held under this Law and where there is a conflict between the provisions of this chapter and any other provisions of this Law, the provisions of this chapter shall prevail.

Interpretation

504. 1. In this chapter "representative" in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this chapter authorized to do, but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose.

2. A representative for the purposes of this chapter need not be appointed under the seal of the

corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this chapter, shall be admissible without further proof as prima facie evidence that the person has been so appointed.

Plea by corporation

505. Where a corporation is called upon to plead to any charge or information it may enter in writing by its representative a plea of guilty or not guilty or any such plea as may be permitted under this Law, and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

Information against a

5 An information may be pre

corporation

506. ferred against a corporation after the preparation of the proofs of evidence relating to the charge.

Joinder of counts in same information

507. An information under section 506 may include, either in substitution for or in addition to counts charging the offence for which proof of evidence have been prepared, counts which may be lawfully joined in the same information and are founded on facts or evidence disclosed in the proofs of evidence.

Power of representative of a corporation

508. A representative may on behalf of a corporation-

(a) state whether the corporation is ready to be tried on a charge or information or altered charge or information to which the corporation has been called on to plead under the provisions of subsection (1) of section 312;

(b) consent to the hearing and determination of a complaint before the return date of a summons in accordance with section 123;

(c) express assent to trial of the corporation on information, notwithstanding that a copy of the information and notice of trial have not been served on the corporation three days or more

before the date on which the corporation is to be tried.

Matters to be read or said or explained to representative

509. Where a representative appears, any requirement of this Law that anything shall be done in the presence of the defendant, or shall be read or said or explained to the defendant, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or said or explained to the representative.

Non-appearance of representative

510. Where a representative does not appear, any such requirement as is referred to in section 505 of this Law shall not apply.

Saving

511. Subject to the preceding provisions of this chapter, the provisions of this Law relating to the inquiry into and trial of offences shall apply to a corporation as they apply to an adult.

Joint charge against corporation and individual

512. A corporation may be charged jointly and tried with an individual for any offence.

CHAPTER 42. – PREVIOUS ACQUITTAL OR CONVICTION

Interpretation

513. In this chapter "offence" includes an offence against the law of any other State in Nigeria.

Person once convicted or acquitted not to be retried for same or related offence

514. 1. Without prejudice to section 319, a person charged with an offence shall not be liable to be tried for that offence if it is shown that he has previously been convicted or acquitted –

(a) of the same offence by a competent court;

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

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

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

May be tried again on separate charge in certain cases

515. A person acquitted or convicted of any offence may afterwards be tried for any distinct offence for which a separate charge might have been made against him on the previous trial.

Consequences supervening or not known at previous trial

516. A person acquitted or convicted of any offence constituted by any act or omission causing consequences, which together with such act or omission constitute a different o

ffence from that for whic h he was acquitted or con victed may afterwards be tried for such last mentioned offen ce where the consequence s had not happened or wer e not known to the cour t to have happened at the time when he was acquitted or convicted when such cons equences create the offen ce of murder or manslaughter .

Where court at first trial was not competent

517. A person acquitted or convicted of any offe nce constituted by any act or o mission may notwithstand ingsuch acquittal or convi ction, be subsequently ch argedwith and tried for the same or any other offence constituted by the same a cts or omissions if the co urt by which he was first tried was not competent t o try the offence with wh ich he was first charged.

Dismissal of charge

518. The dismissal of a compla int or the discharge of t he defendant is not an acquitt al for the purposes of sectio ns514 to 517.

CHAPTER 43.– INQUIRIES B Y DIRECTION OF ATTORNEY-GENERAL

Inquiries by direction of Attorney-General

519. Where a sworn inform ation is made before any Magistrate that an offe nce against a law of t he

State has been committed, the Attorney-General may,whether or not any known person be charged with the commission of the offence, direct any Magistrateto hold an inquiry under this chapter and may, if hethinks fit, direct that such inquiry be held *in camera*.

Conduct of inquiry

520. The Magistrate so directed shall then examine on oath concerning such offence any person whom he has reason to believe to be able to give material evidence concerning it, other than a person confessing himself to be the offender, and shall take the deposition of such witness and, if he sees cause, bind such witnessby his own recognizance to appear and give evidence atany place where, and at any time when, he may be called upon to do so.

Report

521. At the conclusion of an inquiry under this chapter the said Magistrate shall forward to the Attorney-General the original depositions and recognizances of the witnesses together with his report upon the proceedings, and shall state in such report his opinion as to the persons implicated in the commission of such offence.

Procedure

522. The provisions contained in this Law relating to summoning witnesses, and to compelling their attendanc

eand to their examination o n oath, and to binding the m over to give evidence, shall a pply for the purposes of an inquiry under this chapter.

Person Charged entitled to copy of deposition

523. Where a person is put upo n his trial for an offen ce respecting which an inqu iry under this chapter h as been held, he shall, wher e he so requests, be suppli edfree of charge with a n authenticated copy of all depositions taken at such i nquiry.

Statements of witnesses privileged

524. A witness examined at such inquiry shall not be excused from answering a ny question on the grou nd that the answer there to may incriminate or te nd to incriminate him, but any confession or answer by a person to a question put at such examination shall n ot,except in the case of any criminal proceeding for perjury committed at or after the holding of su ch inquiry, be in any procee ding admissible in eviden ce against him.

CHAPTER 44 - THE JUSTICE SECTOR REFORM TEAM

Establishment of the Imo State Justice Sector Reform Team

525. 1. There is hereby established a body to be known as the Imo State Justice Sector Reform Team (in this Law referred to as "the ISJSRT").

2. The Imo State Justice Sector Reform Team(ISJSRT) shall consist of-

(i) the Chief Judge of Imo State, who shall be the chairman;

(ii) the Attorney General;

(iii) two High Court Judges, one of whom shall be the Coordinator;

(iv) the Judge of the Family High Court;

(vi) the Commissioner of Police or his representative;

(vii) the Controller of Prisons or his representative;

(viii) a respected private legal practitioner or justice sector expert from the academia;

(ix) the Chief Registrar of the High Court;

(x) the Family Chief Magistrate;

(xi) the Director of Public Prosecutions;

(xii) the Chairman and Secretary of the Magistrates' Association of Nigeria (MAN), Imo State Branch;

(xiii) a representative of the Imo State House of Assembly;

(xiv) the Chairman and

Secretary of the Nigeria Bar Association (NBA), Owerri Branch;

(xv) a representative of the Ministry for Chief taincy Affairs;

(xvi) a representative of the State Traditional Rulers Council;

(xvii) the State Director of the Legal Aid Council;

(xviii) the State Director the National Human Right Commission;

(xix) a representative of the Ministry of Gender Affairs;

(xx) a representative of the National Council of Women Society;

(xxi) the Director, Citizens Rights and Mediation Centre; and

(xxii) the Officer in Charge Legal Unit, Imo State Police Command;

(xxiii) a representative of the Imo State Child's Rights Protection Network;

(xxiv) a representative of the National Security and Civil Defence Corp;

(xxv) a representative of the National Orientation Agency;

(xxvi) the Chairman Nigerian Union of Journalists, Imo State Chapter

; and

(xxvii) the Chairman of the International Federation of Female Lawyers (FIDA), Imo State Chapter.

4. The Attorney General shall appoint persons mentioned in subsection (3)(viii) of this section.

5. Members of the Team shall be paid such allowances as may be determined by the Chief Judge.

Functions of the Team

526. 1. Subject any other provision of this Law, the team shall perform the following functions:

(a) monitor delivery of justice;

(b) identify issues that prevent effective, fair and efficient criminal justice delivery in the State;

(c) initiate reforms and help identify reform options;

(d) influence service delivery organizations to provide improved services;

(e) monitor implementation of projects and other initiatives;

(f) co-ordinate through cross-organizational relationship and building within the team;

(g) identify the problems that militate against speedy, efficient and equitable administration of justice

in the State;

(h) offer relevant and practicable suggestions for reform to the appropriate authorities;

(i) promote and facilitate stakeholders' interactions in the justice sector;

(j) facilitate the increased use of alternative dispute resolution methods;

(k) facilitate human rights observance in the administration of justice;

(l) act as an effective link between stakeholders including the donor community and the State Government in the reform of the justice sector;

(m) encourage effective and responsible policing by adoption of international policing best practices in the State;

(n) encourage the adoption of international minimum standards for treatment of offenders and prisoners in the State;

(o) encourage processes for ensuring public safety and security; and

(p) ensure streamlining and preservation of our customs.

2. The Team shall make and adopt rules to regulate the carrying out of its functions.

Further functions of the Team

3. Without prejudice to the generality of subsection (1) of this section, the Team shall ensure that-

(a) the provisions of this Law are effectively and efficiently implemented in the State;

(b) congestion of criminal cases in courts is drastically reduced;

(c) congestion in prisons is reduced to the barest minimum;

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

(e) it collates, analyzes and publishes annually information in relation to the administration of criminal justice sector in the State; and

(f) it carries out such other activities as are conducive to the effective and smooth administration of criminal justice.

Secretariat of the Team

527. 1. The team shall establish and maintain a secretariat with such number of staff as it considers necessary for the efficient

running of its affairs;

2. The Secretariat shall be headed by the Secretary, who shall be appointed by the Chief Judge on the recommendation of the Committee.
3. The Secretary shall be a legal practitioner of not less than five 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. Subject to the provisions of any other law in this regard, the Secretary shall hold office on such terms as to emoluments and otherwise as may be specified in his letter of appointment.
5. The Secretary shall be responsible for the execution of the policy of the team and the day to day running of the affairs of the Team.

Officers of the Team

5 2 8 · 1. There shall be the following officers of the Team who shall be appointed by the Chief Judge, namely-

(a) The Team Coordinator.

(b) The Deputy Team Coordinator.

(c) Secretary.

(d) Publicity Secretary/ Public Relations Officer.

Duties of the officers of the

2. The officers mentioned

in subsection (1) of this Section shall have the following functions:

(a) The Team Coordinator, in the absence of the Chief Judge, shall:

(i) preside over all meetings of the ISJSRT and facilitate meetings of the Management Committee.

(ii) coordinate the activities of the members of the Team in the discharge of their duties, and to approve expenditure for the running of the Team's secretariat.

(b) The Deputy Team Coordinator shall, in the absence of the Team Coordinator perform all the functions in subsection (2) (a) of this section.

(c) The Secretary shall on the advice of the Team Coordinator:

(i) be in charge of the day to day running of the Team secretariat, including managing the Registry.

(ii) manage the financial affairs of the team and ensure that rele

vant financial record and reports are prepared.

(iii) circulate notices and minutes of meetings to members.

(iv) record proceedings during meetings of the Team.

(vi) perform or cause to be performed all other such functions as the Team Coordinator may from time to time assign to him.

(d) The Publicity Secretary shall:

(i) publicize activities of the team

(ii) arrange for meetings and other social functions as directed by the Team Coordinator.

(iii) perform any other duty which may be assigned to him by the Team Coordinator.

Funds and accounts

529. 1. The Team shall maintain an account to be known as the Imo State Justice Sector Reform Team's Account. All sums accruing to the Team shall be paid into the said account. The Coordinator, Deputy Coordinator and Secre

tary shall be signatories to the said account. Any two of the named signatories will be sufficient to make withdrawals from the said account.

2. The Secretary shall submit to the Chief Judge not later than 30th September in each financial year, an estimate of its expenditure and income during the next financial year.

Annual report

530. The Team shall prepare and submit to the Chief Judge an annual report of its activities not later than 30th September of each year.

Power to obtain Information

531. 1. For the purpose of carrying out the functions conferred on the Team under this Law, the Team -

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

(b) may by notice in writing served on any person in charge of any such organs require that person tofurnish information on such matters as may bespecified in the notice.

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

Charter

532. The Team may make rules or any standing orders regulating its

and standing order

proceedings.

533.

CHAPTER 45.- APPEALS FROM MAGISTRATES' COURTS TO HIGH COURTS

Appeals from Magistrates' Courts

(1) Appeals from a Magistrates' Court to the High Court of the State in criminal matters shall be in accordance with the Imo State Magistrates' Court Law or any rules made under Any such Law.

(2) Where a defendant has been convicted and sentenced, acquitted or an order of dismissal made by a Magistrates' Court, the person aggrieved may appeal to the High Court from such conviction and sentence, acquittal or dismissal on the ground that it is erroneous in law or that the proceedings or any part thereof were in excess of the jurisdiction of the Magistrates' Court.

(3) An appeal, in accordance with the provisions of this Chapter, shall be commenced by the appellant by giving notice to the Registrar of the court from which the appeal is brought and such notice of appeal shall be signed by the appellant.

(4) The notice of appeal shall be given in every case before the expiration of the 30th

day after the day on which the court made the decision appealed against.

(5) An appellant shall file many copies of his notice of appeal as there are parties to be served in addition to the copy for the court.

(6) An appellant, in an appeal brought in accordance with the provision of this Chapter, shall, within 30 days of the pronouncing of the decision appealed against, file with the Registrar of the court from which the appeal is brought a brief setting forth the grounds of his appeal which shall be signed by the appellant or the legal practitioner representing him.

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

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

(9) Without prejudice to the generality of sub-section (8) the brief of grounds of appeal may set forth all or any of the following grounds-

(a) that the lower court has no jurisdiction in the

case;

(b) that the lower court has exceeded its jurisdiction in the case;

(c) that the decision has been obtained by fraud;

(d) that the case has already been heard or tried and decided by or forms the subject of a hearing or trial pending before a competent court;

(e) that admissible evidence has been rejected, or inadmissible evidence has been admitted by the lower court and that in the latter case there is no sufficient admissible evidence to sustain the decision after rejecting such inadmissible evidence;

(f) that the decision is unreasonable or cannot be supported having regard to the evidence;

(g) that the decision is erroneous in point of law;

(h) that some other specific illegality, not mentioned and substantially affecting the merits of the case, has been committed in the course of the proceedings in the case; or

(i) that the sentence passed on conviction is excessive or inadequate unless the sentence is one fixed by law.

(10) Where the appellant relies upon the grounds of appeal mentioned in sub-section (9) (d), the name of the court shall be stated and, where it is alleged that a

534

546

Revision

decision has been made, date of such decision.

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

(12) A sentence by a Magistrates' court shall take effect notwithstanding an appeal unless-

(a) a warrant has been issued under section 440 of this Law when no sale of property shall take place until the sentence has been confirmed or the appeal decided; or

(b) an order for release on bail pending any further proceeding has been made by a competent court

when the time during which the convicted person had been released shall be excluded in computing the period of any sentence which he has ultimately to undergo.

(13) A High Court exercising appellate jurisdiction shall not, in the exercise of such jurisdiction, interfere with the finding or sentence or other order of the lower court on the ground only that evidence has been wrongly admitted or that

there has been a technical irregularity in procedure, unless it is satisfied that a failure of justice has been occasioned by such admission or irregularity.

CHAPTER 46. – REVISION

This Law shall be reviewed not later than ten (10) years from the time of commencement.

CHAPTER 47. – MISCELLANEOUS

Use of forms in First Second and Third Schedule.

535. 1. Subject to the express provisions, if any, of the Rules of Court, the forms and precedents contained in the Schedules to this Law may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply and, when so used, shall be good and sufficient in law.

2. The forms in the said Schedules may be added to, revoked, replaced or varied by the rules in all respects as if they had originally been so made.

No committal for trial by coroner

536. From and after the coming into operation of this Law no person shall be committed for trial on a coroner's inquisition.

Pay

537. Subject to the provisions of se

ment of fees

ctions 538 and 539, in every proceeding had before any court such fees as may be prescribed under this Law shall be paid.

Court may waive fees

538. A court may in any proceeding in which good cause appears to the court for so doing, suspend payment of any fees payable therein until the conclusion of such proceeding and the court may then direct such fees to be paid as costs by any party to the proceeding by whom the court has power to order costs to be paid or remit the payment of such fees.

State not required to pay fees

539. The provisions of this Law relating to fees and to the giving of security shall not apply to the State or to any public officer acting in his official capacity.

Power to make rules of Court and Practice Directions

540. The Chief Judge may make rules or practice directions in respect of all or any of the following matters –

(a) fees to be paid under this Law;

(b) payment of witness expenses;

(c) forms to be used for the process and procedure of the courts;

(d) accounts to be rendered of moneys received by any person under this Law;

(e) the method of issue of process under this Law; and the manner of receipt of and accounting for fees in respect of such process;

(f) prescribing anything or any person required to be prescribed under the provisions of this Law; and

(g) generally for carrying into effect the purpose of this Law.

Where rules are made under this section, separate rules shall be made in respect of the practice and procedure in the High Court and in Magistrates' Courts, save where the procedure prescribed by such rules applies equally to the High Court and to Magistrates' Courts.

FIRST SCHEDULE

FORM 01

Section 11

INVENTORY OF ITEMS RECOVERED DURING EXECUTION OF SEARCH WARRANT IN TERMS OF SECTION 11

A. LIST OF ITEMS DETAINED AND PLACE OF SUCH DETENTION

1.
2.
3.
4.
5.

6.
7.
8.
9.
10.

B. LIST OF ITEMS RELEASED TO THE OWNER(S)
1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

WITNESSES

…….	…….
NAME/RANK/FORCE No. OF OFFICER EXECUTING THE WARRANT	NAME/TITLE OF THE OCCUPIER OF THE PLACE SEARCHED
…….	…….
NAME/RANK/FORCE No. OF ACCOUNTING OFFICER	NAME/TITLE OF AN INDEPENDENT WITNESS

Dated the ……day of……20….

FORM 02

Section 12

INVENTORY OF PROPERTIES OF ARRESTED PERSON UPON ARREST OR HANDOVER

General Form

NIGERIA POLICE FORCE
……STATE COMMAND
……DIVISION
……POST
……AGENCY (State name and location of agency)

1. XYZ…… (*state name and address of person arrested. Each inventory form should be used for each arrested person*), whose contact details are as follows:
   Address……
   Telephone ……Email……
   State of origin……Tribe……
   Was arrested on ……day of ……20…….by……
   (*Name, Force No. and Rank of Police officer(s) that made the arrest or to whom the arrested person is handed over*) and/or arrested and handed over……
   by…… of …… (*in which case name the person or agency that arrested and handed over the person arrested*) now detained at …… ……(*state the police station or agency of custody or if released on bail, state so*) had upon his/her person on arrest/or upon search of his/her premises located at……
   ……
   (*if the properties were recovered through a search warrant, state the address of the premises and date of the search*) the following items currently kept at…….
   …… ……station/agency for safe keeping, to wit: (*list all items/properties by name or description, model or serial number with sufficient particulars for identification and the quantity of its item*)
   i……
   ii……
   iii……
   iv……
   v……
   vi……
   vii……
   viii……

2. Whereof the said items will be released to……
   ……of……
   …… Telephone:……(*name, address and Tel No. of the arrested person or any other person appointed by him in writing to take delivery of the properties*) upon his release from custody or by order of Court.

3. A copy of this inventory has is given to the person arrested or his legal representative.

Dated this……day of……20….

Signed

.....
Police Officer

.....
Persona arrested

.....
Witness of person arrested

FORM 03

Section 16

RECORD OF ARRESTED PERSON

NIGERIA POLICE FORCE

……STATE COMMAND
……DIVISION
……POST
……AGENCY (*State name and location of agency*)

1. That …… XYZ…… arrested on…… on……. day of ……20……at ……. PM/AM (*state date and time of arrest*,) or arrested by ……of…… *(state the names and address of a private person or agency who arrested the defendant(s)* and handed him/her over to the police (Sections 24 (1), (2) and (4) and thereafter handed over to the …… …… …… Of …… …… police station *(if the person was arrested by a private person and handed over to a police station, state the name of' the officer in charge of the station to whom the person arrested was handed over and the name of the police station)* on ……day of…… 20…… particulars of whom are as follows, to wit:

Name of arrested person……
Address: ……
Sex: Male ……/Female…… Age ……
Nationality:…… State of origin: ……
Occupation/profession ……
Religion …… Tribe ……
Alleged offence: ……
Date of arrest:……

A. Picture (*Affix portrait photograph or passport or any other facial image of arrested person*)

Photograph of arrested person

B. Finger print impression

Left Thumb	2	3	4	5	Right Thumb	2	3	4	5

C. List of any item(s) instrument or weapon or item of evidence recovered from arrested person

i.

ii.

iii.

D.

E. Investigating Police Office/Team Leader: ……

……

F. Any other relevant information about the arrested person

……

……

Signed

……
Police Officer

FORM 04

Section 17(2)

ENDORSEMENT AND ATTESTATION OF CONFESSIONAL STATEMENT OF ARRESTED PERSON

To:
Commissioner of Police
……State Command
……Station
……Agency (*state the designation of head of the agency other than a police station*)

A. ENDORSEMENT OF VOLUNTARINESS OF STATEMENT BY PERSON ARRESTED, Section 17(4)

1. I, XYZ (*name of person arrested*) hereby confirm that the attached statenen1 made by me on ……day of ……20……. at…….. PM/AM (*state date and time of statement*), and recorded in writing by …… (*state the Name and Force No of the police officer or any other person who recorded the written statement for the person arrested*) was made by me voluntarily without any force, threat of force, or promise of favour whatsoever by any person.

2. I was duly informed of my rights under the law before the statement was recorded

……
Signature or thump print impression of arrested person

Date……

FORM 05

Section 17(3)

ENDORSEMENT BY LEGAL PRACTITIONER OR ANY OTHER PERSON OF CHOICE OF ARRESTED PERSON

I, XYZ……of …….
Telephone ……Email……
Occupation ……(*State the names, address and particulars of the legal practitioner or any other person of choice of the arrested person*) hereby attest that the statement of ……
……(*Name of person arrested)* was made by him voluntarily in my presence on ……the…… day of ……20……at ……PM/AM (*state exact date and time the statement was made and recorded).*

Attested this ……day of……20….

……
Signature or thumbprint impression of person attesting

FORM 06

RECOGNIZANCE
(TITLE PROCEEDINGS)

Sections 20(2) and(3), 31(2), 32, 45, 86, 93, and 95

By this recognizance the undersigned principal party [and surety or sureties) acknowledges himself [or acknowledge themselves] bound to forfeit to the State the sum of ₦……K……subject only to these conditions, that if [*here insert the conditions of the recognizance*] then this recognizance shall be thereby discharged.

……
Principal party

……
Surety

……
Surety

Taken before me at……this……day of……20….

FORM 07

RECOGNIZANCE OF WITNESS

Sections 93 and 95

In the Magistrate's Court of……C.D of……(*address and occupation or profession)* acknowledges that he/she owes to the Imo State Government the sum of ……payment thereof to be enforced against him/her by due process of law if he/she fails to comply with the conditions endorsed hereon.
Signature of C.D……

Taken before me this ……day of……20……

……
Magistrate (Judge)

(*Endorsement)*

Conditions

The condition of this recognizance is that whereas A.B (hereinafter called the accused) was this day charged before me (*name of Magistrate*), the above-mentioned Magistrate, with (*state shortly particulars of offence*):

If therefore the said C.D. appears at the High Court of the State on a date to be notified to him later and there gives evidence upon the trial of any information against the accused and in all respects complies with the requirements of any notice which he/she may subsequently receive relating to this recognizance, then this recognizance shall be void but otherwise shall remain in full force.

FORM 08

RECOGNIZANCE OF WITNESS CONDITIONALLY BOUND OVER

In the Magistrate's Court of…… C.D
……
(*address and occupation or profession)*

Signature of C.D……

Taken before me this ……day of……20……

……
Magistrate

(*Endorsement)*

Conditions

Whereas A.B (hereinafter called the defendant) was this day charged before me (*name of Magistrate*), the above-mentioned Magistrate, with (*State shortly particulars of offence*): and

Whereas C.D. has been informed that he/she is only conditionally bound over to give evidence at the trial of A.B but that, after receiving a notice that he/she will be required to give evidence at the said trial, he/she will then be firmly bound by the following conditions:

If therefore the said C.D. appears at the High Court of…… State on a date to be notified to him/her later and there gives evidence upon the trial of any information against the defendant and in all respects complies with the requirements of any notice which he may subsequently receive relating to this recognizance, then this recognizance shall be void but otherwise shall remain in full force.

FORM 09

Section 24

HANDOVER OF PERSON ARRESTED BY PRIVATE PERSON

Nigeria Police Force
……State command/agency
……Division/Agency

I, That XXX……of …… ……Telephone No …… Email…… (*State the names and full particulars of the private person handing over the arrested person*) arrested XYZ ……(male/female)…… ……of……(*name and address or description of abode of arrested person)* on a reasonable suspicion of having committed/committing/about to commit the offence of…… *(state the offence alleged)* arrested him/her and now hands him/her over to the police at ……Police station/agency this ……day of……20…… at ……A.M./P.M. (*state the police station or agency of hand over, the date and time and any other particulars including the particulars police officer to whom the arrested person was handed over).*

…….
Signed
Name of private person/signature and date

…….
Signed
Name of police officer handed over the arrested person/signature

FORM 10

Section 30

POLICE REPORT TO ATTORNEY-GENERAL ON ARRESTS

Nigeria Police Force

……..State Command/agency

…….. Station/Department

Ref. No…../……. /……./

Period of report: …….. Month/ ……quarter/ ……year

S/No	Name of Suspect	Date of Arrest	Sex	Age	Offence	Criminal Code	Status of Suspect
Example							
1	XYZ	02.05.2018	M	21	House breaking	218	Charged to court on 09.6.2018
2	ABC	04.07/2018	F	40	Murder	325	In Detention

…….

Signed

Police officer in charge of station/Commissioner of Police

FORM 11

Sections 31, 32, 33 and 87

APPLICATION TO MAGISTRATE FOR BAIL OF PERSON ARRESTED AND DETAINED

(*This form can be completed by the person arrested, his legal representation or his family member or NGO acting on his instruction and submitted to the nearest Magistrates' Court within the area of his detention. It is advisable but not compulsory to hire a lawyer to complete and submit this application so long as the offence for which the person is arrested is not capital offence punishable by death sentence)*

To
Registrar
Magistrates' Court of……State
……Magisterial District
Holden at…….

APPLICATION TO MAGISTRATES' COURT FOR GRANT OF BAIL FROM POLICE CUSTODY

I……of……
……was arrested on……day of……20……at ……AM/PM on allegation of having committee an offence of ……(*state the offence if known)* now detained at ……Police station/agency within ……. ……Magisterial District, and denied bail or granted bail on conditions I am not able to comply with, to wit;

i. …….
ii. …….
iii. …….

(State the conditions of bail, if already granted by the Police or agency) now notifies this Honourable Court of my continued detention and applies for bail or review of the said conditions of bail granted by the police.

2. If granted bail, I undertake that I will be available at any time I am invited by the police or Court.

3. I will not interfere with the investigations in the case or tamper with possible evidence or intimidate any person who may be a witness in the case against me.

4. I will not commit another offence if released on bail.

5. I am willing to meet all conditions of bail as directed by the Honourable Court.

.....
Signature and dated of the
Person arrested or of his legal representative

<u>For service on</u>

1. The Divisional Police Officer
   ……Police Station/…… Divisional Police Command
2. Investigating Police Officer

FORM 12

Section 34

POLICE REPORT TO MAGISTRATE OF ARRESTS WITHOUT WARRANT

Nigeria Police Force
……State command
……Division/Agency

To
Registrar
Magistrate Court of……State
In the……Magisterial District
Holden at……

1. Period of Report……DD/ ……MM/ ……YYYY to ……DD/……MM/ ……YYYY

2. Pursuant to Section 34 of this Law find below the names and particulars of person arrested without warrant within this Magisterial district and detained at the police station.

3. Name sand particulars of persons arrested

S/No	Name of Person Arrested	Address, Tel etc.	Alleged Offence	Status: Bail Y/N

……
Signature and date
Police Officer in Charge

FORM 13

Sections 36, 37, 136, 137 and 138

WARRANT FOR ARREST OF DEFENDANT IN FIRST INSTANCE

(General Title-Form No. 1)

To……Police Officer

Compliant on oath has been made on……day of……by ……that A.B., hereinafter called the defendant on the ……day of …….. at ……in the ……above-mentioned did*……

……

*****State concisely the substance of the compliant*

You are hereby commanded to bring the defendant before High/Magistrates' Court sitting at ……in the Judicial Division/Magisterial District ……to forthwith answer the said complaint and be dealt with according to law.

Dated the ……day of……20…….

……

Judge [or Magistrate]

Section 36 and 91

ENDORSEMENT ON WARRANT OF ARREST

Whereas proof has this day been made before me that the name …….. subscribed to the within warrant in the handwriting of the within mentioned ……

I hereby authorize ……who has brought me this warrant and all other persons to whom this warrant was originally directed and also all police officers of the …… to execute this warrant within ……and to within ……and to bring the said ……if arrested within ……before me or before some Magistrate of the ……to be dealt with according to law.

GIVEN under my hand this ……20……..

……

Magistrate

FORM 14

Sections 50 and 260(2)

SUMMONS TO WITNESS

(General Title-Form No. 1)

To……
A.B has been charged by …… for that he on the …… day of ……20…… at ……in the ……above- mentioned did*****
……
*****_State concisely the substance of the compliant_
and it appears to me by the oath of……that you are likely to give material evidence therein on behalf of the informant [of complainant or defendant], and will not voluntarily appear for that purpose.

You are therefore hereby summoned to appear before the High/Magistrates' Court sitting at ……in the Judicial Division/Magisterial District on ……day of……20……. at the hour of……in the ……noon, to testify what you know in such matter.

Dated the ……day of……20…….

……
Judge [*or Magistrate]*

FORM 15

Sections 52 and 475

SEARCH WARRANT

*(*TITLE OF PROCEEDING*)*

In the Magistrates' Court of ……Magisterial District

To……and…….
Whereas information on oath and in writing this day has been made that there is reasonable ground for believing that there is in (*state the place to be searched and state what is to be searched for in the terms of section 52 (1) (a), (b) or (c) of this Law*).

You are hereby commanded in the name of the Federal Republic of Nigeria, with proper assistance, to enter the above-named (*state the place to be searched*) and there diligently search for the things aforesaid and where the same or any part thereof is found on search, to bring the things found, and also the said (*name the occupier of the place to be searched*) before this Court to be dealt with according to law.

This warrant may be executed at any time on any day, including a Sunday or public holiday and may also be executed at any hour during day or night.

Issued at …… this……day of……20…….

……
Magistrate

FORM 16

Sections 68, 69 and 70

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

(General Title-Form No. 1)

Before the……High/Magistrates' Court sitting at…… in the…… Judicial Division/Magisterial District on the……day of……20……

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

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

If costs are ordered, add-

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

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

……

Judge [or Magistrate]

FORM 17

WARRANT TO BRING UP PRISONER BEFORE THE COURT
*(*TITLE OF PROCEEDINGS*)*

Sections 73, 87(2), 139 and 237 (5)

To the Superintendent of Prisons at ……
……
required to be produced before the Court:
You are ordered to produce the said prisoner before the court at on the……day of……20…… at 8 O'clock in the forenoon.

Issued at ……on……the……day of……20…

Court fees:
Warrant:
Hearing:
Total

……
Judge [or Magistrate]

FORM 18

SUMMONS TO DEFENDANT

Sections 121, 122, 175, 179,183 and 456

(General Title-Form No. 1)

To A.B of……. ……

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

******State concisely the substance of the compliant*

You are hereby summoned to appear before the ……High/Magistrates' Court sitting at ……on ……day of……20……., at the hour of……in the ……noon, to answer to the said complaint.

Dated the ……day of……20…….

……
Judge [*or Magistrate]*

FORM 19

Sections 49, 115, , 252, 254 and 464

WARRANT FOR ARREST OF DEFENDANT WHO HAS DISOBEYED SUMMONS

(General Title-Form No. 1)

To……Police Officer or to each and all Police Officers.
Compliant has been made on the ……day of……20……that A.B. (hereinafter called the defendant) on the ……. day of…… 20 …… above- mentioned did*
……
……
**State concisely the substance of the compliant*
And the defendant was thereupon summoned to appear before the High/Magistrates' Court sitting at…… in the Judicial Division/Magisterial District on the ……day of……at the hour of…… in the ……noon, to answer to the said charge: ……

An oath has been made that the defendant was duly served with the summons, but did not appear, and that such complaint is true.

You are hereby commanded to bring the defendant before High/Magistrates' Court sitting at ……in the…… Judicial Division/Magisterial District to forthwith answer the said complaint and be dealt with according to law.

Dated the ……day of……20…….

……
Judge [or Magistrate]

FORM 20

Sections 140 and 260(2)

SUMMONS TO WITNESS
(General Title-Form No. 1)

To E.F..... A.B. has been charged by .....for that he on the .....day of .....20....., at.....in the .....above mentioned, did* .....
.....
.....
**State concisely the substance of the compliant.*
And it appears to me by the oath of..... that you are likely to give material evidence therein on behalf of the informant [or complainant or defendant], and will not voluntarily appear for that purpose.

You are therefore hereby summoned to appear before the High/Magistrates' Court sitting at.....in the .....Judicial Division/Magistrerial District on.....day of.....20..... at the hour of..... in the ..... noon, to testify of what you know in such matter.

Dated the .....day of.....20.....

.....
Judge [or Magistrate]

FORM 21

Sections 142, 143, 261, 262 and 276

WARRANT FOR APPREHENSION OF A WITNESS

(General Title-Form No. 1)

To……Police Officers or other officials
Complaint …….
E.F. was duly summoned to appear before the High/Magistrate's Court sitting at ……in the…… Judicial Division/Magisterial District on …… day of …… at the hour of……in the ……. noon, to testify of what he knows concerning a certain complaint against A.B.
And he has neither appeared thereto, nor offered any just excuse for his neglect.

And it has been proved on oath that summons has been duly served on him [and that a reasonable sum has been paid (or tendered) to him for his costs and expenses in that behalf].

You are hereby commanded to bring him before the High Court sitting at ……in the Judicial Division/Magisterial District forthwith to testify of what he knows concerning the matter.
Dated the ……day of……20…….

……
Judge [or Magistrate]

FORM 22

Sections 154 and 459

WARRANT TO COMMIT A WITNESS

(General Title-Form No. 1)

To..... and to the Superintendent of ..... Prison. E.F..... having appeared or being brought before the High/Magistrates' Court sitting at.....in the Judicial Division/Magisterial District on day the.....day of.....20..... to testify of what he knows concerning a certain case against A.B., refused to take an oath [or having taken an oath] refused to answer any [*or* a certain] question put to him concerning the case and did not offer any just excuse for his refusal.

You, the said Police Officer are hereby commanded to convey the said E.F safely to the said Prison, and there deliver him to the Superintendent thereof, together with this Warrant, and you, the Superintendent of the said Prison, to receive him into your custody, and keep him for a period of....., unless he in the meantime consents to be examined and to answer questions concerning the case.

Dated the .....day of.....20.....

.....
Judge [or Magistrate]

FORM 23

Sections 164 and 165

WARRANT OF DISTRESS (FOR PENALTY)

(General Title-Form No. 1)

To……
A.B., (hereinafter called the defendant), was on the day of ……convicted before the High/Magistrates' Court sitting at ……for that he on the ……day of……at……in the above- mentioned, did ……

And it was adjudged that the defendant for the said offence should be imprisoned [or forfeit and pay the sum of ……] and should also pay the sum of……[for compensation and ……] for costs [by every ……days, the first installment to be paid] forthwith [or on the……day of……], and that in default the said sum [or sums] should be levied by distress, …… and default having been made in payment.

You are hereby commanded forthwith to make distress of the goods of the defendant (expect the wearing apparel and bedding of him and his family, and, the tools and implements of his trade) and if within a period of five clear days next after the making of such distress, unless he consents in writing to an earlier sale, the sum stated at the foot of this warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising there from to the registrar of that court, and if no such distress can be found, to certify the same to that Court.

Dated the ……day of……20…..

……
Judge [or Magistrate]

~~₦~~ K
Amount ordered ……Paid……
Remaining due…… Cost of issuing this warrant ……
Total amount to be levied……

FORM 24

Section 174

COMPLAINT

(General Title-Form No. 1)

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

.....
Judge [or Magistrate]

FORM 25

Section 182(2)

COMPTROLLER-GENERAL OF PRISONS' RETURNS OF PERSON(S) AWAITING TRIAL

(Complete form in triplicate per individual)

To the: The Chief Judge of.....and to the Attorney-General of Imo State.

The Chief Judge of..... and the Attorney-General of Imo State are hereby informed that these are the records of all persons awaiting trial held in custody within Imo State for a period beyond 180 days from the date of arraignment.

1. Name of Person in Custody:,.....
2. Date of Arraignment.....
3. Court Where Arraigned:.....
4. Particulars of the Offence Charged with.....
5. Date of his Admission to Custody.....
6. Name of the Prosecuting Agency:.....
7. Any other Relevant Information .....

Insert passport Photograph of individual Awaiting Trial Person (ATP)

.....
Comptroller of Prisons

FORM 26

Section 200

CONVICTION ON PLEA OF GUILTY

(General Title-Form No. 1)

Before the High/Magistrates' Court sitting at …… in the……Judicial Division/Magisterial District this……day of…….. 20……
A E (hereinafter called the defendant), is this day charged in that he on the ……day of…… aforesaid, did ……in the ……

And he defendant, having pleaded guilty to the charge is convicted of the offence, and is adjudged to be remanded in the prison at……
and there kept to labour or without labour for a period of……

If costs are added, add-
And in default of payment, it is ordered that the sum due be levied by distress and sale of the defendant's goods, and in default of sufficient distress that the defendant be remanded in the said prison for the period of……commencing at the termination of the imprisonment before adjudged, unless the said sum [and all costs and charges of the said distress and commitment] be sooner paid.

……
Judge (*or Magistrate*)

FORM 27

FORMS FOR REMAND PROCEEDINGS

(General Title-Form No. 1)

Section 222(2)(a)

REPORT AND REQUEST FORM FOR REMAND

BETWEEN

COMMISSIONER OF POLICE — Applicant
DIRECTOR OF PUBLIC PROSECUTIONS

AND
XYZ — Respondent

To: The Registrar of the Court

The Court is hereby informed that there is a probable cause to order the remand of XYZ (*State particular of the Respondent, namely age, sex, occupation*) of (*state details of the Respondent's street address of where there is no precise street address, as near and close description as possible of the location of the Respondent's last known place of abode*) in remand custody in _____ (*state the exact place of custody in which the applicant proposes to remand the Respondent such as the name and location of the prison or other detention place*) who is reasonably suspected to have committed the offence of _____contrary to section_____of the _____ within the_____Judicial Division/Magisterial District on or about _____(*state the date or approximate date or the period of commission of the alleged offence*) on grounds stated below:
_____
_____

Dated this _____day of _____20_____

GROUNDS FOR THE REQUEST FOR REMAND

1. Place, time and circumstance of arrest:_____
_____
_____

2. Arrested with Exhibit(s) _____ Yes _____ No (*Tick appropriately*)
(disregard (3) and (4) below if the Respondent was not arrested with Exhibit(s)

3. If arrested with Exhibit(s), state clearly the particulars of the Exhibit(s)_____
_____

4. If arrested with Exhibit(s), state clearly how the items are related to or linked with the committal of the alleged offence:_____

5. State particulars of other evidence or report linking the Respondent to the committing of the offence such as forensic evidence, marks or finger prints, etc.

6. Confessional statement _____ Yes_____ No

7. Any previous conviction for the same or similar offence _____Yes _____No

8. If (7) above is yes, state the Particulars of previous conviction(s)
_____
_____

9. Found in custody of possession of offensive weapon, object or substance:_____ Yes _____ No

10. Identification by victim(s) or witness(es) _____Yes _____ No
(*State the particulars of such victim(s) or witness(es*)

(i) Name:
Age
Sex
Address
Occupation

(ii) Name:
Age
Sex
Address
Occupation

(iii) Name:
Age
Sex
Address
Occupation

(iv) Name:
Age
Sex
Address
Occupation

(v) Name:
Age
Sex
Address
Occupation

(vi) Name:
Age
Sex
Address
Occupation

11. Need for further investigation _____ Yes _____ No

12. Period/duration required for further investigation _____ (*state approximate days/weeks/months required to complete investigation*)

13. Any further relevant information_____
_____

Signed……
(Commissioner of Police/Director of Public Prosecution/
Law Officer/Police Officer)

FORM 28

Sections 233(5), 346 and 361

INFORMTION ON LEGAL REPRESENTATION

The office of the Director of Public Prosecutions has determined that proceeding shall continue against you as per the attached legal advice.

Indicate whether you wish to be represented by a legal practitioner arranged by you or by the Legal Aid Council or any organization providing free legal representation.

(1) If you wish to be represented by a legal practitioner arranged by you, please indicate below the particulars of such legal practitioner.

Name of Legal Practitioner:_____

Address of legal Practitioner:_____

Telephone Number of Legal Practitioner:_____

E-mail of Legal Practitioner:_____

Signature of the Defendant:_____

Signature of the Prison official or police official in charge of place of custody of defendant:

_____

(2) If you wish to be represented by a legal practitioner arranged by way of legal aid, please provide the relevant information below. If you do not know any organization you wish to apply to provide legal practitioner to represent you, kindly enter the "Legal Aid council" as the name of organization.

Name of the Organization:_____
Address of the defendant (or place of custody if on remand)_____
_____

Signature of the Defendant:_____

Signature of the Prison official or police official in charge of place of custody of Defendant:

_____

(2) If you wish to be represented by a legal practitioner arranged by way of legal aid, please provide the relevant information below. If you do not know any organization you wish to apply to provide legal practitioner or represent you, kindly enter the "Legal Aid Council' as the name of organization.

Name of the organization:_____

Address of the defendant (or place of custody if on remand)_____

_____

Signature of the Defendant:_____

Signature of the prison official or police official in charge of place of custody of Defendant:

_____

FORM 29

Sections 432, 435 and 440

ORDER FOR MONEY (NOT A CIVIL DEBT)

(General Title-Form No.1)

Before the High/Magistrates' Court sitting at……in the…… Judicial Division/Magisterial District sitting at ……on the……day of……20….
A.B having made a complaint that C.D hereinafter called the defendant, on the ……day of……at……within the ……above-mentioned, did ……
On hearing the said complaint, it is ordered that the defendant pay to said ……the sum of ……and also the sum of……for costs [by installments of ……for every……days, the first installment to be paid] forthwith [or on the……day of……20…..]:

And in default of payment it is ordered that the said sum due be levied by distress and sale of the defendant's goods, and in default of sufficient distress that the defendant be remanded in the prison at …… for a period of ……unless the said sums and all costs and charges of the said distress and commitment be paid.

……
Judge [or Magistrate]

FORM 30

WARRANT OF COMMITMENT
*(*TITLE OF PROCEEDINGS*)*

Sections 410, 418(3) and 419

To……

The defendant…….was on the…….day of…….20……sentenced as follows –

S/N	Offence	Term, Firm, Compensation and Costs	Term of Default

The defendant has made default in payment of the above sum [or sums, or 1st and 2nd above named sums, as the case may be].

The imprisonment is to commence forthwith [upon the expiration or any other term of imprisonment which the defendant may now be serving].

The terms are to be concurrent [or consecutive, or concurrent as to the……and……and consecutive as to, or as case may be].

[The imprisonment is to be without labour].

You are ordered to take the said defendant and imprison him/her in accordance with the above sentence and the Law.

Dated the …….day of……20…….

…….
Judge [or Magistrate]

FORM 31

Sections 450 and 451

RECOGNIZANCE OF WITNESS CONDITIONALLY BOUND OVER

In the Magistrate's Court of……
C.D……
(*address and occupation or profession).*

Signature of C.D……

Taken before me this ……day of……20…..

……
Magistrate

(*Endorsement*)

Conditions

Whereas A.B (hereinafter called the defendant) was this day charged before me (*name of Magistrate*), the above-mentioned Magistrate, with (*state shortly particulars of offence*): and

Whereas C.D has been informed that he/she is only conditionally bound over to give evidence at the trial of A.B but that, after receiving a notice that he/she will be required to give evidence at the said trial, he/she will then be firmly bound by the following conditions:

If therefore the said C.D. appears at the High Court of……State on a date to be notified to him/her later and there gives evidence upon the trial of any information against the defendant and in all respondents compiles with the requirements of any notice which he may subsequently receive relating to this recognizance, then this recognizance shall be void but otherwise shall remain in full force.

SECOND SCHEDULE

CHARGES
Sections 283

UNDER THE CRIMINAL LAW WITH ONE HEAD

1. That you …… on the ……day of.……20… at.……being a witness upon the trial of a case in the Magistrate's Court of the ……Magisterial District sitting at.…… was complainant and one ……was defendant, knowing falsely swore that you saw one M.N. snatch a leather wallet from one Y.Z. in the …… on the ……day of ……and thereby committed an offence punishable under section 118 of the Criminal Code.

Section 120(a) Criminal Code

2. That you,…… on the ……day of.……20….at…… with intent to mislead the court in the course of the trial of ……fabricated evidence by means other than perjury to wit:……and thereby committed an offence against section 120(a) of the Criminal Code.

Section 249(a)(i) Criminal Code

3. That you, ……being a prostitute, on the……day of.……20….at……behaved in an indecent manner by exposing your naked person in Broad Street and thereby committed an offence punishable under section 249(a)(i) of the criminal code.

Section 325 Criminal Code

4. That you,……on the……day of.……20…… at ……unlawfully killed C.D and thereby committed an offence punishable under section 325 of the Criminal Code.

Section 326(c) Criminal Code

5. That you ……on the ……day of.……20……at…… aided A.B. in killing himself and thereby committed an offence punishable under section 326(c) of the Criminal Code.

Section 332(a) Criminal Code

6. That you……on the ……day of……20….at……unlawfully wounded C.D with intent to maim, disfigure or disable or to do some grievous harm or to resist the lawful arrest of yourself and thereby committed an offence punishable under section 332(a) of the Criminal Code.

Section 338(a) Criminal Code

7. That you……on the ……day of……,20……at…… unlawfully wounded C.D and thereby committed an offence punishable under section 338(a) of the Criminal Code.

Section 360 Criminal Code

8.That you,……on the……day of……20……at……unlawfully and indecently assaulted M.S and committed an offence punishable under section 360 of the Criminal Code.

Section 402 Criminal Code

9. That you,……on the ……day of……20……at…… robbed C.D. of (state the thing and thereby committed an offence punishable under section 402 of the Criminal Code.

Section 419 Criminal Code

10. That you,……on the ……day of……20….at …… with intent to defraud, obtained from S.P five yards of cloth by falsely pretending that you were a servant to J.S and that you had been sent by the said J.S to S.P for the said cloth, and that you were then authorized by the said J.S to receive the cloth on behalf of the said J.S and thereby committed an offence punishable under section 419 of the Criminal code.

11. That you,……on the ……day of……20….at…… with intent to defraud, obtained from A.B…… by falsely pretending that you were able to double money.

Section 430(1) Criminal Code

11. That you,……on the ……day of……20….at …… with intent to defraud, obtained from A.B…… by falsely pretending that you were able to double money.

Section 430 (1) Criminal Code

12. That you……on the……day of……20……. at ……, had in your possession one gold watch reasonably suspected of having

been stolen or unlawfully obtained and thereby committed an offence punishable under section 430(1) of the Criminal Code.

Section 443(a) Criminal Code

13. That you,……on the ……day of……20….at…… willfully and unlawfully set fire to a house and thereby committed an offence punishable under section 443(a) of the Criminal Code.

Section 467(2) (h) Criminal Code

14. That you,……on the ……day of……20……at…… forged an accountable receipt purporting to be the receipt of C.D., and thereby committed an offence punishable under section 467(2) (h) of the Criminal Code.

CHARGES WITH TWO OR MORE HEADS

Section 230 Criminal Code

9. That you, on the……day of……20….at……unlawfully supplied to C.D (*state the thing supplied*) knowing that it was intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an offence punishable under section 230 of the Criminal Code/Section Penal Code.

Secondly – That you,……on or about the……day of……20….at……unlawfully procured for C.D (*state thing procured*) knowing that it was intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an offence punishable under section 230 of the Criminal Code.

Section 248 Criminal Code

16. **First** – That you,…… on the……day of……20…..at……sold matches made with white (yellow) phosphorus and thereby committed an offence punishable under section 248(a) of the Criminal Code.

Secondly- That you,…… on the……day of……20……at…… had in your possession for the purposes of sale, matches made with white (yellow) phosphorus and thereby committed an offence punishable under section 248(a) of the Criminal Code.

Section 390 Criminal Code

17. **First** – That you,……on the……day of……20…. at …… stole (state the thing stolen) the property of C.D and thereby committed an offence punishable under section 390 of the Criminal Code.

Secondly – That you,……on the……day of……at……stole (*state the thing stolen*) which had been entrusted to you by C.D. for you to retain in safe custody and thereby committed an offence punishable under section 390(8) (b) of the Criminal Code.

Thirdly – That you,……on the ……day of……20…..at……stole (state the thing stolen) which had been received by you for and on account of C.D and

thereby committed an offence punishable under section 390(8) (c) of the Criminal Code.

THIRD SCHEDULE

INFORMATION PRECEDENT
Section 234

STATEMENT OF OFFENCE

Perjury, contrary to section 118 of the Criminal Code

Particulars of Offence

A.B., on the ……day of……20…,at…….in the…….Judicial Division, ……being a witness upon the trial of an action in the High Court in which one …… was plaintiff and one …… was defendant, knowingly gave false testimony that he saw one M.W in the street called the Mbakwe Street, Owerri on the ……day of……20……

2

STATEMENT OF OFFENCE

Uttering Counterfeit Coin, contrary to section 151 of the Criminal Code.

Particular of offence

A.B., on the……day of……20…, at…… Market in the…….Judicial Division uttered a counterfeit Naira coins/notes knowing the same to be counterfeit.

3

STATEMENT OF OFFENCE

Murder, contrary to section 319 of the Criminal Code

Particulars of offence

A.B., on the ……day of…… 20….in the…….Judicial Division……murdered J.S.

4

STATEMENT OF OFFENCE

Accessory after the fact to murder, contrary to section 322 of the Criminal Code

Particulars of offence

A.B., well knowing that one, H.C., did on the ……day of, 20…, in the …….Judicial Division, murder C.C., did on the day of……20….and on other days thereafter receive, comfort, harbor, assist and maintain the said H.C.

5

STATEMENT OF OFFENCE-FIRST COUNT

Forgery, contrary to section 467(2)(f), of the Criminal Code.

Particulars of offence

A.B., on the ……day of…… 20…… in the ……Judicial Division, forged a certain will purporting to be the will of C.D.

STATEMENT OF OFFENCE-SECOND COUNT

Uttering a False Document, contrary to section 468 of the Criminal Code

Particulars of offence

A.B., on the ……day of…… 20…… in the ……Judicial Division, knowingly and fraudulently uttered a certain forged will purporting to be the will of C.D.

STATEMENT OF PREVIOUS CONVICTION*

Prior to the commission of the said offence, the said A.B. has been previously convicted of burglary on the ……day of……20…… at the sessions held at ……

FOURTH SCHEDULE

FORM A

Sections 396 and 399

PUBLIC SEAL

ORDER FOR SENTENCE OF DEATH TO BE CARRIED OUT

ORDER FOR EXECUTION

Whereas at the ..... Holden at Owerri on the .....day of..... ..... 20..... one .....was duly convicted of a capital offence and was sentenced to death.

And whereas a written report of this case from the trial judge, together with any other information derived from the record of proceedings of this case or elsewhere has been taken into consideration at a meeting of the Advisory Council set up to deal with such matters.

And whereas the Attorney-General and Commissioner for Justice who is designated for that purpose has in his own deliberate judgment thereafter decided to recommend to me that I should exercise my powers in relation to the person so convicted.

And whereas I have decided in accordance with the advice of the said Attorney-General to confirm the sentence:

Now, therefore, I do hereby order that the said sentence be carried out according to the law and that the said .....be executed at..... at a time and by the person appointed by you and that the body of the said ..... be buried in the usual place of internment for condemned criminals executed at the place of execution.

AND FOR SO DOING this shall be your warrant.

Given under my hand and the public seal of Imo State, this.....day of.....20.....

.....
Governor

To the Sheriff at Owerri.

FORM B

Section 397

ORDER FOR COMMUTATION OF SENTENCE

ORDER FOR EXECUTION

Whereas at the ……day of……20……one……was duly convicted of a capital offence and was sentenced to death by the …… Holden at Owerri.

And whereas a written report of this case from the trial judge, together with any other information derived from the record of proceedings of this case or elsewhere has been taken into consideration at a meeting of the Advisory Council set up to deal with such matters.

And whereas the Attorney-General and Commissioner for Justice who is designated for that purpose has in his own deliberate judgment thereafter decided to recommend to me that I should exercise my powers in relation to the person so convicted.

And whereas I have decided in accordance with the advice of the State Commissioner for justice to commute the sentence:

Now, therefore, I do hereby commute the sentence and direct that the said sentence be not carried out, and in lieu thereof the said ……be imprisoned for……

Given under my hand and the Public seal of Imo State, this……day of……20……..

……
Governor

To the Sheriff at Owerri
(for transmission to the appropriate Prisons authority)

FORM C

Sections 164 and 165

ENDORSEMENT ON WARRANT OF DISTRESS

Whereas proof has this day before me that the name of ..... subscribed to the within warrant is in the hand writing of the within mentioned.....
You,..... are ordered forthwith to make distress of the goods of the defendant (except the wearing apparel and bedding of him and his family) to the value of.....Naira, the tools and implements of his trade); and if within a period of five (5) clear days next after the making of such distress unless he consents in writing to an earlier sale, the sum stated in the warrant, together with the reasonable costs and charges of the making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the Registrar of this Court; and if no such distress can be found, to certify the same to this Court.

Dated the .....day of.....20....

.....
Judge (or Magistrate)

FORM D

Section 186

WARRANT REMITTING DEFENDANT TO ANOTHER COURT

To……and to the Superintendent of …… prison. A.B. hereafter called the defendant, being brought before the above Court charged with having committed the following offence within the…… Magisterial District (namely)……(*state the offences*)…… …… you are ordered to receive and keep the defendant and to carry him and deliver him up to the……Court without any delay.

Dated ……day of……20….

……
Magistrate

Note: This form may be varied to suit the case under Section 186 of the law.

FORM F

Section 249

NOTICE OF TRIAL

A.B. Take notice that you will be tried on the information of which this is a true copy, at the session to be held at .....on the.....day of..... 20....

Also attached is the "Information on Legal Representation" Form which you must complete and return to the Registry of this court within 14 days of service on you of this Notice of Trial.

FORM G

Section 410

CONVICTION (IMPRISONMENT)
(General Title-Form No. 1)

Before the High/Magistrate Court ..... in the Judicial .....Division/Magisterial District sitting at .....on the.....day of 20.....

A.B. hereinafter called the defendant, is this day convicted for ..... that he, on the.....day of.....20.....at.....within the.....*above mentioned,* did.....

And it is ordered that the defendant, for his said offence, be imprisoned in the prison at.....and kept for the period of.....

If costs are ordered, add-

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

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

.....
Judge [*or Magistrate*]

FIFTH SCHEDULE

APPLICATION FOR LICENCE AS A BAIL BONDPERSON BY AN INDIVIDUAL

Section 118

1. Full name of applicant ……
   First Middle Last

   Home Address……
   Street/P.O. Box City State

   Home Address in the six (6) months ……
   Street/P.O. Box City State

   Occupation……

   Business Address……
   Street/P.O. Box City State

   Date of Birth……
   (for ID purposes only)

   Home Phone……Business Phone……
   E-mail Address……
2. Nationality……
3. How long have you been resident in Imo State……
4. Have you at any time been a licensed bail bondsperson in Imo State?……Yes……No. If yes, give details……
   ……
5. Have you ever been denied a bail bondsperson license, or has your license been/ever been suspended or revoked?……Yes……No. If yes, give details:
   ……
6. Have you ever surrendered your license, whether voluntarily or involuntarily?……Yes……No. If yes, give details:……
7. Have you ever been or are currently the subject of any investigation or administrative action by any state agency?……Yes……No. If yes, give details. Use a separate sheet of paper if required.

8. Have you ever been convicted of, or are you currently charged for committing a crime, ("Crime" includes a simple offence, misdemeanor, or felony, excluding minor traffic violations)? If your answer is "Yes", you must attach to this application:
   (a) A written statement explaining the circumstances of each incident:
   (b) A certified copy of the charging document; and
   (c) A certified copy of the official document which demonstrates the resolution of the charges or any final judgment.
9. Have you read and do you understand the provisions of section…… of the Administration of Criminal Justice Law 20… and the Bail Bondsperson Regulation 20……. _____Yes _____ No.
10. This application is to be licensed as: (*check one*)
    Category A License
    Category B License
    Category C License

I,……attest and swear/affirm that the above information is true and correct and understand that if I willfully withhold or misrepresent any vital information required in the application form, such shall constitute grounds for revocation of my bail bondsperson license.

Dated……

……
SIGNATURE OF APPLICANT

Sworn to this……day of……20….
at the High Court Registry, Owerri.

BEFORE ME

COMMISSIONER FOR OATHS

APPLICATION FOR LICENCE AS A BAIL BONDSPERSON BY A CORPORATE ENTITY OR PARTNERSHIP

1. Name of Company or Partnership……

   Registered Office……

   Any other Business Address……

   RC. No……

   Name of Director or Partner……

   Nationality……

   Residential Address of Director or Partner ……

   Telephone Number of Director or Partner……

   E-mail Address……

   Name of Director or Partner……

   Nationality……

   Residential Address of Director or Partner ……

   Telephone Number of Director or Partner……

   E-mail Address……

   Name of Director or Partner……

   Nationality……

   Residential Address of Director or Partner ……

   Telephone Number of Director or Partner……

2. Has the company or any of its Directors Partners been licensed as a bail bondsperson in Imo State? ……Yes…….No. If yes, give details ……

3. Has the company or any of its Directors or Partner ever been denied a bail bondsperson license? .....

4. Has your license ever been suspended or revoked?.....Yes.....No. If yes, give details .....

5. Has the company or any of its Directors or Partners ever surrendered the license, whether voluntarily or involuntarily?.....Yes.....No. If yes, give details

6. Has the Company or any of its Directors or partners ever been or is currently the subject of any investigation or administrative action by any State Agency?.....Yes.....No. If yes, give details. (*Use a separate sheet of paper if required*).

7. Has the company or any of its Directors or Partners ever been convicted of, or is currently charged with, committing a crime ('Crime' includes a simple office, misdemeanor, or felony, excluding minor traffic violations)? If your answer is "Yes", you must attach to this application:

   (d) A written statement explaining the circumstances of each incident;
   (e) A certified copy of the charging document; and
   (f) A certified copy of the official document which demonstrates the resolution of the charges or any final judgment.

8. Have you read and do you understand the provisions of section.....of the Administration of Criminal Justice Law 20... and the Bail Bondsperson Regulation 20....._____Yes _____ No.

9. This application is to be licensed as (*check one*)
   - ☐ Category A license
   - ☐ Category B license
   - ☐ Category C license

I, ……attest and swear/affirm that the above information is true and correct and understand that if I willfully withhold or misrepresent any vital information required in the application form, such shall constitute grounds for revocation of my bail bondsperson license.

Dated……

……
Signature of applicant

Sworn to this……day of……20
At the High Court Registry, Owerri

BEFORE ME

COMMISSIONER FOR OATHS

THE DOMESTICATION OF THIS LAW HAS BEEN FACILITATED BY:

HONOURABLE JUSTICE PASCHAL OBINNA NNADI, *COI*
The Chief Judge of Imo State

ASSISTED BY:

1. HONOURABLE JUSTICE SABINUS IFEANYI OKPARA
Judge of the High Court of Justice of Imo State
(**Chairman**, Imo State Administration of Criminal Justice Law [ACJL] Review Committee)

2. HONOURABLE JUSTICE KEMAKOLAM ANTHONY OJIAKO
Judge of the High Court of Justice of Imo State
(Focal Person, Imo State Justice Sector Reform Team and Member Imo State ACJL Review Committee)

3. EZE NONYE EKE, ESQ.
Deputy Chief Registrar, High Court of Justice, Imo State
(Secretary, Imo State ACJL Review Committee)

4. PROFESSOR UCHECHUKWU U. CHUKWUMAEZE, SAN
Dean, School of Post-Graduate Studies, Faculty of Law, Imo State University
(Member, Imo State ACJL Review Committee)

5. PROFESSOR INE NNADI
Dean, Faculty of Law, Imo State University
(Member, Imo State ACJL Review Committee)

6. INNOCENT CHUKWUDI IBEAWUCHI, ESQ.
Deputy Director, Ministry of Justice, Imo State
(Member, Imo State ACJL Review Committee)

7. DAMIAIN ONWUBIKO NOSIKE, ESQ. (F.ICMC)
Chairman, Nigerian Bar Association, Owerri Branch
(Member, Imo State ACJL Review Committee)

8. VITALIS CHIBUZOR EKWEM, ESQ.
Child's Rights Advocate and Chairman Child Protection Network
(Member, Imo State ACJL Review Committee)

9. SYLVIA ONYINYE IWEJUO, ESQ.
Human and Child's Rights advocate
(Member Imo State ACJL Review Committee)