



**ANAMBRA STATE OF NIGERIA
2022, NO.**

A Law to repeal and re-enact the system of Criminal Justice Administration in Anambra State and to provide for related matters.

The House of Assembly of Anambra State ENACTS as follows:

ARRANGEMENT OF SECTIONS

CHAPTER 1 – PRELIMINARY PROVISIONS

1. Citation, commencement, repeal, and purpose
2. Interpretation
3. Application
4. Saving of other forms
5. Interpretation of punishment clauses
6. Interstate process service

CHAPTER 2 -ARREST

7. Manner of arrest
8. No unnecessary restraint
9. Suspect to be given reasons
10. Search of suspect
11. Search of place entered by suspect
12. Arresting officer's right of liberation
13. Suspect to be taken to police station
14. Warrantless arrest by police officer
15. Suspect's refusal to give name and address
16. Citizen's arrest
17. Arrest by property owner
18. Warrantless citizen's arrest
19. Judicial arrest
20. Proceedings to be conducted by a Judge or Magistrate that ordered arrest
21. General authority to issue warrant of arrest
22. Form and contents of a warrant of arrest
23. Sworn basis for warrant of arrest
24. Warrant may be issued on any day
25. Specific and general warrants of arrest
26. Citizen's warrant of arrest
27. Warrant of arrest may be executed any day
28. Warrant-backed arrest without the warrant
29. Bail endorsement on noncapital warrant of arrest
30. Arrest outside issuing court's territorial jurisdiction
31. Re-arrest of fleeing suspect
32. Power to search and right of liberation preserved

33. Citizens to help arresting officers
34. Bench warrant against bail violator

CHAPTER 3 - SEARCH WARRANTS

35. Issue and execution of search warrants
36. Signing and lifespan of search warrants
37. Search warrant directed to multiple persons
38. Search warrants may be issued and executed on any day
39. Incidents of search: access, frisking, etc.
40. Search warrant to be shown to the occupier of premises
41. Disposal of noxious stuff
42. Searcher's privileges and immunities
43. Destruction of forgeries
44. Interstate judicial co-operation

CHAPTER 4 – PREVENTION OF OFFENCES

45. Police to prevent offences and damages to public property
46. Police to share criminal intelligence
47. Pre-emptive arrest
48. Power to make regulations
49. Power of Magistrate to require ASBO bond
50. ASBO bond for suspicious characters
51. ASBO bond for categories of suspects
52. Contents of ASBO bond
53. Reading and explaining of ASBO bond to attending suspect
54. Summons to absent ASBO bond suspect; pre-emptive arrest
55. Order to be served with summons or warrant
56. Power to dispense with personal attendance
57. Magistrate to probe ASBO-related allegation
58. Features of ASBO bond
59. Discharge and release of ASBO suspect
60. Tenure of bond security
61. Criminal activity violates ASBO bond
62. Magistrate's power to reject proposed sureties
63. Failure to provide bond security as ordered
64. Power to release person detained for failure to provide bond security
65. Power of High Court to cancel bond
66. Discharge of ASBO bond sureties

CHAPTER 5 – BAIL AND BONDS

67. Bail and release in noncapital contexts; arraignment in capital contexts
68. General locus standi in bail applications
69. Release of a suspect for want of evidence
70. Quarterly police reports; monthly magisterial inspections
71. Bail in capital, noncapital felony, and other contexts
72. Bail not restricted to arraignment scenarios
73. Custody of bond security
74. Minor not to execute bail bond
75. Bail bond may require sureties
76. Judge may grant bail to person charged before lower court
77. Bail application by motion on notice

78. Judge may vary bail terms
79. Bond valid wherever executed
80. Principal's and sureties' bonds to take effect simultaneously
81. Conditional bail bond
82. Execution of bond to be followed by immediate release
83. Arrest of fleeing bail violator
84. Re-arrest to stiffen bail terms
85. Magistrate to issue warrant of arrest for defendant already on bail
86. Court to require fresh bond to remedy surety inadequacy
87. Surety's application for bond discharge
88. Surety substitution
89. Effects of surety's death
90. Effects of bond forfeiture
91. Cancellation or mitigation of bond forfeiture
92. Forfeiture of ASBO bond on conviction
93. Evidence in bond forfeiture proceedings
94. Commitment of bond violator
95. Banking of recovered funds

CHAPTER 6 - ENFORCING APPEARANCE IN COURT OF DEFENDANT AND WITNESSES

96. Judicial power to compel appearance
97. Compelling defendant's appearance for crime committed elsewhere
98. Contents of summons to appear
99. Hearing by consent before return date
100. Summons for immediate appearance
101. Summons format and signing
102. Issue and service of summons
103. Service of summons
104. Modes of service
105. Substituted service
106. Service on public servants
107. Service outside jurisdiction
108. Proof of service of summons
109. Acknowledgment of service
110. Person refusing to give receipt for summons may be arrested
111. Defendant failing to appear may be arrested
112. Issuance of warrant against a suspect in the first instance
113. Application of sections 22 to 31 to such warrant
114. Summons not to preclude warrant
115. Court's power to order production of detainee
116. Issuance of witness summons
117. Service of witness summons
118. Service of processes by registered courier companies
119. Arrest of defaulting witness
120. Issuance of warrant against witness in the first instance
121. Mode of dealing with witness arrested under warrant
122. Penalty against witness refusing to attend court
123. Non-attendance of witness on adjourned hearing
124. Power of a court to recruit witness
125. Power of a court to commit a witness

126. Reimbursement of expenses of prosecution witnesses, sureties, etc.
127. Reimbursement on request of expenses of defence witnesses
128. Imposition of costs for adjournment
129. Attorney General's duty to pay expenses of State witnesses

CHAPTER 7 – REMAND AND OTHER INTERLOCUTORY PROCEEDINGS

130. Remand proceedings
131. Remand application shall be accompanied with the case file
132. Time protocol for remand proceedings
133. Place of commitment
134. Procedure for remand proceedings
135. Duty of Police to transmit case file to Attorney General
136. Binding over of witnesses
137. Marking exhibits in remand proceedings

CHAPTER 8 – PREPARATION AND USE OF PROOFS OF EVIDENCE

138. Abolition of holding charge and preliminary inquiry
139. Prosecutor to file and serve proofs of evidence
140. Prosecutor to prefer information
141. Defence disclosure

CHAPTER 9 – EFFECT OF ERRORS IN COURT PROCESSES

142. Defect or irregularity not to vitiate proceedings
143. Variance between charge and complaint not to vitiate proceedings
144. Processes not invalidated by death or cessation of office
145. Warrants of commitment and distress not vitiated by defect or irregularity
146. Processes sufficiently addressed for service if directed to the sheriff
147. Certain provisions applicable summons and warrants

CHAPTER 10 - POWERS OF THE ATTORNEY GENERAL AND CONTROL OF CRIMINAL PROCEEDINGS

148. Attorney General's power to prefer information
149. Attorney General's duty to advise Police
150. Nolle prosequi
151. Discontinuance of prosecution in remand proceedings
152. Withdrawal from prosecution without prejudice
153. Law Officer may require adjournment to prefer information
154. Attorney General's general control of prosecutions
155. Nominal prosecutor

CHAPTER 11 - PLEA BARGAIN GENERALLY

156. Plea bargain

CHAPTER 12 – INSTITUTION OF CRIMINAL CASES

157. General right to make criminal complaint
158. Form and requisites of criminal complaint
159. Sufficiency of complaint etc.
160. Complaint before a Magistrate
161. Limitation period for making a private complaint
162. Information by the Attorney General
163. Instituting criminal proceedings

164. Instituting criminal proceedings in Magistrates' Courts
165. Summons and warrant
166. Venue
167. Judge to decide venue where doubtful
168. Remitting defendant to another Magistrate
169. Removal under warrant
170. Transferring defendant in custody to district where complaint arose
171. Courts may assume jurisdiction under certain conditions.
172. Assumption of jurisdiction after commencement of proceedings
173. Trials

CHAPTER 13 – SUMMARY TRIAL

174. Summary trials in High Courts, Magistrates' Courts, and Tribunals
175. Provisions on proofs of evidence applicable to this Chapter
176. Non appearance of complainant and prosecutor
177. Non appearance of defendant
178. Non appearance of both parties
179. Appearance of both parties
180. Withdrawal of complaint
181. Hearing
182. No case acquittal
183. Defendant to commence defence where prima facie case made out
184. Saving as to section 183(1)(a)
185. Prosecutor's right of rebuttal
186. Dispensing with attendance of witness
187. Taking testimony of an absent witness
188. Admissibility of written testimony
189. Notes of evidence to be recorded electronically or in writing
190. Cross-complaint by defendant
191. Joinder of complaints
192. Case escalation
193. Conclusion of trial
194. ASBOs in summary trial
195. Dismissal on the merits versus dismissal without prejudice
196. Stay of proceedings abolished

CHAPTER 14 – SUMMARY PROCEDURE IN PERJURY

197. Contempt and perjury
198. Trial for contempt and perjury
199. Procedure following fine or imprisonment
200. Penalty to bar further proceedings for same offence

CHAPTER 15 – SUMMARY TRIAL OF INDICTABLE OFFENCES BY MAGISTRATE

201. Summary trial of indictable cases by Magistrate
202. Summary trial of indictable offences by Magistrate
203. Remanding defendant to ascertain expediency of summary trial
204. Adjournment for law officer's decision
205. Security by convict to keep the peace in indictable cases tried summarily

206. Trial of a child

CHAPTER 16 – TRIAL ON INFORMATION

- 207. Trial on information
- 208. Form of information
- 209. Contents of information
- 210. Information to contain only one capital offence
- 211. Filing and signing of information
- 212. Information by private persons
- 213. Signing and prosecuting information by private persons
- 214. Venue of trial
- 215. Change of venue for case commenced in wrong division
- 216. Effect of change of venue
- 217. Form of notice of trial
- 218. Copy of information and notice of trial to be delivered to sheriff
- 219. Service of information
- 220. Return of service
- 221. Bench warrant where defendant does not appear
- 222. State and defendant to be represented by Counsel in capital offences
- 223. Arraignment
- 224. Attendance of witness bound by bond to attend
- 225. Bench warrant for arrest of witness on bond who did not attend
- 226. Warrant for arrest of witness disobeying summons
- 227. Penalty for failure to attend as witness
- 228. Writ of of subpoena
- 229. Service of subpoena
- 230. Provisions of Chapter 6 applicable to trials under this Chapter
- 231. Provisions of this Chapter and certain provisions of any other law applicable to trial on information
- 232. Endorsement of judgment and sentence

CHAPTER 17 – THE CHARGE

- 233. Form of charges in Second Schedule may be adapted and used
- 234. Contents of a charge and legal presumption thereof
- 235. Particulars in a charge
- 236. Description of offence of criminal breach of trust, fraud, etc.
- 237. Insufficient particulars in a charge
- 238. Sense of words used in a charge
- 239. Description of ownership or value of property
- 240. Description of jointly owned property
- 241. Description of coin or currency notes
- 242. Proof of registration of corporation, association etc. not required
- 243. Alternative provisions in statutory offences
- 244. Negative provisions in offences
- 245. Description of persons
- 246. Description of document
- 247. Description generally
- 248. Statement of intent where intent is not an essential ingredient
- 249. Where defendants may be charged jointly or separately
- 250. Separate charges for distinct offences

251. Three offences committed within twelve months may be charged together
252. An attempt to commit any offence is an offence
253. One trial for more than one offence
254. Offences falling within two or more separate definitions
255. Acts constituting one offence but when combined constitute a different offence
256. Where offence committed is doubtful
257. Curing an imperfect charge
258. Court may permit alteration of charge
259. Procedure after alteration of charge
260. Recall of witnesses where charge altered
261. Effect of error in a charge
262. Objection to charge to be taken at plea
263. Objection cured by verdict
264. Attempt proved where full offence charged
265. Full offence proved where attempt charged
266. Defendant not liable to further prosecution for offence he was convicted of its attempt
267. Defendant not to be acquitted for misdemeanor if felony is proved
268. Where stealing is charged but receiving proved
269. Defendant charged with burglary etc. may be convicted of kindred offence
270. Conviction of obtaining by false pretences on a charge of stealing
271. Conviction of stealing on a charge of obtaining by false pretences
272. Defendant charged for rape may be convicted under Section 203 of Criminal Code
273. Defendant charged under section 203 of Criminal Code may be convicted for indecent assault
274. Where murder or infanticide is charged but concealment of birth proved
275. Where murder is charged but infanticide proved
276. Conviction for a lesser offence
277. Withdrawal of remaining charges on conviction for one of several charges

CHAPTER 18 – DESCRIPTION OF PROPERTY AND PERSONS COURT PROCESSES

IN

278. Reference to ownership of property belonging to more than one person
279. Description of jointly owned property
280. Property of a corporation, association, club or society
281. Property of the State
282. Property of religious bodies
283. Ownership of money or other property under the control of a public officer
284. Ownership of public buildings etc.
285. Property of a married woman
286. Description of persons in criminal processes
287. Protection and security of a married woman's property
288. Husband and wife are competent and compellable witnesses

CHAPTER 19 – DEFENDANT – ATTENDANCE TO COURT: REPRESENTATION BY COUNSEL AND DETERMINATION OF AGE

289. Defendant to be present throughout his trial
290. Access to legal representation
291. Defendant's position in court
292. Determination of age of a person
293. Age in relation to offences

CHAPTER 20 – RIGHT OF THE PUBLIC TO ATTEND COURT SITTINGS

294. Access to place of trial
295. Child may give evidence in camera
296. Order made under section 294 or 295 not to apply to the press and certain others
297. Prohibition of children from court during the trial of other persons

CHAPTER 21 – PLEA TO INFORMATION OR CHARGE

298. Defendant to be arraigned unfettered unless the court directs otherwise
299. Proof of previous conviction
300. Pleas of autrefois acquit or convict; pardon
301. Where defendant is silent or refuses to take his plea
302. Effect of plea of guilty
303. Amendment of charge where defendant pleads guilty to an offence not charged
304. Effect of plea of not guilty

CHAPTER 22 – ADDUCING EVIDENCE AND EXAMINATION OF WITNESSES

305. Presentation of prosecution's case
306. Exception, exemptions etc. need not be specified to be proved
307. Application of the Evidence Act
308. Witness refusing to be sworn or affirmed or to produce documents etc.
309. Power to call or recall witnesses
310. Admissibility of certificates signed by certain Government technical officers

CHAPTER 23 – VISIT TO LOCUS IN QUO

311. Court's visit to the locus in quo
312. Prevention of communication between a defendant and witnesses at the locus

CHAPTER 24– ADDRESSES

313. Cases where prosecution may not reply to defendant's address
314. Cases where prosecution may reply to defendant's address
315. Reply by law officer or police officer who is a lawyer
316. Prosecution's right of reply where the defendant testifies as sole witness

CHAPTER 25– JUDGMENT, SENTENCE AND IMPRISONMENT

317. Adjournment for judgment
318. Judgment shall be in writing
319. Defendant to be discharged and acquitted if found not guilty
320. Procedure where a defendant is found guilty
321. Sentence hearing and sentence
322. Consideration of other charges pending against a convicted defendant
323. Delivery of judgment where Judge or Magistrate is unavoidably absent
324. Security for appearing at a later date for judgment
325. Death sentence
326. Death sentence to be carried out in accordance with the provisions of this Chapter
327. Where a pregnant woman is found guilty in a capital offence
328. Where the convict is a child
329. Authority for detention of a convict

330. Application of sections 331 to 341
331. Judge's certificate of death sentence
332. Duties of the registrar
333. Judge to forward report to Attorney General
334. Governor to consider report made under section 333
335. Where commutation, pardon or reprieve is not granted
336. Where commutation, pardon or reprieve is granted
337. Copy of Governor's order to be sent to the Judge
338. Form of Governor's order in the Fourth Schedule
339. Endorsement of place and time of execution etc. on the order
340. Copy of Governor's order to be sent to sheriff
341. Governor's order is sufficient authority
342. Where a woman convicted of capital offence alleges she is pregnant
343. Imprisonment to be with labour unless otherwise ordered
344. Detention for one day in precincts of the court
345. Consecutive sentences of imprisonment
346. Date of commencement of sentence
347. Fine in lieu of imprisonment
348. Where convict escapes from lawful custody
349. Imprisonment only
350. Authority for carrying out non-capital sentences
351. Error or omission shall not affect legality of act

CHAPTER 26 – FINES

352. Imprisonment in default of payment of fine
353. General power to order imprisonment in default of payment of penalty
354. Scale of imprisonment for non-payment of money adjudged to be paid
355. Payment and allocation of fines and fees
356. Power to commit defendant in certain cases
357. Extension of time for payment and payment by installments
358. Default in one payment renders all installments payable
359. Convict surrendering before date of committal
360. Where convict defaults in payment or fails to enter into court required security
361. Court may postpone issuance of warrant of commitment
362. Commencement of imprisonment not to be later than three months
363. Execution of warrant of commitment
364. Convict imprisoned in default to be released upon payment of adjudged sum
365. Commencement of imprisonment pursuant to a warrant
366. Varying or discharging bond of sureties
367. Right of a person imprisoned in default to be released upon payment of adjudged sum etc.
368. Application of sum received from convict
369. Part payment after commitment
370. Fines may be ordered to be recoverable by distress
371. Warrant of distress
372. Execution of warrant of distress
373. Part payment to reduce period of imprisonment in proportion

CHAPTER 27 – COSTS, COMPENSATION AND DAMAGES

374. Costs against defendant
375. Costs against private prosecutor

- 376. Meaning of “private prosecutor”
- 377. Costs may not be ordered against private prosecutor
- 378. Compensation for false and frivolous or vexatious charge
- 379. Receipt of compensation is a bar to further liability
- 380. Restoration and damages for wrongful conversion or detention of property
- 381. Compensation to victim
- 382. Court may order payment of expenses or compensation
- 383. Court may order restitution
- 384. Warrant for levy of fine

CHAPTER 28 – PROBATION AND NON-CUSTODIAL ALTERNATIVES

- 385. Conditional release of defendant
- 386. Payment of damages for injury or compensation for loss and costs
- 387. Restitution of stolen property
- 388. Probation order
- 389. Additional conditions of bond
- 390. Defendant to be furnished with conditions of probation order
- 391. Relieving probation officer of his duties
- 392. Duties of a probation officer
- 393. Variation of terms and conditions of probation
- 394. Where defendant fails to observe conditions of his bond
- 395. Defendant may be brought before another court
- 396. Bail or remand
- 397. Committal to correctional centre during remand
- 398. Conviction for original offence for failure to observe conditions of bond
- 399. Suspended sentence and community service
- 400. Types of community service
- 401. Duration of community service
- 402. Default of convict in complying with community service order
- 403. Commission of another offence by a convict performing community service
- 404. Change of place of residence by a convict performing community service
- 405. Report on convict’s performance and general conduct

CHAPTER 29 – SEIZURE, RESTITUTION, FORFEITURE AND DISPOSAL OF PROPERTY

- 406. Disposal of property regarding which an offence has been or appears to have been committed
- 407. Seizure of things intended to be used in commission of offence
- 408. Confiscation and destruction of seditious, prohibited or obscene publications etc.
- 409. Destruction of unfit or adulterated food, drink or drug
- 410. Search warrant may be issued to search for things subject to sections 407 and 408
- 411. Restoration of possession of immovable property to owner
- 412. Payment to innocent purchaser for value without notice of money found on defendant
- 413. Restitution and disposition of property found on defendant
- 414. Restitution of stolen property and exceptions to restitution orders
- 415. Destruction of articles relating to counterfeiting where charge is laid
- 416. Destruction of articles relating to counterfeiting where no charge is laid
- 417. Mode of dealing with forfeited non-pecuniary articles

CHAPTER 30 – DETENTION DURING THE GOVERNOR’S PLEASURE

- 418. Detention during the Governor’s pleasure deemed lawful
- 419. Discharge of detainee by license
- 420. Form of license
- 421. Revocation of license

CHAPTER 31 – PERSONS OF UNSOUND MIND

- 422. Interpretation
- 423. Procedure where defendant is suspected to be of unsound mind
- 424. Certificate of medical officer
- 425. Release of defendant incapable of making his defence due to unsoundness of mind
- 426. Resumption of trial
- 427. Resumption of proceedings
- 428. Acquittal on ground of unsoundness of mind
- 429. Safe custody of acquitted defendant
- 430. Special report on defendant’s state of mind by medical officer
- 431. Where defendant confined to a correctional centre is certified fit to make his defence
- 432. Where defendant confined to a correctional centre is certified fit for discharge
- 433. Transfer from one place of custody to another
- 434. Delivery of defendant found to be of unsound mind to care of relative or friend
- 435. Removal to another State

CHAPTER 32– TRIAL OF CORPORATIONS

- 436. Supremacy of provisions of this Chapter in trials of corporations
- 437. Interpretation
- 438. Plea by a corporation
- 439. Information against a corporation
- 440. Joinder of counts in the same information
- 441. Powers of a representative of a corporation
- 442. Anything required to be done in the presence of a defendant is construed as having been done where a representative appears
- 443. Non-appearance of a representative
- 444. Provisions of Law relating to inquiry into and trial of offences apply to a corporation
- 445. Joint charge and trial of a corporation and individual
- 446. Service on a corporation

CHAPTER 33 – PREVIOUS ACQUITTAL OR CONVICTION

- 447. Interpretation
- 448. Convicted or acquitted defendant not to be retried for same or kindred offence
- 449. Defendant may be tried again on separate charge in certain cases
- 450. Separate charge of murder or manslaughter may be brought against a defendant where the consequences were not known at the previous trial
- 451. Where court of first trial was not competent
- 452. Dismissal of charge not an acquittal

CHAPTER 34 – CHIEF JUDGE’S VISIT TO CORRECTIONAL CENTRES

- 453. Chief Judge to visit Correctional Centres

CHAPTER 35– ANAMBRA STATE JUSTICE SECTOR MONITORING COMMITTEE

- 454. Establishment and membership of Anambra State Justice Sector Monitoring Committee
- 455. Functions of the Committee
- 456. Secretariat of the Committee
- 457. Fund of the Committee
- 458. Annual Report
- 459. Power to obtain information
- 460. Proceedings and quorum of the Committee

CHAPTER 36– MISCELLANEOUS PROVISIONS

- 461. Witness protection: procedure for trial for certain offences
- 462. Use of Forms in First, Second and Third Schedules
- 463. Payment of fees
- 464. Court may suspend fees
- 465. State not required to pay fees
- 466. Power of Chief Judge to make rules of court
- 467. Power of Chief Judge to make regulations for registration and licensing of bondsperson

***Citation,
Commencement,
Repeal and Purpose.***

1. (1) This Law may be cited as the Administration of Criminal Justice Law 2022, and shall come into Force on the **8th day of August, 2022.**
- (2) This Law applies to all criminal proceedings and administration of criminal justice (including the powers and duties of the law enforcement agencies and private citizens) as regards dealing with offenders after the commencement of this Law.
- (3) This Law repeals the Administration of Criminal Justice Law 2010, but its application extends to cases earlier filed under that Law.
- (4) The purpose of this Law is to ensure that:
 - (a) the system of criminal justice administration in Anambra State promotes efficient management of criminal justice institutions; speedy dispensation of justice;
 - (b) protection of the society from crime; and
 - (c) protection of the rights and interests of complainants, defendants, suspects, victims, and witnesses

Interpretation

2. In this Law, unless the context otherwise requires:
 - “Act” means any enactment of the National Assembly of the Federal Republic of Nigeria, or any other enactment which has effect as such;
 - “adult” means a person who has attained the age of eighteen years and above;
 - “arresting officer” includes any person authorized by law to arrest an offender or a suspect;
 - “Attorney General” means the Attorney General of Anambra State;
 - “anti social behaviour order(ASBO)” means an order to be of good behaviour, keep the peace, or avoid criminality, whether for a specified period or otherwise;
 - “bail memo” means an endorsement on a warrant of arrest directing that the person to be arrested should be immediately released on bail;
 - “capital crime” or “capital offence” means an offence punishable with death;
 - “charge” means the statement of offences with which a defendant is charged in a trial whether by way of summary

trial or trial by way of information before a court or tribunal established by law;

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

“child” means a person who has not attained the age of 18 years and above;

“citizen’s arrest” means an arrest by a private citizen;

“complainant” includes any informant or prosecutor in any case dealing with offences triable summarily;

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

”Controller" means the Controller of Correctional Centre appointed [for Anambra State under the Nigerian Correctional Service Act;

“Constitution” means the Constitution of the Federal Republic of Nigeria;

“corporation” means a body corporate, incorporated in Nigeria or elsewhere;

“Correctional Centre” means a prison or any centre that serves as a place for detention, imprisonment or incarceration aimed at promoting a reformation, rehabilitation and reintegration of inmates;

“Correctional Service” means the Nigerian Correctional Service established under the Nigerian Correctional Service Act;

“Court” includes the High Court, Magistrates’ Court, Customary Court, and such other Courts as may be created by a Law of the State;

“defendant” means any person against whom a complaint is made or against whom a criminal proceeding is initiated;

“detention centre” includes every intelligence, law enforcement, or security facility at which persons are detained for investigatory or other purposes;

“district” means a magisterial district created under the Magistrates’ Court Law;

“division” means a judicial division created under the High Court Law;

“Federal Law” means an Act of the National Assembly;

“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 compensation, forfeiture, or penalty imposed as a sentence or part of a sentence after a criminal conviction;

“future Law” means any law passed after the commencement of this Law;

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

“High Court” means the High Court established for the State under the Constitution;

“House” means the Anambra State House of Assembly;

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

- (a) a term of imprisonment exceeding two years; or
- (b) of a fine exceeding ₦10,000 (Ten Thousand Naira) not being an offence declared by the law creating it to be punishable on summary conviction;

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

“judicial arrest” means arrest by a Judge or Magistrate;

“judicial officer” means the Chief Judge, a Judge of the High Court and a Magistrate;

“jump bail” means to fail to appear as required by a bail bond;

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

“juvenile offender” means an offender who has not attained the age of eighteen years;

“Law” means an enactment of the Anambra State House of Assembly and includes any enactment having effect as such an enactment;

“Law Officer” means the Attorney General and includes such other qualified officers by whatever names designated to whom any of the powers of a law officer is dedicated by law or necessary intendment;

“legal guardian” in relation to an infant, child, or juvenile offender, means a person appointed by a court or under a deed, settlement, trust, or Will to be the child’s, infant’s, or juvenile’s guardian;

“Magistrate” means a Chief Magistrate or a Magistrate appointed under the Magistrates’ Courts Law;

“Magistrates’ Court means Magistrates’ Court established under the Magistrates’ Court Law of the State;

“medical officer” means a medical doctor attached to an asylum or a medical doctor from whom a court requires an opinion;

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

“minor” means a person who has not attained the age of eighteen years;

“non-capital warrant of arrest” means a warrant for the arrest of a person for a non-capital offence;

“non-capital context” means a criminal matter, case or issue in which the crime or offence is not punishable with death;

“non-capital crime” or “non-capital offence” means a crime or offence not punishable with death;

“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” includes the officer in charge of a police station, the officer in charge of a unit in any law enforcement agency, the officer in charge of a correctional centre, or an officer acting for, on behalf of, or in the absence of the officer-in-charge;

“open court” means any room or place in which a court sits to hear and determine 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;

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

“Police” means the Nigeria Police established by the Constitution and includes any intelligence, law enforcement, or security agency; or a department, task force, or unit of the Nigeria Police or of any Nigerian intelligence, law enforcement, or security agency;

“police officer” includes any member of the Nigeria Police Force established by the Police Act or where the context so

admits, shall include any officer of any law enforcement agency established by an Act of the National Assembly;

"Police officer" includes an officer or member of the Nigeria Police or of any Nigerian intelligence, law-enforcement, or security agency;

"process service agent" includes any courier service company duly registered with the Chief Judge as a process service agent of the court;

"public holiday" includes Saturday and Sunday and days officially declared by the Federal Government of Nigeria or the State Government to be a public holiday;

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

"registrar" includes the Chief Registrar and a registrar of the High Court, Magistrates' Court and any other 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;

"Schedule of Arrest" means a report from a police station of all warrantless arrests made in the police station during the pertinent quarter stating the names of arrested persons, dates of arrest, reasons for arrest, details of detention, the conditions of bail and fulfilment status;

"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 authorised by the sheriff or a deputy sheriff to execute process of a 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 when sitting in court and presiding over a summary trial,

or

(b) a Magistrate when sitting in court to hear and determine any matter within his jurisdiction under this or any other Law;

“summary trial” means any trial by a Magistrate or a trial by a Judge not on information;

“superior police officer” has the same meaning as in the Police Act;

"suspect" means a person who has been arrested on the suspicion of committing an offence and who is yet to be formally charged for that offence;

“the State” means Anambra State of Nigeria, and “a State” means any other State of the Federation, and includes the Federal Capital Territory;

“warrantless arrest” means an arrest without warrant;

“young person” means a person who has not attained the age of eighteen years.

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| <i>Application</i> | 3. | Unless excluded by any other Law, all criminal proceedings in Anambra State are governed by this Law. |
| <i>Saving of other Forms</i> | 4. | This Law does not preclude the use of any special forms or procedure in criminal proceedings. |
| <i>Interpretation of punishment clauses</i> | 5. | The provisions of this law on sentencing and punishment of offenders contained in Chapters 25 and 26 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. |
| <i>Interstate service of process</i> | 6. | This Law does not authorize any of the following:
(a) the service outside the State of a summons to enforce the appearance before a court of a defendant, surety, or parent of a defendant;
(b) the service outside the State of a subpoena, summons or notice of hearing to compel the attendance of a witness before a court;
(c) the execution outside the State of a warrant for the arrest of any person or of a search warrant;
(d) the issue of an order to compel the production of any person confined in a prison outside the State;
(e) the execution outside the State of a warrant of distress; or
(f) the execution outside the State of a warrant of committal issued in accordance with section 354 of this Law. |

CHAPTER 2: ARREST

- Manner of Arrest* 7. (1) In making an arrest, the arresting officer shall touch or confine the body of the suspect, unless there is a submission to the custody by word or action.
- (2) This Law governs arrests, bail, detentions, investigations, inquiries, and trials of offenders against any substantive criminal statute, unless the applicable substantive criminal statute makes specific provisions for the manner or place of arrest, inquiry, or trial.
- No unnecessary* 8. A suspect or defendant must not be bound, chained, *restraint* handcuffed, or restrained, except in the following circumstances:
- (a) by order of the court, or Justice of the Peace;
- (b) to forestall violence;
- (c) to prevent escape; or,
- (d) for the safety of the suspect or defendant.
- Suspect to be reasons* 9. (1) An arresting officer shall immediately inform a *given* suspect of the reason for his arrest, unless the suspect is caught in the act or is pursued immediately after the commission of a crime or escaped from lawful custody.
- (2) An arresting officer shall not torture, or treat the suspect in an inhuman or degrading manner.
- (3) An arresting officer shall not arrest any person arbitrarily or for purely civil wrongs, but only on reasonable suspicion of having committed or being about to commit a crime.
- (4) An arresting officer shall not arrest any person in place of another, whether by reason of their association, consanguinity or relationship or otherwise.
- (5) In arresting anyone, all concerned authorities and persons shall abide by this Law.
- (6) Any authority or person that violates this Law in the exercise of the power of arrest is liable to compensate the victims to the tune of any amount or in any form set by the court.

- (7) Before a suspect is asked any questions, interrogated, or invited to make or write any statement, the arresting officer or other concerned officers shall inform him about the following rights:
 - (a) the right to remain silent or avoid answering any question or endorsing any statement;
 - (b) the right to consult any legal practitioner before or without ever making, endorsing, or writing any statement, or answering any question; and
 - (c) the right to free legal representation by Legal Aid Council of Nigeria or any other organization that provides free public defence, if the person cannot afford legal services.
- (8) On the day of the arrest, the arresting or other concerned officer shall at their own expense, notify at least one adult from the suspect's family of the arrest and of the place of where the suspect is being detained.
- (9) On the day of the arrest, the arresting or other concerned officer shall permit and facilitate the making of at least two phone calls, text messages, or WhatsApp messages by the suspect to family or friends.

***Search of suspect* 10.**

- (1) The arresting officer or other concerned officer may search the suspect as gently as possible, and shall keep in safe custody all articles recovered from him other than necessary clothing.
- (2) Where a suspect is admitted to bail, he shall not be searched except on reasonable suspicion of possessing proceeds or tools of crime; dangerous, noxious, toxic, or violent paraphernalia; or incriminating evidence, information, or material.
- (3) The officer conducting the search must be of the same sex as the suspect being searched, but any arresting officer, regardless of sex, may urgently seize weapons.
- (4) Immediately a suspect is charged to court, the police shall file with the court an inventory of all items

recovered from him, with the dates, times, and places of arrest and search; and the court may return some or all of those items to the defendant if justice demands.

- (5) The inventory of items shall be signed by the officer conducting the search and the suspect, however, the failure of the suspect to sign the inventory shall not invalidate it. A copy of the inventory shall be given to the suspect, his legal practitioner or any other person of his choice.
- (6) Where a suspect is released without charge because of insufficient basis for an arraignment, the police shall urgently return every seized item to him.
- (7) Where the nature of the alleged or suspected offence requires a physical examination of the suspect, a police doctor or other qualified medical practitioner may physically examine him as gently as possible to ascertain evidentiary facts.

Search of place entered by suspect sought to be arrested

- 11.** (1) Where the arresting officer has reason to believe that the suspect to be arrested has entered into or is within any place, the person resident at or responsible for that place shall grant the arresting officer access to search the place for the suspect.
- (2) Where the arresting officer cannot gain access under subsection (1), the arresting officer may, after notification of his authority and purpose, and demand of admittance, apply reasonable force to enter the place and conduct the search.

Arresting officer's right of liberation

- 12.** An arresting officer detained in or denied egress from any place which he lawfully entered for the purpose of making an arrest, may forcibly free himself or any other person similarly situated.

Suspect to be taken to police station

- 13.** (1) An arresting officer shall immediately take the suspect to a police station or other place for the reception of suspects, inform him of the allegation against him in the language he understands and give him reasonable facilities for obtaining legal advice, getting and perfecting bail, and arranging for his defence or release.

- (2) The arresting officer shall ensure that the following record of the suspect is taken:
 - (a) The alleged offence(s);
 - (b) The date and circumstance of arrest;
 - (c) His full name, occupation and residential address; and,
 - (d) For the purpose of identification, his:
 - (i) Height;
 - (ii) Photograph
 - (iii) Full fingerprint impressions; or
 - (iv) Any other means of identification.
- (3) The process of taking the record of the suspect shall be concluded within reasonable time, but shall not exceed 24 hours.
- (4) Where a suspect volunteers to make a confessional statement, the police shall ensure that the making and taking of the confessional statement is recorded on video, and the video recording as well as its copies may be produced at the trial.
- (5) A suspect may give his statement in the presence of a legal practitioner of his choice, or if he has no legal practitioner, in the presence of an officer of the Legal Aid Council of Nigeria or an official of a Civil Society Organization or a Justice of Peace or any other person of his choice.
- (6) Where the suspect does not understand, speak or write in the English Language, an interpreter shall be provided at no cost to him. The interpreter shall record and read over the statement to the suspect in a language he understands, before he signs or makes his mark on the statement.
- (7) The interpreter shall endorse his name, address, occupation, designation and other particulars on the statement.

Warrantless arrest **14.**
police officer

- (1) Any police officer may, without an order of court *by* and without a warrant, arrest:
 - (a) a person whom he suspects of having committed an indictable offence, unless the constitutive statute precludes warrantless arrests;
 - (b) a person who commits an offence in his presence;

- (c) a person who obstructs a police officer in the execution of his duty, or who has escaped or is attempting to escape from lawful custody;
 - (d) a person in whose possession incriminatory or suspicious material is found;
 - (e) a suspected deserter from any of the Armed Forces of Nigeria;
 - (f) a person he reasonably suspects of having done outside Nigeria something that is an offence in Nigeria for which the person has not been tried anywhere;
 - (g) a person in possession of burglary paraphernalia, unless the person satisfactorily explains their legitimacy;
 - (h) a person against whom the officer reasonably believes a valid arrest warrant is extant; and,
 - (i) a person behaving furtively, stealthily, or surreptitiously in circumstances affording reason to believe that the person is planning to commit an offence.
- (2) The authority given to a police officer to arrest a person who commits an offence in his presence shall be exercisable notwithstanding that the law creating the offence provides that the person cannot be arrested without a warrant.

Suspect's refusal to give name and address 15.

- (1) A police officer may arrest any person who in his presence commits a nonindictable offence or who is accused of committing a nonindictable offence if that person fails on demand to give his name and home address or gives a name or home address the officer believes to be false.
- (2) When the suspect's true name and home address are ascertained, the police shall release the suspect on bond, but if the home address is outside Anambra State, the bond must be secured by a surety based in Anambra State.
- (3) Where it is not possible to ascertain the suspect's true name and home address within 24 hours from the arrest, or where the suspect fails to execute the bond or to furnish any requisite sureties, the police officer shall take the suspect before a Magistrate.

- (4) Where the suspect persists before the court in refusing to give his name and home address, the court may deal with him as an uncooperative witness.

Citizen's arrest

- 16.** A private citizen may arrest a person who in his presence commits an indictable offence, or whom he reasonably suspects of having committed a felony anytime or a misdemeanour by night.

Arrest by property owner

- 17.** (1) A property owner, a member of his staff, and a person authorized by him may arrest without warrant any person found damaging or stealing his property.
- (2) A private citizen may arrest any person found damaging public property.

Warrantless citizen's arrest

- 18.** (1) A private citizen who arrests any person without a warrant shall immediately deliver the suspect to the nearest police officer or police station.
- (2) When the police officer takes custody of the suspect arrested by a private citizen, he shall note and enter in the crime diary the private citizen's name, home address, and contact details, as well as the date, time, and circumstances of the arrest.
- (3) The police officer to whom a suspect arrested by a private citizen is handed over shall obtain from the private citizen a formal statement setting out the facts and circumstances of the arrest.
- (4) Where sufficient reason to believe that the suspect has indeed committed an offence, he shall be placed under police arrest, with all its incidents including bail otherwise, the police shall immediately release him.

Judicial arrest

- 19.** Where any offence is committed in the presence of a Judge or Magistrate, the Judge or Magistrate may himself arrest or order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

- Proceedings to be conducted by Judge Magistrate making*** 20. Where a person is arrested under section 19, the Judge or Magistrate making or directing the making of such arrest *or* may deal with the person so arrested in the same manner *arrest* as if the person had been brought before him by or under the directions of any other person.
- General authority to warrant of arrest*** 21. Where under any law, there is power to arrest a person *issue* without warrant, a warrant for his arrest may be issued.
- Form and contents of warrant of arrest*** 22. (1) Every warrant of arrest shall bear the date of issue, shall contain all necessary particulars and shall be signed by the Judge or Magistrate by whom it is issued.
- (2) Every such warrant shall state concisely the offence or matter for which it is issued and shall name or otherwise describe the person to be arrested, and it shall order the police officer or officers to whom it is directed to apprehend such person and bring him before the court to be further dealt with according to law.
- Sworn Basis for warrant of arrest*** 23. 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.
- Warrants may be issued on any day*** 24. A warrant of arrest may be issued on any day including a Sunday or public holiday.
- Specific and general warrants of arrest*** 25. (1) A warrant of arrest may be directed to a police officer by name or to all police officers.
- (2) It shall not be necessary to make any such warrant returnable at any particular time 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.
- Citizen's warrant of arrest*** 26. (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.

***Warrant of arrest
may be executed
any day***

- 27.** (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 or any other person to whom it is directed, at any time and in any place in the State other than within an actual court room 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. The warrant shall be shown to the suspect within 24 hours of the arrest.
- (4) Every person arrested on any such warrant shall, subject to the provisions of sections 29 and 30 be brought before the court which issued the warrant as soon as practicable after he is so arrested.

***Warrant-backed
arrest without
the warrant***

- 28.** A warrant of arrest may be executed notwithstanding that it is not in the possession at the time of the person executing the warrant.

***Bail endorsement
non-capital
arrest***

- 29.** (1) A court issuing a warrant of arrest for non-capital *on* offences may, by endorsement on the warrant, *warrant of* direct that the suspect should be released on bail upon arrest.
- (2) A bail endorsement under subsection (1) must specify the following:
- (a) the number of sureties, if any;

- (b) the amount in which the sureties and the suspect are respectively to be bound, or to provide cash security;
- (c) the court before which the suspect is to be taken;
- (d) the dates and times of court attendance; and
- (e) an undertaking to attend court on all dates on which the matter comes up or is adjourned to or as may be directed by any court before which he may appear.

- (3) A suspect under this section must be released upon fulfilment of all endorsed conditions of bail.
- (4) The officer who takes the bond shall file it in the court before which the person named in the bond is bound to appear.
- (5) Subsections (3) and (4) do not apply to warrants executed outside Anambra State.

***Arrest outside
issuing court's
territorial jurisdiction***

- 30.** (1) Where a warrant of arrest is executed in Anambra State outside the division or district of the court by which it was issued, the suspect must, unless security is taken under section 29, be taken before a court within the division or district where the arrest was made.
- (2) Once the court confirms the identity of the suspect brought before it as the person named in the warrant, it shall direct the suspect's custodial transfer to a court in the district or division where the warrant was issued.
- (3) Subsection (2) does not apply to warrants of arrest for non-capital offences if the suspect can furnish bail or security satisfactory to the court before which he is brought, or if he fulfils the conditions of bail endorsed on the warrant of arrest.
- (4) The court, proceeding under subsection (3), shall take the bail or security and forward the bond, if any, to the court that issued the warrant.

***Re-arrest of
fleeing suspect***

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

- Power to search and right of liberation preserved*** **32.** Sections 11 and 12 of this Law shall apply to arrests carried out under section 31, even when the person making the arrest is not acting under a warrant and is not a police officer with authority to arrest.
- Citizens to help arresting officers*** **33.** Whenever called upon to do so, every citizen shall help a Judge, Magistrate, police officer, or any other person in:
- (a) arresting or preventing the escape of any person whom the Judge, Magistrate, police officer, or other person is authorised to arrest; or
 - (b) preventing or suppressing a breach of the peace or preventing injury to any person or damage to any property.
- Bench warrant against bail violator*** **34.** Where any person released on bail fails to appear before the court, the court may issue a warrant directing that such person be arrested and brought before him.

CHAPTER 3 - SEARCH WARRANTS

- Issue and execution of search warrants*** **35.** (1) Where a court or justice of peace is satisfied by sworn written information that any aircraft, building, carriage, place, receptacle, ship, structure, or vehicle in Anambra State suffers any of the disabilities listed in subsection (2), the court may issue a search warrant authorizing an officer of the court or a police officer or any other proper person to take any of the measures listed in subsection (3).
- (2) The disabilities referred to in subsection (1) are:
- (a) The aircraft, building, carriage, place, receptacle, ship, structure, or vehicle is or contains an item, merchandise, material, or property that is an instrument or proceed of crime or suspected crime;
 - (b) The aircraft, building, carriage, place, receptacle, ship, structure, or vehicle is or contains an item, merchandise, material, or property in respect of which an offence has been or is suspected to have been committed; or
 - (c) The aircraft, building, carriage, place, receptacle, ship, structure, or vehicle is or contains items, merchandise, material, or property that may afford evidence as to the commission of any offence.

- (3) The measures referred to in subsection (1) are:
 - (a) searching the aircraft, building, carriage, place, receptacle, ship, structure, or vehicle for incriminating or suspicious material;
 - (b) seizing and carrying away any suspicious material for production before the court that issued the search warrant or some other court to be dealt according to law; and
 - (c) arresting for questioning only the occupiers, officers, or responsible persons found in or on the aircraft, building, carriage, place, receptacle, ship, structure, or vehicle.
- (4) Where the person applying for the search warrant suspects that, in executing the warrant, it will be necessary to use firearms, he shall state the grounds for that suspicion in the information.
- (5) Where the person applying for the search warrant has, at any time previously, applied for a warrant relating to the same person or premises, he shall state in the information particulars of those applications and their outcome.
- (6) A search warrant shall include statements of the following matters:
 - (a) the offence to which it relates;
 - (b) a description of the warrant premises, or the name or description of the person to whom it relates;
 - (c) the kinds of evidential materials that are to be searched for under the warrant;
 - (d) the name of the police officer who will be responsible for executing the warrant (unless he or she inserts in the warrant the name of another police officer);
 - (e) the period that the warrant remains in force;
 - (f) the times the search will be authorized.
- (7) Where the occupier of any building or the person in whose possession any thing 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.

- (8) Where any material seized under this section is brought before a court, the court may order its detention and preservation until the conclusion of the trial.
 - (9) Where an information is preferred against any person after the preparation of the proofs of evidence, or if an appeal is filed, the court may order any incriminating material detained under subsection 8 to be further detained as the court directs for the purpose of the trial or pending the appeal.
 - (10) Where no information is preferred and no appeal is filed, the court shall take either of the following steps:
 - (a) restore the material or part of it to its owner or at the owner's direction; or
 - (b) direct that the material or part of it be applied to the payment of any costs or compensation directed to be paid by the owner.
- Signing and lifespan of search warrants*** 36. (1) Every search warrant must be signed by the issuing Judge or Magistrate.
- (2) A search warrant remains in force until executed, unless the issuing Judge or Magistrate cancels it.
- Search warrant directed to multiple persons*** 37. A search warrant may be directed to one or more persons and when directed to more than one person, any one or more of them may execute it.
- Search warrants may be issued and executed on any day*** 38. A search warrant may be issued and executed on any day including a Sunday or public holiday and at any time of the day or night.
- Incidents of search: access, frisking, etc.*** 39. (1) An occupier, janitor, owner, or officer of the premises or property to be searched shall accord access and help to those executing the warrant.
- (2) Where access is denied, refused, resisted, or restricted, those executing the warrant may use force to gain or expand access.
- (3) Where any person in or around the premises or property is suspected of hiding anything, those executing the warrant may search that person, but a

female should be searched by a female even if that means taking her to a police station.

- (4) Unless the court or Justice of the Peace otherwise directs, searches of premises or property must be made in the presence of the person to whom the search warrant is addressed and that person may invite another person to observe the search.
- (5) The person executing a search warrant shall draw up an inventory of all seized items, which must be signed by:
 - (a) the person executing the warrant;
 - (b) every person searched;
 - (c) the person to whom the warrant is addressed; and
 - (d) witnesses, if any.
- (6) The refusal by a person to whom a search warrant is addressed to sign the list of all items found on the person searched or on his premises shall not invalidate the search
- (7) Every person must be given a copy of the inventory.
- (8) A person to be searched or whose premises is to be searched, shall have the right to first search the police officer or any other person conducting the search.

Search warrant to be shown to the occupier of premises

- 40.** Where a warrant is being executed in a premises and the occupier of the premises or another person who apparently represents the occupier is present, the person executing the search warrant or any person assisting him shall make available to that person a copy of the search warrant.

Disposal of noxious stuff

- 41.** The court may order the disposal of any seized noxious or perishable items in accordance with the court's direction.

Searcher's privileges and immunities

- 42. (1)** Where the items to be searched include ammunition, arms, bombs, explosives, or other dangerous or noxious matter, the searcher will enjoy all immunities, powers, privileges, protections, and rights available under the law to any person similarly situated.

- (2) Where the items to be searched include ammunition, arms, bombs, explosives, or other dangerous or noxious matter, they may be disposed of as statutorily or judicially directed.
- Destruction of forgeries*** **43.** Where any unlawfully possessed forged banknote, banknote paper, counterfeit coin, instrument, or other thing, used for forgery or counterfeiting is brought before a court, the court may order its defacement or destruction.
- Interstate judicial operation*** **44.** (1) Where a search warrant is issued in respect of an *co*-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, transmit anything recovered and brought before it to that court.
- (2) A person executing a search warrant issued by a court or Justice of the Peace outside Anambra State shall before doing so, apply to the court within whose jurisdiction the search will be made and shall act under its direction.
- (3) A Magistrate or Justice of the Peace may direct a search to be made in his or her presence of any place for the search of items which he or she is competent to issue a search warrant.

CHAPTER 4. – PREVENTION OF OFFENCES

- Police to prevent offences and damage to public property*** **45.** (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 intervene to prevent damage to or removal of any property, landmark, or buoy or other mark used for navigation.
- Police to share criminal intelligence*** **46.** Where a police officer is informed of or learns of a plot to commit any offence, that police officer shall communicate the information or intelligence to superior or other responsible officers.
- Pre-emptive arrest*** **47.** A police officer who learns of a plot to commit a crime

may arrest the plotters without warrant and without judicial authorization, if that is the only way to prevent the commission of the crime.

Power to make regulations

- 48.** The Commissioner of Police or Controller of Correctional Services may make regulations for all or any of the following purposes:
- (a) providing for the registration and photographing of detainees and suspects and the manner, form, and places in which the registers will be kept;
 - (b) prescribing the duties of correctional and police officers in connection with the registration and photographing of convicts, detainees, and suspects;
 - (c) providing for the taking and comparison of convicts', detainees', and prisoners' fingerprints; and
 - (d) generally for the purpose of giving effect to the pertinent objectives and purposes of this Law.

Power of Magistrate to require anti social behaviour order (ASBO) bond

- 49.** (1) Where a Magistrate is informed on oath that any person is likely to commit a breach of the peace or disturb the public tranquillity, or to do any wrongful act that may occasion a breach of the peace or disturb the public tranquillity, the Magistrate may require that person to show cause why he should not be ordered to enter into an Anti Social Behaviour Order bond, with or without sureties, for keeping the peace or being of good behaviour for a period not exceeding one year.
- (2) Proceedings shall not be taken under this section unless:
- (a) the person informed against is in the State or intends to commit the offence in the State;
 - (b) that person or the place whose peace or tranquillity is threatened is within the Magistrate's magisterial district.

ASBO bond for suspicious characters

- 50.** Where a Magistrate is informed on oath that a person is behaving furtively, stealthily, or surreptitiously within the district in circumstances affording reason to believe that the person is planning an offence, the Magistrate may require that person to show cause why he should not be ordered to enter into an Anti Social Behaviour Order bond with sureties, for good behaviour for a period not exceeding one year.

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| <i>ASBO bond for categories of suspects</i> | 51. | <p>(1) Where a Magistrate is informed on oath that any person within the Magistrate's jurisdiction belongs to any of the categories listed in subsection (2), the Magistrate may require that person to show cause why he should not be ordered to enter into an Anti Social Behaviour Order bond, with sureties, for good behaviour for a period not exceeding three years.</p> <p>(2) The categories referred to in subsection (1) are:</p> <ul style="list-style-type: none"> (a) a bandit, burglar, cultist, robber, or thief; (b) a receiver of stolen goods or property; (c) a person who harbours or protects criminals, or aids in the concealment or disposal of stolen property; (d) a person who habitually commits or attempts to commit, or aids or abets in the commission of any offence; (e) a person who habitually commits or attempts to commit or aids or abets in the commission of offences involving a breach of the peace; or (f) a person who is so desperate or dangerous as to render his being at large without security hazardous to the community. |
| <i>Contents of ASBO bond</i> | 52. | <p>In ordering anyone to keep the peace or be of good behaviour under this Law, a Magistrate shall state the following in the Anti Social Behaviour Order:</p> <ul style="list-style-type: none"> (a) the substance of the information received; (b) the amount of bond 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. |
| <i>Reading and explaining of ASBO bond to attending suspect</i> | 53. | <p>Where the person in respect of whom the order is made is in court, the order will be read over and explained to him in the language he understands.</p> |
| <i>Summons to absent ASBO bond suspect; pre-emptive arrest</i> | 54. | <p>(1) Where a person in respect of whom an order to be of good behaviour or to keep the peace is made is not in court, the Magistrate shall issue a summons requiring him to appear, or if that person is in custody, a warrant directing the custodial officer to bring the person before the court.</p> <p>(2) Where there is reasonable fear, based on a written report made by a police officer or upon other information and recorded by a Magistrate, that a</p> |

breach of the peace may occur and cannot be prevented without the arrest of a person, the Magistrate may issue a warrant for the arrest of that person.

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| <i>Order to be served with summons or warrant</i> | 55. | A summons or warrant to appear in court issued in the context of an order to be of good behaviour or to keep the peace must be accompanied by a copy of the order and must be served on the person to be brought before the court. |
| <i>Power to dispense with personal attendance</i> | 56. | The Magistrate may dispense with the personal attendance of a person called upon to show cause why he should not be ordered to enter into bond for keeping the peace, and may permit that person to appear by a legal practitioner. |
| <i>Magistrate to probe ASBO-related allegation</i> | 57. | <ol style="list-style-type: none">(1) Where an Anti Social Behaviour Order has been read or explained to a person in court or where any person appears or is brought before a Magistrate in compliance with or in execution of a summons or warrant, the Magistrate shall inquire into the truth of the information upon which the action was taken, and take any relevant evidence.(2) The inquiry and evidence will follow the statutory template for conducting trials and recording evidence in Magistrates' Courts.(3) Pending the completion of the inquiry under subsection (1), the Magistrate may, to secure public peace and safety and prevent the commission of a crime, order the affected person to enter into bond to keep the peace or maintain good behaviour until the conclusion of the inquiry, and may detain the person until the bond is entered into or, in default of execution, until the inquiry is concluded.(4) A Magistrate will not direct a person to enter into a bond to be of good behaviour where the proceedings against that person are to show cause why the person should not be ordered to enter into a bond to keep the peace.(5) Conditions of bail under this section must not be more onerous than those for full-fledged Anti Social Behaviour Orders.(6) Custodial restraint under this section must not exceed fifteen days. |

- (7) Where two or more persons have been associated in the matter under inquiry, the Magistrate may deal with them in the same or separate inquiries.
- Features of ASBO bond** **58.** (1) Where the Magistrate's inquiry shows that it is necessary, for keeping the peace or maintaining good behaviour, to require the person to enter into a bond, the Magistrate shall order accordingly.
- (2) The Magistrate shall not impose more onerous or significantly different conditions or security than those prescribed for full-fledged Anti Social Behaviour Orders.
- (3) The amount of every bond must be fixed with due regard to the circumstances of the case and must not be excessive.
- (4) The Magistrate shall not require a minor to enter into a bond under any circumstances, but a guardian, parent, or other proper person may enter into a bond for the minor.
- (5) A person ordered to give security for good behaviour under this section may appeal to the High Court, whose decision is final.
- Discharge and release of ASBO suspect** **59.** Where the Magistrate's inquiry does not show that it is necessary, for keeping the peace or maintaining good behaviour, to require the person to enter into a bond, the Magistrate shall record an entry accordingly, and, if he is in custody only for the purpose of the inquiry, shall release him, but if he is not in custody, shall discharge him.
- Tenure of bond security** **60.** (1) Where a person in respect of whom an order requiring security is made has been sentenced to or is serving a term of imprisonment, the security period will run from the expiration of the sentence.
- (2) In other cases, the period will run from the date of the order, unless the Magistrate, for sufficient reason, fixes a later date.
- Criminal activity violates ASBO bond** **61.** A bond entered into binds the person to keep the peace or be of good behaviour, and the commission or attempt to

commit or the aiding, abetting, counselling, or procuring the commission of a crime within the State during the bond is a breach of the bond.

Magistrate's power to reject proposed sureties

62. A Magistrate may refuse to accept any surety offered under any of the preceding sections on the ground that, for reasons to be recorded by the Magistrate, that surety is an unfit person.

Failure to provide bond security as ordered

- 63.** (1) Where a person ordered to give security fails to do so in the time allowed, which shall not exceed one year, the Magistrate may order the person's committal to a correctional centre, but if the person is already in custody, order the person's detention in a correctional centre until the period expires or security is provided, whichever is earlier.
- (2) Where a person ordered to give security fails to give security in the time allowed, and that time is longer than one year, the Magistrate may order the person's committal to a correctional centre pending the orders of the High Court, and the proceedings will be placed before the High Court as soon as possible.
- (3) The High Court, after examining the proceedings and requiring from the Magistrate any further information or evidence it thinks necessary, may make any necessary orders.
- (4) The period 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 this Law.
- (5) Where the security is tendered to the officer in charge of the correctional centre, that officer shall forthwith refer the matter to the court that made the order and await the order of that court.

Power to release persons detained for failure to provide bond security

64. Where a Magistrate believes that it is safe to release a person imprisoned for failing to give security, he may make an immediate report of the case for the order of the High Court, which may order the person to be discharged.

Power of High

65. The High Court may, for sufficient reasons in writing,

Court to cancel cancel any bond for keeping the peace or to be of good *bond* behaviour executed on order of any court.

- Discharge of bond sureties* 66. (1) Any surety for the peaceable conduct or good *ASBO* behaviour of any person may apply to a Magistrate to discharge a bond executed within his magisterial district.
- (2) On an application to discharge a surety, the Magistrate may issue a summons or warrant for the production of the person for whom the surety is bound.
- (3) The Magistrate may, after hearing that person, discharge the bond and order him to give, for the remainder of the bond, fresh security on the same conditions as the original security.

CHAPTER 5. – BAIL AND BONDS

- Bail and release in non-capital contexts; arraignment in capital contexts* 67. (1) Where a suspect is in police custody without a warrant for a non-capital offence and it is impossible to bring him before a court of competent jurisdiction within 24 hours, a police officer may release him on bail and require his attendance at the police station or a court for arraignment.
- (2) Where a suspect is in police custody for a capital offence, the police shall arraign him before a court of competent jurisdiction within 48 hours.
- (3) Where a suspect is in police custody without a warrant for a non-capital offence, the police may release him if there is no reasonable basis for believing that he committed an offence.
- (4) Where a suspect is in police custody for a non-capital offence, and it is evident that the investigation into the case cannot be concluded within 24 hours, a police officer may release the suspect on bail and require his attendance at the police station at such times as may be necessary for the purpose of the investigation.
- General locus standi in bail applications* 68. (1) Where a suspect is refused administrative or police bail, any person may apply to a court of competent

jurisdiction for the bail or discharge of suspect.

- (2) The court shall order the production of the suspect and inquire into the circumstances and grounds of his arrest or detention, and may grant bail.

Release of a suspect for want of evidence 69.

Where any suspect is taken into custody without a warrant, for a non-capital offence, the officer in charge of the police station or other place to which he is brought, if after the inquiry and he is satisfied that there is no sufficient reason to believe that the suspect committed any offence, shall release him.

Quarterly police reports; monthly magisterial inspections 70.

- (1) At the end of every quarter (31 March, 30 June, 30 September, and 31 December), the officer in charge of every police station shall submit to the nearest Chief Magistrate a report of all warrantless arrests made in that police station during the pertinent quarter, stating the names of the suspects, the dates of arrest, the reason for arrest, details of detention, and conditions of bail and fulfilment status (Schedule of Arrests).
- (2) Upon receipt of a schedule of arrests, the Chief Magistrate shall forward it to the Chief Registrar of the High Court, who shall present it to the Chief Judge for necessary action.
- (3) 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 once every month, conduct an inspection of all police stations or other places of detention within his territorial jurisdiction other than the correctional centre.
- (4) At the inspection of a police station, the inspecting Magistrate, may take any of the following actions:
 - (a) examine records of arrests;
 - (b) examine records of bail, including bail requests or applications and decisions on them;
 - (c) direct a suspect's quick arraignment; or
 - (d) grant bail to any suspect.
- (5) Every police officer at a police station being inspected shall afford to the inspecting Magistrate

maximum assistance, cooperation, and facilities to facilitate the inspection.

- (6) Where the officer in charge fails to comply with the provisions of this section, the default shall be treated as misconduct and the Magistrate shall make a written report of such misconduct to the Chief Judge who may transmit it to the State Justice Sector Monitoring Committee for necessary action.

***Bail in capital,
non-capital felony,
and other contexts***

- 71.** (1) A High Court Judge may, under exceptional circumstances, grant bail to a person charged with a capital offence.
- (2) For the purpose of exercise of discretion in subsection (1) of this section, “exceptional circumstance” includes:
- (a) ill health of the applicant which shall be confirmed and certified by a qualified medical practitioner employed in a Government hospital, provided that the suspect is able to prove that there are no medical facilities to take care of his illness by the authority detaining him;
 - (b) extraordinary delay in the investigation, arraignment or prosecution for a period exceeding one year; or
 - (c) any other circumstances that the Judge may, in the peculiar facts of the case, consider exceptional.
- (3) Any Judge or Magistrate may grant bail to a person charged with a non-capital felony.
- (4) The court shall grant bail to a person charged with a misdemeanour or simple offence unless the court sees good reason to the contrary.

***Bail not restricted
to arraignment
scenarios***

- 72.** A court may grant bail to any detained person brought before it, no matter the nature of the process or proceedings.

***Custody of bond
security***

- 73.** (1) The security for bail lies at the court’s discretion, having regard to the circumstances of the case, but must not be onerous, oppressive, or excessive and the Sentencing Guidelines made or as may from time to time be made by the Chief Judge for the offence

in question, shall be used in the determination of conditions of bail to ensure a standard approach by all judicial officers.

- (2) The Court may require the applicant, defendant, or surety to deposit money or other security as a condition of bail.
- (3) The Registrar shall keep all funds deposited as security for bail in an interest-yielding account, and at the end of the trial, such funds and all accrued interest must be returned to the person who deposited it, but a surety who has deposited funds will retrieve them once the bond is discharged.
- (d) Where a defendant absconds or a surety fails to produce the defendant to stand trial, the deposited funds will be forfeited to the State treasury as revenue.

Minor not to execute bail bond

- 74.** Where the person to be bailed is a minor, the minor will not execute the bond but the court may require a parent, guardian, or other fit person, with or without sureties, to enter into a bond that the minor will do what is required under the court's order.

Bail bond may require sureties

- 75.** (1) A defendant admitted to bail may be required to produce a surety or sureties to ensure his attendance to court as and when required; and the defendant as well as every surety will enter into a bond accordingly.
- (2) The court shall direct the verification of every surety's identity, residence, and status.
- (3) A woman can stand as a surety.

Judge may grant to defendant before

- 76.** A High Court Judge may grant bail to a defendant in the *bail* custody of any law enforcement agency or charged before *charged* a lower court in Anambra State, even if that court has not *lower court* considered or denied bail.

Bail application by motion on notice

- 77.** An application for bail to a High Court by or on behalf of a defendant after a lower court has refused or could not grant bail is made by a motion on notice to the prosecution.

Judge may

- 78.** A High Court Judge may grant bail to any suspect

- vary bail terms* detained anywhere in Anambra State and may vary the conditions of bail in all cases.
- Bond valid wherever executed* **79.** A bond may be entered into before any court, registrar, superior officer, officer in charge of a police station, or the superintendent or other person in charge of a correctional centre where the person to be bailed is kept, and a bond, wherever entered, has effect as if entered before the court that ordered it.
- Principal's and bonds to take effect simultaneously* **80.** Where a person is required to enter into a bond with *sureties'* sureties as a condition for release, the sureties' bonds may be taken separately either before or after the person's bond and however taken, all the bonds have effect as if taken together simultaneously.
- Conditional bond* **81.** Where a suspect is bailed, the bond may be conditioned *bail* for his appearance whenever and wherever proceedings are held or adjourned, but the court shall have the power to vary the order.
- Immediate release upon execution of bond* **82.** (1) Where a bond is a condition for the release of any person, that person must be released as soon as the bond is executed; and, if he is detained at a police station or correctional centre, the court shall issue an order of release to the officer in charge of that station or centre and upon receipt of the order the officer shall immediately release him.
(2) Release on bail does not extend to any matter not covered by the bail bond.
- Arrest of fleeing bail violator* **83.** Where a court is satisfied by sworn testimony that a bailed person is about to leave Anambra State to evade justice, the court may order that person's arrest and committal to a correctional centre until the trial or further bond.
- Re-arrest to stiffen bail terms* **84.** Where circumstances arise that would have precluded bail or required severer conditions of bail a Judge or Magistrate may issue a warrant for the arrest of the bailed person, and, after giving him an opportunity to be heard, may either commit him to a correctional centre to await trial or adjust the bail terms to meet the current circumstances.
- Magistrate to issue warrant of arrest defendant already on bail* **85.** (1) Where a defendant who has been admitted to bail by a Magistrate is indicted by a law officer for an *for* offence which is notailable by a Magistrate, such Magistrate shall, on being so informed by any

superior police officer, issue a warrant for the arrest of the defendant and commit him to a correctional centre.

- (2) For the purposes of this section, a defendant shall be deemed to be indicted when the information against him has been filed at the High Court.

Court to require fresh bond to remedy surety inadequacy **86.** Where the court finds any surety unsuitable or no longer suitable, it may issue a summons or warrant for the appearance of the principal, and may order the principal to execute a fresh bond with another surety or other sureties.

Surety's application for bond discharge **87.** (1) A surety may apply to the court to discharge the bond either wholly or so far as it applies to the applicant or to a suspect.

(2) Where a surety applies for the bond to be discharged, the court may issue a warrant of arrest directing that the principal be brought before it.

(3) The court may direct the bond to be discharged either wholly or so far as it relates to the applicant or applicants, and then require the principal to find other sufficient or suitable surety or sureties and enter into a fresh bond.

(4) Where the principal fails to provide sufficient or suitable surety or sureties, the court may deal with him as having failed to enter into a bond.

Surety substitution **88.** Where a surety dies or becomes insolvent or mentally incapacitated, or the pertinent bond is forfeited, the court may order fresh security to be provided in terms of the original order and, if it is not provided, may proceed as if there has been default in complying with the original order.

Effects of surety's death **89.** (1) Where a surety dies before the bond is forfeited, the surety's estate will be discharged from all liability in respect of the bond.

(2) Where a surety dies, the court may issue a warrant of arrest of the principal to impose fresh conditions of bail.

Effects of Bond Forfeiture **90.** (1) Where a court is satisfied that a bond has been forfeited, the court may call upon any surety bound

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

- (2) Where sufficient cause is not shown and the penalty is not paid, the court may recover the penalty from any surety bound or from his estate if he is dead.
- (3) A surety's estate is liable under this section only if the surety dies after the bond is forfeited.
- (4) Where the penalty is not paid and cannot be recovered, the surety bound will be liable to imprisonment for a term not exceeding six months.

Cancelation or mitigation of bond forfeiture **91.** The court may cancel or mitigate the forfeiture, upon the person liable under the bond applying and giving satisfactory security for the future performance of the condition of the bond, and paying or giving security for the payment of the costs incurred in respect of the forfeiture or upon other just conditions.

Forfeiture of ASBO bond on conviction **92.** Where a bond to keep the peace or to be of good behaviour or not to do or commit some act or thing has been entered, a court may, upon proof of the criminal conviction of the principal, order the bond to be forfeited and the persons bound to pay the sums for which they are respectively bound.

Evidence in bond-forfeiture proceedings **93.** A certified true copy of the judgment of the court by which the person was convicted may be used as evidence in proceedings for bond forfeiture.

Imprisonment of bond violator **94.** Where a bond is forfeited, the court may commit any person liable under the bond to a term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth under this Law, unless the amount due under the bond is paid.

Banking of recovered funds **95.** The Chief Registrar shall pay all sums paid or recovered in respect of forfeited bonds into the State Treasury.

CHAPTER 6 - ENFORCING APPEARANCE IN COURT OF DEFENDANT AND WITNESSES.

Judicial power to compel appearance **96.** Every court may compel the attendance before it of any suspect within the jurisdiction charged with a crime

committed in Anambra State, or a crime that may be dealt with as if so committed, and deal with him according to law.

- Compelling appearance for crime committed elsewhere*** **97.** A court may issue a summons or warrant to compel the appearance before it of any defendant who has committed anywhere in the world a crime triable in Anambra State.
- Contents of summons to appear*** **98.** Where a complaint is made before a Magistrate under this Law and he decides to issue a summons in the first instance, the Magistrate shall issue a summons directed to the defendant complained against, stating concisely the substance of the complaint and requiring him to appear in court on a specified date at least five clear days from the date of the summons to answer to the complaint and to be further dealt with according to law.
- Hearing by consent before return date*** **99.** The court may, with the consent of the parties, hear and determine a complaint even if the time stated for appearance has not elapsed.
- Summons for immediate appearance*** **100.** Where a Magistrate, upon a complaint supported by an affidavit alleging that the defendant may leave the jurisdiction, decides to issue a summons in the first instance, the Magistrate may direct the defendant to appear forthwith.
- Summons format and signing*** **101.** Every summons issued by a court under this Law must be in writing, in duplicate, and signed by the presiding officer of the court or by any other officer stipulated by the Chief Judge.
- Issue and service of summons*** **102.** A summons may be issued or served on any day including a Sunday or public holiday and where a summons is served on Sunday or public holiday, it shall take effect as if it was served on the succeeding working day.
- Service of summons*** **103.** Every summons shall be served by a police officer, a court officer, other public officer, or a duly registered process server.
- Modes of service*** **104.** A summons can only be served on different categories of recipients in the following manner:
- (a) on an individual, by personal delivery;
 - (b) on a corporation:
 - (i) to one of the partners,
 - (ii) to a director,

- (iii) to the secretary,
 - (iv) to the chief agent within the jurisdiction,
 - (v) by leaving the summons at the principal place of business in Nigeria of the corporation, or
 - (vi) to anyone with apparent control of the business of the corporation;
- (c) on a local government council, in accordance with the Local Government Law, relating to service of court processes;
 - (d) on the Nigeria Police Force or any police officer: to the Commissioner of Police of the State or to any Officer in the Legal Department of the State Command;
 - (e) on any Federal Government Ministry, Department or Agency: to the Attorney General of the Federation or any officer in the Legal Department of such Ministry, Department or Agency;
 - (f) on any State Government Ministry, Department or Agency: to the Attorney General of the State or to any officer in the Legal Department of such Ministry, Department or Agency; or
 - (g) on any of the Armed Forces: to the Director or any officer in the Legal Department of the Service or Command concerned.

Substituted service **105.** Where service in the manner provided by section 104(a) cannot be conveniently effected, the court may order that service be effected either:

- (i) 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
- (ii) where the court is satisfied that the person to be served is literate, by publication of the summons in the State Official Gazette and/or in a newspaper circulating within the jurisdiction of the court from which the summons issued, provided that before the court makes the order it shall be satisfied that the person to be served ordinarily resides within the State.

Service on public servants

106. (1) Where the person summoned is in the service of Government, the court issuing the summons may send it in duplicate to the Director or Head of the Department in which such person is employed for service on him, if it shall appear to the court that it may be most conveniently so served, and such Director or Head of Department shall thereupon cause the summons to be served in the manner

provided by section 104(a) and shall return the duplicate to the court under his signature, with the endorsement required by section 108. The signature shall be evidence of such service.

- (2) 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 105 of this Law.

Service outside jurisdiction

- 107.** Where a court desires that a summons issued by it shall be served at any place outside the jurisdiction in which it is issued, the court shall send such summons in duplicate to a court within the jurisdiction in which the person summoned resides or works.

Proof of service of summons

- 108.** (1) Where the officer who served a summons is not present at the hearing of the case, proof of such service if within the division or district of the court issuing the summons, may be by endorsement on the duplicate copy of such summons and when service has been effected outside the division or district of the issuing court, proof of service shall be by affidavit made before a Magistrate or other prescribed person and such endorsement and affidavit shall form part of the record.
- (2) The endorsement and affidavit shall show how the summons was served and in the case of an affidavit may be attached to the duplicate copy of the summons and returned to the issuing court.

Acknowledgment of service

- 109.** (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 delivering the summons to an individual but by some other method approved by this Law, the person effecting service shall endorse on the duplicate copy particulars of the method by which he effected service.

Person refusing to give receipt for

- 110.** Every person who is required to sign a receipt on the back of a duplicate summons to the effect that he has received

- summons may be arrested* 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 a correctional centre for such time not exceeding fourteen days as the court may think necessary.
- Defendant to appear arrested* **111.** Where the court is satisfied that a defendant has been *failing* served with a summons and the defendant does not appear *may be* 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.
- Issuance of warrant against a suspect the first instance* **112.** Where a complaint is made before a Magistrate and such Magistrate decides to issue a warrant in the first instance, *in* he shall issue a warrant to arrest the suspect and bring him before the court to answer to the said complaint and be dealt with according to law.
- Application of sections 22 to 31 such warrant* **113.** Where a warrant of arrest is issued in consequence of a complaint on oath as aforesaid, the provisions of sections *to* 22 to 31 shall apply to such warrant.
- Summons not to preclude warrant* **114.** A court may issue a warrant for a defendant's appearance even if a summons has already been issued, regardless of the return date of the summons.
- Court's power to order production of detainee* **115.** (1) Where any person for whose appearance or arrest a court is empowered to issue a summons or warrant is confined in any correctional centre, the court may issue an order to the officer in charge of such correctional centre requiring him to cause such detainee to be brought in proper custody at a time to be named in the order before such court.
- (2) The officer in charge, on receipt of such order, shall act in accordance therewith and shall provide for the safe custody of the detainee during his absence from the correctional centre for the purpose aforesaid.
- (3) The court may, on production of the detainee or subsequently, make such order or give such directives, as it considers appropriate in the circumstances in accordance with the provisions of this Law.
- Issuance of witness summons* **116.** (1) The court may, on the application of the prosecution or defence, issue a summon on a witness requiring him to attend, at a time and place to be mentioned therein before the court, to give

evidence in respect of a case and to bring with him any specified documents or things and any other documents or things relating to the case which may be in his possession or power or under his control.

- (2) Where the prosecutor is not a public officer, the person to whom such summons is addressed, shall not be bound to attend unless his travelling expenses as may be determined by the court are tendered to him.

Service of witness summons 117. Every witness summons shall be served on the person to whom it is directed in the same manner as is set out for the service of summons under this Law and the provisions of sections 107 to 109 shall apply to such summons.

Service of processes by registered courier companies 118. Service of processes may be effected by registered reputable courier companies, recognized and authorized by the Chief Judge.

Arrest of defaulting witness 119. Where a witness summoned to give evidence does not:
(a) attend before the court at the time and place indicated in the summons; or,
(b) provide reasonable excuse for non-attendance,

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

Issuance of warrant against witness in first instance 120. Where the court is satisfied in the first instance, by proof on oath, that any person likely to give material evidence, *the* either for the prosecution or for the defence, will not attend to give evidence without being compelled so to do, 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 warrant 121. (1) Every witness arrested under a warrant issued in the first instance, where the hearing of the case for *under* which his evidence is required is appointed for a time which is more than 24 hours after the arrest, shall if practicable be taken before a Magistrate, and the Magistrate:
(a) may, on his furnishing security by bond to the satisfaction of the Magistrate for his appearance at such hearing, order him to be released from custody; or

(b) shall, on his failing to furnish such security, order him to be detained for production at the hearing.

- (2) The provisions of this Law relating to bail, summons and warrants in respect of defendants shall apply to witnesses.
- (3) A witness arrested or detained under this Section shall not be kept in the same room or place as the defendant, if the defendant is in custody:

Provided that non-compliance with this subsection shall not vitiate any proceedings.

Penalty against witness refusing to attend court

- 122.** (1) Any witness who:
- (a) refuses or neglects, without reasonable cause, to attend at a court in compliance with the requirements of a summons duly served in the manner prescribed by law; or
 - (b) departs from the premises of the court without the leave of the Judge or Magistrate holding the same in order to avoid testifying;
- shall be liable on summary conviction, to a penalty not exceeding N50,000 (Fifty Thousand Naira) or to imprisonment for any term not exceeding two months.
- (2) A complaint shall not be made for any offence under this section except by the order of the court made during the hearing of the case for which the evidence of the witness is required.

Non-attendance of witness on adjourned hearing

- 123.** 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 of a court to recruit witness

- 124.** 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, in 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.

***Power of a court
commit a witness***

125. (1) Where a witness, without any sufficient excuse or *to* reason:

- (a) refuses to be sworn or affirm;
- (b) refuses to answer any question put to him;
or,
- (c) refuses or neglects to produce any document or anything which he is required to produce by the court,

the court may adjourn the hearing and may by warrant commit the witness to prison or other place of safe custody for not more than thirty days.

(2) Nothing in this section shall:

- (a) affect the liability of a witness to any other punishment for refusing or neglecting to do what is 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.

***Reimbursement of
expenses of prosecution
witnesses, sureties etc.***

126. Where any person attends court as a state witness, 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.

***Reimbursement on
of expenses
defence witnesses***

127. The court may in its discretion, at the request of any *request* person who appears before such court on summons, bond *of* 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 the 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 before the court.

***Imposition of costs
for adjournment***

128. In addition to any other power conferred on a court, the court may if it considers it proper so to do, on adjournment granted on the application of either or any party, direct that the amount payable to any witness in accordance with the provisions of this Law and/or any rules of court, or such sum not exceeding such amount as the court may fix, shall be paid by the party applying for the adjournment to such

witness as may be present and whose evidence was not taken owing to the granting of the adjournment.

Attorney General's duty to pay expenses of State witnesses **129.** The Attorney General shall pay the expenses and compensation payable to any State witness attending before the court.

CHAPTER 7 – REMAND AND OTHER INTERLOCUTORY PROCEEDINGS.

Remand Proceedings **130.** (1) Any suspect arrested for a capital offence shall within a reasonable time be brought before a High Court for remand.

(2) Any suspect arrested for a non-capital offence for which the Magistrate Court has no jurisdiction to try, shall within a reasonable time be brought before a Magistrate Court for remand.

(3) (a) An application for remand shall be made ex parte in the prescribed Report and Request for Remand as contained in Form 12 in the First Schedule to this Law.

(b) No charge sheet shall be filled for the purpose of remand proceedings under this Chapter.

(4) The High Court or Magistrate Court after examining the reasons for the arrest and the request for the remand as contained in the prescribed Report and Request for Remand Form filed by the police, and is satisfied that there is probable cause to remand such person pending the receipt of legal advice from the Office of the Attorney General and/or his arraignment before the appropriate court or tribunal, may remand the person in custody.

Remand application shall be accompanied with the case file **131.** (1) No application for remand shall be entered in the High Court or Magistrates' Court unless it is accompanied with the duplicate case file, which shall be tendered as exhibit during the proceedings.

(2) The Judge or Magistrate making the remand order shall give appropriate directions for the transmission of the duplicate case file, the Report and Request for Remand Form and the hearing notice of the return date to the office of the Attorney General and/or the zonal office of the Ministry of Justice covering the area of the court and the transmission of the

duplicate case file shall be done within three working days of the remand order.

- (3) The Judge or Magistrate may, in considering an application for remand grant bail to the suspect.

Time protocol for remand proceedings

132.

- (1) Where an order of remand of the suspect is made pursuant to this Law, such order shall be for a period not exceeding thirty days in the first instance, and the case shall be returnable within the said period.
- (2) Where on application, good cause is shown why there should be an extension of the remand period, the court may make an order for further remand of the suspect for a period not exceeding fourteen days and make the proceedings returnable within the said period.
- (3) Where the suspect is still in custody at the expiration of the period provided for under sub sections (1) or (2) of this section, the Judge or Magistrate on application may, if satisfied that there is no probable cause for his continued detention, grant bail to him..
- (4) In considering whether “probable cause” has not been established pursuant to subsection (3) of this section, the court may take into consideration the following:
- (a) the nature and seriousness of the alleged offence,
 - (b) reasonable grounds to believe that the suspect was involved in the commission of the alleged offence,
 - (c) reasonable grounds to believe that the suspect may abscond or commit further offence if he is not committed to custody,
 - (d) any other circumstances of the case that justifies the request for remand.
- (5) At the expiration of the remand order made pursuant to subsection (1) or (2) of this section, and if the suspect is still in custody his trial having not commenced, or charge or information against him having not been filed at the appropriate court, or the Judge or Magistrate did not grant bail under subsection (3), the Judge or Magistrate shall issue a

hearing notice to the Commissioner of Police and/or the Director of Public Prosecutions to show cause why the suspect should not be released, and the Judge or Magistrate shall adjourn the matter within a period not exceeding fifteen days.

- (6) Where the Commissioner of Police and/or Director of Public Prosecutions show good cause pursuant to subsection 5 of this section and make a request to that effect, the court may extend the remand of the suspect for a final period not exceeding fourteen days for him to be arraigned for trial before an appropriate court or tribunal and shall make the case returnable within the said period.
- (7) Where good cause is not shown for the continued remand of the suspect pursuant to subsection (5) of this section, or where he is still on remand after the expiration of the extended period under subsection (6) the Judge or Magistrate shall, with or without an application to that effect, discharge the suspect and he shall be released immediately from custody.
- (8) No further application for remand shall be entertained after the proceeding in subsection (7) of this section.
- (9) Where information has been filed, the Director of Public Prosecutions shall notify the Judge or Magistrate in writing of the particulars of the information and the Judge or Magistrate shall thereupon terminate the remand proceedings.
- (10) The powers conferred on the Judge or Magistrate to make enquiry under this section shall be exercised whether the person remanded is present in court or not and the court may order the suspect to be brought before it.

Place of commitment 133. All persons committed to a Correctional Centre under this Law shall be committed to a Government Correctional Centre or other place of safe custody.

Procedure for remand proceedings at the Magistrate Court 134. (1) After hearing the application for remand, the Magistrate shall record the following:
(i) the offence against the defendant;
(ii) whether bail was granted or refused and, where bail was refused, the fact that the

defendant was informed of his right to apply to the High Court for bail; and

- (iii) any other fact or matter relevant to the application which transpired in the proceedings before the Magistrate.
- (2) The Magistrate shall thereafter direct the prosecuting police officer to transmit forthwith to the Attorney General the following:
 - (a) the original police case file, and
 - (b) an inventory of all exhibits.
- (3) It shall be the duty of the Magistrate after recording the matters mentioned in subsection (1) to transmit a copy of such record to the Attorney General.

Duty of Police to case file General

135. It shall be the duty of the police officer or other law enforcement agency prosecuting any person pursuant to this Law, to whom a direction was given in that regard under the last preceding section or any other police officer acting under the general or special instruction of the Commissioner of Police or such law enforcement agency, to transmit forthwith to the Attorney General the Police case file and the inventory of exhibits to which the direction relates.

Binding over of witnesses

- 136.**
- (1) The Magistrate shall during the remand proceedings 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 is any of them that the prosecution does not intend to call at the trial, such witnesses shall nevertheless continue to be present at the trial for such reasonable period that will enable the defendant or his counsel make up his mind on whether or not to any of them to give evidence for the defence.
 - (3) Every witness bound over under this section shall enter into a bond and such bond shall specify the name and surname of the witness, his occupation or profession, if any, and his address.

- (4) The bond shall be acknowledged by the witness and be subscribed by the Magistrate before whom it is acknowledged.
- (5) A witness who refuses, without reasonable excuse to enter into such bond, may by a warrant issued by the Magistrate be committed to a Correctional Centre or to other place of safe custody, to be kept therein until after the trial, or until the witness enters into a bond before a Magistrate:

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

Marking exhibits in remand proceedings 137. The Magistrate before whom the defendant is brought on an application for remand shall direct the prosecuting police officer to take inventory of, label, or otherwise mark all articles, if any, connected with the offence and it shall be the duty of such police officer or any other police officer generally or specially instructed in that behalf by the Commissioner of Police to comply with such direction.

CHAPTER 8. – PREPARATION AND USE OF PROOFS OF EVIDENCE

Abolition of holding charge and preliminary inquiry 138. This Law abolishes holding charges and any procedure whereby a preliminary inquiry or preliminary investigation into a criminal charge is conducted by a Magistrate with a view to determining whether or not a defendant is to be committed to the High Court for trial.

Prosecutor to file and serve proofs of evidence 139. (1) The prosecutor shall prepare and file the proofs of evidence in every case in the appropriate court and serve them on the defendant or the defendant's attorney.

- (2) The proofs of evidence include the following items:
 - (a) a statement of the charge;

- (b) names of material witnesses the prosecution intends to call;
- (c) names of material witnesses the prosecution does not intend to call;
- (d) a psychiatric evaluation of the defendant in custody (if any was made);
- (e) records of convictions of potential witnesses;
- (f) the defendant's statements;
- (g) an inventory of all exhibits the prosecution intends to introduce into the trial; and
- (h) any other information, material, or statements the prosecution intends to introduce at the trial.

(3) Certified copies of documents satisfy this section.

Prosecutor to prefer information 140. The prosecutor shall prepare and file along with the proofs of evidence the Information against the defendant and serve them on the defendant or the defendant's attorney.

Defence disclosure 141. After the close of the prosecution's case or after the court has overruled a no case submission, the defendant shall, within fourteen days, disclose his defence in writing and attach all materials he intends to rely on in his defence including the list and names of defence witnesses.

CHAPTER 9. – EFFECT OF ERRORS IN COURT PROCESSES

Defect or irregularity not to vitiate proceedings 142. Where any defendant is before a court whether voluntarily, or upon summons, or after being apprehended 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, illegality, 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, or any defect in the complaint, or any irregularity or illegality in the arrest or custody of the defendant.

Variance between charge and complaint not to vitiate proceedings 143. 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.

Processes not invalidated by death or cessation of office

144. A summons, warrant of any description or other process issued under any written law shall not be invalidated by reason of the person who signed the same dying, ceasing to hold office or not having jurisdiction.

Warrants of commitment and distress not vitiated by defect or irregularity

145. The following provisions govern warrants of commitment and warrants of distress:

- (a) 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;
- (b) a warrant of distress shall not be held void by reason only of any defect therein, if it is 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.

Processes sufficiently addressed for service directed to Sheriff

- 146.** (1) All processes, summonses and warrants are sufficiently addressed for service or execution by *if* 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 or officer of a court.

Certain provisions applicable to summonses and warrants

147. The provisions in sections 22, 24, and 27 in respect of warrants of arrest, and the provisions contained in this Chapter relating to summonses, warrants of any description and other process and their issue, service, enforcement and execution shall so far as may be, apply to every summons,

warrant of any description and other process issued in respect of matters within the criminal jurisdiction of the court under any written law.

CHAPTER 10. - POWERS OF THE ATTORNEY GENERAL AND CONTROL OF CRIMINAL PROCEEDINGS

Attorney General's power to prefer information **148.** Notwithstanding anything to the contrary in this Law or any other Law of the State, the Attorney General of the State may prefer an information in the High Court in respect of any offence created by any Law, or with permission of the Attorney General of the Federation in respect of any offence created by an Act, the prosecution for which offence or an element thereof has been committed in Anambra State.

Attorney General's duty to advise Police **149.** (1) The Attorney General of the State may issue legal advice and/or such other direction to the police and any other agency in respect of any offence created by a Law of the House of Assembly.

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

(3) The Attorney General of the State may request from the police or any other agency for the case file in any matter in respect of any offence created by a Law of the House of Assembly, and the police or such other agency shall forward such case file as requested.

Nolleprosequi **150.** (1) In any criminal proceedings and at any stage thereof before judgment, the Attorney General may discontinue the proceedings, 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 discontinuance is entered.

(2) Where the defendant has been committed to a correctional centre, he shall be released, or if on bail the bond shall be discharged, and, where the defendant is not before the court when such

discontinuance is entered, the registrar or other proper officer of the court shall forthwith cause notice in writing of the entry of such discontinuance to be given to the officer in charge of the correctional centre or other place in which the defendant may be detained and such notice shall be sufficient authority to discharge the defendant or if the defendant is not in custody shall forthwith cause such notice in writing to be given to the defendant and his sureties and shall in either case cause a similar notice in writing to be given to any witness bound over to testify.

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

***Discontinuance of
prosecution in remand
proceedings***

- 151.** (1) In any remand proceedings with respect to any indictable offence before a Magistrate, the Attorney General of the State shall indicate to the court either personally by himself or through any of the officers in his chambers in writing informing the Magistrate by way of legal advice through the prosecuting police officer or a law officer that the State intends that the proceedings shall be discontinued and there upon the suspect shall immediately be discharged in respect of the offence.
- (2) Where, following any remand proceedings before a Magistrate, a suspect is charged with an offence on information before a High Court, the Attorney General of the State shall indicate by himself or through an officer in his chambers by informing the court in writing that the State intends that the proceedings shall be discontinued and such suspect shall immediately be discharged in respect of the charges that constitute the information.

***Withdrawal from
prosecution without
prejudice***

- 152.** (1) In any trial or proceedings before a High Court or Magistrates' Court or during the preparation of the proofs of evidence in a criminal charge, any prosecutor with the consent of the court, shall on the instruction of the Attorney General in the case of any offence against a Law of the State 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:

- (i) before the defendant is called upon to make his defence, he shall be discharged in respect of such offence; or
- (ii) after the defendant is called upon to make his defence, he shall be acquitted in respect of such offence:

Provided that in any trial before a Judge or 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 Judge or 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 where any such order of acquittal is made, the Judge or 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 Judge or Magistrate shall 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 adjournment
prefer information*

153. Where any charge of an indictable offence is being tried summarily by a Magistrate, a law officer acting under the *to* control of the Attorney General may, at any time before the judgment is delivered, by order in writing under his hand, require such Magistrate to stop further proceedings and to transmit the case file and all statements and documents made or tendered during the hearing, to the Attorney General for the purpose of preparing the proofs of evidence in respect of the charge with a view to preferring an information.

*Attorney General's
general control
prosecutions*

154. Where any person other than the Attorney General initiates or prosecutes, in any criminal proceedings for an *of* offence against a Law of the State, on behalf of the State, or where any public officer initiates or prosecutes in his official capacity in any such criminal proceedings, such person or public officer shall initiate or prosecute such case

subject to such general or specific directions as may be given by the Attorney General.

Nominal prosecutor **155.** 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 11 - PLEA BARGAIN GENERALLY

Plea bargain **156.** (1) Notwithstanding anything in this Law or any other enactment, the prosecutor may, if it is in the interest of justice, the public interest and public policy:

- (a) receive, consider and accept a plea bargain proposal from a defendant charged with an offence; or,
- (b) offer a plea bargain to a defendant charged with an offence.

(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 if 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 Law Enforcement Officer 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 willingness to co-operate in the investigation or prosecution of others;
 - (b) the defendant's history with respect to criminal activity;
 - (c) the defendant's remorse or contrition and his willingness to assume responsibility for his conduct;
 - (d) the desirability of prompt and certain disposition of the case;
 - (e) the likelihood of obtaining a conviction at trial and the probable effect on witnesses;
 - (f) the probable sentence or other consequences if the defendant is convicted;
 - (g) the need to avoid delay in the disposition of other pending cases;
 - (h) the expense of trial and appeal; and
 - (i) the defendant's willingness to make restitution or pay compensation to the victim where appropriate.
- (5) The prosecution shall afford the complainant, victim of the alleged crime or his representative the opportunity to make representations to the prosecutor regarding:
 - (a) the content of the agreement; and
 - (b) the inclusion in the agreement of a compensation or restitution order.
- (6) An agreement between the parties contemplated in subsection (2) shall be reduced into 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 any admission made; and
 - (c) be signed by the prosecutor, the defendant, his legal practitioner and the interpreter as the case may be.
- (7) The prosecutor may enter into plea bargaining with the defendant, with the consent of the victim or his representative during or after the presentation of the evidence of the prosecution, but before the presentation of the evidence of the defence, provided that any of the following conditions are present:
- a. The evidence of the prosecution is insufficient to prove the offence charged beyond reasonable doubt but may be sufficient to prove a lesser;
 - b. Where the defendant has agreed to return the proceeds of the crime or make restitution to the victim or his representative; or
 - c. where the defendant, in a case of conspiracy, has fully cooperated with the investigation and prosecution of the crime by providing relevant information for the successful prosecution of other offenders.
- (8) The presiding Judge or Magistrate before whom the criminal proceedings are pending shall not participate in the plea bargain negotiation:
- Provided that the said presiding Judge or Magistrate may be approached by Counsel regarding the contents of the discussions and he may, in general terms inform them of the possible advantages of the discussions, possible sentencing options or the acceptability of the proposed agreement.
- (9) Where a plea agreement is reached by the prosecution and the defence, the prosecutor shall inform the court that the parties have reached an agreement and the presiding Judge or Magistrate shall require the defendant to confirm the correctness of the agreement.

- (10) The presiding Judge or Magistrate shall ascertain whether the defendant admits the allegation in the charge to which he has pleaded guilty and whether he entered into the agreement voluntarily and without undue influence and may:
 - (a) if satisfied that the defendant is guilty of the offence to which he has pleaded guilty, convict the defendant on his plea of guilty to that offence, or
 - (b) if for any reason he is of the opinion that the defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the defendant has pleaded guilty or that the agreement is in conflict with the defendant's right referred to in subsection (6) of this section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.
- (11) Where a defendant has been convicted in terms of subsection (10) (a), the presiding Judge or Magistrate shall consider the sentence agreed upon and if he is:
 - (a) satisfied that such sentence is an appropriate sentence, impose the sentence; or
 - (b) of the view that he would have imposed a lesser sentence than the sentence agreed, impose the lesser sentence; or
 - (c) of the view that the offence requires a heavier sentence than the sentence agreed upon, he shall inform the defendant of such heavier sentence he considers to be appropriate.
- (12) Where the defendant has been informed of the heavier sentence as contemplated in subsection (11) (c) above, the defendant may:
 - (a) abide by his plea of guilty as agreed upon and agree that, subject to the defendant's right to lead evidence and to present argument relevant to sentencing, the presiding Judge or Magistrate proceeds with the sentencing; or
 - (b) withdraw from his plea agreement, in which event the trial shall proceed *de novo* before another presiding Judge or Magistrate, as the case may be.
- (13) Where a trial proceeds as contemplated under subsection (12)(a) or *de novo* before another presiding Judge, or Magistrate, as contemplated in subsection (12)(b):
 - (a) No references shall be made to the agreement;

- (b) No admission contained therein or statements relating thereto shall be admissible against the defendant;
and
 - (c) The prosecutor and the defendant may not enter into a similar plea and sentence agreement.
- (14) When a person is convicted and sentenced under the provisions of subsection (11) of this section, he shall not be charged or tried again on the same facts for the greater offence earlier charged to which he had pleaded to a lesser offence.
- (15) The prosecution may enter into plea bargain 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 and in no case after the dismissal by the court of an objection to admission of evidence tendered by the prosecution, provided that any of the following conditions are present:
- (a) Where the evidence of the prosecution may be insufficient to prove the offence charged beyond reasonable doubt but may be sufficient to prove other lesser offence;
 - (b) Where the defendant has agreed to return the proceeds of the crime or make restitution to the victim or his representative of property in crimes against property and those committed by public officer in relation to public funds such as but not limited to the crime of plunder, graft and corrupt practices, bribery and economic crimes, the defendant makes a full restitution of the property or public funds involved; and
 - (c) Where in a case involving conspiracy the defendant has fully cooperated with the investigation and prosecution of the crime by providing relevant information of other conspirators.
- (16) Notwithstanding any provision contained under this section, no plea agreement shall be entered into without the written consent of the Attorney General of the State or any officer of his department authorized by him in writing.

CHAPTER 12 – INSTITUTION OF CRIMINAL CASES

General right to criminal complaint

- 157.** (1) Any person may make a complaint against any *make* other person alleged to have committed or to be committing an offence, unless it appears from the enactment on which the complaint 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.
- (2) 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.
- (3) A valid complaint made by a private person under subsection (1) of this section may be filed in court and when so filed shall be accompanied by:
- (a) a certificate from the Attorney General indicating unwillingness to prosecute; and
 - (b) evidence that the complaint was made to the Police and investigated.

Form and requisites of criminal complaint

- 158.** (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 and where a complaint is not made in writing, the court or registrar shall reduce it into writing.
- (2) Subject to the provisions of section 23, 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 offence only, but such complaint shall not be avoided by describing the offence or any material act relating thereto in alternative words according to the language of the enactment constituting such offence.

Sufficiency of complaint etc

- 159.** Every complaint, summons, warrant or other document laid, issued or made for the purpose of or in connection with any proceedings before a court for any offence, shall be sufficient if 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.

- Complaint before a Magistrate** 160. (1) Subject to the provisions of section 157, 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 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 offender before a Magistrates 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) All complaints made to the Magistrate directly under this section shall first be referred to the Police for investigation before the court takes any action.
- Limitation period for a private** 161. In every case, where no time is specially limited for *making* making a complaint for a summary conviction offence in *complaint* 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 the matter of such complaint arose, and not after.
- Information by the Attorney General** 162. (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 permit.
- Instituting criminal proceedings** 163. Subject to the provisions of any Act or any other Law, criminal proceedings may in accordance with the provisions of this Law be instituted as follows:

- (a) in the Magistrates' Courts, on a charge or a complaint whether or not on oath, and
- (b) in the High Court:
 - (i) by information filed by the Attorney General in accordance with the provisions of this Law;
 - (ii) by information filed in the court after the defendant has been summarily committed for perjury by a Judge or Magistrate under the provisions this Law;
 - (iii) by information filed in the court after the preparation of the proofs of evidence;
 - (iv) by information or charge filed in the court by any other prosecuting authority; and
 - (v) by information or charge filed by a private prosecutor.

Instituting Criminal Proceedings in Magistrates' Courts 164.

- (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 on application to the magistrate, who if satisfied that the complaint discloses a reasonable cause of action, may issue a summons directed to, or a warrant to arrest such person; provided that the magistrate shall obtain the approval of the administration judge before issuing the summons or warrant; or
 - (b) by bringing a suspect arrested without a warrant before the court upon a charge contained in a charge sheet specifying the name and occupation of the suspect charged, the charge against him and the time and place where the offence is alleged to have been committed; the charge sheet shall be signed by a law officer or police officer in charge of the case.
- (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 prosecution of a charge preferred under subsection (1) (a) and (b) shall commence not later

than thirty days from the date of filing the charge, and the trial of the defendants brought under the charge shall be completed within twelve months.

- (4) Where a charge is preferred under subsection (1) (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 twelve months of arraignment on that charge, the Court shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.
- (5) A Court seized of criminal proceedings shall make quarterly returns of the particulars of all cases, judgments, charges, remand and other proceedings commenced and dealt with in the court within the quarter to the Chief Judge.
- (6) In reviewing the returns made by a Court under subsections (4) and (5) the Chief Judge shall have regard to the need to ensure that:
 - (a) criminal matters are speedily dealt with;
 - (b) congestion of cases in courts is drastically reduced;
 - (c) congestion in correctional centres is reduced to the barest minimum;
 - (d) defendants awaiting trial are, as far as possible, not detained in correctional centres for unreasonable lengths of time.
- (7) A Magistrate hearing a case where the court did not grant bail to the defendant or granted bail but the defendant is still in custody as a result of non-fulfilment of the conditions of bail shall order accelerated hearing of the case from week to week.
- (8) A Court seized of criminal proceedings shall conduct quarterly call over of all pending criminal cases in the court

***Summons
and warrant***

- 165.** 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 depending on the nature and circumstances of the case.

Venue for Physical

- 166.** (1) Subject to the powers of transfer contained in the

***Hearing and
Virtual Hearing***

law constituting any court, the place for the trial of offences by the court shall be:

- (a) the division or district in which the court has jurisdiction and such offences committed within such division or district;
- (b) where 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 was done or omitted to be done, or any such consequence ensued;
- (c) where any act is an offence by reason of its connection with 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;
- (d)
 - (i) where it is uncertain in which of Several divisions or districts an offence was committed; or
 - (ii) where an offence is committed partly in one division or district and partly in another; or
 - (iii) where an offence is a continuing one, and continues to be committed in more divisions or districts than one; or
 - (iv) where it consists of several acts committed in different divisions or districts, it may be tried by a court having jurisdiction in any of those divisions or districts.
- (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 whose division or district or 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;

- (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.
 - (g) No proceedings shall be invalidated under this section by the fact that trial is conducted in any other district or division in the State other than the district or division where the offence was committed.
- (2)
- (a) Where it will not be reasonable, or possible for a criminal proceedings to hold in open court, such proceedings can be conducted remotely using electronic means or conducted virtually and any person interested in the matter may join virtually.
 - (b) Where a party is absent from court proceedings held remotely or, virtually, he shall be deemed to be absent from the court proceedings.

Judge to decide venue where doubtful

167. Whenever any doubt arises as to the Magistrates' Court before which any offence shall be charged or tried, an Administrative Judge shall, upon the application of a Magistrate or the defendant, decide in which Magistrates' Court the offence shall be charged or tried.

Remitting defendant to another Magistrate

168. (1) A Magistrate, referred to as the remitting Magistrate in this and in the next succeeding sections, before whom any defendant who is within his magisterial district and who is charged with having committed an offence in another magisterial district, is brought shall, unless he is authorised to proceed with the case, send such defendant in custody to the court in the magisterial district in which the offence was committed, or require him to give security for his surrender to such last mentioned court, to answer the charge there and to be dealt with according to law.

(2) Where such offence mentioned in subsection (1) above was committed in a district within which one or more courts have concurrent jurisdiction, the remitting Magistrate shall, unless he is authorised to proceed in the case, send the defendant charged in

custody to one of the courts having concurrent jurisdiction as can most conveniently deal with the case, or require the defendant to give security for his surrender to such last mentioned court, to answer the charge there and to be dealt with according to law.

- (3) The remitting Magistrate shall send an authenticated copy of the charge, summons, warrant, and all other process or documents in his possession to the court to which the defendant charged is remitted for trial

***Removal under
warrant***

- 169.** Where any defendant 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 defendant therein named, and to carry him and deliver him up to the court he is remitted for trial and the person to whom the warrant is directed shall execute it according to its tenor without any delay.

***Transferring
defendant in custody
to district where
complaint arose***

- 170.** (1) Where the defendant is in custody and the Magistrate directing such transfer thinks it expedient that such custody should be continued, or, where he is not in custody, that he should be placed in custody, the Magistrate shall, by warrant, commit the defendant to a correctional centre until he can be taken before a Magistrate in the district wherein the complaint arose.
- (2) The first named Magistrate shall transmit the complaint and bond, if any, taken under the provisions of this Law to the Magistrate before whom the defendant is remitted for trial; and such complaint and bond, if any, shall be treated to all intents and purposes as if they were taken by the last mentioned Magistrate.
 - (3) Where the defendant is not detained or placed in custody as aforesaid, the Magistrate shall inform him that he has directed the transfer of the case and thereupon the provisions of the last preceding subsection relating to the transmission and use of the documents in the case shall apply.

Court may assume jurisdiction under certain conditions

- 171.** (1) Notwithstanding the provisions of sections 165, 166 and 167, a Judge or Magistrate of a division or district in which a person:
- (a) is arrested;
 - (b) is in custody on a charge;
 - (c) has appeared in answer to summons lawfully issued,

may if he considers that justice will be better served having regard to the accessibility and convenience of witnesses, proceed to hear the charge and the defendant may be tried and punished as if the offence had been committed in that division or district.

- (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, be deemed to have been committed in that division or district.
- (3) Where 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 Magistrate's powers under section 167, 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 proceedings

- 172.** Where any cause is commenced in any other division or district other than that in which it ought to have been commenced, the Judge or Magistrate, as the case may be, *of* 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

173. Trials shall be held:

- (a) in the High Court:
 - (i) on the information filed by the Attorney General or a law officer in his office or any prosecuting authority, or private prosecutor; 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 14 of this Law; or
 - (iii) on information exhibited by the Attorney General; or
 - (iv) summarily in accordance with the provisions of Chapter 13.
- (b) in Magistrates' Courts or any other court or tribunal exercising criminal jurisdiction summarily in accordance with the provisions of Chapter 13.
- (c) In all trials it shall be the duty of the prosecution to ensure that the defendant is present in Court at all hearings.

CHAPTER 13 – SUMMARY TRIAL

***Summary Trials
in High Courts,
Magistrates' Courts,
and Tribunals***

174. (1) Trial shall be held summarily in the following instances:

- (a) in the High Court in respect of perjury and contempt;
 - (b) in respect of offences which by any law of the State House of Assembly are triable summarily;
 - (c) in respect of all trials for simple offences or misdemeanour in the Magistrates' Court or Tribunal.
- (2) In all other trials in the Magistrates' Court or Tribunals, the prosecution shall, on request, provide the defendant with statements of witnesses, other materials and report of experts, if any, that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

***Provisions on proofs
of evidence applicable
to this Chapter***

175. The provisions on 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.

***Non appearance
of complainant
and prosecutor***

- 176.** (1) Where a case is called and the defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing does not appear in person or in the manner authorized by any written law, the court shall strike out the complaint, unless the court, having received a reasonable excuse for the non-appearance of the complainant or his representative or for other sufficient reason, think fit to adjourn the hearing of the same to some future date upon such terms as the court may think fit.
- (2) A case struck out under this section may be re-listed by the court upon an application by the complainant; provided the application is made within seven days of the order of striking out.

***Non appearance
of defendant***

- 177.** (1) Where a case is called in which summons has been issued and the defendant does not appear, and no sufficient excuse is offered for his absence the court may adjourn the hearing of the case to some future date, in order that proper service may be effected or until the defendant is arrested, as the case may be.
- (2) Where the defendant is arrested on a bench warrant or other warrant, he shall be brought before the Magistrate who shall thereupon commit him by warrant to a Correctional Centre or to such other place of safe custody as he 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.
- (3) Where the court, in exercise of its discretion, has granted bail to the defendant, in disregard of the court order, fails to surrender to the order of the court or fails to attend court without reasonable explanation, the court shall continue with the trial in his absence and convict and sentence him unless the court sees reasons otherwise, provided that proceedings in the absence of the defendant shall take after two adjournment or as the court may deem fit.

- (4) The sentence imposed by the court under subsection (3) shall have effect notwithstanding any provision on procedure for sentencing under this Law

Non appearance of both parties

- 178.** (1) Where a case is called and neither the complainant nor the defendant appears or is represented, the court shall make such order as the justice of the case demands.
- (2) In such order the court may include such direction as to the payment of costs as the court shall deem fit, and the payment of such costs may be enforced as if it were a fine.

Appearance of both parties

- 179.** Where a case is called and both the complainant and the defendant appear, the court shall proceed to hear and determine the case.

Withdrawal of complaint

- 180.** 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 complaint and shall thereupon acquit the defendant unless the court directs that the defendant instead of being acquitted shall be discharged.

Hearing

- 181.** (1) The defendant to be tried on a charge or an information shall be:
- (a) brought before the court unfettered unless the court sees cause to order otherwise and the charge or information shall be read over and explained to him by the registrar or other officer of the court in the language he understands to the satisfaction of the court; and
- (b) called upon to plead unless the defendant is entitled to service of the information and he objects to the non-service and the court finds that he has not been duly served.
- (2) 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.
- (3) Where a defendant pleads guilty to an offence with which he is charged, the court shall:

- (a) record his plea as nearly as possible;
 - (b) invite the prosecution to state the facts of the case; and
 - (c) enquire from the defendant whether his plea of guilty is to the facts as stated by the prosecution.
- (4) Where the court is satisfied that the defendant intends to admit the truth of all the essential elements of the offence to which he has pleaded guilty, the court shall convict and sentence him or make such order as may be necessary, unless there is sufficient reason to the contrary.
- (5) Where the defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.
- (6) Where the defendant pleads 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 this subsection shall not invalidate the proceedings.
- (7) The court shall then proceed to hear the complainant and 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 and such witnesses as he may call and such other evidence as he may adduce in his defence.
- (8) The complainant and the defendant may put questions to each witness called by the other side and where the defendant gives evidence he may be cross-examined.
- (9) 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.

No case acquittal

- 182.** Where at the close of the evidence in support of the charge, it appears to the court that a prima facie case has not been made out against the defendant sufficiently to require

him to make a defence, the court shall discharge and acquit him.

Defendant to commence defence where prima facie case made

- 183.** (1) At the close of the evidence in support of the charge, if it appears to the court that a prima facie case has been made out against the defendant sufficiently to require him to enter his 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 be cross-examined; or
 - (ii) he may remain silent, if he so wishes; or
 - (iii) he may call any witness or adduce any other evidence in support of his defence.
 - (b) where the defendant is represented by a legal practitioner, the court shall call upon the legal practitioner to proceed with the defence.
- (2) Where the defendant or his legal practitioner state that he has witnesses to call but that they are not present, the court may, in the circumstances set out in sections 116 to 123 take the steps therein mentioned to compel their attendance.

Savings as to section 183(1)(a)

- 184.** Failure to comply with the requirements of section 183(1)(a) shall not of itself vitiate the trial provided that the court called upon the defendant to enter his defence and asked if he has any witnesses and heard the defendant and his witnesses and other evidence, if any.

Prosecutor's right of rebuttal

- 185.** Where 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 evidence.

Power to dispense with attendance of witness

- 186.** Where it appears to the court that any witness is so seriously ill or hurt that there is a possibility he may not recover but is able and willing to give material evidence relating to any offence triable summarily and it is not practicable to take his evidence in accordance with the provisions of this Law, the court may take in writing the statement on oath or affirmation of such witness, and shall

subscribe the same and certify that it contains accurately the whole of the statement made by the witness, and shall state his reason for taking the same, the date and place the same was taken and shall preserve such statement and file it for record.

***Mode of taking
testimony of
absent witness***

- 187.** (1) The court shall cause reasonable notice of the intention to take the evidence of the witness 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 of the court in writing to the place where the statement is to be taken and the court may allow the prosecutor and the defendant to examine such person if deemed necessary.
- (2) Where the statement relates to an offence in respect of which proofs of evidence are subsequently prepared, it shall be transmitted to the Attorney General.

***Admissibility of
written testimony***

- 188.** (1) Such statement so taken may be used in evidence on the trial of any defendant accused of an offence to which the same relates in accordance with the provisions of section 46 of the Evidence Act.
- (2) The signature and attestation of the Judge or Magistrate shall be *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 recorded
electronically
or in writing***

- 189.** (1) Without prejudice to section 173(b) of this Law, court proceedings may be recorded electronically and verbatim such that at the end of each day's proceedings a transcript of such recording shall be printed to enable certification or authentication by the Judge or Magistrate who conducted the proceedings.
- (2) Where court proceedings are not recorded as stated in subsection (1), the court shall in every case take notes in writing of the oral evidence, or so much thereof as it considers material, in a book kept for that purpose and the book shall be signed and dated

by the Judge or Magistrate at the conclusion of each day's proceedings.

- (3) The transcript of the recording of the court shall be signed and dated or otherwise authenticated by the presiding Judge or Magistrate at the adjournment of the case or at the conclusion in a manner authorised from time to time by the Chief Judge in accordance with such conditions as may be imposed by rules of court, and the signed and dated transcript shall be taken as part of the record of proceedings.
- (4) A person is not entitled, as of right, to inspection of or to a copy of the record so kept except as may be expressly provided for by the rules of court or by any other law.
- (5) The record so kept or a copy thereof purported 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
by defendant***

- 190.** Where a complaint is made by one or more parties against another party or parties and there is a cross-complaint by the defendant or defendants in the same matter, the court may if it thinks fit, hear and determine such complaints in the same proceedings.

***Joinder of
complaints***

- 191.** 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 proceedings.

Case escalation

- 192.** (1) Where, in the course of hearing, circumstances arise which in the opinion of the court, makes the offence, on account of its aggravated nature or other sufficient reason, not suitable to be disposed of by such court, the court may either of its own motion or on the application of the Attorney General, transmit all the documents and statements 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.

- Conclusion trial** **193.** On the conclusion of hearing, the court shall either at the *of* same or at an adjourned date, give its decision on the case either by dismissing the case or convicting the defendant and may make such other order as may seem fit.
- ASBOs in summary trial** **194.** (1) In any summary trial the court may, whether the complaint be dismissed or not, 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 he is liable.
- 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.
- Dismissal on the merits versus dismissal without prejudice** **195.** (1) Where a complaint is dismissed on merits, such dismissal shall have the same effect as an acquittal.
- (2) Where a complaint is dismissed and not on merits or stated to be without prejudice, such dismissal shall not have the same effect as an acquittal.
- Stay of proceedings abolished** **196.** An application for stay of proceedings in respect of a criminal matter before the Court shall not be entertained.

CHAPTER 14. – SUMMARY PROCEDURE IN PERJURY

- Contempt perjury** **197.** Where it appears to a court that a person has committed *and* perjury in any proceeding before it, the court, subject to the provisions of section 199, may:
- (a) commit him for trial upon information for perjury and bind any person by bond to give evidence at his trial; or
- (b) try him summarily for contempt of court and if he is found guilty commit him to a Correctional Centre for six months or impose a fine on him in accordance with the scale of fine as provided in this Law.
- Trial for contempt and perjury** **198.** Where a Judge or Magistrate decides to try a person summarily under section 197 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.

Procedure following fine or imprisonment 199.

- (1) Where a Magistrate imposes a fine or commits to a Correctional Centre a contemnor for contempt or perjury 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 contemnor or release him on a bond with or without sureties to come up before the court when called upon.
- (2) The Magistrate shall 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 aforesaid may without hearing argument and in the absence of the contemnor, 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.
- (3) Where the Chief Judge or Judge does not wholly set aside the Magistrate's 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.

Penalty to bar further proceedings for the same offence. 200.

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 15 – SUMMARY TRIAL OF INDICTABLE OFFENCES BY MAGISTRATE

Summary trial of indictable cases by Magistrate 201.

Where a person who is an adult is charged before a Magistrates' Court with any indictable offence other than a capital offence or an offence punishable with imprisonment for life, the court 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 of indictable offences by Magistrate 202.

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

which are triable summarily by a Magistrate shall, subject to the provisions of this section, be construed, as the case may be, as applying to summary trial by a Magistrate of indictable offences under this section or as referring to all indictable offences which are triable summarily by a Magistrate.

***Remanding
defendant to
ascertain expediency
of summary trial***

203. Without prejudice to any other power which he may possess, a Magistrate may for the purposes of ascertaining whether it is expedient to deal with a case summarily, either before or during the hearing of the case, adjourn the case and remand the defendant charged for a period not exceeding 48 hours or release him on bail.

***Adjournment for
Law Officer's decision***

204. Where an adult charged with an indictable offence is being tried summarily by a Magistrate, such Magistrate shall, at the request of the prosecution, made at any time before judgment, adjourn the hearing of the charge in order that a law officer may be consulted with a view to obtaining an order as in section 153 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 law officer shall be filed within thirty days from the date the Magistrate grants the request of the prosecution, failing which the Magistrate shall proceed or continue to try and conclude the case summarily.

***Security by convict
to keep the peace in
indictable offence tried
summarily***

205. (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 bond, 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 convict may be ordered to be imprisoned until such bond, with sureties if so directed, is entered into.

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

Trial of a child

206. Where a child is charged before a court for any offence, the proceedings shall be in accordance with the provisions of the Child Rights Law.

CHAPTER 16 – TRIAL ON INFORMATION.

***Trial on information* 207.** A trial in the High Court after the preparation of proofs of evidence in respect of the charge, shall be on information.

***Form of information* 208.** Every information shall bear the date it is signed and with such modifications as shall be necessary to adapt it to the circumstances of each case and may commence in the following form:

In The High Court of Anambra State
In The Judicial Division

The State v. A.B.

At The Sessions Holden at..... on
the.....day of, 20....., the court is
informed by the Attorney General on behalf of the State that A.B. is charged with the
following offence or offences.

***Contents of
information***

209. (1) An information shall contain:

- (a) a description of the offence charged or where more than one offence is so charged, of each offence so charged, in a separate paragraph called a count;
- (b) a statement of the offence charged, called the statement of offence;
- (c) a short description of the offence in ordinary language, avoiding as much as possible the use of technical terms and without necessarily stating all the essential elements of the offence, and, if the offence charged is one created by a written law, shall contain a reference to that written law;
- (d) the particulars of that offence in ordinary language:

Provided that where any written 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; and
 - (f) proofs of evidence.
- (2) The Forms set out in the Third Schedule or Forms conforming thereto as nearly as may be shall be used in the cases to which they are applicable and in other cases Forms to like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances of each case.
- (3) The prosecution shall at any time before judgment be at liberty to file and serve notice of additional evidence.

Information to contain only one capital offence

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

Filing and signing information

- 211.** (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 for which that person shall lawfully be charged.
- (2) An information shall be signed by a law officer or any person authorized by the Attorney General in that regard.
- (3) Where 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 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 service of the notice and information on him shall not be 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 the Correctional Centre in which he is detained, and the warrant for his production shall be served on such officer.
- (6) Where the defendant is not in custody, the hearing notice and information shall be served on him personally.
- (7) Where it is impossible or impracticable to effect personal service of the hearing notice and information on the defendant, the same may be served on him, with leave of court through his legal practitioner, if any, or on his surety or sureties, or on any adult in his household, or by any other means of substituted service as may be ordered by the court 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 being so tried.

Information by private persons

- 212.** The Registrar shall receive an information from a private person if:
- (a) such information is endorsed by the Attorney General to the effect that he has seen the information and declined to prosecute the offence set out in the information; and
 - (b) the private person and one surety have entered into a bond in such sum as may be fixed by the court to prosecute the said information to conclusion and to pay such costs as may be ordered by the court and in lieu of entering into bond for payment of costs, the private person may deposit the said sum in court with an undertaking to prosecute the information to conclusion.

Signing and prosecuting information by private persons

- 213.** Where any private person has complied with the provisions of section 212, such person shall sign the information, which shall not be signed by a law officer and such person shall be entitled to prosecute the information.

- Venue of trial*** **214.** The place of trial shall be determined in accordance with the provisions of section 166 of this Law.
- Change of venue for case commenced in wrong division*** **215.** Notwithstanding the provisions of section 214 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 objects to it at or before the time 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) either the prosecutor or the defendant in any case, where the ends of justice so require, may apply to the court either to transfer the hearing from one division to another or from one part of the division to another part of the same division.
 - (c) no appeal shall lie from any order of transfer made under this section.
- Effect of change of venue*** **216.** Where any case is transferred from one place in a division to another place in the same division or to another division such case shall be tried and determined at the place or in the division to which it has been so transferred:
- (a) all bonds, subpoenas, and proceedings in or relating to the case shall thereupon be deemed to be returnable at such latter place or division and
 - (b) all witnesses who are bound by bonds or summoned to attend the trial shall be informed accordingly and shall attend at such latter place or division.
- Form of notice of trial*** **217.** The registrar or any other person directed by the court, shall endorse on, or annex to, every information and every copy delivered to the sheriff or proper officer, for service thereof, a notice of trial, which notice shall specify the particular sessions at which the defendant is to be tried on the said information and shall be in the following form, or as near thereto as may be:
- 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.....
- Copy of information and notice of trial to be delivered to sheriff*** **218.** The registrar or other proper officer shall deliver, or cause to be delivered, to the sheriff or proper officer serving the information, a copy thereof, with the notice of trial

endorsed on the same or annexed thereto, and if there are more defendants charged than one then as many copies as there are defendants, together with a similar notice of trial for service on each witness bound to attend the trial.

Service of information

- 219.** (1) The sheriff or other proper officer shall, on receipt of the information and notice of trial serve on the party named in the notice, at least three days before the date specified on the notice of trial, or within such lesser time as the court may for good cause order, and where such party is not in custody or has been admitted to bail and cannot readily be found, he shall leave a copy of the said information and notice of trial with someone of his household at his dwelling house or as prescribed in section 211.
- (2) The sheriff or other proper officer shall in like manner deliver to each witness the said notice of trial.

Return of service

- 220.** The officer serving the copy of the information and notices shall render to the registrar or other proper officer a return of the mode of service.

Bench warrant where defendant does not appear

- 221.** Where any defendant against whom an information has been duly preferred is at large and does not appear to plead to such information, whether he is under bond to appear or not, the court may issue a bench warrant for his arrest.

State and defendant to be represented by Counsel in capital offences

- 222.** Where a defendant is charged with a capital offence, a law officer or a legal practitioner shall represent the State and if the defendant is not defended by a legal practitioner, the court shall assign one for his defence.

Arraignment

- 223.** A defendant to be tried on an information shall be arraigned in accordance with the provisions of Chapter 21 relating to the taking of pleas and the procedure therein.

Attendance of witness bound by to attend

- 224.** Every person who is bound by bond to attend as a witness, whether for the prosecution or for the defence, shall be **bond** bound to attend the court on the day fixed for the trial of such case, and on subsequent dates, until the completion of the case or until he has been discharged by the court from further attendance.

Bench warrant for arrest of witness on

- 225.** Where any person who has been bound by bond or summoned to attend as a witness, whether for the

- bond who did not attend*** prosecution or for the defence, does not attend the court on the day fixed for the trial of such case or on any further adjourned date after being served with notice of the trial, and he offers no reasonable excuse for his absence, the court may issue a bench warrant for such witness to be arrested and brought before it at a time mentioned in the warrant, in order to give evidence on behalf of the prosecution or of the defence, as the case may be.
- Bench warrant for arrest of witness disobeying summons*** 226. Where any witness to whom any writ of subpoena is directed does not attend the court at the time and place mentioned therein, and no reasonable excuse is offered for such non-attendance, then, upon the court being satisfied that the writ was duly served or that the witness to whom the writ is directed wilfully avoids service and that he is likely to give material evidence, the court may issue a warrant to arrest and bring him before it, at the time mentioned in the warrant, in order to give evidence on behalf of the prosecution or of the defence, as the case may be.
- Penalty for failure to attend as a witness*** 227. Any person who fails to attend as a witness in either of the cases mentioned in the last two preceding sections, shall be liable on the summary order of the court, to a fine as may be fixed by the court but not less than N10,000 (Ten Thousand Naira), and in default of payment, to imprisonment for a term of two months.
- Writ of subpoena*** 228. 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 bond to attend as a witness on any date fixed for the trial of the case, may be summoned by a writ of subpoena.
- Service of subpoena*** 229. The registrar, on being furnished with the names and places of abode of witnesses on behalf of 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 directed to such witnesses, together with as many copies thereof as there may be witnesses named in such writ or writs.
- Provisions of 6 applicable under this*** 230. In addition to the provisions made in this Chapter in *Chapter* respect of witnesses, the provisions contained in Chapter 6 *to trials* shall *mutatis mutandis* apply to witnesses required to give *Chapter* evidence in a case triable under this Chapter.

Provisions of this Chapter and certain provisions of any other law applicable to trial on information **231.** In addition to the provisions of this Chapter and to other express provisions of this or any other Law relating to trial of indictable offences, the provision 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.

Endorsement of judgment and sentence **232.** The judgment and subsequent sentence of the court shall be endorsed by the registrar on the information.

CHAPTER 17 – THE CHARGE

Form of charges in Second Schedule may be adapted and used **233.** Charges may be as in the form set out in the Second Schedule of this Law and may be modified as may be necessary to the circumstances of each case.

Contents of a charge and legal presumption thereof **234.** (1) Every charge shall contain the following:

- (a) the offence with which the defendant is charged;
- (b) where the written law creating the offence gives it any specific name, the offence may be described in the charge by that name only;
- (c) where the written law which creates the offence does not give it any specific name, so much of the definition of the offence shall be stated as to give the defendant notice of the particulars of the offence with which he is charged; and
- (d) the written law and the section of the written law against which the offence is said to have been committed.

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

Particulars a charge **235.** (1) The charge shall contain such particulars as to the *in* 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.

(2) The particulars in the charge shall describe the

offence concisely in ordinary language avoiding as far as possible the use of technical terms.

- Description of offence criminal breach of trust, fraud etc* **236.** 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 the gross sum in respect of which the offence is alleged to have been committed and the dates between which the offence is alleged to have been committed without specifying particular items or exact dates and the charge so framed shall be deemed to be a charge of a single offence within the meaning of section 250.
- Insufficient particulars* **237.** Where the nature of the offence is such that the particulars required to be contained in the charge 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* **238.** (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 in figures and/or abbreviations.
- Description of ownership or value of property in a charge* **239.** 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 if the property is so clearly described it shall not be necessary, except where required for the purpose of describing an offence depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.
- Description of jointly owned property* **240.** 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 278 to 287.
- Description of coins and currency notes* **241.** (1) Coins and currency notes may be described as money, and any averment as to any money, so far as regards the description of the property, shall be sustained by proof of any amount of coin or currency note, although the particular species of coin of which

such amount was composed or the particular nature of the currency note shall not be proved.

- (2) In cases of stealing and defrauding by false pretences, such coin or currency note may be described by proof that the defendant dishonestly appropriated or obtained any coin or currency note or any portion of the value thereof, although such coin or currency note may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the same or to any other person, and such part shall have been returned accordingly.

Proof of registration of corporation, association etc. not required 242. Where the ownership of the property is described under section 280 as being in any corporation, association, club or society by its registered title, proof of the registration of the corporation, association or society shall not be required unless the court decides that such proof shall be given, in which case further hearing may be adjourned for the purpose or the court may, in its discretion, amend the proceedings by substituting the name of some person or persons for such registered title.

Alternative provisions in statutory offences 243. 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.

Negative provisions in offences 244. It shall not be necessary in any charge where the offence is one constituted by a written law to negative any exception or exemption from or qualification to the operation of the written law creating the offence.

Description of persons 245. 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 286.

Description of document 246. 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.

Description generally 247. 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 where intent is not an essential ingredient 248. It shall not be necessary in stating an intent to defraud, deceive or injure 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.

Where defendants may be charged jointly or separately 249. The following defendants may be charged or tried together or separately as the court may deem fit:

- (a) defendants accused of the same offence committed in the course of the same transaction;
- (b) defendants accused of an offence and defendants accused of abatement or of an attempt to commit the same offence;
- (c) defendants accused of more than one offence of the same or similar character committed by them jointly;
- (d) defendants accused of different offences committed in the course of the same transaction; and
- (e) defendants accused of offences which include theft, extortion, criminal misappropriation and defendants accused of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named defendants, or of abatement or attempting to commit any of the last named offences.

Separate charges for distinct offences 250. For every distinct offence with which any defendant is accused there shall be a separate charge and every such charge shall be tried separately except in the cases mentioned in sections 251 to 257.

Three offence committed within twelve months may be charged together 251. Where a defendant 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.

- An attempt to commit any offence is an offence.*** 252. An attempt to commit any offence is an offence.
- One trial for more than one offence*** 253. 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 nature, more offences than one are committed by the same person, charges for such offences may be joined and the defendant tried for these offences at one trial.
- Offences falling within two or more separate definitions*** 254. 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 defendant may be charged with and tried at one trial for each of such offences.
- Acts constituting one offence but when combined constitute a different offence*** 255. Where several acts or omissions of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the defendant 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 offence is doubtful*** 256. 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 having committed 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 having committed any of the said offences.
- Curing an imperfect charge*** 257. Where a defendant is arraigned for trial on an imperfect or erroneous charge, the court may permit or direct the framing of a new charge or add to or otherwise alter the original charge.
- Court may permit alteration of charge*** 258. (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 in the language he understands.

- (3) No formal application shall be required for the alteration or amendment of a charge before any court.

Procedure after alteration of charge

259. (1) Where a new charge is framed or alteration made to a charge, the court shall call upon the defendant to plead thereto and to state whether he is ready to be tried on such charge or altered charge.

- (2) Where the defendant declares that he is not ready, the court shall consider the reasons he may give and if proceeding immediately with the trial is, in the opinion of the court, not likely to prejudice the defendant in his defence or the prosecutor in his conduct of the case, the court may proceed with the trial as if the new or altered charge had been the original charge.

- (3) Where the new or altered charge is such that proceeding immediately with the trial is, in the opinion of the court, likely 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.

- (4) 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 where charge is altered

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

Effect of error a charge

261. No error in stating the offence or the particulars required *on* 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

262. Any objection to a charge for any formal defect on the face thereof shall be taken immediately after the charge has been read to the defendant and not later.

- Objection cured by verdict*** **263.** No judgment shall be stayed or reversed on the ground of any objection which if stated after the charge was read to the defendant or during the progress of the trial might have been amended by the court because of:
- (a) any 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) any 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) any 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.
- Attempt proved where full offence charged*** **264.** Where a defendant is charged with an offence but the evidence establishes an attempt to commit the offence he may be convicted of having attempted to commit that offence although the attempt is not separately charged.
- Full offence proved where attempt charged*** **265.** Where a defendant 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.
- Defendant not liable to further prosecution for offence he was convicted of its attempt*** **266.** Where a defendant has been convicted of an attempt under sections 264 and 265, he shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit.
- Defendant not to be acquitted for misdemeanour if felony is proved*** **267.** (1) Where upon the trial of any defendant for any misdemeanour or simple offence, it appears that the facts proved in evidence amount in law to a felony, the defendant shall not by reason thereof be entitled to be acquitted of such misdemeanour or simple offence, and no defendant tried for such misdemeanour or simple offence shall be liable to be prosecuted for felony on the same facts, unless the court in its discretion stops the trial and directs that such a defendant be charged for felony, in which

case he may be dealt with as if he had not been put upon his trial for such misdemeanour or simple offence.

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

- Where stealing charge but receiving proved*** **268.** Where a defendant is charged with stealing anything and it is proved that he received the thing knowing it to be stolen, he may be convicted of receiving stolen property although he was not charged with that offence.
- Defendant charged with burglary etc. may be convicted of kindred offence*** **269.** Where on any trial for burglary, house-breaking or related offence the facts proved in evidence justify a conviction for 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 obtaining by false pretences on charge stealing*** **270.** Where a defendant 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 *of* 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 obtaining by false pretences*** **271.** Where a defendant 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.
- Defendant charged for rape may be under*** **272.** Where on any trial for rape or for defilement of a girl under the age of thirteen years, the facts proved in *convicted* evidence authorize a conviction under section 203 of the *section 203 of* Criminal Code or for an indecent assault and not the *Criminal Code* offence with which the defendant is charged, he may be convicted of an offence under section 203 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.

- Defendant charged section 203 of Criminal Code may be convicted for indecent assault*** **273.** Where on any trial for an offence under section 203 of *under* Criminal Code, the facts proved in evidence warrant a conviction for an indecent assault and not the offence charged, the defendant shall be convicted of indecent assault although he was not charged with that offence.
- Where murder or infanticide is charged but concealment of birth proved*** **274.** Where upon the trial of a defendant for the murder of any child or for infanticide, it appears from the evidence that he is not guilty of murder or infanticide, as the case may be, but guilty of the offence of concealment of birth, such defendant may be found guilty of that offence.
- Where murder is charged but infanticide proved*** **275.** (1) Where upon the trial of a woman for the murder of her newly born child, it appears from the evidence that having regard to the provisions of section 282 of the Criminal Code she is not guilty of murder but was guilty of infanticide, she may be found guilty of infanticide.
- (2) Nothing in subsection (1) of this section shall prevent a woman who is tried for the murder of her newly born child from:
- (a) being convicted of manslaughter; or
- (b) being found guilty of concealment of birth; or
- (c) being acquitted upon the ground that by virtue of section 18 or 19 of the Criminal Code, she was not criminally responsible, and being dealt with under section 274 of this Law.
- Conviction for a lesser offence*** **276.** (1) Where a defendant is charged with an offence consisting of several particulars a combination of some 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.
- (2) Where a defendant is charged with an offence and facts are proved which reduce it to a lesser offence he may be convicted of the lesser offence although he was not charged with it.
- Withdrawal of remaining charges on conviction for of several charges*** **277.** (1) Where more charges than one are brought against a defendant and he is convicted for one or more of them, the prosecutor may with the consent of the *one* court, withdraw the remaining charge or charges or

the court of its own motion, may stay the trial of such charge or charges.

- (2) Such withdrawal shall have the effect of an acquittal on such charge or charges, unless that conviction is set aside, in which case subject to any order of the court setting aside such conviction, the court before which the withdrawal was made may, on the request of the prosecutor, proceed with the charge or charges so withdrawn.

CHAPTER 18 – DESCRIPTION OF PROPERTY AND PERSONS IN COURT PROCESSES

- Reference to ownership of property belonging to more than one person* **278.** Where in any complaint, summons, warrant of any description, charge sheet, information or any document whatsoever issued by a court in the exercise of its criminal jurisdiction, it is necessary to refer to the ownership of any property whether movable or immovable, which belongs to or is in the possession of more than one person, the provisions of sections 279 to 285 shall apply.
- Description of jointly owned property* **279.** Where 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.
- Property of a corporation, association, club or society* **280.** Property of a corporation, association, club or society may subject to the provisions of any other written law be described as the property of an official of such corporation, association, club or society, or alternatively belonging to such corporation, association, club or society by its legal or registered title.
- Property of the State* **281.** Property belonging to or provided for the use of any public establishment, service or department may be described as the property of the State.
- Property of religious bodies* **282.** 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 churchwarden or churchwardens, warden or wardens of such church, chapel, mosque or building or place, without it being necessary to name him or them.

- Ownership of money or other property under the control of a public officer*** **283.** 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.
- Ownership of public buildings etc.*** **284.** Where it is necessary to 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 other property 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 or village, or of any local government as the case may be, without naming any of the inhabitants of any such areas or jurisdictions.
- Property of a married woman*** **285.** Property belonging to a woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under the law shall be stated as belonging to such married woman.
- Description of persons in criminal processes*** **286.** (1) Where in any complaint, summons, warrant of any description, charge sheet, information or any document whatsoever 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.
- (2) It shall not be necessary to state the person's correct name or his abode, style, degree, or occupation so far as the person has been sufficiently described to identify him.
- (3) Where it is impracticable to give the person's correct name, exact description or designation, because the name or such description or designation of the person is not known or for any other reason, such description or designation shall be given as is

reasonably practicable in the circumstances, or such person may be described as “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 inquest.

Protection and security of a married woman’s property **287.** Every woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under the law, 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 for the protection and security of her own separate property as if such property belonged to her as an unmarried woman.

Husband and wife competent and compellable witnesses **288.** In any proceeding taken under the provisions of section *are* 287 of this Law, the husband and wife shall be competent and compellable witnesses in accordance with the provisions of the Evidence Act.

**CHAPTER 19 – DEFENDANT – ATTENDANCE TO COURT:
REPRESENTATION BY COUNSEL AND DETERMINATION OF AGE**

Defendant to be present throughout his trial **289.** Every defendant shall, subject to the provisions of sections 177(2) and 423(2), be present in court during the whole of his trial unless he misconducts himself by so interrupting the proceedings or otherwise as to render their continuance in his presence impracticable.

Access to legal representation **290.** (1) Both the complainant and defendant shall be entitled to conduct their respective cases in person or by a legal practitioner.
(2) Where the defendant is in custody or on remand he shall be allowed the access of such legal practitioner at all reasonable times.
(3) Where the defendant elects to defend himself in person, the court shall subject to the provisions of section 222 of this Law, inform him of all his rights within the trial and of the possible consequences of such election.

Defendant’s position in court **291.** Where a defendant appears before a court to stand his trial he may be required to enter the dock or to stand or sit adjacent thereto as may be ordered by the court.

Determination of **292.** (1) Where the age of any person is in issue in any

age of a person

criminal proceedings, the court may determine such question by taking into account one or both of the following:

- (a) the apparent physical appearance of the person concerned;
- (b) any evidence, in relation to the age of the person concerned, received by the court in accordance with the provisions of the Evidence Act, the Child's Rights Law or any other law in force.

- (2) The evidence of a witness, who is not an expert within the meaning of section 68 of the Evidence Act, 2011, shall be admissible for the purpose of this section.

Provided that 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 purpose of this Law be deemed to be the true age of that person.

Age in relation to offences

- 293.** 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 to have been under or above the specified age, as the case may be, he shall for the purposes of this Law be presumed at that date to have been a child or to have been under or above that age, as the case may be, unless the contrary is proved.

CHAPTER 20 – RIGHT OF THE PUBLIC TO ATTEND COURT SITTINGS

Access to place of trial

- 294.** (1) Subject to the provisions of this Law or any other written law specifically relating thereto, the room or place in which any trial is to take place shall be an open court to which the general public may have access.
- (2) The Chief Judge may issue a notice designating any electronic platform as an open court under this section if he considers the electronic platform to be freely accessible to the public.
 - (3) (a) Where any proceedings are to be conducted

on any electronic platform, the defendant must be provided with all necessary equipment and systems to enable him attend the proceedings.

(b) Where a defendant attends proceedings conducted on any electronic platform designated by the Chief Judge, the requirement of this Law for the presence of the defendant in court during his trial, is satisfied as regards those proceedings.

(4) The Judge or Magistrate presiding over a trial may in his discretion and subject to provisions of section 296, exclude the public at any stage of the hearing on the grounds of public policy, decency or expedience.

(5) Where the court is sitting in a place other than in a building, the court shall have the discretion to exclude the public from being within the hearing of the proceedings.

Child may give evidence in camera

295. 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 a 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 witness.

Order made under section 294 or 295 to apply to the press and certain others

296. (1) An order made under either section 294 or 295 excluding the public from a court shall not unless *not* 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 of children from court the trial of persons

297. No infant, other than an infant in arms, or child shall be permitted to be present in court during the trial of any *during* person charged with an offence or during any proceedings *other* preliminary thereto and if so present, shall be ordered to be removed unless he is the defendant 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 21 – PLEA TO INFORMATION OR CHARGE

Defendant to be unfettered unless the court directs otherwise

298. (1) A defendant to be tried upon any charge or *arraigned* information shall be placed before the court unfettered unless the court shall see cause to order otherwise, and the charge or information shall be read over and explained to him in the language he understands to the satisfaction of the court, by the registrar or other officer of the court, and such defendant shall be called upon to plead thereto, unless he is entitled to service and the court finds that he has not been duly served.

(2) Upon arraignment, the trial of the defendant shall proceed from day to day until the conclusion of the trial.

(3) Where day to day trial is impracticable after arraignment, no party shall be entitled to more than three adjournments from arraignment to final judgment except with leave of the Court.

Proof of previous conviction

299. 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 or otherwise to the satisfaction of the court.

Pleas of autrefois acquit or convict; pardon

300. (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 pleas is pleaded in any case and denied to be true in fact, the court shall try 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.
- Where defendant is silent or refuses to take his plea** **301.** (1) Where the defendant, when called upon to plead, remains silent or refuses to answer, the court shall *to* 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 Chapter 31 of this Law in relation to persons of unsound mind shall apply.
- Effect of plea of guilty** **302.** (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 state the facts of the alleged offence to which the defendant has pleaded, and if satisfied that he intended to admit the truth of all the essentials of the offence to which he has pleaded guilty, the court shall convict him of that offence and pass sentence upon or make an order against him unless there appears 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.
- Amendment of charge where defendant pleads guilty to an offence charged** **303.** (1) Where the defendant pleads guilty to any offence contained in the charge or information on which he was arraigned, the court shall direct the prosecution to amend the charge or information to include the *not* admitted offence.
- (2) In such a situation, a fresh plea of the defendant shall be taken on the amended charge or information.
- Effect of plea of not guilty** **304.** Every defendant who pleads not guilty shall be deemed to have submitted himself to trial.

CHAPTER 22 – ADDUCING EVIDENCE AND EXAMINATION OF WITNESSES

- Presentation of prosecution's case* **305.** Where the defendant has pleaded not guilty to the charge or information the prosecution may open the case against the defendant and adduce evidence in support of the charge.
- Exception, exemptions etc. need not be specified to be proved* **306.** 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* **307.** Subject to the provisions of any other written law, the examination of witnesses shall be in accordance with the provisions of the Evidence Law.
- Witness refusing to be sworn or affirmed or to produce documents etc* **308.** (1) Where any witness 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 or affirmed as a witness; or
(b) having been so sworn or affirmed, refuses to answer any question put to him by the sanction 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, if it thinks fit, adjourn the hearing of the case for any period not exceeding eight days where practicable, and may in the meantime, by warrant, commit such person to a correctional centre or to other place of safe custody, unless he sooner consents to do what is so required of him.
- (2) Where such witness, 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 if it thinks fit, again adjourn the hearing of the case, and commit him to a correctional centre for like period, and so again from time to time until such witness consents to do what is so required of him.

- (3) Nothing herein contained shall affect the liability of any such witness 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***

- 309.** 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 witness already examined and the court shall examine or recall and re-examine any such witness if his evidence appears to the court to be essential to the just decision of the case.

***Admissibility of
certificates signed
by certain Government
technical officers***

- 310.** 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 sections 55 to 57 of the Evidence Law.

CHAPTER 23 – VISIT TO LOCUS

***Court's visit to
the locus in quo***

- 311.** (1) Where it appears to the court that in the interest of justice the court should see any place, person or thing connected with the case, the court shall adjourn to that place to continue the proceedings.
(2) The defendant shall be present at the proceedings..

***Prevention of
communication
between a defendant
and witnesses at the locus***

- 312.** The court shall, during the proceedings, give such directions as may be necessary for the purpose of preventing communication between any witness and the defendant,

Provided that a breach of any such directions shall not affect the validity of the proceedings unless the court otherwise directs.

CHAPTER 24 – ADDRESSES

***Cases where
prosecution may
reply to
defendant's address***

- 313.** (1) After the case for the prosecution is concluded, the defendant or his legal practitioner, if any, shall be *not* entitled to address the court at the conclusion of his defence, and if no witnesses have been called for the defence, other than the defendant himself or witnesses called solely as to the character of the defendant and no document is put in as evidence for the defence, the prosecution shall not be entitled to

address the court except with the leave of court for the purpose of addressing any new issue.

- (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 allow parties reasonable time to adumbrate certain points contained in the Address.

Cases where prosecution may reply to defendant's address

314. 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 has been adduced 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 is a lawyer

315. The provisions of sections 313 and 314 shall not affect the right of reply by a law officer or police officer who is a *who* lawyer.

Prosecution's right of reply where the defendant testifies as sole witness

316. In cases where the right of reply depends upon the question whether evidence was called for the defence, the fact that the defendant was 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 prosecution shall in all cases have the right of reply.

CHAPTER 25 – JUDGMENT, SENTENCE AND IMPRISONMENT

- Adjournment for judgment* **317.** Where the case for both sides is closed, the court shall consider its verdict and for this purpose may adjourn the matter for judgment.
- Judgment shall in writing* **318.** (1) The Judge or Magistrate shall record his judgment *be* 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 information in a prescribed form.
- Defendant to be discharged and acquitted if found not guilty* **319.** Where the court finds the defendant not guilty, he shall forthwith be discharged and an order of acquittal recorded.
- Procedure where a defendant is found guilty* **320.** (1) Where the finding is guilty, the convict shall, where he has not previously called any witness as to his character, be asked whether he wishes to call any witness and, after the witness, if any, has been heard, he shall be asked whether he desires to make any statement or produce any necessary evidence or information in mitigation of punishment in accordance with section 321(3) of this Law.
(2) After the defendant has made his statement, if any, in mitigation of punishment, the prosecution shall unless such evidence has already been given, produce evidence of any previous conviction of the defendant.
- Sentence hearing sentence* **321.** (1) Where the provisions of section 320 of this Law *and* have been complied with, the court may pass sentence on the convict or adjourn to consider and determine the sentence and shall then pronounce the sentence in open court.

- (2) (a) When considering what sentence to pass on the convict and to ensure there is consistency in sentencing and a standard approach by all Judicial Officers, the Judges and Magistrates must follow the Sentencing Guidelines made or as may from time to time be made by the Chief Judge for the offence in question.
- (b) Where faced with an exceptional case the Judges and Magistrates can sentence outside the guideline ranges.
- (3) The court shall, in pronouncing sentence, consider the following factors:
 - (a) the objectives of sentencing, including the principles of reformation and deterrence;
 - (b) the interest of the victim, the convict and the community;
 - (c) appropriateness of non-custodial sentence or treatment in lieu of imprisonment; and
 - (d) previous conviction of the convict.
- (4) A court, after conviction, shall take all necessary aggravating and mitigating evidence or information in respect of each convict that may guide it in deciding the nature and extent of sentence to pass on the convict in each particular case, even though the convicts were charged and tried together.
- (5) The court may, in any case in recording sentence, make a recommendation for mercy and shall give the reasons for its recommendation.

***Consideration of
other charges pending
against a convicted
defendant*** **322.**

- (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 the other charge consents.
- (2) Where such a desire is expressed and consent given, the court shall enter or cause an entry to that effect to be made on the record and upon sentence being pronounced, the defendant shall not, subject to the provisions of sections 450 to 452 or unless the conviction which has been heard is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

- Delivery of where is unavoidably absent** **323.** Where a Judge or Magistrate having tried a case is *judgment* prevented by illness or other unavoidable cause from *Judge or Magistrate* 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.
- Security for appearing at a later date for judgment** **324.** Where a person is convicted of any offence the court may, instead of passing sentence, discharge the offender upon his entering into his own bond, with or without sureties, in such sum as the court may think fit, on the condition that he shall appear and receive judgment at some future sitting of the court or when called upon.
- Death sentence** **325.** (1) The punishment of death is imposed by hanging the convict by the neck until he is dead or by lethal injection.
- (2) 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 are dead or by lethal injection and may the Lord have mercy on your soul.”
- Death sentence to be carried out in accordance with the provisions of this Chapter** **326.** Where sentence of death has been passed such sentence shall only be carried out in accordance with the provisions of this Chapter.
- Where a pregnant woman is found guilty in a capital offence** **327.** Where a woman found guilty of a capital offence is found in accordance with the provisions of section 342 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 the convict is a child** **328.** Where an offender who in the opinion of the court had not attained the age of eighteen 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 the court shall order such convict to be detained at the pleasure of the Governor and if so ordered he shall be detained in accordance with the provisions of Chapter 30 notwithstanding anything to the contrary in any written law.
- Authority for of a** **329.** A certificate under the hand of the Judge, that such *detention* sentence has been passed, and naming the person

- convict* condemned, shall be sufficient authority for the detention of such convict.
- Application of sections 331 to 341* **330.** The provisions of sections 331 to 341 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.
- Judge's certificate of death sentence* **331.** Any Judge who pronounces a sentence of death shall issue under his hand and seal of the court a certificate to the effect that sentence of death has been pronounced upon the convict named in the certificate, and such 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 sections 325 to 342 of this Law.
- Duties of the registrar* **332.** The registrar of the court by which the convict 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 to the Commissioner of Police and another copy to the superintendent or other officer in charge of the correctional centre in which the convict is to be confined;
(b) transmit to the sheriff one copy of the said certificate; and
(c) file one copy of the said certificate with the record of proceedings in the case.
- Judge to forward report to General* **333.** The Judge who passed the sentence of death shall within thirty days after the sentence has been pronounced, *Attorney* transmit to the Attorney General a certified true copy of the record of proceedings at the trial together with a copy of the certificate issued by him under the provisions of section 331 and a report in writing signed by him containing any recommendations or observations with respect to a sentenced convict and with respect to the trial that he thinks fit to make for the purpose of enabling the Advisory Committee on Prerogative of Mercy advise the Governor on the exercise of the prerogative of mercy.
- Governor to consider report made* **334.** (1) Where a convict:
(a) has been sentenced to death; and

under section 333

(b) has exercised his 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, has failed to perfect or prosecute such application or appeal within the time prescribed by law; or

(c) desires to have his case considered by the Advisory Council on Prerogative of Mercy, he shall forward his request through his legal practitioner or officer in charge of the Correctional Centre in which he is confined to the Advisory Council on Prerogative of Mercy;

the Governor shall consider the report made under section 333 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 convict should be otherwise 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 convict 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 commutation, pardon or reprieve is not granted **335.**

Where the Governor decides that the sentence should not be commuted or that the convict should not be pardoned or reprieved, he shall cause the sheriff to be informed and the sentence of death pronounced upon the convict 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 convict.

Where commutation, pardon or reprieve is granted **336.**

(1) Where the Governor decides that the sentence should be commuted or that the convict should be otherwise pardoned or reprieved, he shall issue an

order, a copy of which shall be sent to the superintendent or other officer in charge of the Correctional Centre in which the convict is confined, and another copy thereof shall be sent to the sheriff, directing that the execution should not proceed and that the convict be held in the Correctional Centre in accordance with the recommendation, or that the convict 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 Correctional Centre in which the convict is confined shall comply with and give effect to every order issued under the provisions of subsection (1).

Copy of Governor's order to be sent to the Judge 337. The Advisory Council on the Prerogative of Mercy shall send a copy of the Governor's order to the Judge who presided over the trial or to his successor in office and such Judge shall cause such order to be entered in the record of the court.

Form of Governor's order in the Fourth Schedule 338. (1) The Governor's order shall be under his hand and the Public Seal and shall be as in one of the forms set out in the Fourth Schedule or as near thereto as circumstances permit.

(2) The order of the Governor, if the sentence is to be carried out, shall:

(a) state the place and time, where and when the execution is to be had 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 at such place and the body of the person executed be buried at such place as shall be appointed by some officer specified in the order.

Endorsement of place and time of execution etc. on the order 339. Where the place or time of execution or the place of burial is appointed by some person and is not stated in the Governor's order, the specified officer shall endorse on the order over his signature the place and time of execution and place of burial or someone or more of them according to the terms of the order.

Copy of Governor's order to be sent to 340. A copy of the Governor's order under his hand and the **order** Public Seal shall be sent to the sheriff of the area in which **sheriff** the execution is to be carried into effect and the sheriff shall give effect to the order:

Provided that if for any reason a copy of the Governor's order 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.

Governor's order is sufficient authority

341. The copy of the Governor's order 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.

Where a woman convicted of capital offence alleges she is pregnant

342. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before which she is so convicted thinks so, the court shall, before sentence is passed on her, determine whether or not she is pregnant.

(2) The court shall determine whether or not the woman is pregnant on such evidence as may be presented to the court by the woman or on her behalf or by the prosecution.

(3) Where the court finds that the woman in question is not pregnant the court shall pronounce the sentence of death on her.

(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.

(5) The rights conferred by this section on a woman convicted of an offence punishable with death shall be in substitution for the right of such a woman to allege in an application for stay of execution that she is pregnant.

(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 this section.

Imprisonment to be with labour unless otherwise ordered

343. Imprisonment shall be with labour unless otherwise ordered by the court.

Detention for one day in precincts of the court

344. Where the court has power to pass a sentence of imprisonment, the court, in lieu of passing sentence of imprisonment, may order that the convict 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 convict'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 convict of a reasonable opportunity of returning to his abode on the day on which such order of detention is made.

Consecutive sentences of imprisonment

345. Where a sentence of imprisonment is passed on any convict by a court, the court may order that the sentence shall commence at the expiration of any other term of imprisonment to which that convict was previously sentenced by any competent court or tribunal in Nigeria but 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 of commencement of sentence

346. A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced.

Fine in lieu of imprisonment

347. (1) Subject to the other provisions of this section, where a court has authority under any written law to impose imprisonment for any offence and has not specific authority to impose a fine for that offence, the court may, in its discretion impose a fine in lieu of imprisonment.

(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 two years.

(3) In the case of a conviction in a Magistrates' Court:
(a) the amount of the fine shall be at the discretion of the court but shall not exceed the maximum

fine authorised to be imposed by the Magistrate under the Magistrates' Court Law; and

(b) no term of imprisonment imposed in default of payment of the fine shall exceed the maximum fixed in relation to the amount of the fine by the scale specified in section 354.

(4) In no case shall any term of imprisonment imposed in default of payment of a fine which has been imposed by virtue of the power in that behalf contained in subsection (1) exceed the maximum term authorised by the written law.

(5) The provisions of this section shall not apply in any case where a written law provides a minimum period of imprisonment to be imposed for the commission of an offence.

Where convict escapes from lawful custody

348. A convict who escapes from lawful custody while undergoing a sentence involving deprivation of liberty is liable upon recapture to undergo the punishment which he was undergoing at the time of his escape, for a term equal to that during which he was absent from the Correctional Centre, after the escape and before the expiration of the term of his original sentence, whether at the time of his recapture the term of that sentence has or has not expired.

Imprisonment only

349. Where a sentence or conviction does not order the payment of money but orders that the convict be imprisoned, the court shall issue a warrant of commitment accordingly.

Authority for carrying out non-capital sentences

350. A warrant under the hand of the Judge or Magistrate by whom any convict has been sentenced or committed to a correctional centre for non-payment of a penalty or fine, shall be full authority to the superintendent of any correctional centre and to all other persons 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

351. 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 26 – FINES

*Imprisonment
in default of*

- 352.** A defendant convicted of an offence punishable by:
- (a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment; or
 - (b) imprisonment or fine, and sentenced to pay a fine may be ordered to serve imprisonment in default of payment of the fine, for a certain term, which imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

*General power to
order imprisonment
in default of payment
of penalty*

- 353.** Where by any written law the court is empowered to impose a penalty for offence tried by a summary procedure, the court may in the absence of express provision to the contrary in the same or any other written law, order a defendant convicted of such offence, in default of payment of the sum of money adjudged to be paid under the order, either immediately or at the time specified in the order, as the case may be, to be imprisoned, with or without labour, in accordance with the scale set out in section 354.

*Scale of
imprisonment for
non-payment of money
adjudged to be paid*

- 354.** (1) The Chief Judge of the State 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, imposed by the court for the non-payment of any adjudged sum to be paid 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 fine:
- | | | |
|-------------------------|----|----------------|
| does not exceed ₦10,000 | .. | seven days; |
| does not exceed ₦15,000 | .. | fourteen days; |
| does not exceed ₦25,000 | .. | one month; |
| does not exceed ₦40,000 | .. | two months; |
| does not exceed ₦50,000 | .. | four months; |
| does not exceed ₦75,000 | .. | six months; |

does not exceed ₦100,000 .. one year;
does not exceed ₦150,000 .. two years.

- (3) No commitment for non-payment 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 longer period.

Payment and allocation of fines and fees

- 355.** (1) In fixing the amount of any fine to be imposed on a convict, a court shall take into consideration, amongst other things, the means of the convict so far as they appear or are known to the court.
- (2) Where a fine is imposed, the payment of the court fees and other legal expenses payable in the case, up to and including conviction, shall not be taken into consideration in fixing the amount of the fine or be imposed in addition to the fine, but the amount of the fine, or of such part thereof as may be paid or recovered, shall be applied as follows:
- (a) in the first instance, in the payment to the informant, complainant or victim of any court or other fees paid by him and ordered by the court to be repaid to him;
 - (b) in the second instance, the payment of any court fees not already paid by the informant, complainant or victim which may be payable under the rules of court;
 - (c) the balance, if any, remaining after the above payments have been made shall be paid into general revenue of the State.

Power to commit defendant in certain cases

- 356.** In any case where an order is made against any defendant for the payment of a sum of money and the defendant is in default of payment and liable to be imprisoned, the court may:
- (a) issue a warrant of commitment;
 - (b) allow time for the payment of the said sum;
 - (c) direct payment of the said sum to be made by instalments; or
 - (d) direct that the defendant 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 instalment thereof.

Extension of time

- 357.** Where time has been allowed for the payment of a sum

*for payment and
payment by instalments*

adjudged to be paid by a conviction or order, further time may, on an application by or on behalf of the convict liable to pay such sum, be allowed by a court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum, or the court may direct payment by instalments of the sum so adjudged to be paid.

*Default in one
payment renders
all instalments payable*

358. Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default has been made in the payment of all the instalments then remaining unpaid.

*Convict
surrendering before
date of committal*

359. Where before the expiration of the time allowed the convict surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of the sum and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may if it thinks it fit issue a warrant committing him to a correctional centre.

*Where convict
defaults in payment
or fails to enter into
court required security*

360. Where a convict 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 a warrant of commitment requiring any police officer to take and convey the convict to a correctional centre and there deliver him to the superintendent thereof, and require him to receive the convict into the centre and there to keep him with or without labour, for such time as may be directed and appointed by the warrant of commitment, unless the sum of money adjudged to be paid by the order and all other costs, charges and expenses are paid.

*Court may postpone
issuance of warrant
of commitment*

361. Where application is made to the court for a warrant for committing a convict to a correctional centre for non-payment of any sum of money adjudged to be paid by an order, the court may, if it deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions if any, as it may deem just.

*Commencement of
imprisonment not
to be later than
three months*

362. Where the court orders the imprisonment of any convict, it may, if it thinks fit, order that such imprisonment shall not commence immediately, but shall commence on any day not later than three months after the date of the order as the court may fix, and in such case the court may either suffer the convict to go until that day or discharge him upon

his entering into a bond, with or without sureties to reappear on the named date to undergo the imprisonment.

Execution of warrant of commitment

363. Any warrant of commitment issued under the provisions of sections 360 to 362 may be executed on any day including Sunday or public holiday.

Convict imprisoned in default to be upon payment adjudged sum

364. In all cases where a convict, against whom a warrant of commitment for non-payment of any sum of money *released* adjudged to be paid by an order is issued, pays or tenders *of* to the person having the execution of the same, the sum or sums in such warrant mentioned together with the amount of the expenses of such warrant up to the time of such a payment or tender, the person having the execution of such warrant shall cease to execute the same.

Commencement of imprisonment pursuant to a warrant

365. Where a convict is brought to a correctional centre to be imprisoned by virtue of a warrant of commitment there shall be endorsed on the warrant the day on which the convict was arrested by virtue of it and the term of imprisonment shall be computed from that day and inclusive.

Varying or discharging bond for sureties

366. Where any person has been committed to a correctional centre by the court for default in finding a surety or sureties the court may, on application made to it by the person or by some person acting on his behalf, inquire into the case of that person, and if new evidence is produced to 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:

- (a) reduce the amount for which it was ordered that the surety or sureties should be bound;
- (b) dispense with surety or sureties; or
- (c) otherwise deal with the case as the court may deem just.

Right of person imprisoned in default to be released on payment of adjudged sum

367. Where a convict has been committed to a correctional centre by the court for non-payment of any sum of money adjudged to be paid by an order, he may pay or cause to be paid to the officer in charge of the correctional centre 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 correctional centre shall receive the same and discharge the convict, unless he is in custody for some other matter.

Application of sum received from convict

368. In any case where under the last preceding section a sum of money has been received in part satisfaction of a sum

due from the convict in consequence of the conviction of the court, the sum shall be applied:

- (a) firstly, towards the payment in full or in part of any cost, 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 convict.

***Part payment
after commitment***

369. (1) Subject to the provisions of section 368 where an amount is paid towards a fine:

- (a) the imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed as the sum so paid towards the fine bears to the amount of the fine for which the person is liable.
- (b) the superintendent or other officer in charge of a correctional centre in which a person who has made such part payment is confined shall as soon as practicable take such person before a court and the court shall:
 - (i) certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction; and
 - (ii) shall make such order as the circumstances require.

Provided that where in the opinion of the superintendent or other officer, the delay occasioned by taking the person before a court is such that the person will be detained beyond the date on which he should by reason of the part payment be released, the superintendent or other officer may release such person on the day which appears to the superintendent or other officer to be the correct day, endorse the warrant accordingly and shall, as soon as practicable thereafter inform the court of the action taken and such court shall make such order or record as the court may consider to be required in the circumstances.

- (2) In reckoning:
 - (a) the number of days by which any term of imprisonment would be reduced under this section, the first day of imprisonment shall not be taken into account; and

- (b) the sum which will secure the reduction of a term of imprisonment, fractions of a naira shall be omitted.

Fines may be ordered to be recoverable by distress

- 370.** Where under the authority of any written law the court imposes a fine or any pecuniary penalty whether or not that fine or penalty is accompanied by a power to impose imprisonment, and no special provision other than recovery by distress is made for the recovery of such fine or penalty, the court may:
- (a) order such fine or penalty to be recoverable, by distress; and
 - (b) in default of such distress satisfying the amount of the fine or penalty, may order that the offender be imprisoned, with or without labour as the case may be, in accordance with the scale set forth in section 354 of this Law.

Warrant of distress

- 371.** Where the court orders a sum to be recoverable by distress it shall issue a warrant which shall be in writing and signed by the court authorizing the person charged with the execution to take any money as well as any goods of the defendant 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.

Execution of warrant of distress

- 372.** In the execution of a warrant of distress the following provisions shall have effect:
- (i) a warrant of distress shall be executed by or under the direction of the sheriff;
 - (ii) where the person charged with the execution of the warrant is prevented from executing the same by the fastening of doors or otherwise, the Judge or Magistrate may, by writing under his hand endorsed on the warrant, authorize him to use such force as may be necessary to enable him to execute the warrant;
 - (iii) the wearing apparel and beddings of the defendant and of his family, and to the value of ₦10,000.00 (Ten Thousand Naira) and the tools and implements of his trade, shall not be taken;
 - (iv) except as provided in paragraph (e) and so far as the defendant upon whose movable property the distress is levied consents in writing to an earlier sale, the goods distrained on shall be sold at public auction not less than five days and not more than fourteen days after the making of the distress; but where

consent in writing is so given as, the sale may be in accordance with such consent;

- (v) subject to paragraph (iv) of this section, the goods distrained on shall be sold within the time fixed by the warrant, unless the sum for which the warrant was issued and the charges, if any, of taking and keeping the goods distrained on, are sooner paid;
- (vi) where any person charged with the execution of a warrant of distress wilfully retains from the proceeds of any property sold to satisfy the distress, or otherwise exacts any greater costs or charges than those to which he is for the time being entitled by law, or makes any improper charge, he shall be liable, on summary conviction before a Judge or Magistrate, to a penalty not exceeding ₦2,000,000.00 (Two Million Naira);
Provided that nothing herein contained shall affect the liability of the person to be prosecuted and punished for extortion; or for the return of the sum of money or value of the item extorted by the person;
- (vii) a written account of the costs and charges incurred in respect of the execution of any warrant of distress shall, as soon as practicable, be delivered by the person charged with the execution of the warrant to the Judge or Magistrate; and it shall be lawful for the defendant upon whose moveable property the distress was levied, at any time within one month after the making of the distress, to inspect such account without payment of any fee or reward at any time during office hours and to take a copy of such account; or
- (viii) 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 such sale all costs and charges actually incurred in effecting such sale, and shall pay to the court or to some person specified by it, the remainder of the amount, in order that 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 that the surplus, if any, may be rendered to the defendant upon whose movable property the distress was levied.
- (ix) No person in permanent employment as an officer of the court shall, or, may, directly or indirectly or by intervention of a trustee or otherwise, purchase any property sold at an execution, and in the event of any

person purchasing or being interested in the purchase of any property at an execution sale, such purchase shall be entirely void.

- Part payment to reduce period of imprisonment in proportion* **373.** Where a part only of the amount ordered to be recovered by distress is so recovered, the period of imprisonment ordered to be suffered in default of recovery of the amount imposed shall be reduced accordingly and shall bear the same proportion to the full period as the amount recovered bears to the total amount ordered to be recovered, and the warrant of commitment under the provisions of sections 367 to 369 of this Law, shall apply.

CHAPTER 27 – COSTS, COMPENSATION AND DAMAGES

- Costs against defendant* **374.** A court may order any defendant convicted before it of an offence to pay to the private prosecutor in addition to any penalty imposed such reasonable costs as the court may deem fit.
- Costs against private prosecutor* **375.** A court that acquits or discharges a defendant accused of an offence, if the prosecution for such offence was originally instituted on a summons or a warrant issued by a court on the complaint of a private prosecutor, may order such private prosecutor to pay to the defendant such reasonable costs as the court may deem fit.
- Meaning of “private prosecutor”* **376.** 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 officer prosecuting in his official capacity.
- Costs may not be ordered against private prosecutor* **377.** No order as to costs may be made if the court considers that the private prosecutor had reasonable grounds for making his complaint and the costs awarded shall not be less than ₦20,000.00 (Twenty Thousand Naira) in the case of an award by a Judge or ₦10,000.00 (Ten Thousand Naira) in the case of an award by a Magistrate.
- Compensation for false and frivolous or vexatious charge* **378.** Where one or more defendants is accused of any offence and the court hears the case and discharges or acquits any or all of them and is of opinion that the accusation against any or all of them is false and either frivolous or vexatious, the Judge or Magistrate may, for reasons to be recorded, direct that compensation, of an amount not less than ₦20,000.00 (Twenty Thousand Naira) as he may

determine, be paid by the complainant to the defendant or to each or any of them.

Receipt of compensation is a bar to further liability

- 379.** (1) The defendant to whom compensation is awarded may refuse to accept any such order for compensation but where he receives compensation for an injury under the award of the court or where the complainant, 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 defendant to whom compensation would be payable.

Restoration and damages for wrongful conversion or detention of property

- 380.** Where in a charge of an offence relating to 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 reasonable damages to the person entitled to the property.

Compensation to victim

- 381.** (1) Notwithstanding the limit of its civil or criminal jurisdiction, a court has power while delivering its judgment, to award to a victim commensurate compensation payable by the defendant or any other person or the State.
- (2) The court in considering the award of compensation to the victim may call for additional evidence to enable it determine the quantum of compensation to award under subsection (1) of this section.

Court may order payment of expenses or compensation

- 382.** (1) A court may, within the proceedings or while passing judgment, order the defendant or convict to pay a sum of money:
- (a) as compensation to any person injured by the offence, irrespective of any other fine or 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 bonafide purchaser for value without notice of the defect of the title in any property in respect of which the offence was committed and has been compelled to give it up; and
 - (c) in defraying expenses incurred on medical treatment of a victim injured by the convict in connection with the offence.
- (2) Where the fine referred to in subsection (1) of this section is imposed in a case which is subject to appeal, no payment additional to the fine shall be made before the period allowed for presenting the appeal has elapsed or, where an appeal is presented, before the decision on the appeal.
- (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.

Court may order restitution

- 383.** A court, after conviction, may adjourn proceedings to consider and determine sentence appropriate for the 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 the offender was convicted, or to the victim's estate; or
 - (b) order for the restitution or compensation for the loss or destruction of the victim's property and in so doing may direct the convict:
 - (i) to return the property to the owner or to a person designated by the owner;
 - (ii) where the return of the property is impossible or impracticable, to pay an amount equal to the value of the property or;
 - (iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just.

Warrant for levy of fine

- 384.** (1) Where a convict is ordered to pay a fine, or a defendant is ordered to pay compensation to another person under section 382 of this Law, or a person is subject to recovery of penalty for forfeiture of a bond under this Law, the Court passing the sentence or making the Order may, notwithstanding

that, in default of the payment of the fine or compensation or penalty, the convict or defendant may be imprisoned, issue a warrant for the levy of the amount by any means permitted by law, including:

- (a) the seizure and sale of any movable property belonging to the defendant or convict;
 - (b) the attachment of any debt due to the defendant or convict; and
 - (c) subject to the provisions of the Land Use Act, the attachment and sale of any immovable property of the defendant or convict situate within the jurisdiction of the court;
- (2) A warrant for seizure and sale of the movable property of a defendant or convict under the section shall be addressed to the court within whose jurisdiction it is to be executed.
- (3) Where execution of a warrant is to be enforced by attachment of debts or sale of immovable property, the warrant shall be sent for execution to any court competent to execute orders for the payment of money in civil suit and the court shall follow the procedure for the time being in force for the execution of such orders.
- (4) The damages awarded under this section shall be recoverable in like manner as penalty.

CHAPTER 28 – PROBATION AND NON-CUSTODIAL ALTERNATIVES

- Conditional release of defendant* **385.** (1) Where a defendant is charged before a court with an offence punishable by law, and the charge is proved but having regard to:

- (a) the character, antecedents, age, health, or mental condition of the defendant; or
 - (b) the trivial nature of the offence; or
 - (c) the extenuating circumstances under which the offence was committed,
- it is expedient to impose a punishment or any order than a nominal punishment or that it is expedient to release the defendant on probation, the court may, without proceeding to conviction make an order specified in subsection (2) of this section.

- (2) The court may make an order under subsection (1) of this section:
 - (a) dismissing the charge; or
 - (b) discharging the defendant conditionally on his entering into a bond, with or without sureties, to be of good behaviour and to appear at any time during such period not less than one year and not exceeding three years as may be specified in the order.

***Payment of
damages for injury
or compensation
for loss and costs***

- 386.** The Court may in addition to an order under section 385 order:
- (a) the defendant to pay such damages for injury or compensation for any loss suffered by a person by reason of the conduct or omission of the defendant, and to pay such costs of the proceedings, as the court thinks reasonable; and
 - (b) where the defendant has not attained the age of eighteen years and it is proven that his parent or guardian has condoned (conducted) the commission of the offence, the parent or guardian shall pay the damages and costs specified in paragraph (a) of this section and the court shall give opportunity to such parent or guardian to show cause why an order should not be made against him.

***Restitution of
stolen property***

- 387.** Where an order under this section is made, the order shall:
- (a) for the purpose of reverting or restoring stolen property and 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 in connection with such restitution or delivery, have the like effect as a conviction.

- Probation order*** **388.** A bond ordered to be entered into under this Chapter shall if the court so orders contain a condition that the defendant be placed under the supervision of such person or persons of either sex, hereinafter called a probation officer who shall be named in the order as may be specified by the court with the same conditions as in the bond referred to as a probation order.
- Additional conditions of bond*** **389.** A bond 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 particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.
- Defendant to be furnished with conditions of probation order*** **390.** Where a court makes a probation order, it shall furnish to the defendant a notice in writing stating in simple terms the conditions he is required to observe.
- Relieving probation officer of his duties*** **391.** The probation officer named in a probation order may at any time be relieved of his duties and in any such case or in case of the death of the probation officer another person may be substituted by the court before which the defendant is bound to appear for conviction or sentence.
- Duties of a probation officer*** **392.** It shall be the duty of a probation officer, subject to directions of the court:
(a) where the defendant on probation is not residing with the probation officer, to visit or receive reports on him at such reasonable intervals as may be specified in the probation order or as the probation officer may deem fit; or
or
(b) to see that he observes the conditions of his bond; or
(c) to report to the court about his behaviour; or
(d) to advice, assist, and befriend him and when necessary to endeavour to find him suitable employment.
- Variation of terms and conditions of probation*** **393.** The court before which any defendant is bound under this Chapter to appear for conviction and sentence or only for sentence may:
(a) at any time if it appears upon the application of the probation officer that it is expedient that the terms or conditions of the bond should be varied, summon the defendant to appear before it and if he fails to show

cause why such variation should not be made, vary the terms of the bond by extending or diminishing the duration which shall not exceed three years from the date of the original order, or alter the conditions; or
(b) on application made by the probation officer, and on being satisfied that the conduct of the defendant bound by bond has been such as to make it unnecessary that he continues to be under supervision, discharge the bond.

Where defendant fails to observe conditions of his bond

394. Where the court before which a defendant is bound to appear for conviction or sentence is satisfied by information on oath that the defendant has failed to observe any of the conditions of his bond, it may issue a warrant for his arrest or may issue a summons to the defendant and his sureties, if any, requiring him or them to attend the court at such time as may be specified in the summons.

Defendant may be brought before another court

395. The defendant when arrested, if not brought before the court he is bound to appear for conviction or sentence, shall be brought before another court.

Bail or remand

396. The court before which a defendant is brought or before which he appears in pursuance of a summons, if it is not the court before which he is bound to appear for conviction or sentence, may remand him in custody or on bail until he can be brought before the last mentioned court.

Committal to correctional centre remand

397. (1) A defendant so remanded in custody may be committed to any correctional centre the court *during* which has power to so do.
(2) In the case of a child or young person he shall, if remanded, be dealt with wherever practicable in accordance with the provisions of the Child's Rights Law.

Conviction for original offence for failure to observe conditions of bond

398. A court before which a defendant is bound to appear for conviction and sentence on being satisfied that he has failed to observe any of the conditions of his bond may, without further proof of his guilt, convict and sentence him for the original offence.

Suspended sentence community service

399. (1) Notwithstanding the provisions of any other law *and* creating an offence, where the court sees reason, the court may order that the sentence imposed on the convict be suspended, with or without conditions, in

which case, the convict shall not be required to serve the sentence in accordance with the conditions of the suspension.

- (2) The court may, with or without condition, sentence the convict to perform specified community service as the court may direct.
- (3) A convict shall not be given a suspended sentence or sentenced to perform community service for an offence involving the use of arms, offensive weapon, sexual offences or for an offence which the punishment exceeds imprisonment for a term of three years.
- (4) The court, in exercising its power under subsections (1) and (2) of this section shall have regard to the need to:
 - (a) reduce congestion in correctional centres;
 - (b) rehabilitate convicts by making them undertake productive work; and
 - (c) prevent convicts who committed simple offences from mixing with hardened criminals.

*Types of
community service*

- 400.**
- (1) Where the court makes an order for the convict to render community service, the community service shall be in the nature of:
 - (a) environmental sanitation, including cutting grass, cleaning drainages, and public places;
 - (b) assisting in the production of agricultural produce, construction, or mining; and
 - (c) any other type of service which in the opinion of the court would have a beneficial and reformatory effect on the character of the convict.
 - (2) The community service shall be performed as close as possible to the place where the convict ordinarily resides.
 - (3) Before passing a Community Service Order, the court shall consider the circumstances, character and antecedents of the convict and other factors that may be brought to its attention by the prosecutor or the convict.
 - (4) A convict sentenced to community service shall not

at the same time be sentenced to a term of imprisonment for the same offence, but may, in default of performing his community service diligently and to the satisfaction of the court be sentenced to a term of imprisonment for the remaining part of his community service to which he is in default or neglect.

- (5) Where sentenced to community service, a convict shall be required to produce a guarantor who shall undertake to produce him if he absconds from community service.
- (6) The guarantor shall be a relation of the convict or any other responsible person of adequate means or substance who shall produce him whenever required by the court, failing which the guarantor shall be liable to a fine of ₦50,000 (Fifty Thousand Naira) or more as the circumstances may require.

***Duration of
community service***

- 401.** (1) The community service order shall be performed for a period of not more than six months and the convict shall not work for more than five hours a day.
- (2) The convict shall be under the supervision of a supervising officer or officers of the Correctional Centre as may be designated by the Controller deriving powers under the Nigerian Correctional Service Act.
 - (3) The Community Service Order shall contain such directives as the court may consider necessary for the supervision of the convict.
 - (4) The Registrar of the court making the Community Service Order shall forward to the Controller, a copy of the order together with any other document and information relating to the case.

***Default of convict
in complying with
community service order***

- 402.** (1) Where at any time during the community service period, the Controller informs the court of the default of the convict in complying with the directives of the Community Service Order, the court may issue a summons requiring the convict to appear before it.

- (2) Where the convict fails, refuses or neglects to appear in obedience to the summons, the court shall issue a warrant for his arrest.
- (3) Where it is proved to the satisfaction of the court that the convict has failed to comply with any of the requirements of the community Service Order, the court may:
 - (a) vary the order to suit the circumstances of the case; or
 - (b) impose on him a fine not exceeding ₦50,000.00 (Fifty Thousand Naira) or cancel the order and sentence the convict to any punishment which could have been imposed in respect of the offence, but the period of community service already performed may be discounted from the sentence.
- (4) A supervising officer shall not employ the convict for his or her personal benefit.

Commission of another offence by a convict performing community service

- 403.** Where a convict has been ordered to undergo community service by a court of first instance but has committed another offence during the period of community service, the following rules shall apply:
- (a) the court seized of the trial of the subsequent offence may add to the sentence or impose a term of imprisonment which might have been passed by the court of first instance 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 court of first instance is a High Court and the subsequent court is a subordinate court, the subordinate court shall send the copy of the proceedings to the High Court and, on receipt of the proceedings the High Court shall proceed under paragraphs (a) and (b) of this section; and
 - (d) where the court of first instance is a subordinate court and the subsequent court is a High Court dealing with the matter at first instance or on appeal, the High Court shall proceed under paragraphs (a) and (b) of this section.

Change of place

- 404.** (1) A convict performing community service who

*of residence by a
convict performing
community service*

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 Controller with the information giving the details of the case.
- (3) On application by the Controller, the court shall make appropriate amendment in the Community Service Order and inform the court in whose jurisdiction the convict intends to reside.

*Report on convict's
performance and
general conduct*

- 405.**
- (1) Where a convict has been ordered to perform community service for a period of more than four months, the supervising officer shall, from time to time, give a report on the convict's performance and general conduct to the Controller.
 - (2) The court based on the report made by the Controller, may reduce the period of the community service specified in the Community Service Order by not more than one-third where the convict is of good conduct.
 - (3) The Controller shall make a report to the court on the termination of a Community Service Order.
 - (4) Where the convict is a female, the supervising officer shall be a female.

CHAPTER 29 – SEIZURE, RESTITUTION, FORFEITURE AND DISPOSAL OF PROPERTY

*Disposal of property
regarding which an
offence has been or
appears to have been
committed*

- 406.**
- (1) The court, either before a charge is preferred or during or at the conclusion of any trial, 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 an offence appears to have been committed or which has been used for the commission of an offence and in the case of an immovable property, the production of title documents such as deed, certificate of occupancy or receipt of purchase of such property

shall be deemed as production of the property 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 if sold, the proceeds thereof shall be kept as the court directs until some person establishes to its satisfaction a right to such property and where no person establishes such a right within three years from the date of forfeiture or confiscation, the proceeds thereof shall be paid into and form part of the general revenue of the State.
- (3) The power conferred by subsections (1) and (2) upon the court shall include the power to make an order for the forfeiture or confiscation or for the destruction or for the delivery to any person of such property and shall be exercised subject to any special provisions regarding forfeiture, confiscation, destruction, detention or delivery contained in the law under which the conviction was made.
- (4) Where an order is made under this section, the order shall not, except where the property is livestock or is subject to speedy and natural decay, be carried out until the period allowed for presenting an appeal elapses, or until the disposal of any appeal filed.
- (5) In this section, the term “property” includes such property that has been in the possession or under the control of any party and also any property into or for which the same has been converted or exchanged and anything acquired by such conversion or exchange, whether immediately or otherwise.

Seizure of things intended to be used in commission of offence **407.** The court may order the seizure of any instruments, materials or things which there is reason to believe are provided or prepared, or 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 406.

Confiscation and destruction of seditious, **408.** The court may, on a conviction for an offence relating to seditious or obscene publication, order the confiscation

- prohibited or obscene publications etc* and destruction of all the copies of the publication or thing which are in the custody of the court and all those which remain in the possession or power of the convict.
- Destruction of unfit or adulterated food, or drug* **409.** The court may on a conviction for an offence relating to adulterated or unfit food, drink or drug, order the food, *drink* drink or drug and all other unfit or adulterated food, drink or drug which remain in the possession or power of the convict, to be destroyed.
- Search warrant may be issued to search for things subject to sections 407 and 408* **410.** Where a court is satisfied by information on oath that there is reasonable ground for believing that there is in the State any building, ship, carriage, receptacle or place, any thing in respect of which an order may be made under sections 407 and 408, the court may issue a search warrant to search for the thing and if such thing is found it shall be brought before the court and dealt with as the court may deem proper.
- Restoration of possession of immovable property to owner* **411.** (1) Whenever a defendant is convicted of an offence committed by criminal force and it appears to the court that by such force a victim has been dispossessed of an immovable property, the court may, if it thinks fit, order its restoration to the victim.
- (2) No order under subsection (1) shall prejudice any right or interest in such immovable property, which a victim, including the convict, may be able to establish in a civil suit.
- Payment to innocent purchaser for value without notice of money found on defendant* **412.** Where a defendant is convicted of any offence which includes or amounts to stealing or receiving stolen property and it is proved that another person has bought the stolen property from him without knowing or having reason to believe that it was stolen, and that money found on the convict had been taken out of his possession, the court may:
- (a) on the application of the purchaser; and
(b) on the restitution of the stolen property to the person entitled to it,
order that out of the money found on the convict, a sum not exceeding the purchase price be returned to the purchaser.
- Restitution and disposition of property found on defendant* **413.** Where on the arrest of a defendant charged with an offence, any property, other than that used in the commission of the offence, is taken from him, the court

before which he is charged may order that the property or a part of it be:

- (a) restored to the person who appears to the court to be entitled to it, and, if he is the defendant, that it be restored either to him or to such other person as he may direct; or
- (b) applied to the payment of any costs or compensation to be paid by the defendant charged.

Restitution of stolen property and exceptions to restitution orders

- (1) Where a defendant is convicted of having stolen or having received stolen property, the court convicting him may order that the property or a part of it be restored to the person who appears to it to be the owner thereof, without payment by the owner to the person in whose possession the property or a part of it is found.
- (2) This section shall not apply to:
 - (a) any valuable security which was paid in good faith or discharged by any person liable to pay or discharge the instrument; or
 - (b) any negotiable instrument which was received in good faith by transfer or delivery by any person for a just and valuable consideration without notice or without reasonable cause to suspect that it was stolen.

Destruction of articles relating to counterfeiting where charge is laid

- 415.** Where a defendant is charged with an offence relating to counterfeit note or coin and in his possession, actual or constructive, is 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, the note or coin or matter or thing shall not be returned to the defendant charged or the person from whom the same was taken but shall be destroyed in such manner as the court may order.

Destruction of articles relating to counterfeiting where no charge is laid

- 416.** Where any person comes 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 over 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 administrative officer, officer of the Central Bank of Nigeria or any bank or police officer if satisfied that such note or coin:
- (a) is not counterfeit, or that any of such articles is 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 intended to be used for the purpose of making counterfeit notes or coins and if no charge is to be preferred against any person in connection with the note, coin, matter or thing, may destroy or cause to be destroyed the note, coin, matter or thing in such manner and by such person as may be approved by the Central Bank of Nigeria:

Provided that notice shall be given to the person who appears to be the owner, 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 or matter or thing is not counterfeit and shall have no claim against such administrative officer, officer of the Central Bank of Nigeria, or any bank or police officer for the destruction of any such note, coin, matter or thing.

Mode of dealing with forfeited non-pecuniary articles

- 417.** Subject to the express provisions of any written law relating thereto every article, not pecuniary, forfeited in respect of a summary conviction 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 like manner as if the proceeds were a penalty imposed under the written law on which the proceeding for the forfeiture is founded.

CHAPTER 30. – DETENTION DURING THE GOVERNOR’S PLEASURE

Detention during Governor’s pleasure deemed lawful

- 418.** Where a court orders 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 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 lawful custody.

Discharge of detainee by licence

- 419.** A person detained during the Governor’s pleasure may at any time be discharged by the Governor on licence.

Form of licence

- 420.** A license may be in such form and may contain such conditions as the Governor may direct.

Revocation

- 421.** A license may at any time be revoked or varied by the

of licence

Governor and where a license has been revoked the person to whom it 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 such place.

CHAPTER 31 – PERSONS OF UNSOUND MIND

Interpretation

422. For the purposes of this Chapter unless the context otherwise requires:
“asylum” includes a lunatic asylum, a mental home or other hospital, a correctional centre 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 where
defendant is suspected
be of unsound mind*

423. (1) Where the court holding a trial has reason to suspect that the defendant is of unsound mind and *to* consequently incapable of making his defence, the court shall in the first instance investigate such unsoundness of mind.

(2) Such investigation may be held in the absence of the defendant if the court is satisfied that owing to his state of mind it would be in the interest of his safety 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 the defendant is in his opinion, of unsound mind and incapable of making his defence or is a proper person to be detained in an asylum for observation, or the court may if it sees fit, take oral evidence from a medical officer on the state of mind of the defendant.

(3) Where the court is not satisfied that such a defendant is capable of making his defence, the court shall adjourn the trial and order that the defendant be detained in an asylum for observation for a period not exceeding two weeks.

(4) The medical officer shall keep such a defendant 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 defendant’s state of mind and if he is unable within that period to form any definite opinion, he shall so

certify to the court and ask for a further remand and such further remand may be extended to a period not exceeding two weeks.

- (5) Where a defendant suspected to be of unsound mind appears before a court, the court may, on the application of a law officer made prior to the trial, order that such defendant be sent to an asylum for observation and the medical officer may, notwithstanding any other provision of law, detain him for such period, not exceeding two weeks, as may be necessary to enable him form an opinion on the defendant's state of mind and shall forward a copy of his opinion in writing to the court.

***Certificate of
medical officer***

- 424.** (1) Where the medical officer certifies that the defendant is of sound mind and capable of making his defence, the court shall, unless satisfied by the defence that the defendant is of unsound mind, proceed with the trial.
- (2) Where such medical officer certifies that the defendant is of unsound mind and incapable of making his defence, the court shall, if satisfied of that fact, find accordingly, and adjourn the trial.
- (3) The trial of the issue as to whether or not the defendant is of unsound mind and incapable of making his defence shall, if the finding is that he is of sound mind and capable of making his defence, be deemed to be part of his trial before the court.
- (4) The certificate of the medical officer shall be receivable as evidence under this section.
- (5) 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 defendant
incapable of making
defence due to
unsoundness of mind***

- 425.** (1) Where a defendant is found to be of unsound mind and incapable of making his defence, the court, if *his* the offence charged is bailable, 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 himself or to any

other person, and of his appearance when required before the court or such officer as the court appoints.

- (2) Where such a defendant is before a Magistrate charged with an offence which is bailable by a Judge but not by a Magistrate or if the offence is bailable by a Magistrate but the Magistrate refuses to grant bail, such Magistrate shall inform the defendant of his right to apply to the High Court for bail.
- (3) Where the offence charged is not bailable by a Magistrate or if a Judge has refused bail under this section or if sufficient security is not given or if no application is made for bail, the Judge shall order the defendant to be confined in an asylum or other suitable place of safe custody.

***Resumption
trial***

426. Where a trial is adjourned under section 423(3) the court *of* may at any time commence the trial *de novo* and require the defendant to appear or be brought before it.

***Resumption
of proceedings***

427. Where the defendant has been released under section 425(1) the court may at any time require the defendant to appear or be brought before it and may again proceed under section 423 (3).

***Acquittal on
ground of
unsoundness
mind***

428. Where any person is acquitted on the ground that at the time he is alleged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the *of* nature of the act alleged as constituting the offence or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

***Safe custody of
defendant***

- 429.** (1) Where the finding states that the defendant *acquitted* committed the act alleged, the court shall order him to be kept in safe custody in such place and manner as the court thinks fit and shall within fourteen days of the order, report the case for the order of the Attorney General.
- (2) The Attorney General may order such defendant to be confined in an asylum, correctional centre or other suitable place of safe custody.

***Special report
defendant's
mind by
officer***

430. Where a defendant is confined to a correctional centre or *on* an asylum under sections 425 or 429, the medical officer *state of* attached thereto shall keep him under observation in order *medical* to ascertain his state of mind and shall make a special

report on his state of mind for the information of the Attorney General at such time or times as may be required.

Where defendant confined to a correctional centre certified fit to make his defence

431. Where a defendant is confined in a correctional centre or an asylum under sections 425 and 426 and is certified by the medical officer thereto to be capable of making his defence, such defendant shall be taken before the court at such time as the court appoints, and the court shall proceed with the trial and the said certificate shall be receivable as evidence.

Where defendant confined to a correctional centre is certified fit for discharge

432. Where the medical officer of a correctional centre or an asylum in which a defendant is confined under section 425 or 429, certifies that such defendant in his opinion may be discharged without danger of his doing injury to himself or to any other person, the Attorney General may thereupon order him to be discharged or to be detained in a correctional centre or to be transferred to an asylum if he has not already been sent to such an asylum, and where he orders him to be transferred to an asylum may require the Director of Medical Services of the State to appoint two other medical officers to report on such defendant's state of mind and upon any other facts the Attorney General may require and on receipt of such report the Attorney General may order his discharge or detention as he thinks fit.

Transfer from one place of custody to another

433. Where a defendant is confined in a correctional centre or an asylum, the Attorney General may direct his transfer from one correctional centre or asylum to any other correctional centre or asylum as often as may be necessary.

Delivery of found unsound care of or friend

434. (1) Where any relative or friend of a defendant *defendant* confined under section 425 or 429 desires that such *to be of* defendant be delivered over to his care and custody, *mind to* the Attorney General, upon the application of such *relative* relative or friend and on his giving security to his satisfaction that the defendant shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may in his discretion order the defendant to be delivered to the relative or friend.

Provided that if the defendant is confined under section 425, the Attorney General may further require such relative or friend to give security to his satisfaction that if at any time it shall appear to him that the defendant is capable of making his defence, the relative or friend shall produce him for trial.

- (2) Where such defendant is delivered to the care and custody of any person, it shall be upon the condition that he shall be produced for the inspection of such officer and at such times as the Attorney General directs.
- (3) Sections 430 and 432 shall *mutatis mutandis* apply to defendants delivered to the care and custody of persons under this section.

Removal to another State

- 435.** Where it is necessary to remove a defendant to a correctional centre or asylum under sections 423 to 433, an order for such removal shall be sufficient authority for the removal and detention of such defendant notwithstanding that the correctional centre or asylum is situate in another State in Nigeria.

CHAPTER 32 – TRIAL OF CORPORATION

Supremacy of provisions of this Chapter in trials of corporations

- 436.** 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

- 437.** (1) In this Chapter:
“corporation” means a Company or Firm registered in Nigeria or elsewhere;
“representative” in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this 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, a statement in writing purported to be signed by a managing director of the corporation, or by any person (by whatever name called) being one of the persons in 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, shall be admissible

without further proof as prima facie evidence that such person has been so appointed.

Plea by a corporation

438. Where a corporation is called upon to plead to any charge or information by its representative may enter in writing a plea of guilty or not guilty or any plea which may be entered under the provisions of section 300, and if the corporation does not appear by a representative or, if it does so appear, fails to enter any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had entered a plea of not guilty.

Information against a corporation

439. An information may be preferred against a corporation after the preparation of the proofs of evidence relating to the charge.

Joinder of counts in the same information

440. An information under section 439 may include, either in substitution for or in addition to counts charging the offence for which proofs of evidence have been prepared, counts which may be lawfully joined in the same information and are founded on facts or evidence disclosed in the proofs of evidence.

Powers of a representative of a corporation

441. 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 upon to plead under section 259(1);
- (b) consent to the hearing and determination of a complaint before the return date of a summons; and
- (c) express assent to the trial of the corporation on information, notwithstanding that a copy of the information and notice of trial have not been served on the corporation three or more days before the date on which the corporation is scheduled to be tried.

Anything required to be done in the presence of a defendant is construed as having been done where a representative appears

442. 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 having been done:

Provided that section 183(1)(a) shall be sufficiently complied with if the representative is asked if he has any witnesses to examine or other evidence to adduce for the defence.

Non-appearance

443. Where a representative does not appear, any such

of a representative requirement as is referred to in section 442, shall not apply.

Provisions of relating to into and offences apply to a corporation **444.** Subject to the preceding provisions of this Chapter, the *Law* provisions of this Law relating to the inquiry into and trial *inquiry* of offences shall apply to a corporation as they apply to an *trial of* adult.

Joint charge and of a corporation and individual **445.** A corporation may be charged jointly and tried with an *trial* individual for any offence.

Service on a corporation **446.** The provisions of section 104 (b) shall apply to the service on a corporation of any information, notice or other documents, which by this Law is required to be served upon or delivered to a person charged.

CHAPTER 33 – PREVIOUS ACQUITTAL OR CONVICTION

Interpretation **447.** In this Chapter “offence” includes an offence against the Law of any other State in Nigeria.

Convicted or acquitted defendant not to be retried for same or kindred offence **448.** (1) Without prejudice to section 266, a defendant charged with an offence shall not be liable to be tried for that offence if it is shown:

(a) that he has previously been convicted or acquitted of the same offence by a competent court; or

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

(c) that he has previously been convicted or acquitted 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.

Defendant may **449.** A defendant acquitted or convicted of any offence may

- be tried again on separate charge in certain cases* afterwards be tried for any distinct offence for which a separate charge might have been brought against him at the previous trial.
- Separate charge of murder or manslaughter may be brought against a defendant where the consequences were not known at the previous trial* **450.** A defendant acquitted or convicted of any offence constituted by any act or omission causing consequences which together with such act or omission constitute a different offence from that for which he was acquitted or convicted may afterwards be tried for such last mentioned offence if the consequences had not happened or were not known to the court to have happened at the time he was acquitted or convicted where such consequences create the offence of murder or manslaughter.
- Where court of first trial was competent* **451.** A defendant acquitted or convicted of any offence constituted by any act or omission may notwithstanding *not* such acquittal or conviction, be subsequently charged with and tried for the same or any other offence constituted by the same acts or omissions if the court by which he was first tried was not competent to try the offence with which he was first charged.
- Dismissal of charge not an acquittal* **452.** The dismissal of a complaint or the discharge of the defendant is not an acquittal.

CHAPTER 34 – VISIT TO THE CORRECTIONAL CENTRE BY THE CHIEF JUDGE

- Chief Judge to visit Correctional Centres* **453.** (1) The Chief Judge shall pay periodic visits to the correctional centres within the State to review cases of inmates who are held on remand and whose trials have not commenced.
- (2) It shall be the responsibility of the Controller of the Correctional Centre upon notification of the visit of the Chief Judge, to furnish to the Chief Judge in advance, a list of inmates in the centre except those who are already convicted.
- (3) The Controller shall send a quarterly report to the Chief Judge of all inmates who have been in custody for a period of 6 months without trial or inmates whose trial have started but have not attended court for six months.
- (4) The Chief Judge on receipt of the report in subsection (3) shall directly or through any Judge

give directives to the court that remanded the inmate or where the charge is pending as the justice of the case demands.

CHAPTER 35 – ANAMBRA STATE JUSTICE SECTOR MONITORING COMMITTEE

- Establishment and membership of Anambra State Justice Sector Monitoring Committee*
- 454.** (1) There is hereby established a body to be known as Anambra State Justice Sector Monitoring Committee (in this Law to be referred to as “the Committee”)
- (2) The Committee shall consist of:
- (a) the Chief Judge of Anambra State who shall be the Chairman;
 - (b) Attorney General of the State or his representative who shall not be below the rank of a Director in the Ministry;
 - (c) a Judge of the High Court of Anambra State;
 - (d) the Commissioner of Police in the State or his representative who shall not be below the rank of Deputy Commissioner of Police;
 - (e) the Controller of Correctional Service in the State or his representative who shall not be below the rank of Deputy Controller of Correctional Service;
 - (f) the Director in charge of the National Human Rights Commission Anambra State Branch or his representative not below the rank of Deputy Director;
 - (g) the Chairman of any of the local branches of the Nigeria Bar Association in the State to serve for two years only;
 - (h) the Director in charge of the Legal Aid Council of Nigeria in the State or his representative not below the rank of Deputy Director; and
 - (i) a representative of the Civil Society to be appointed by the Committee to serve for a period of two years only.
- (3) The members of the Committee shall be paid such allowances as applicable to the State Boards, Commissions and Agencies.

**Functions of
the Committee**

- 455.** (1) The Committee shall:
- (a) be charged with the responsibility of ensuring effective and efficient application of this Law by the relevant agencies;
 - (b) be responsible for the formulation of general policy and give such directives for the purpose of realizing the objectives of this Law;
 - (c) meet at least twice in a year.
- (2) The Committee shall further ensure that criminal matters are speedily dealt with:
- (a) congestion of criminal cases in courts is drastically reduced;
 - (b) congestion in the correctional centres is reduced to the barest minimum;
 - (c) persons awaiting trial are, as far as possible, not detained in correctional centres;
 - (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 Anambra State;
 - (e) collate, analyse and publish information in relation to the administration of criminal justice in Anambra State;
 - (f) submit quarterly report to the Chief Judge to keep him abreast of developments towards improved criminal justice delivery and for necessary action; and
 - (h) carry out such other activities as are necessary for the effective and efficient administration of criminal justice under this Law.

**Secretariat of the
Committee**

- 456.** (1) The Committee shall establish and maintain a Secretariat with such number of staff, as it considers necessary for the efficient running of its affairs.
- (2) The Secretariat shall be headed by a Secretary who shall be appointed by the Attorney General from the Ministry of Justice.

- (3) The Secretary shall be a legal practitioner of not less than ten years post call experience and shall possess sound knowledge of the practical functioning of the criminal justice system and adequate experience in justice system administration.
- (4) The Secretary shall be responsible for the execution of the policy of the Committee and the day to day running of the affairs of the Committee.
- (5) The Secretary shall hold office for a term of four years and may subject to satisfactory performance of his functions, be re-appointed for another term of four years and no more.

***Fund of the
Committee***

- 457.** (1) There is established for the Committee a fund into which shall be paid :
- (a) budgetary allocation to it through the Office of the Attorney General;
 - (b) such monies as may from time to time, be provided to the Committee by any public, private or international organization by way of a grant, support or assistance on such terms as are consistent with its functions ;
 - (c) such monies as may be received by the Committee; and
 - (d) in relation to the exercise of its functions under this Law.
- (2) The Secretary of the Committee shall be the accounting officer for the purpose of controlling and disbursing monies from the Fund established under this section.
 - (3) The Secretary shall submit to the Attorney General, not later than 30th September in each financial year, an estimate of its expenditure and income for the next financial year.
 - (4) The Committee shall keep proper accounts and record in respect of each financial year and shall cause its account to be audited not later than two months from the end of each financial year.

Annual Report

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

Power to obtain information

- 459.** (1) For the purpose of carrying out the functions conferred on the Committee under this Law it:
- (a) shall have a right of access to all the records of any of the organs in the administration of justice sector to which this Law applies; and
 - (b) may by notice in writing served on any person in charge of any such organ require that person to furnish information on such matters as may be specified in the notice.
- (2) A person required to furnish information under subsection (1) of this section shall comply with the notice within a stipulated time.

Proceedings and quorum of the Committee

- 460.** (1) The Committee may make standing orders regulating its proceedings.
- (2) The quorum at a meeting of the Committee shall consist of the Chairman or his representative who shall be drawn from within the membership of the Committee and four other members and in the absence of the Chairman his representative shall preside.
- (3) The validity of the proceedings of the Committee is not affected by:
- (a) a vacancy in the membership of the Committee; or
 - (b) a defect in the appointment of a member of the Committee.
- (4) A member of the Committee who has a personal interest in any arrangement entered into or proposed to be considered by the Committee shall disclose his interest to the Committee and shall not vote on any question relating to the arrangement.

CHAPTER 36 – MISCELLANEOUS PROVISIONS

Witness protection: procedure for trial for certain offences

- 461.** (1) A trial for the offences referred to in subsection (4) of this section may not, where the court so determines, be held in an open court.
- (2) The names, addresses, telephone numbers, and identity of the victims of such offences or witnesses shall not be disclosed in any record or report of the

proceedings and it shall be sufficient to designate the names of the victims or witnesses with a combination of alphabets.

- (3) Where in any proceedings the court deems it necessary to protect the identity of the victim or a witness, the court may take any or all of the following measures:
 - (a) receive evidence by video link;
 - (b) permit the witness to be screened or masked; and
 - (c) any other measure that the court considers appropriate in the circumstances.
- (4) The provisions of this section shall apply to offences of rape, defilement, incest and other sexual offences.

***Use of Forms in
Second and
Schedules***

- 462.** (1) Subject to the express provisions, if any, of the *First*, Rules, the Forms and precedents contained in the *Third* First, Second and Third Schedules 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.

Payment of fees

- 463.** Subject to the provisions of sections 464 and 466, in every proceeding before any court, such fees as may be prescribed under this Law shall be paid.

***Court may
fees***

- 464.** A court may in any proceeding in which good cause *suspend* 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***

- 465.** 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 of
Chief Judge to
make rules of court***

- 466.** (1) The Chief Judge may make rules in respect of all or any of the following matters:

- (a) fees to be paid under this Law;
- (b) Forms to be used for the process and procedure of the courts;
- (c) accounts to be rendered of moneys received by any person under this Law;
- (d) the method of issue of process under this Law; and the manner of receipt of and accounting for fees in respect of such process;
- (e) regulating the procedure in connection with information filed by the Attorney General;
- (f) prescribing anything or any person required to be prescribed under the provisions of this Law;
- (g) regulation and management of non-custodial punishments provided under this Law; and
- (h) generally, for carrying into effect the purpose of this Law.

- (2) 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 Magistrates' Courts.

***Power of
Judge to
regulations
for registration and
licensing of bondsperson***

- 467.** (1) The Chief Judge may make a regulation for the *Chief* registration and licensing of corporate bodies or *make* 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 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 a license is liable to a fine of N500,000 (Five Hundred Thousand Naira) or imprisonment for a term not exceeding twelve months or both.
 - (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 bondsperson registered under subsection (1) of this section may undertake bond, act as surety, or guarantee the deposit of money as required by the conditions of bail of a person granted bail by the court within the division or district in which the bondsperson is registered.
- (6) A person or organization shall not be registered as a bondsperson unless the person is, or the organization is composed of persons of unquestionable character and integrity and deposits with the Chief Judge sufficient bank guarantee in such amount as may be determined by the Chief Judge in the regulation, having regard to the registered class or limit of the bond person's bond.
- (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 the bond to which the license permits him to undertake.
- (8) The Chief Judge shall cause to be withdrawn the license of a bondsperson in the following circumstances:
 - (a) where he contravenes the terms of the license;
 - (b) where he unreasonably forfeits his bond for non-production of a defendant under his bond;
 - (c) where he becomes insolvent, bankrupt or otherwise legally incapacitated; or
 - (d) if he is convicted for an offence involving fraud or dishonesty.
- (9) 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; and
 - (b) take the suspect to the appropriate court within 24 hours.

FIRST SCHEDULE

Section 462

FORMS

FORM 1

GENERAL FORM OF TITLE OF PROCEEDINGS

(For use in the High Court)

IN THE HIGH COURT OF ANAMBRA STATE OF NIGERIA

In the High Court of the Judicial Division

Charge No:.....20.....

Between

.....Complainant

And

.....Defendant

(For use in the Magistrates' Courts)

IN THE MAGISTRATES' COURT OF ANAMBRA STATE OF NIGERIA

In the Magistrates' Court of theMagisterial District

Charge No:, 20.....

Between

.....Complainant

And

..... Defendant.

FORM 2
Sections 52 and 370

**ANTI SOCIAL BEHAVIOUR ORDER BOND TO KEEP THE PEACE AND
BE OF GOOD BEHAVIOUR**
(General Title –Form 1)

Before the High/Magistrates' Court of the Judicial
Division/Magisterial District sitting at

.....
The day of 20
A.B., having made a complaint that C.D. hereinafter called the defendant, on the
..... day of at in the
..... aforesaid, did

.....
It is adjudged that the defendant, to the satisfaction of, enter
into a bond in the sum of with
Surety..... in the sum of (each) to keep
the peace and be of good behavior towards the Governor and all persons, and
especially towards the complainant, for the term of now next
ensuing.

And it is adjudged that if the defendant fails to comply with this order he shall
be committed to a correctional centre at
for the period of unless he sooner complies with the order.
If costs are ordered, add:-

And it is ordered that the defendant pay to the said, the sum of
..... for costs (by instalments of for every
days, the first instalment to be paid immediately or on the day of
.....).

And in default of payment, it is ordered that the sum due be levied by distress
and sale of the defendant's goods, and in default of sufficient distress, that the
defendant be committed in the said correctional centre for the period 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).

.....

Magistrate.

FORM 3
Section 158

COMPLAINT

*State concisely the substance of the case
(General Title-Form 1)

The complaint of C.D. (address and description), who upon oath (or affirmation) states that A.B. of (address and description) on the day of, 20, at in theaforesaid, did

.....
.....
...

..... Taken before me this day of
20.....

.....

Magistrate)

Judge (or

FORM 4

Section 98

SUMMONS TO DEFENDANT
(General Title-Form 1)

*State concisely the substance of the complaint

To A.B. of
.....
....

Complaint has been made this day
by..... for that you on the
..... day ofat
..... in the aforesaid
did*

.....
.....
.....

You are therefore hereby summoned to appear before the
..... Magistrates' Court sitting at
.....on the day of
..... at the hour of in the
..... noon to answer to the said complaint.

Dated thisday of
20.....

.....
Magistrate

FORM 5

Sections 111 and 221

**WARRANT FOR APPREHENSION OF DEFENDANT WHO HAS
DISOBEYED SUMMONS**

(General Title – Form 1)

ToPolice Officer or to each and all Police
Officers.

*State concisely the substance of the complaint

Information has been filed/complaint has been made on the day of
..... that A.B. later called the defendant on the
..... day of, at, did*
.....
...
.....
....

And the defendant was then summoned to appear before the High/ Magistrates’
Court of the Judicial Division/Magisterial District sitting at
..... on the day of
..... at the hour of in the
noon, to plead to the said information/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 therefore now commanded to bring the defendant before the High/
Magistrates’ Court of the Judicial Division/Magisterial District
sitting at,to plead to the said information/to answer
to the said complaint and be further dealt with according to law.

Dated the day of 20
.....

.....

Judge (or Magistrate)

FORM 6

Section 112

WARRANT FOR APPREHENSION OF DEFENDANT IN FIRST
INSTANCE

(General Title-Form 1)

*State concisely the substance of the complaint

To Police Officer

Complaint on oath has been made on the day of,
by, that A.B., later called the defendant, on the
day of, at in the,
did*
.....

You are therefore now commanded to bring the defendant before the Magistrates’
Court of the Magisterial District sitting at
.....,to answer the said complaint and be dealt with according
to Law.

Dated the day of20
.....

.....
Judge (or Magistrate)

FORM 7

Section 116

SUMMONS TO WITNESS

(General Title – Form 1)

*State concisely the substance of the complaint

To E. F
Information has been preferred against A.B/A.B has been charged by
.....for that he on the day of,
at,did* and it appearing to me by the
oath of that you are likely to give material evidence on behalf of
the informant (or complainant or defendant), and will not voluntarily appear for
that purpose.

You are therefore now summoned to appear before the High/Magistrates’ Court
of the Judicial Division/Magisterial District sitting at

....., on day of, at the hour of
in the..... noon, to testify to what you know in such matter.

Dated theday of 20

.....

Judge (or Magistrate)

FORM 8

Sections 92 and 370

BOND (FORFEITED)

(General Title - Form 1)

Before the High/Magistrates' Court of theJudicial
Division/Magisterial District sitting at theday of
..... 20

A.B. later called the defendant, was by his bond entered into the
.....day of, bound in the sum of
....., and his sureties C.D. and E.F. in the sum of
each, the condition of the bond being that the defendant
should.....

.....
.....
.....
.....

And it being now proved that the defendant was on the
.....day of, convicted of the offence
having, the same a breach of the condition:

It is therefore adjudged that the bond be forfeited, and that the said
.....pay to the sum of
and the further sum of for costs (by instalments of
for every days, the first instalment to be paid immediately or on the
..... day of); and in default of payment, it is ordered that
the sum due from the said under this adjudication be levied by
distress and sale of his goods, and default of sufficient distress, that he be
committed to a correctional centre at for the period of
..... unless the said sums (and all costs and charges of the said distress
and commitment) be sooner paid.

.....

Judge (or Magistrate)

FORM 9
Section 119

WARRANT FOR APPREHENSION OF A WITNESS

(General Title - Form 1)

To Police Constables or to each and all the Constables of
.....
....

E. F. was duly summoned to appear before High Court/Magistrates' Court of the
..... Judicial Division/Magisterial District sitting at
onday of at the hour of
in the noon, to testify to what he should know concerning a
certain information preferred against A.B./a certain complaint against A.B.

And he has neither appeared to the court, nor offered any just excuse for his
neglect.

And it has been proved on oath that the 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 therefore now commanded to bring him before the High/Magistrates'
Court of the Judicial Division/Magisterial District sitting at
..... immediately to testify to what he knows concerning
the said matter.

Dated theday of20

.....

Judge (or Magistrate)

FORM 10

Section 120

WARRANT FOR APPREHENSION OF WITNESS IN FIRST INSTANCE
(General Title - Form 1)

*State concisely the substance of the complaint

To

Information has been preferred against A.B./A.B. has been charged by
..... for, that he on theday of
....., at in the, did*
.....

And it is appearing to me by the oath of, that E.F. is likely to
give material evidence concerning the matter, and it is probable he will not attend
to give evidence unless compelled so to do:
You are therefore now commanded to bring him before the High/Magistrates'
Court of the Judicial Division/Magisterial District sitting at
..... immediately to testify to what he knows concerning the matter.

Dated the day of
.....20.....

.....
.
Judge (or Magistrate)

FORM 11

Sections 125 and 308

WARRANT OF COMMITMENT OF WITNESS

(General Title - Form 1)

Toand to the Superintendent of
..... Correctional Centre.

E.Fhaving appeared or being brought before the
High/Magistrates' Court of the Judicial Division/Magisterial
District sitting at onday of
at.....in the to testify to what he should know
concerning a certain matter 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
matter and did not offer any just excuse for his refusal.

You, the Police Officer, are now commanded to convey E.F. safely to the
Correctional Centre, and there deliver him to the Superintendent of the
Correctional Centre together with this warrant, and you, the Superintendent of the
Correctional Centre to receive him into your custody, and keep him for the period
ofunless he, in the meantime, consents to be
examined and answer questions concerning the matter.

Dated the day of
20.....

.....
Judge (or Magistrate)

FORM 12

REPORT AND REQUEST FORM FOR REMAND
Section 130(1)(b)

IN THE MAGISTRATES' COURT OF ANAMBRA STATE
IN THE MAGISTRATES' COURT OF THE MAGISTERIAL
DISTRICT
HOLDEN AT

BETWEEN

COMMISSIONER OF POLICE Applicant

AND

XYZRespondent

To: The Registrar of the Court

The Court is informed that there is a probable cause to order the remand of XYZ (state particulars of the Respondent namely age, sex, occupation) of (state details of the Respondent's street address or where there is no precise street address, as clear and close description as possible of the location of the Respondent's last known residence,) 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 Correctional Centre or other place of detention) who is reasonably suspected to have committed the offence of _____ contrary to section _____ of the _____ within _____ magisterial district on or about _____ (state the date or approximate date or period of his committing the alleged offence) on grounds stated below:

Dated this _____ day of _____ 20 _____

Grounds for the Request for Remand

1. Place, time and circumstances 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 commission 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 fingerprints, 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 or 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)

a. Name

Age

Sex

Address

Occupation

b. Name

Age

Sex

Address
Occupation

c. Name
Age
Sex
Address
Occupation

d. Name
Age
Sex
Address
Occupation

e. Name
Age
Sex
Address
Occupation

f. Name
Age
Sex
Address
Occupation

11. Need for further investigation _____ Yes _____ No

12. Period/duration required for further investigation

(state the approximate days/weeks/months required to complete investigation)

13. Any further relevant information

signed: (DPP State/Law officer
or Police Officer)

For service on XYZ

Address of XYZ

FORM 13

Section 130(2)

COMMITMENT ON REMAND
(General Title- Form 1)

Toand to Superintendent of
..... Correctional Centre.

A.B. later called the defendant being brought before the High/Magistrates' Court of the Judicial Division/Magisterial District sitting at, information having been filed that/charged with having

.....
.... The hearing of the case being adjourned;
You, the Police Officer, are now commanded to convey the defendant to the Correctional Centre, and there deliver him to the Superintendent of the Correctional Centre, together with this warrant, and you, the Superintendent of the Correctional Centre, to receive him into your custody, and keep him until theday of, 20....., and on that day to convey him before the High/ Magistrates' Court of the Judicial Division/Magisterial District sitting at at the hour ofin the noon, to be further dealt with according to law.

Dated the day of 20
.....

.....
.
Judge (or Magistrate)

ENDORSEMENT WHERE BAIL IS ALLOWED

I certify that I consent to the defendant being bailed, himself in..... naira andsureties in naira each.

.....
.

Judge (or Magistrate)

FORM 14

Sections 385, 386 and 370

CONVICTION (WITH SECURITY)
(General Title - Form 1)

Before the High/Magistrates' Court of the Judicial
Division/Magisterial District sitting at
the day of 20

.....
A.B. later called the defendant, is this day convicted for, that he on the
..... day of at
..... in the, did

.....
But the Court being of opinion that the offence was of so trifling a nature that it
is inexpedient to impose any (or any other than a nominal) punishment, and the
defendant, having given security to the satisfaction of this Court to appear for
sentence when called upon (or to be of good behavior) is discharged.

If costs are ordered, add:-

And it is ordered that the defendant pay to the, the sum of
..... for costs (by instalments of
..... for every days,
the first instalment to be paid immediately or on the day of
.....)

And in default of payment, it is ordered that the sum due be levied by distress and
sale of the defendant's goods, and in default of sufficient distress, that the
defendant be committed to the Correctional Centre atfor
the period of unless the sum (and all costs and
charges of the distress and commitment be sooner paid).

.....

Judge (or Magistrate)

FORM 15

Sections 349, 386 and 370

CONVICTION (IMPRISONMENT)

(General Title – Form 1)

Before the High/Magistrates' Court of the Judicial
Division/Magisterial District sitting at

.....
the day of 20

.....
A.B. later called the defendant, is this day convicted for, that he on the
.....day of, 20..... at
..... in the did
.....
.....

And it is adjudged that the defendant, for his offence, be imprisoned in the
Correctional Centre atand there kept with hard labour (or
without hard labour) for the period of if costs are ordered,
add:-

And it is ordered that the defendant pay tothe sum of
.....for costs (by instalments of for every
..... days, the first instalment to be paid immediately or on the
..... day of)

And in default of payment, it is ordered that the sum due be levied by distress and
sale of the defendant's goods, and in default of sufficient distress, that the
defendant be imprisoned in the said Correctional Centre for the period of
.....commencing at the termination of the first imprisonment,
unless the said sum (and all costs and charges of the distress and commitment be
sooner paid).

.....

Judge (or Magistrate)

FORM 16

Sections 386 and 370

ORDER FOR MONEY (NOT A CIVIL DEBT)
(General Title - Form 1)

Before the High/Magistrates' Court of the Judicial
Division/Magisterial District sitting at
.....
the day of 20
.....

Information having been filed and A.B. having made a complaint that C.D. later
called the defendant, on the day of
..... at within the
....., did

On the trial of the defendant/on hearing the said complaint, it is ordered that the
defendant pay to the, the sum of,
and also the sum of for costs (by instalments of
..... for every days, the first instalment to be paid
immediately or on the day of
.....)

And in default of payment, it is ordered that the sums be levied by distress and
sale of the defendant's goods, and in default of sufficient distress, that the
defendant be imprisoned in the Correctional Centre at
.....and there kept with hard (or without hard labour) for
the period of, unless the sums (and all costs and charges of
the distress and commitment be sooner paid)

.....

Judge (or Magistrate)

FORM 17

Sections 385, 386 and 370

ORDER OF DISMISSAL WITH DAMAGES
(General Title - Form 1)

Before the High/Magistrates' Court of the
Magisterial District sitting at
.....

the day of, 20
.....

Complaint having been made by A.B. that C.D. later called the defendant, on the
..... day of at
in the, did
.....

And the Court being of opinion that, though the charge is proved, the offence is trifling in nature and it is inexpedient to impose any punishment now dismisses the information:-

But orders that damages and for costs (by instalments of
..... for every days, the first instalment to be paid
immediately or on the day of
.....):

And in default of payment, it is ordered that the sums be levied by distress and sale of the defendant's goods, and in default of sufficient distress, that the defendant be imprisoned in the Correctional Centre at
..... for the period, unless the sums and all costs and charges of the distress and commitment be sooner paid.

.....
Judge (or Magistrate)

FORM 18

Sections 353, 386 and 370

ORDER FOR OTHER MATTERS
(General Title - Form 1)

Before the High/Magistrates' Court of the Judicial
Division/Magisterial District sitting at
.....
the day of20
.....

Information having been preferred against C.D./A.D. having made a complaint
that C.D. later called the defendant, on the day ofat
..... within the....., did
.....

On the trial of the defendant/on hearing the complaint, it is ordered that the
defendant do
.....:

If imprisonment is ordered, add:-

And it is adjudged that if the defendant neglects or refuses to obey this order, he
shall be imprisoned in the Correctional Centre at for the
period ofdays unless the said order be sooner obeyed.

If costs are ordered, add:-

And it is ordered that the defendant pays to the the sum of
.....for costs (by instalments of for every
.....days, the first instalment to be paid immediately or on the
..... day of.....):

And in default of payment, it is ordered that the sum due be levied by distress and
sale of the defendant's goods, and in default of sufficient distress, that the
defendant be imprisoned in the prison for the period ofdays
commencing at the termination of the imprisonment earlier adjudged, unless the
said sum and all costs and charges of the distress and commitment be sooner paid.

.....
Judge (or Magistrate)

FORM 19

Sections 378 , 386 and 370

ORDER OF DISMISSAL

(General Title – Form 1)

*On its merits or without prejudice to its being brought again

Before the Magistrates' Court of the Magisterial
District sitting at

.....
the day of 20

.....
Complaint having been made bythat A.B.later
called the defendant, on the day of
..... at in the
....., did
.....

....

The Court having heard and determined the complaint dismisses the same*

If costs are ordered, add:-

And it is ordered that the complainant pays to the defendant the sum of
.....for costs(by instalments of for every
..... days, the first instalment to be paid immediately or on the
..... day of):

And in default of payment, it is ordered that the sums due be levied by distress
and sale of the complainant's goods, and in default of sufficient distress, that the
complainant be imprisoned in the prison at for the period
ofdays unless the sums and all costs and
charges of the distress and commitment be sooner paid.

.....
Judge (or Magistrate

FORM 20

Sections 201 and 202

SUMMARY CONVICTION FOR INDICTABLE OFFENCE

(General Title - Form 1)

Before Magistrates' Court of the
.....Magisterial District sitting at

.....
the day of20

.....
A.B. later called the defendant, under this Law, is this day charged for, that he on
thedayof at
.....in the did
.....
.....

The defendant is convicted of the said offence:-

And it is adjudged that (proceed as in other forms of conviction).

.....

Magistrate

FORM 21

Sections 302, 386 and 370

CONVICTION (ON PLEA OF GUILTY) FOR INDICTABLE OFFENCE

(General Title - Form 1)

Before the High/Magistrates' Court of theJudicial
Division/Magisterial District sitting at
.....
the day of two thousand and
.....

A.B. later called the defendant, is this day arraigned/charged for, that he on the
..... day of, at in the
....., did
.....

And the defendant having pleaded guilty to such information/the charge, is
convicted of the offence, and is adjudged to be imprisoned in the Correctional
Centre at and there kept with hard labour or without hard
labour for the period of

If costs are ordered, add:-

And it is ordered that the defendant pays to the complainant the sum of
.....for costs (by instalments of for every
..... days, the first instalment to be paid immediately or on the
..... day of

And in default of payment, it is ordered that the sums 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 Correctional Centre for the period
of....., commencing at the termination of the imprisonment
earlier adjudged, unless the sums and all costs and charges of the distress and
commitment be sooner paid.

.....

Judge

or(Magistrate)

FORM 22

Sections 353, 356, 386 and 370

**CONVICTION FOR PENALTY AND, IN DEFAULT OF PAYMENT
IMPRISONMENT**

(General Title - Form 1)

Before the High/Magistrates' Court of the Judicial
Division/Magisterial District sitting at

.....

the day of 20

.....

A.B. later called the defendant, is this day convicted for, that he, on the

..... day of, at

..... within the,

did

And it is adjudged that the defendant for his offence do forfeit and pay the sum
ofand do also pay the further sum of

..... for compensation and

..... for costs (by instalments of

..... for every days, the first

instalment to be paid immediately or on the

.....):

And in the default of payment, it is adjudged that the sums due under this
adjudication be levied by distress and sale of the defendant's goods, and in default

of sufficient distress, that the defendant be committed in Correctional Centre at

..... for the period of

.....
Judge (or Magistrate)

FORM 23

Sections 370 and 372

WARRANT OF DISTRESS (FOR PENALTY)

(General Title - Form 1)

To

.....

A.B.later called the defendant, was on theday of
..... convicted before the High/Magistrates' Court sitting
at for, that he on the day of
..... atin the
....., did
.....

And it is adjudged that the defendant for his offence should be imprisoned (or
forfeit and pay the sum of), and should also pay the sum
of for compensation and for costs by
instalments of forevery days, the first
instalment to be paid immediately or on the day
of, and in default of payment, the sum
(or sums) should be levied by distress.

You are now commanded to make distress of the goods of the defendant including
the tools and implements of his trade (except the wearing apparels and beddings
of him and his family), and to value of naira; and if within the
period of five clear days next after the making of the 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 distress
be not paid, then to sell the goods, and pay the money arising from the sale to the
registrar of that Court, and if no such distress can be found, to certify the same to
that Court.

DATED theday of
.....20.....

.....
Judge (or Magistrate)

Amount adjudged/ordered

Paid

Balance due

Cost of issuing this warrant

Total amount to be levied.....

Sections 233 and 462

CHARGES

UNDER CRIMINAL CODE WITH ONE HEAD

Section 125(a) of the Criminal Code

1. That you on theday of at being employed in the public service, and being charged with the performance of a duty by virtue of such employment, *corruptly asked, received or obtained, or agreed or attempted to receive or obtain, any property or benefit of any kind for yourself or any other person on account of anything already done or omitted to be done, or to be afterwards, done or omitted to be done, by you in the discharge of the duties of your office and thereby committed an offence punishable under section 125 of the Criminal Code.

Section 146 of the Criminal Code

2. That you, on theday of, at being a witness upon the trial of case in the Magistrates' Court of theMagisterial District sitting atin which one was complainant and one was defendant, knowingly falsely swore that you saw one M.N. snatch a leather wallet from one Y.Z. in a street called Ring Road, Awka on the day of, and thereby committed an offence punishable under section 146 of the Criminal Code.

Section 148 of the Criminal Code

3. That you, on the day of at ... with intent to mislead the Court in the course of the trial offabricated evidence by means other than perjury to wit: and thereby committed an offence punishable under section 148 of the Criminal Code.

Section 247(a)(i) of the Criminal Code

4. That you, being a prostitute on theday of

.....at,
behaved in an indecent manner by loitering at Ifite Road Awka and persistently soliciting persons for the purpose of prostituting, and thereby committed an offence punishable under section 247(a) of the Criminal Code.

Section 279 of the Criminal Code

5. That you, on theday of at, unlawfully killed and thereby committed an offence punishable under section 279 of the Criminal Code.

Section 280 (c) of the Criminal Code

6. That you, on theday of at, aided A.B. in killing himself and thereby committed an offence punishable under section 280(c) of the Criminal Code.

Section 288 (a) of the Criminal Code

7. That you, on theday of at, with intent to maim, disfigure, or disable or to do some grievous harm or to resist the lawful arrest of A.B. unlawfully wounded C.D. and thereby committed an offence punishable under Section 288(a) of the Criminal Code.

*The words not applicable must be deleted and the nature of the property or benefit must be specified.

Section 297(a) of the Criminal Code

8. That you on theday of at, unlawfully wounded and thereby committed an offence punishable under section 297(a) of the Criminal Code.

Section 255 of the Criminal Code

9. That you, on the day of at unlawfully and indecently assaulted M.S. and thereby committed an offence punishable under section 255 of the Criminal Code.

Section 364 of the Criminal Code

10. That you, on theday ofat
..... robbed C.D. of (state the thing) and thereby
committed an offence punishable under section 364 of the Criminal Code.

Section 386 of the Criminal Code

11. That you, on theday ofat
....., with intent to defraud, obtained from S.P. five
meters of abada material by falsely pretending that you are a servant to J.S.
and that you were sent by the said J.S. to S.P. to collect the said abada
material on behalf of J.S. and thereby committed an offence punishable
under section 386 of the Criminal Code.

12. That you, on theday of at
....., with intent to defraud, obtained from A.B.
.....by falsely pretending that you are able to
double money.

Section 396 of the Criminal Code

13. That you, on the day ofat
....., had in your possession one gold
watch reasonably suspected to be stolen or unlawfully obtained and
thereby committed an offence punishable under section 396 of the
Criminal Code.

Section 416 of the Criminal Code

14. That you, on the day of at
..... willfully and unlawfully set fire to
..... and thereby committed an offence
punishable under section 416 of the Criminal Code.

Section 443 of the Criminal Code

15. That you, on theday of at

....., forged an accountable receipt purporting to
be the receipt of C.D., and thereby committed an offence punishable under
section 443(3)(h) of the Criminal Code.

CHARGES WITH TWO OR MORE HEADS

Section 216 of the Criminal Code

16. First,

That you, on the day of at
.....unlawfully supplied to C.D. (statethe 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 216 of the Criminal Code.

Second

That you, on or about the day ofat
....., unlawfully procured for C.D (state
the 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 216 of the Criminal Code.

Section 246(a) of the Criminal Code

17. First,

That you, on theday ofat
....., sold matches made with white (yellow)
phosphorous and thereby committed an offence punishable under section
246(a) of the Criminal Code.

Second,

That you, on the day ofat
..... had in your possession, for the purposes
of sale of matches made with white (yellow) phosphorous and thereby
committed an offence punishable under section 246(a) of the Criminal
Code.

Section 353 of the Criminal Code

18.First,

That you, on the day ofat
....., stole (state the thing stolen) the property of C.D.
and
thereby committed an offence punishable under Section 353 of the
Criminal Code.

Second,

That you, on theday ofat
....., stole, (state the thing stolen) which was
entrusted to you by C.D. to retain in safe custody and thereby committed
an offence punishable under Section 353(8)(b) of the Criminal Code.

Third,

That you, on theday of at
....., stole (state the thing stolen) which you received
for and on behalf of C.D. and thereby committed an offence punishable
under Section 353(8)(c) of the Criminal Code.

MISCELLANEOUS

19. That you, being the holder of a retail liquor license, on theday
of
..... permitted drunkenness to take place on your
premises situate at and thereby committed an
offence punishable under section 40(a) of the Liquor Law.

20. That you, on theday of
at..... kept a dog over the age of three months

without a license and thereby committed an offence punishable under section 19 of the Dogs Law.

21. That you, on theday of at , being an unlicensed person, for or in the hope of obtaining a reward offered to act as a guide and thereby committed an offence contrary section 5(1) and punishable under section 10 of the Unlicensed Guides (Prohibition) Law.

22. That you, on theday of at..... , drove a motor vehicle on the highway recklessly, having regard to all the circumstances of the case and thereby committed an offence punishable under section 44 of the Road Traffic Law.

THIRD SCHEDULE

Sections 209 and 462 of ACJL

1. STATEMENT OF OFFENCE

Perjury, contrary to section 146 of the Criminal Code.

Particulars of Offence

A.B., on the day of,
20.....at..... in the Local
Government Area being a witness at the trial of an action in the High Court
of Anambra State Onitsha in which onewas claimant,
and one was defendant, knowingly gave false
testimony that he saw one M.W. at New Market Road, Onitsha, on the
..... day of, 20.....

2. STATEMENT OF OFFENCE

Uttering counterfeit seal, contrary to section 444 of the Criminal Code.

Particulars of Offence

A.B., on theday of
20..... atmarket in the
.....Local Government Area uttered a counterfeit
seal, knowing the same to be counterfeit.

3. STATEMENT OF OFFENCE

Murder, contrary to section 274 (1) of the Criminal Code.

Particulars of Offence

A.B., on theday of, 20.....
in the Local Government Area of, murdered
J.S.

4. STATEMENT OF OFFENCE

Accessory after the fact to murder, contrary to section 277 of the
Criminal Code.

Particulars of Offence

A.B., well knowing that one, H. C., did on theday of
....., 20....., in the division of murdered
C.C., did on day of20.....
.....and on other days thereafter receive, comfort, harbour, assist and
maintain the said H.C.

5. STATEMENT OF OFFENCE

Manslaughter, contrary to section 279 of the Criminal Code.

Particulars of Offence

A.B., on theday of,
20....., in In the
Local Government Area unlawfully killed J.S.

6. STATEMENT OF OFFENCE – FIRST COUNT

Wounding with intent, contrary to section 288 of the Criminal Code.

Particulars of Offence

A.B., on the day of,
20..... in In the Local
Government Area, with intent to maim, disfigure or disable, or to do
some grievous harm, or to resist the lawful arrest of C.D., wounded E.F.

Particulars of Offence

STATEMENT OF OFFENCE –SECOND COUNT

Wounding, contrary to Section 297(a) of the Criminal Code.

A.B., on theday of, 20.....,
inin the Local
Government Area, unlawfully wounded C. D.

7. STATEMENT OF OFFENCE

Rape, contrary to section 309 of the Criminal Code.

Particulars of Offence

A.B., on the day of,
20..... in in the
.....Local Government Area of had carnal
knowledge of C.D.without her consent.

8. STATEMENT OF OFFENCE

Publishing defamatory matter, contrary to section 326 of the Criminal
Code.

Particulars of Offence

A.B., on the day of,
20.....in in the
..... Local Government Area, with intent to
extort money or other property or induce any property or benefit of any
kind published defamatory matter in the form of a letter, book, pamphlet,
picture, or as the case may be.

9. STATEMENT OF OFFENCE – FIRST COUNT

Stealing, contrary to section 353 of the Criminal Code.

Particulars of Offence

A.B., on the day of, 20.....
in in the Local
Government Area of stole a bag, the property of C.D.

STATEMENT OF OFFENCE – SECOND COUNT

Receiving stolen goods, contrary to section 393 of the Criminal Code.

Particulars of Offence

A.B., on the day of 20.....
inin the,
Local Government Area of received a bag, the property of C.D., knowing
the same to have been stolen.

10. STATEMENT OF OFFENCE

Stealing by clerks and servants, contrary to section 353(6) of the Criminal
Code.

Particulars of Offence

A.B., on theday of
20..... in in the
..... Local Government Area, being clerk or
servant to M.N., stole from the said M.N. ten meters of abada material.

11. STATEMENT OF OFFENCE – FIRST COUNT

Stealing by agents and others contrary to section 353(8)(b) of the Criminal
Code.

Particulars of Offence

A.B., on the day of 20.....
in in the Local
Government Area, stole the sum of two hundred thousand naira which was
entrusted to him by L.M., for him A.B. to retain in safe custody.

STATEMENT OF OFFENCE – SECOND COUNT

Stealing by agents and others contrary to section 353(8)(c) of the Criminal
Code.

Particulars of Offence

A.B., on the day of 20.....
in in the
.....Local Government Area stole the sum of
two hundred thousand naira which was received by him for and on behalf
of L.M.

12. STATEMENT OF OFFENCE

Robbery contrary to section 364 of the Criminal Code.

Particulars of Offence

A.B., on the day of
20..... in in the
.....Local Government Area with
violence robbed C.D. of a watch at, or immediately before or immediately
after the robbery.

13. STATEMENT OF OFFENCE

Demanding property by written threats, contrary to section 372 of the
Criminal Code.

Particulars of Offence

A.B., on the day of 20.....
inin the
.....Local Government Area with intent to
extort money from C.D. caused the said C.D. to receive a letter containing
threats of injury or detriment to be caused to E.F.

14. STATEMENT OF OFFENCE

Attempt to extort by threats, contrary to section 373 of the Criminal
Code.

Particulars of Offence

A.B., on the day of
20..... in in the
.....Local Government Area with intent to
extort money from C.D., caused or threatened to accuse the said C.D. of an
unnatural offence.

15. STATEMENT OF OFFENCE

Obtaining goods by false pretences, contrary to section 386 of the Criminal
Code.

Particulars of Offence

A.B., on the day of 20.....
inin the
Local Government Area with intent to defraud, obtained from S.P five
meters of abada material by falsely pretending that he, A.B., was a servant
to J.S., and was sent by him to S.P. and authorized by the said J.S. and on
his behalf to collect and receive the abada material, from the said S.P.

16. STATEMENT OF OFFENCE

Burglary, contrary to Section 378, and stealing contrary to section
353(4)(b) of the Criminal Code.

Particulars of Offence

A.B., on the day of 20.....
in in the
Local Government Area of did break and enter the dwelling house of C.D.,
with intent to commit a felony in the house, namely to steal, and did steal
in the house, one watch, the property of S.T.

17. STATEMENT OF OFFENCE

Conspiracy to defraud, contrary to section 497 of the Criminal Code.

Particulars of Offence

A.B. and C.D., on the day of
20..... inin the
.....,..... Local Government Area conspired together
with intent to defraud by means of an advertisement inserted by them, A.B.
and C.D., in the H.S. newspaper, falsely pretending that they, A.B. and

C.D., were then carrying on a genuine business as jewellers atin the Local Government Area and that they were then able to supply certain articles of jewellery to whoever would remit to them the sum of

18. STATEMENT OF OFFENCE –FIRST COUNT

Fraudulent false accounting, contrary to section 408(b) of the Criminal Code.

Particulars of Offence

A.B., on the day of 20..... inin the....., Local Government Area being clerk or servant to C.D., with intent to defraud, made, or was privy to making a false entry in a cash-book belonging to C.D. his employer, purporting to show that on that day, the sum of two hundred thousand naira was paid to L.M.

STATEMENT OF OFFENCE – SECOND COUNT

Fraudulent false accounting, contrary to section 408(c) of the Criminal Code.

Particulars of Offence

A.B., on the day of, 20..... in in theLocal Government Area being clerk or servant to C.D., with intent to defraud, omitted or was privy to omitting from cash-book belonging to C.D., his employer, material particular, that is to say, the receipt on that day of the sum of one hundred thousand naira from H.S.

19. STATEMENT OF OFFENCE

Arson, contrary to section 416 of the Criminal Code.

Particulars of Offence

A.B., on the day of 20..... inin theLocal Government Area willfully and unlawfully set fire to a house at

20. STATEMENT OF OFFENCE

Arson, contrary to section 416 of the Criminal Code. C.D., accessory before the fact to same offence.

Particulars of Offence

A.B., on the day of
20..... in, in the
.....,..... Local Government Area willfully and
unlawfully set fire to a house and C.D., on the same day and at the same
place did counsel or procure the said A.B. to commit the offence.

21.STATEMENT OF OFFENCE

Damaging trees, contrary to section 410 of the Criminal Code.

Particulars of Offence

A.B., on the day of
20..... in , in the
....., Local Government Area willfully
and unlawfully damaged a cocoa tree from growing.

22. STATEMENT OF OFFENCE – FIRST COUNT

Forgery, contrary to section 443(3)(f) of the Criminal Code.

Particulars of Offence

A.B., on the day of
20..... in, in the
.....Local Government Area forged a
certain Will purporting to be the Will of C.D.

STATEMENT OF OFFENCE – SECOND COUNT

Uttering a false document, contrary to section 449(b) of the Criminal
Code.

Particulars of Offence

A.B., on the day of
20..... inin the
..... Local Government Area knowingly and
fraudulently uttered a certain forged will purporting to be the will of C.D.

23. STATEMENT OF PREVIOUS CONVICTION

Prior to the commission of the said offence, A.B. was previously convicted of burglary on the day of , 20 at the Sessions held at

FOURTH SCHEDULE

Section 335

ORDER FOR SENTENCE OF DEATH TO BE CARRIED OUT

ORDER FOR EXECUTION

WHEREAS at the session of the High Court Holden at on the day of, 20.....,one was duly convicted of a capital offence and was sentenced to death:

AND WHEREAS a copy of the finding and sentence and of his notes of evidence taken on the trial has been forwarded to me by the Presiding Judge, with a report in writing signed by him:

AND WHEREAS I have been advised by the member of the Executive Council designated in that behalf:

NOW THEREFORE, I, order that the sentence be carried out according to Law, and that be executed at at a time to be appointed by the Sheriff at Local Government Area, and that the body of 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 Anambra State of Nigeria, this day of,20.....

.....
Governor of Anambra State of Nigeria

To the Sheriff atLocal Government Area.

Section 336

ORDER FOR SENTENCE OF DEATH TO BE COMMUTED
ORDER FOR COMMUTATION OF SENTENCE

WHEREAS at the session of the High Court Holden at on theday of, 20....., one was duly convicted of a capital offence and was sentenced to death by the

AND WHEREAS a copy of the finding and sentence and of his notes of evidence taken on the trial has been forwarded to me by the Presiding Judge, with a report in writing signed by him;

AND WHEREAS I have been advised by the member of the Executive Council designated in that behalf;

NOW THEREFORE, I commute the sentence and direct that the sentence be not carried out, and that in lieu of the sentence,
..... be imprisoned for
.....

GIVEN under my hand and the Public Seal of Anambra State of Nigeria, this
.....day of, 20

.....
Governor of Anambra State of Nigeria.

To the Superintendent of the Correctional Centre; and
The Sheriffat Local Government Area

ADMINISTRATION OF CRIMINAL JUSTICE LAW
SUBSIDIARY LEGISLATION

Administration of Criminal Justice Rules
made under Section 466

1. These rules may be cited as the Administration of Criminal Justice Rules.

Payment of fees: First Schedule

2. The fees prescribed in the First Schedule to these Rules shall, unless remitted or waived, be payable by the party prosecuting a proceeding or asking for a service as provided in respect of the proceedings or services to which they relate.

Allowances to witnesses

3. Allowances may be made to witnesses in accordance with the provisions of the High Court Rules, or of the Magistrates' Courts Rules, according as they are summoned before the High Court or a Magistrates' Court.

Forms in the Second Schedule

4. The Forms in the Second Schedule to these Rules shall, (together with the title of proceedings prescribed in Form 1 in the First Schedule to the Law, where the case admits) be used in connection with the proceedings for which they are provided and may be varied to suit the circumstances of the case but so that no variation of substance shall be made.

FIRST SCHEDULE

Rule 2

All fees, the appropriation of which is not specified are to be paid to the Registrar and accounted for by him to the Accountant-General.

No fees are to be taken in respect of any proceeding where such fees would be payable by any Ministry or non-ministerial department of the Government or a Local Government Council -

Provided however that when any person is ordered to pay the costs of the State or of any Ministry or non-ministerial department of the Government or a Local Government Council in any case, all fees which would have been payable but for the provisions of these Rules shall be taken as paid and shall be recoverable from such person.

Fees may be waived or remitted by the Court on the ground of the poverty of the person chargeable with the fees where it appears that there are substantial grounds for his taking the proceeding or asking for the service to be rendered -

Provided however that the Court may, where the Court so thinks fit, order any party to pay any fees so waived or remitted.

FEES PAYABLE

	₦	K
1. On every summons (to include hearing fee)	300.	00
2. On every warrant to arrest (unless specially directed by the court to be issued)	350.	00

Execution mileage per kilometer	50.00
3. On search warrant.....	350.00
Execution mileage per kilometer	50.00
4. On warrant of distress	350. 00
Execution mileage per kilometer	50.00
5. On every subpoena (unless specially directed by the Court to be issued)	200. 00
Execution mileage per kilometer	50.00
6. On warrant for prisoner to give evidence	200.00
Execution mileage per kilometer	50.00
7. For searching the archives, for each period of twelve months or part thereof	100.00
8. For preparing a copy where authorized: per folio of 72 words.....	100.00
9. Service of any document Initial fee	300.00
Plus Mileage fee per kilometer.....	50.00

Notes: Where an officer serves more than one document or writ on the same route one mileage rate only is to be charged, and apportioned upon the documents or writs.

Where the sheriff, deputy sheriff or a registrar executes any duty in person by direction of the court, he is entitled, instead of mileage fees, to his actual expenses and such travelling allowance as the court may allow.

When a service is rendered by a person who is not an officer of the Court or in the service of the Government or of a Local Government Council or a Customary Court, the Court may direct that the fee paid for such service be paid out of revenue to the person who has rendered the services.

In addition to the above fees, the party on whose behalf such services are to be performed shall be liable to pay such expenses of transport as the court may think reasonable and for the performing of any other duty not herein expressly provided for the officer may receive such fee as the court may allow.

SECOND SCHEDULE

Rule 4

FORM A

BOND

(Title of proceeding)

By this bond the undersigned principal party and surety (or sureties) acknowledges himself (or acknowledge themselves) bound to forfeit to the Governor, the sum of N, subject only to this condition, that if (here insert the condition of the bond) then this bond shall be discharged.

..... Principal Party
.....}
.....} Sureties
.....}

Taken before me at thisday of20.....

FORM B
WARRANT TO BRING A PRISONER BEFORE THE COURT

(Title of proceedings)

To the Keeper of the Correctional Centre at

Whereas

a prisoner under custody is required to be produced before the court:

You are now commanded to produce the prisoner before the Court at

.....on the day of

.....,20.....at nine o'clock in the forenoon.

Issued aton theday of, 20.....

Court Fees:

Warrant

Hearing

Total

.....

Judge (or Magistrate)

FORM C

WARRANT REMITTING DEFENDANT TO ANOTHER COURT

(Title of Proceedings)

To and,

to the Superintendent of the Correctional Centre:.

A.B., latercalled the defendant, being brought before the above court charged with having committed the following offences within the Magisterial District of

namely, (state the offence)

You are now commanded to receive and detain the defendant and to carry him and deliver him up to the Court without delay.

Dated theday of, 20
.....

.....

Judge (or Magistrate)

Note:- This form may be varied to suit the case in section 170(1) of the Law.

FORM D
SEARCH WARRANT

In the Magistrates' Court of theMagisterial District.

To and

Whereas information on oath and in writing has this day 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 paragraphs (a), (b) or (c) of section 35 of the Law);

You are now commanded in the Governor's name, with proper assistance, to enter the above named (state the place to be searched) and there diligently search for the things, mentioned earlier and if they or anyone part of them are found on search, to bring the things so found, (name the occupier of the place to be searched) before this Court to be dealt with according to Law.

This warrant shall be executed between the hours of five o'clock in the forenoon and eight o'clock at night * and may also be executed at any hour during the day or night.

Issued atthis day of,
20.....

.....

Magistrate

Fees:

*Strike out if not authorized.

FORM E
WARRANT TO ARREST A PERSON FAILING TO APPEAR
PURSUANT TO BOND
(Title of Proceedings)

To

And

Whereasof is bound by bond to appear before this court on (state when) but has failed so to appear:

You are now commanded to arrestand bring him before me atwithout delay.

.....
Judge (or Magistrate)

FORM F
WARRANT TO CARRY OUT SENTENCE
(Title of Proceedings)

Toand to the Superintendent of Correctional Centre:

The defendant,was on theday of, 20....., sentenced as follows:-

NO.	Offence	Term, Fine, Compensation or Costs	Term in default

--	--	--	--

The defendant has made default in payment of the above sum (or sums, or first and second above-named sums, or as the case may be).

The imprisonment is to commence immediately (or upon the expiration of 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 the case may be).

(The imprisonment is to be without hard labour).

You are now commanded to take the defendant (and imprison him) in accordance with the above sentence and the Law

Dated thisday of
20.....

.....

Judge (or Magistrate)