

ADMINISTRATION OF CRIMINAL JUSTICE BILL, 2020

A Law to make provision for speedy and efficient administration of criminal justice in all courts and by all agencies in Ondo State of Nigeria.

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PRELIMINARY, ARREST, BAIL AND PREVENTIVE JUSTICE

PART 1 PRELIMINARY

	Citation
1. (1) This Law may be cited as the Administration of Criminal Justice Law, 2020	

(2) This Law shall apply to Ondo State of Nigeria.

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

(4) The Administration of Criminal Justice Law of 2015 is hereby repealed. Repeals

(5). All offences under the Criminal Code or any other enactment creating an offence shall be investigated, inquired into, tried and otherwise dealt with according to the provisions of this Law, except where there are specific provisions in such enactment in relation to the manner or place of inquiry or trial.

Arrests, investigation, and trial of all offences

2. (1) In this Law, unless the context otherwise requires - “adult” means a person who has attained the age of eighteen years or over;

Interpretation

“asylum” includes a lunatic asylum, a mental or other hospital, a correctional facility and any other suitable place of safe custody of person of unsound mind for medical observation;

“charge” means the statement of offence or statements 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 High court or any Court or Tribunal established by law;

“Chief Judge” means the Chief Judge of the High Court of Ondo State;

“child” means a person under the age of eighteen years”

“Complainant” includes any informant or prosecutor in any case relating to summary trial

“Complaint” means the allegation that any named person has committed an offence made before a court for the purpose of moving the court to issue process for summary trial under this Law;

“court” means any court of civil or criminal jurisdiction

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

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

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

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

“Law of Ondo State” means a Law enacted by the Ondo State House of Assembly or having effect as if it were a Law enacted by the Ondo State House of Assembly and includes any order, regulation, rule of court or proclamation made under the authority of such Law;

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

“fine” includes any pecuniary penalty or pecuniary forfeiture or pecuniary compensation payable under a conviction;

“future enactment” means any enactment 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 cognizance 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 child or young person;

“High Court” means the High Court of Ondo State.

“indictable offence” means any offence –

- (a) which on conviction may be punished by a term of imprisonment exceeding two years, or
- (b) which on conviction may be punished by imposition of a fine exceeding forty thousand Naira; or
- (c) 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

“infant” means a person who has not attained the age of seven years;

“Judge” means a Judge of the High Court of Ondo State

“Justice of the Peace” means a person appointed to be a Justice of the Peace under the Law of Ondo State;

“juvenile offender” means an offender as defined in the Child Rights Law;

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

“legal guardian” in relation to an infant, child, young person, or juvenile offender, means a person appointed, according to law, to be his guardian by deed or will, or by order of a court of competent jurisdiction;

“Magistrate” means a Magistrate appointed in accordance with the Law of Ondo State.

“Magistrate’s court” means a Magistrate’s court established under the Law of Ondo State;

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

“offence” means an offence against any enactment in force in Ondo State;

“officer in charge of a police station” includes, when the officer in charge of the police station is absent from the station building or unable for any reason to perform his duties, the police officer present at the station building who is next in seniority to, or who in the absence of such officer in charge, performs the duty of such officer;

“open court” means any room or space in which any court shall be sitting to hear and determine any matter within its jurisdiction and to which room or place the public may have access so far as the same can conveniently contain them;

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

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

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

“Police officer” includes any member of the police force established by the Police Act;

“prescribe” means prescribed by rules made under the authority of this law;

“Registrar” includes the Chief Registrar and a Registrar of any court;

“rules” or “the rules” means rules of court relating to the practice and procedure of the High Court or of the Magistrates’ Courts in the exercise of their criminal jurisdiction;

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

“Sheriff” means a sheriff within the meaning of the Sheriffs and Civil Process Act and includes a Deputy Sheriff and any person authorized by the Sheriff or a Deputy Sheriff to execute process of a court;

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

“summary court” means unless the same is expressly or by necessary implication qualified –
 (a) a Judge of the High Court when sitting in court and presiding over a summary trial, and
 (b) any Magistrate when sitting in open court to hear and determine any matters within his power and jurisdiction either under the provisions of this Law or any other written Law,
and such Judge when so sitting and presiding, and such Magistrate when so sitting as earlier said, shall be deemed to be a “court” or ‘summary court’ within the meaning of this Law;

“summary trial” means any trial by a Magistrate and a trial by a Judge in which an information has not been filed against the defendant

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

“suspect” means any person who has been arrested on the suspicion of committing any offence, and who is yet to be formally charged for that offence.

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

PART 2

ARREST GENERALLY

3. (1) Except when the person arrested is in the actual cause of the commission of a crime or is pursued immediately after the commission of a crime or escaped from lawful custody, the police officer or other person making the arrest shall inform the person arrested of the cause of the arrest.

(2) The police officer or the person making the arrest or the police officer in charge of a police station or any law enforcement agency shall inform the person arrested of his rights to:

(a) remain silent or avoid answering any question until after consultation with a legal

Notification of
cause of arrest
and rights of
the defendant

practitioner or any other person of his choice; (b) consult a Counsel of his choice before making or writing any statement or answering any question put to him after the arrest. (3) The police officer or the person making the arrest shall inform the person arrested that he may apply for legal representation from the Office of the Public Defender, Legal Aid Council or any such agency.	
4. No person shall be arrested in lieu of any other person.	Arrest in lieu
5. A person arrested shall not be handcuffed, otherwise bound or be subjected to unnecessary restraint except by order of the court, a Magistrate or Justice of the Peace or unless there is reasonable apprehension of violence or an attempt to escape or unless the restraint is considered necessary for the safety of the person arrested.	No unnecessary restraint
6 (1) any person arrested shall be accorded humane treatment, having regard to his right to the dignity of his person. (2) No arrested person shall be subjected to any form of torture, cruel, inhuman and degrading treatment. (3) No person shall be arbitrarily arrested, or arrested on allegations that border on civil breach of contract, but the arrest shall be based on reasonable suspicion that the person arrested committed or is about to commit a criminal activity punishable as an offence under any law. (4) Any person arrested shall be brought to the court for his arraignment and trial within the time prescribed by the Constitution of the Federal Republic of Nigeria.	Humane treatment of arrested person
7. (1) Whenever a person is arrested by a police officer or a private person, the police officer making the arrest or to whom the private person hands over the person arrested may search such person, using such force as may be reasonably necessary for such purpose, and place in safe custody all articles other than necessary wearing apparel found upon him; Provided that whenever the person arrested is admitted to bail and bail is furnished, such person shall not, subject to the provisions of subsection (7) of this section, be searched unless there are reasonable grounds for believing that he has on his person, any - (a) stolen articles; or (b) instruments of violence or poisonous substance; or (c) tools connected with the kind of offence which he is alleged to have committed; or (d) other articles which may furnish evidence against him in regard to the offence, which he is alleged to have committed.	Search of arrested persons
(2) Whenever it is necessary to search a person, he shall be searched by a person of the same sex with reasonable sense of decency.	
(3) Notwithstanding the other provisions of this section, any police officer or other person	

making an arrest may in any case take from the person arrested any instruments of violence or poisonous substance which he has on his person.

(4) Where any property has been taken under this section from a person charged before a court of competent jurisdiction with any offence, a report shall be made by the police to such court of the fact of such property having been taken from the person charged and of the particulars of such property, and the court shall, if of the opinion that the property or any portion thereof can be returned consistently with the interests of justice and with the safe custody of the person charged, direct such property or any portion thereof to be returned to the person charged or to such other person as he may direct.

(5) Where any property has been taken from a person under this section, and the person is not charged before any court but is released on the ground that there is no sufficient reason to believe that he has committed any offence, any property so taken from him shall be restored to him.

(6) Where any person is in lawful custody upon suspicion of committing an offence of such a nature and alleged to have been committed in such circumstances that there are reasonable grounds for believing that an examination of his person will afford evidence as to the commission of the offence it shall be lawful for a qualified medical practitioner, acting at the request of a police officer, or if no such practitioner is procurable, then for such police officer, and for any person acting in good faith in aid and under the direction of such practitioner or police officer, as the case may be, to make such an examination of the person so in custody as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use such force as is reasonably necessary for that purpose.

(7) (a) Upon arrest, a police officer making the arrest or to whom the private person hands over the person arrested shall record an inventory duly signed by the police officer and the arrested person of the particulars of all items or properties recovered from or about the person arrested. Inventory of items recovered

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

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

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

(3) Whenever the person to be arrested enters an apartment in the actual occupancy of another person being a woman who by custom does not appear in public, the person making the arrest,

before entering the apartment, shall give notice to such a woman that she is at liberty to withdraw and shall afford her every reasonable opportunity and facility for withdrawing, and may then enter the apartment provided that the notice shall not be necessary where the person making the arrest is a woman.

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

Power to break out of any house for purpose of liberation

10. (1) Any person who is arrested, whether with or without a warrant, shall be taken with all reasonable dispatch to a police station, or other place for the reception of arrested persons, and shall without delay be informed of the allegation against him.

Arrested persons to be taken at once to police station

(2) Any person who is arrested and detained shall be given reasonable facilities for obtaining legal advice, taking steps to furnish bail and otherwise making arrangements for his defence or release.

(3) Whenever any person who is arrested, with or without warrant, volunteers to make a confessional statement, the police officer shall ensure that the making or taking of such statement is recorded in video and the said recording and copies thereof may be produced at the trial provided that in the absence of video facility the said statement shall be in the writing of the suspect or his nominee and in the presence of a legal practitioner of his choice who will endorse the statement, where such counsel is present, willing and ready to so endorse.(to adopt the review done by the MOJ already sent to the House of Assembly)

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

Recording of arrests

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

(2) The process of recording in subsection 1 of this section shall be concluded within a reasonable time of the arrest of the person, but not exceeding 48 hours.

(3) Any further action in respect of the person arrested pursuant to Subsection (1) and (2) shall be entered in the record.

(4) Where the person arrested is charged and tried, the Registrar of the court shall on conclusion of the trial forward to the Police the decision of the court and the Police shall make entry of the outcome of the decision of the court accordingly.

(5) (a) There shall be established at the State Command of the Nigeria Police Force a Central Criminal Records Registry.

Central
Criminal
Record
Registry

(b) Any police officer in charge of any police station, or officers in charge of any agency authorized by law to make arrest and take records as provided in subsection 1 of this section, shall forward to the Central Criminal Record Registry on the first week of every month all record as described in this section of the preceding month taken at that station or agency in the manner provided in subsection (1) of this section for entry into the Registry; Provided that the person arrested or his legal representative shall have access to all the information in the register with regard to his arrest or information relevant for his defence.

(6) Where there is default by any officer in charge of a police station or official in-charge of any agency authorized to make arrest to comply with the provisions of this section, such default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police Regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of such officer or official of such agencies.

(7) The officer in charge of the legal unit of the Police or any person acting in that capacity shall make available to the Administration of Criminal Justice Monitoring Committee, upon request, all documents and records in the Central Criminal Records Registry.

12. (1) Where a person is arrested on allegation of having committed an offence, his statement shall be taken in the presence of the legal practitioner of his choice, or where he has no legal practitioner of his own, in the presence of Legal Aid counsel, official of a civil society organization, a Justice of the Peace or any other person of his choice.

Recording of
Statement of
Suspects

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

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

(4) The person referred to in sub section (1) of this section shall also endorse with his full particulars the statement as having witnessed the recording of the statement. (to adopt the review done by the MOJ already sent to the House of Assembly)

ARREST WITHOUT WARRANT AND PROCEDURE THEREON

13. (1) Any police officer may, without an order from a Magistrate and without a warrant, arrest –

Arrest by
police officer
without
warrant

(a) any person whom he suspects upon reasonable grounds of having committed an offence against a Federal Law or against the Law of Ondo State or against the Law of any other State, unless the written law creating the offence provides that the offender cannot be arrested without a warrant;

(b) any person who commits any offence in his presence notwithstanding any provision in this Law that an arrest may not be made without a warrant;

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

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

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

(f) any person whom he suspects upon reasonable grounds of having been concerned in any act committed at any place out of Nigeria which, if committed in Nigeria, would have been punished as an offence, and for which he is, under any enactment in force in Nigeria, liable to be apprehended and detained in Nigeria;

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

(h) any person for whom he has reasonable cause to believe a warrant of arrest has been issued by a court of competent jurisdiction in Ondo State;

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

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

(3) The Commissioner of Police shall remit to the Office of the Attorney-General a record of

all arrests made with or without a warrant in relation to State Offences within one week of arrest and the Office of Attorney-General shall within one week of the receipt of the records of arrest provide the Commissioner of Police with legal opinion on the appropriate action to be taken in respect of the state offences.

(4) If such person upon being brought before the Magistrate still refuses, the Court may deal with him as it should deal with an uncooperative witness under this Law.

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

Refusal to give
name and
residence

(2) When the true name and residence of such person have been ascertained he shall be released on his executing a recognisance, with or without sureties, to appear before a Magistrate if so required:

Provided that if such person is not resident in Ondo State the recognisance shall be secured by a surety or sureties resident in Ondo State.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the recognisance, or, if so required to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction by way of complaint on oath.

(4) Should the person still refuse to give his true name and residence upon being brought before the Magistrate, the court may deal with him as it would an uncooperative witness under the law.

15. (1) Any private person may arrest any person in Ondo State who commits an indictable offence in his presence, or whom he reasonably suspects of having committed an offence which is a felony or having committed by night an offence which is a misdemeanor in Ondo State.

Arrest by
private
persons

(2) Upon the arrest of any person under subsection (1), the private person shall not subject the arrested person to torture, inhumane or degrading treatment.

16. (1) Persons found committing any offence involving damage to property may be arrested without a warrant by the owner of the property or his servants or persons authorized by him.

Arrest by
owners of
property

(2). A private person may arrest any person found committing damage to public property.

Arrest of
person doing
damage to
public
property

17.(1) A private person arresting any other person without a warrant shall immediately hand over the person so arrested to a police officer, or in the absence of a police officer shall take such person to the nearest police station and the police officer shall make a note of the names, residence and other particulars of the private person making the arrest

Handing over
of person
arrested by
private person

(2) If there is reason to believe that such person arrested comes under the provisions of

subsection (1) of section 13 of this law, a police officer shall re-arrest him.

(3) If there is reason to believe that he has committed any offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 14 of this law.

(4) Where a person so arrested by a private person is handed over to a police officer or to an official of agency authorized by law to make arrests, such police officer or official shall take note of the names, residence and other particulars of the private person making the arrest, and the date, time and other circumstances of the arrest, and where the person arrested is taken to the police station or to such agency the charge room officer shall make such entries in the crime diary.

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

(6) If there is sufficient reason to believe that the person handed over has committed any offence he shall be at once re-arrested.

(7) The provisions of section 11 shall not apply to this section unless the person arrested and handed over has been re arrested in accordance with subsection 2 of this section.

18. When any offence is committed in the presence of a Judge or Magistrate within the division or district in which such Judge is sitting or to which such Magistrate is assigned such 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.

Offence committed in presence of Judge or Magistrate

19. (1) Within the district to which he is assigned any Magistrate may arrest or direct the arrest in his presence of any person whose arrest upon a warrant he could have lawfully ordered if the facts known to him at the time of making or directing the arrest had been stated before him on oath by some other person.

Arrest by Magistrate

(2) Where a person is arrested in accordance with the provisions of either section 18 or 19 (1) of this law, the Judge or Magistrate making or directing the making of such arrest may deal with the person so arrested in the same manner as if such last named person had been brought before him by or under the directions of any other person.

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

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

21. Every person is bound to assist a Judge, Magistrate, justice of the peace, police

When public are bound to

officer or other person reasonably demanding his aid in arresting or preventing the escape of any person whom such Judge, Magistrate, Justice of the Peace, police officer or other person is authorized to arrest.	assist in arrest
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22. Any person authorized to effect the arrest of any other person may for the purpose of effecting the arrest pursue him into any part of the Federation.	Pursuit of offender into other jurisdictions
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23. (1) The Commissioner of Police and heads of every agency authorized by law to make arrest within the State shall remit quarterly to the Attorney General a record of all arrests made with or without warrant in relation to state offences or arrests within the State.	Quarterly report of arrests to the Attorney General of Ondo State
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(2) Such record shall contain the full particulars of the persons arrested as prescribed by section 11 of this law.	
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(3) A register of arrests containing the particulars prescribed in section 11 of this law shall be kept in the prescribed form at every police station or agency authorized by law to make arrests, and every arrest, whether made with or without warrant, within the local limits of the police station or agency, or within Ondo State, shall be entered accordingly by the officer in charge of the police station or official in charge of such other agency as soon as the arrested person is brought to the station or agency.	
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BAIL ON ARREST WITHOUT WARRANT

24 (1) When any person is taken into custody without a warrant for an offence other than an offence punishable with death, any officer in charge of a police station may, in any case, and shall, subject to subsection (2) of this section, release the person arrested on bail if it will not be practicable to bring such person before a court having jurisdiction with respect to the offence charged within twenty-four hours after he was so taken into custody.	Release on bail of a person arrested without warrant
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(2) The officer in charge of a police station may release the person arrested on bail upon his entering into a recognisance, with or without sureties for a reasonable amount to appear before a court at the time and place named in the recognisance.	
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(3) Where a person is taken into custody and it appears to the police officer in charge of the station that the offence is of a capital nature the person shall be detained in custody, the police officer shall bring the person arrested before a court having jurisdiction with respect to the offence within a reasonable time.	
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(4) The charge shall be filed before a court of competent jurisdiction in conjunction with the office of the Director of Public Prosecutions.	
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25 (1) Where any person arrested and taken into police custody is not released on bail, a Magistrate having jurisdiction with respect to the alleged offence may be notified by application on behalf of the arrested person duly signed by the legal practitioner.	Power to release on bail before charge is accepted
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(2) The court shall order the production of the person detained and inquire into the circumstances constituting the grounds of detention and where it deems fit admit the person detained to bail.	
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26. When any person is taken into custody without a warrant for an offence other than an offence punishable with death, the officer in charge of the police station or other place for the reception of arrested persons to which such person is brought shall, if after the inquiry is completed he is satisfied that there is no sufficient reason to believe that the person has committed any offence, immediately release such person.	Discharge of person for want of evidence
27(1). Officers in charge of police stations or official in charge of any agency authorized to make arrest shall on the last working day of every month report to the nearest Magistrate the cases of all persons arrested without warrant whether such persons have been admitted to bail or not. (2) The Magistrate shall notify the Chief Registrar of the State High Court within a reasonable time of such report in subsection (1) who shall forward the report to the Director of Public Prosecution. (3) Such report shall contain the particulars of the person arrested as prescribed in section 11 (4) The Chief Registrar or the Director of Public Prosecution as the case may be, shall, upon request by the National Human Rights Commission, the Administration of Criminal Justice Monitoring Committee, the Legal Aid Council, Non-Governmental Organizations and any other body saddled with the fair administration of criminal justice, make the report available to them.	Police to report to supervising Magistrates
28 (1) The Chief Magistrate or where there is no Chief Magistrate within the police division, any Magistrate designated by the Chief Judge for that purpose, shall, at least every month, conduct an inspection of police station(s) or other places of detention within his territorial jurisdiction other than the correctional.	Chief Magistrate to visit police stations every month
(2) During such visit, the Chief Magistrate or designated Magistrate shall have the power to: (i) call for, and inspect the record of arrests; (ii) review and modify bail decisions by the police; (iii) where bail has been refused, to grant bail to any suspect where appropriate; Provided that the offence for which the suspect is held is within the jurisdiction of the Chief Magistrate or the designated Magistrate; (iv) Where the Chief Magistrate or designated Magistrate has no jurisdiction to release on bail, he shall forward the particulars of the cases concerned to the Chief Judge. (3) Any officer in charge of any police station or official in charge of any agency authorized to make arrest shall make available to the visiting Chief Magistrate or designated Magistrate exercising his powers under sub-section 1 of this section (i) the full record of arrest and record of bail, (ii) applications and decisions on bail made within the period, and (iii) any other facilities the Magistrate requires to exercise his powers under that sub-section. (4) Where there is default by an officer in charge of a police station or official in-charge of an agency authorized to make arrest to comply with the provision of sub-section 3 of this section, such default shall be treated as a misconduct and shall be dealt with in accordance with the relevant Police Regulation under the Police Act, or pursuant to any other disciplinary procedure prescribed by any provision regulating the conduct of such officer or official of such agencies.	

Warrant of Arrest

29. Where under any written law, whether passed before or after the commencement of this Law, there is power to arrest a person without warrant a warrant for his arrest may be issued. General authority to issue warrant
- WARRANTS, IN GENERAL
30. (1) Every warrant of arrest issued under this Law or, unless the contrary is expressly provided under any other written law, shall bear the date of the day of issue, shall contain all necessary particulars and shall be signed by the Judge or Magistrate by whom it is issued. Form and requisites of warrant of arrest
- (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 answer the complaint or statement, or to testify or otherwise be dealt with according to the circumstances of the case, and to be further dealt with according to law.
31. No warrant of arrest shall be issued in the first instance in respect of any complaint or statement unless such complaint or statement be made in writing or on oath either by the complainant himself or by a material witness. Warrant issued on complaint only if on oath
32. A warrant of arrest may be issued on any day including a Sunday or public holiday. Warrant may issue on any day
33. (1) A warrant of arrest may be directed to a police officer by name or to all police officers, or, to a police officer by name and to all police officers. Warrants to whom directed and duration
- (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 a Judge or a Magistrate cancels it, 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 authority for re-arresting the person.
34. (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. Warrant of arrest may in exceptional cases be directed to other persons
- (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.
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35. If a court has reason to believe, whether after evidence or not, that a person, against whom a warrant of arrest has been issued by itself or by any court or Justice of the Peace, has absconded or is concealing himself so that such warrant cannot be executed, such court may publish a public summons in writing requiring that person to appear at a specific place and a specific time not less than thirty days from the date of publishing the public summons.

Public
summons for
person
absconding

36. (1) The public summons shall be published as follows-

Publication of
public
summons

(a) in a newspaper or circulated in any other medium as may be appropriate;

(b) it shall be affixed to some conspicuous part of the house or premises in which such person ordinarily resides or to some conspicuous place in such town or village; and

(c) a copy of the summons shall be affixed to some conspicuous part of the High Court building.

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

EXECUTION OF WARRANTS IN GENERAL

37. (1) Every warrant of arrest may be executed on any day including a Sunday or public holiday.

Execution of
warrant and
procedure
thereon

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

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

(4) Every person arrested on any such warrant shall, subject to the provisions of sections 38 and 39 of this Law be brought before the court which issued the warrant as soon as is practicable after he is so arrested.

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

Power to arrest
on warrant but
without the
warrant

BAIL BY ORDER OF COURT ON EXECUTION OF WARRANT OF ARREST

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

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

(2) The endorsement shall specify –

- (a) the number of sureties, if any;
- (b) the amount in which they and the person named in the warrant are respectively to be bound; or are to provide as cash security,
- (c) the court before which the person arrested is to attend; and
- (d) the time at which he is to attend, including an undertaking to appear at a subsequent time as may be directed by any court before which he may appear.

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

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

(5) The provisions of subsections (3) and (4) of this section shall not have effect with respect to a warrant executed outside Ondo State.

EXECUTION OF WARRANT OUT OF DIVISION OR DISTRICT IN WHICH ISSUED

40. (1) Where a warrant of arrest is executed in Ondo State outside the division or district of the court by which it was issued, the person arrested shall, unless security is taken under section 39 of this Law, be taken before the court within the division or district in which the arrest was made.

Procedure on arrest of persons outside division or district of court issuing warrant

(2) Such court shall if the person arrested, upon such inquiry as the court deems necessary, appears to be the person intended to be arrested by the court which issued the warrant, direct his removal in custody to such court:

Provided that if such person has been arrested in respect of any matter other than an offence punishable with death –

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

- (b) if a direction had been endorsed under section 39 of this Law on the warrant and such person is ready and willing to give the security required by such direction, the court shall take bail or security, as the case may be, and shall forward the recognisance, if such be entered into, to the court, which issued the

warrant.

(3) Nothing in this section shall be deemed to prevent a police officer from taking security under s. 39.

PART 3

ESCAPE AND RE-ARREST

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

Re-arrest of person escaping

42. The provisions of sections 8 and 9 of this Law shall apply to arrests under the last preceding section, although the person making any such arrest is not acting under a warrant and is not a police officer having authority to arrest.

Provisions of sections 8 and 9 to apply to arrests under section 41

43. Every person is bound to assist a Judge or Magistrate or police officer reasonably demanding his assistance –

Assistance to Judge, Magistrate or police officer

(a) in arresting or preventing the escape of any other person whom the Judge or Magistrate or police officer is authorized to arrest;

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

PART 4

PREVENTION OF OFFENCES

SECURITY FOR KEEPING THE PEACE AND FOR GOOD BEHAVIOUR

44. (1) Where a Magistrate is informed on oath that a suspect is likely to:

Power of Magistrate to require execution of recognisance for keeping the peace

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

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

(2) Proceeding shall not be taken under this section unless –

(a) the person against whom information is made is in Ondo State; and

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

45. Where a Magistrate is informed on oath that:

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

(b) there is reason to believe that the suspect is taking the precautions with a view to committing an offence, the Magistrate may, in the manner provided in this Part, require the suspect to show cause why he should not be ordered to enter into a recognizance, with sureties, for his good behaviour for such period, not exceeding one year, as the Magistrate thinks fit.

Security for
good
behaviour for
suspected
persons

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

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

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

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

(d) habitually commits or attempts to commit, or aids or abets the commission of any offences punishable under the Criminal Code; or

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

(f) is so desperate or dangerous as to render his being at large without security hazardous to the community,

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

Security for
good
behaviour for
habitual
offenders

47. When a Magistrate acting under section 44, 45, and 46 of this Law deems it necessary to require any person to show cause under such section, he shall make an order in writing setting forth –

(a) the substance of the information received;

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

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

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

Order to be
made

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

Procedure in
respect of
person present
in court

49.(1) Where the suspect is not present in court, the Magistrate shall issue a summons requiring him to appear, or, where the suspect is in custody, a warrant directing the officer in whose custody he is to bring him before the court.	Summons or warrant in case of person not so present
(2) Where it appears to the Magistrate, on the report of a police officer or on other information, the substance of which report or information shall be recorded by the Magistrate, that there is reason to fear the commission of a breach of the peace, and that the breach of the peace cannot be prevented otherwise than by the immediate arrest of the suspect, the Magistrate may at any time issue a warrant for his arrest.	
50. Every summons or warrant issued under the last preceding section shall be accompanied by a copy of the order made under section 47 of this Law, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.	Copy of order under section 47 to accompany summons or warrant
51. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to enter into a recognisance for keeping the peace, and may permit him to appear by a legal practitioner.	Power to dispense with personal attendance
52. (1) When an order under section 47 of this law has been read or explained under section 48 of this law to a person in court, or when any person appears or is brought before a Magistrate in compliance with or in execution of a summons or warrant issued under section 49 of this law, the Magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.	Inquiry as to truth of information
(2) Such inquiry shall be made, as nearly as may be practicable, in the manner prescribed in this Law for conducting trials, and recording evidence, save that the standard of proof shall be that of preponderance of evidence.	
(3) Pending the completion of the inquiry under subsection (1) of this section, the Magistrate, if he considers that immediate measures are necessary for the prevention of:	
(a) a breach of the peace or disturbance of the public tranquility; or (b) the commission of any offence or for the public safety,	
may, for reasons to be recorded in writing, directing the person in respect of whom the order under section 47 of this law has been made to enter into a recognisance, with or without sureties, for keeping the peace or maintaining good behaviour until the conclusion of the inquiry, and may detain him in custody until such recognisance is entered into or, in default of execution, until the inquiry is concluded:	
(4) For the purposes of subsection (3) of this section:	
(a) A suspect against whom proceedings are being taken under section 44 of this law shall be directed to enter into a recognisance for maintaining good behaviour;	

-
- (b) the conditions of such recognisance, whether as to the amount or as to the provisions of sureties or the number thereof or the pecuniary extent of their liability shall not be more onerous than those specified in the order under section 47 of this law; and
- (c) no suspect shall be remanded in custody under the powers conferred by this section for a period exceeding fifteen days at a time.

(5) For the purposes of this section, the fact that a person comes within the provisions of section 46 of this law may be proved by evidence of general repute or otherwise.

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

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

Order to give security

Provided that –

(a) no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 47 of this law;

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

(c) when the person in respect of whom the inquiry is made is a minor, the recognisance shall be entered into as provided in section 154 of this law.

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

54. If on an inquiry under section 52 of this law it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should enter into a recognisance, the Magistrate shall make an entry on the record to that effect, and, if such person is in custody only for the purpose of the inquiry, shall release him, or, if such person is not in custody, shall discharge him.

Discharge of person informed against

PROCEEDING IN ALL CASES SUBSEQUENT TO ORDER TO FURNISH SECURITY

55. (1) If any person in respect of whom an order requiring security is made under section 53 of this law is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

Commencement of period for which security is required

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

56. The recognisance to be entered into by such person shall bind him to keep the peace or be of good behaviour, as the case may be, and in the latter case the commission or attempt to commit or the aiding, abetting, counseling, or procuring the commission anywhere within Ondo State any time during the continuance of the recognisance of any offence punishable with imprisonment, wherever it may be committed, shall be a breach of the recognisance.	Condition of recognizance
57. 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, such surety is an unfit person.	Power to reject sureties
58. (1) Where a suspect ordered to give security does not give the security on or before the date on which the period for which the security is to be given commences, he shall, except in the case mentioned in of this section, be committed to prison until the period expires or until within the period he gives the security to the court that made the order requiring it.	Procedure on failure of person to give security
(2) The period, if any, for which any person is imprisoned for failure to give security in any specified amount shall not exceed the term prescribed in respect of a like sum in the scale of imprisonment set forth in this law.	
(3) If the security is tendered to the officer in charge of the prison, he shall forthwith refer the matter to the court or Magistrate who made the order and shall await the order of such court or Magistrate.	
59. Where a Court is of the opinion that a suspect imprisoned for failing to give security may be released without hazard to the community, the Court may, if he deems fit, order the suspect to be discharged	Power to release suspect imprisoned for failure to give security
60. The High Court may at any time, for sufficient reasons to be recorded in writing, cancel any recognisance for keeping the peace or for good behaviour executed under any of the preceding sections by order of any court.	Power of High Court to cancel recognisance
61. (1) Any surety for the peaceable conduct or good behaviour of another may at any time apply to a Magistrate to discharge any recognisance executed under any of the preceding sections within the district to which the Magistrate is assigned.	Discharge of sureties
(2) On such application being made, the Magistrate shall if satisfied that there is good reason for the application issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.	
(3) When such person appears or is brought before a Magistrate, such Magistrate after hearing such person may discharge the recognisance and in such event order such person to give, for the unexpired portion of the term of such recognisance, fresh security of the same description as the original security. Every such order shall for the purposes of sections 56, 57, 58 and 59 of this law be deemed to be an order under section 53 of this law.	

PART 5
PREVENTIVE ACTION OF THE POLICE

62. (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.	Police to prevent offences and prevent injury to public property
(2) A police officer may of his authority intervene to prevent any injury attempted to be committed in his presence to any public property, movable or immovable, or the removal of or injury to any public landmark or buoy or other mark used for navigation.	
63. Every police officer receiving information of an intention to commit any offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.	Information of design to commit such offences
64. Notwithstanding the provisions of this or any other written law relating to arrest, a police officer knowing of a design to commit any offence may arrest, without orders from a Magistrate and without a warrant, the person having such intention, if it appears to such officer that the commission of the offence cannot otherwise be prevented.	Arrest to prevent such offences
65. Where a court considers, on receiving a police report or other information and on taking such evidence, if any, as it thinks fit, that an offence relating to public nuisance is being committed, the court may make a conditional order requiring the suspect:	Conditional order for removal of nuisance
(a) within a time fixed in the order to cease committing the offence and to amend or remove the cause of the nuisance in such manner as is specified in the order; or	
(b) to appear before the court at a time and place to be fixed by the order and apply to have the order set aside or modified in manner provided in this Law.	
66. (1) An order made under section 65 shall if practicable be served on the person against whom it is made in the manner provided for the service of a summons.	Service of order
(2) If an order referred to in subsection (1) cannot be served in the manner laid down in that subsection it may be served by registered letter through the post addressed to the person against whom it is made at his last known address or, if his last address is not known, then by affixing a notice in some conspicuous place in the town or village in or near which the nuisance or offence is being committed.	
67. A person against whom an order under section 65 is made shall-	Person to whom order is addressed to obey or appear before court
(a) perform within the time and in the manner specified in the order the act directed thereby; or	
(b) appear in accordance with the order and apply to have the same set aside or modified.	

68. If a person against whom an order under section 65 is made does not perform the act specified in the order or appear and apply to have the order set aside or modified, he shall be liable:	Consequences of failure to obey order or to appear
(a) where the act offends public safety, to 3 months imprisonment or a fine of twenty thousand naira for an individual and not less than 200,000.00 in the case of a corporate body.	
(b) where the act threatens human life, to six months imprisonment or a fine of thirty thousand naira for an individual and not less than 500,000.00 in the case of a corporate body.	
69. (1) If a person against whom an order under section 65 is made to appear applies to have the order set aside or modified, the court shall take evidence in the matter in the same manner as in a summary trial.	Procedure where person appears
(2) If the court is satisfied that the order with or without modification is reasonable and proper the court shall make it absolute with such modification, if any, as the court shall think fit.	
(3) If the court is not satisfied it shall cancel the order.	
70. If the acts directed by an order under section 65 which is made absolute under section 68 or subsection (2) of section 69 is not performed within the time fixed and in the manner specified in the order, the court may cause it to be performed and may recover the cost of performing it either by:	Consequences of disobedience to order made absolute
(a) the sale of any building, goods or other property removed by its order;	
(b) or by seizure and sale of any other movable property of the person against whom the order under section 68 was made in manner prescribed for the recovery of a fine.	
71. (1) If the court making an order under section 65 considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, it may issue such further order to the person against whom the order was made as is required to obviate or prevent such danger or injury pending the determination of the matter	Order pending inquiry
(2) In default of the person referred to in subsection (1) obeying the further order referred to in that subsection or if notice thereof cannot by the exercise of due diligence be served upon him immediately, the court may use or cause to be used such means as it thinks fit to obviate the danger or to prevent the injury.	
72. Any court may in any proceedings under this part or in any criminal proceedings in respect of a public nuisance order any person not to repeat or continue the public nuisance.	Prohibition of repetition or continuance of nuisance

PART 6
ATTACHMENT WHERE A PERSON DISOBEYS SUMMONS OR WARRANT

73. A Judge of the High Court or a Magistrate may at any time after action has been taken under section 35 of this Law or upon an application made in that regard after summons or warrant has been issued but disobeyed, order the attachment of any property, movable or immovable or both, belonging to a person the subject of such public summons or warrant.

Attachment of
property of
person
absconding

74.(1) An order under section 73 shall authorize any public servant named in it to attach any property belonging to a person named in such order as the owner of such property within the area of jurisdiction of the Judge or Magistrate by seizure or in any other manner by which for the time being property may be attached by way of civil process.

Order to attach
property.

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

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

75. (1) Where within one year from the date of the attachment, a suspect, whose property is or has been at the disposal of the Court under section 730 of this Law, appears voluntarily or being arrested is brought before the Court and proves to its satisfaction that he:

Restoration of
attached
property

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

(b) had no notice of the public summons or warrant as to enable him to attend within the time specified therein, that property, so far as it has not been sold, and the net proceeds of any part of it which has been sold shall, after satisfying from the proceeds all costs incurred in consequence of the attachment, be delivered to him.

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

Other Rules regarding Process

76. (1) A court or Justice of the Peace empowered by this Law to issue a summon for the appearance of a suspect may, after recording reasons in writing, issue a warrant for his arrest in addition to or instead of the summon where:
- Issue of warrant in lieu of or in addition to summons
- (a) whether before or after the issue of the summons, the court or Justice of the Peace sees reason to believe that the suspect has absconded or will not obey the summons; or
- (b) at the time fixed for his appearance, the suspect fails to appear and the summons is proved to have been duly served in time to allow for his appearance and no reasonable excuse is offered for his failure to appear..
- (2) A court or Justice of the Peace empowered by this Law to issue a warrant for the arrest of any person may issue a summons in place of a warrant if it or he thinks fit.
77. When any person for whose appearance or arrest a summons or warrant may be issued is present before a court or Justice of the Peace, the court or Justice of the Peace may require him to execute a bond, with or without sureties, for his appearance before a court.
- Power to take bond for appearance
78. The provisions contained in this law relating to summonses and warrants and their issue, service and execution shall so far as may be applied, apply to every summons and every warrant issued under this Law.
- Provisions of this Law generally applicable to summons and warrant

PART 7

PROVISIONS RELATING TO ALL CRIMINAL TRIALS IN GENERAL

Application and General

79. The provisions of this Law shall apply, unless express provision is made in respect of any court or form of trial, to criminal trials and criminal proceedings in the High Court and Magistrate Court.
- Application
80. Every court has authority to compel the attendance before it of any person who is within the jurisdiction and is charged with an offence committed within Ondo State, or which according to law may be dealt with as if such offence had been committed within the jurisdiction and to deal with such person according to law.
- General authority to bring persons before courts

PART 8

THE COMPLAINANT, FORM OF COMPLAINT AND TIME WITHIN WHICH THE COMPLAINT MUST BE MADE

81. (1) A person may make a complaint against any other person alleged to have committed or to be committing an offence,
- Right of making complaint
- (2) Notwithstanding anything to the contrary contained in any other law, a police officer may make a complaint in a case of assault even though the party aggrieved declines or

refuses to make a complaint

82. (1) It shall not be necessary that any complaint shall be in writing, unless it is required to be so by the enactment on which it is founded, or by some other enactment; and if a complaint is not made in writing, the court or registrar shall reduce it into writing.

Form
requisites of
complaint

(2) Subject to the provisions of section 31 of this Law, 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.

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

83. 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 an 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.

Forms of
documents in
criminal
proceedings

84. 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 negatived in the complaint, and if so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the complainant.

Rule as to
statement of
exception

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

Limitation of
period for
making a
private
complaint

PART 9

PLACE OF TRIAL

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

Venue

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

(b) the consequence of the offence has ensued;

(c) an offence was committed by reference to which the offence is denied; or

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

knowing of the offence.

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

Offences committed on a journey

(2) An offence committed at sea or elsewhere out of Nigeria, may be tried or inquired into at any place in Nigeria to which the defendant is first brought, or to which he may be taken thereafter.

Offences at sea or out of Nigeria

87. Where an offence against a Federal Law -

Offences against Federal Laws

(a) is begun in Ondo State and completed in another State; or

(b) is completed in Ondo State after being begun in another State,

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

88. Whenever any doubt arises as to the Magistrate's court in which any offence shall be tried, the Chief Judge shall upon the application of the defendant, decide in which Magistrate court the offence shall be tried. Any such decision of the Chief Judge shall be final and conclusive except that it shall be open to a defendant to show that no Magistrate's court in Ondo State has jurisdiction in the case.

The Chief Judge to decide, in case of doubt, the court or place of trial

REMITTING MAGISTRATES

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

Defendant to be remitted in certain cases to another Magistrate

(2) if such offence as is mentioned in subsection (1) shall have been committed in a district within which one or more courts shall have concurrent jurisdiction, the remitting Magistrate shall, unless himself authorized to proceed in the case, send the person charged in custody to such one of the courts having concurrent jurisdiction as can most conveniently deal with the case, or require him to give security for his surrender to such last mentioned court, there to answer the charge and to be dealt with according to law.

(3) The remitting Magistrate shall send to the court to which the person charged is remitted for trial a certified copy of the information, summons, warrant, and all other process or documents in his possession, relative to such person.

90. Where any person is to be sent to custody, a warrant shall be issued by the remitting court and that warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person named and to carry him and deliver him up to the court to which the person charged is remitted for trial. The person to whom the warrant is directed shall execute it according to its tenor without any delay.	Removal under warrant
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91. Where a suspect is: (a) in custody and the court directing a transfer thinks it expedient that the custody should be continued; or	Transfer of case where cause of complaint has arisen out of jurisdiction of court
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(b) not in custody, that he should be placed in custody,

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

ASSUMPTION OF JURISDICTION

92. (1) Notwithstanding the provisions of sections 86, 87, 88 and 89, a Judge or Magistrate of a division or district in which a person is apprehended who is charged with an offence, alleged to have been committed in another division or district, may, if he considers that the ends of justice would be better served by hearing the charge against such person in the division or district in which he has been apprehended and having regard to the accessibility and convenience of the witnesses, proceed to hear the charge and the person charged may be proceeded against, tried and punished in any division or district in which he was apprehended, or is in custody on a charge for the offence, or has appeared in answer to a summons lawfully issued charging the offence, as if the offence had been committed in that division or district, and the offence 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:	Courts may assume jurisdiction under certain conditions
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Provided that, if at any time during the course of any proceedings taken against any person before any court in pursuance of this subsection 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 89, cease to proceed further in the matter under this subsection.

(2) 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.

93. In case any proceeding is commenced in any other division or district than that in which it ought to have been commenced, the Judge or Magistrate, as the case may be, may assume jurisdiction in accordance with the provisions of section 92 and all acts performed and all decisions given by the Judge or Magistrate during the trial shall be deemed to be valid in all respect as if the jurisdiction had been assumed prior to the performance of the said acts and the giving of the said decisions.	Assumption of jurisdiction after commencement of proceeding
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PART 10
STATE PROCEDURE
POWERS OF THE ATTORNEY-GENERAL

94. (1) Notwithstanding anything to the contrary in this Law, the Attorney-General of Ondo State may exhibit to the High Court information for the purposes of commencing criminal trial under the Laws of Ondo State or any Federal Law as may be authorized by Statute.

Information by
the Attorney-
General

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

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

95. (1) The Attorney-General of Ondo State shall have powers to issue legal advice and or such other direction to the police and any other agency in respect of any offence created by the Ondo State House of Assembly.

Issuance of
legal advice
and other
directives to
police

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

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

CONTROL OF STATE IN CRIMINAL PROCEEDINGS

96. (1) In any criminal proceeding for an offence against a Law of the State and at any stage before judgment, the Attorney-General of Ondo State may enter a *nolle prosequi*, either by stating in court or informing the court in writing that the State intends that the proceedings shall not continue and the defendant shall be at once discharged in respect of the charge or information for which the *nolle prosequi* is entered.

Nolle Prosequi
in criminal
cases

(2) Where the suspect:

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

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

(3) Where the suspect is not:

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

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

(4) Where *nolle prosequi* 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.

97. (1) In any trial before a court, a prosecutor with the consent of the court, may, or on the instruction of the Attorney-General of Ondo State in the case of an offence against a Law of Ondo State, may at any time before judgment is pronounced 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.

Withdrawals
from
prosecution in
trials before a
court

(2) On the withdrawal, where it is made:

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

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

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

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

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

PART 11

PROCEEDINGS IN GENERAL
INSTITUTION OF PROCEEDINGS

98. Subject to the provisions of any other enactment, criminal proceedings may in accordance with the provisions of this Law be instituted –

Different
methods of
instituting
criminal
proceedings

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

(b) in the High Court;

(i) by information filed of the Attorney-General of Ondo State in accordance with the provisions of section 94

(ii) by information filed in the court after the defendant has been summarily committed for perjury by a court under the provisions of this Law and

(iii) on complaint whether or not on oath.

99. (1) Where proceedings are instituted in a Magistrate's court they may be instituted in any of the following ways –

Criminal
proceedings in
Magistrate's
Court

(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 such Magistrate, in the manner set forth in this law for the issue of either a summons directed to, or a warrant of arrest to apprehend such person; or

(b) by bringing a person arrested without a warrant before the court upon a charge contained in a charge sheet specifying the name and occupation of the person charged, the charge against him and the time and place where the offence is alleged to have been committed. The charge sheets shall be signed by the prosecutor or law officer in charge of the case.

(c) The charge sheet and all the documents filed by the prosecution shall be served on the defendant or his legal representative, if any within 7 days of its being filed or such time as the court may allow.

(d) The trial of any charge preferred under sub section (b) of this section shall be commenced not later than 30 days from the date of arraignment upon that charge, and the trial of the person brought under that charge shall be completed within a reasonable time. Provided that where any charge preferred under sub section (b) of this section, and of which trial does not commence within 30 days of bringing such charge, or trial has commenced but has not been completed after 180 days of arraignment upon that charge, the Magistrate shall forward to the Chief Judge the particulars of the charge and reasons for failure to commence the trial or to complete the trial.

(e) Every Magistrate seized of criminal proceedings shall at every quarter forward returns of the particulars of all cases including charges, remands and other proceedings commenced and dealt with in his court within the quarter to the Chief Judge.

(2) In reviewing the returns made by the Magistrates under sub sections (d) and (e) of this

section, the Chief Judge shall have regard to the need to ensure that:

- (i) criminal matters are speedily dealt with,
- (ii) congestion of cases in courts is drastically reduced,
- (iii) congestion of correctionals is reduced to the barest minimum,
- (iv) persons awaiting trial are, as far as possible, not detained in correctional custody for unreasonable length of time.

(3) The Administration of Criminal Justice Monitoring Committee shall have power to consider all returns made to the Chief Judge under the provisions of this section and section 100 of this Law for the purpose of monitoring and ensuring expeditious disposal of cases.

100. (1) The Comptroller of Nigerian Correctional Service in Ondo State shall make quarterly returns every 90 days to the Chief Judge and to the Attorney-General of Ondo State in respect of all persons awaiting trial held in correctional centres within Ondo State beyond 180 days of date of arraignment.

Returns by
Comptroller of
Correctional
Centres.

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

- (i) the names of the person held in custody,
- (ii) the date of his arraignment or remand,
- (iii) the date of his admission to custody,
- (iv) the particulars of the offence with which he was charged, and
- (v) the court before whom he was arraigned.

101. A court may issue a summons or warrant as provided in this law to compel the appearance before him of any person accused of having committed in any place, whether within or without Nigeria, any offence triable in Ondo State.

Compelling
appearance of
a defendant

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

Summons and
warrant

103. (1) Subject to the provisions of section 81 of this Law, 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 of the committing of such offence to a Magistrate who shall consider the allegations of the complainant and may, in his discretion, refuse to issue process recording his reasons for such refusal, or may

Making of
complaint and
issue of
process

- (a) in his discretion, refuse to issue process and shall record his reasons for such refusal; or
- (b) issue a summons or warrant as he shall deem fit to compel the attendance of the defendant before a 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 a suspect may not be arrested without a warrant.

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

Issue and
service on any
day

Enforcing Appearance of Defendant

ISSUE OF SUMMONS

- | | |
|---|---|
| 105. Where a complaint is made before a Magistrate as provided in section 81, and the Magistrate decides to issue a summons, the summons shall be directed to the suspect, stating concisely the substance of the complaint and requiring him to appear at a certain time and place not less than forty-eight hours after the service of the summons before the court to answer to the complaint and to be further dealt with according to law. | Issue of summons and contents |
| 106. The court may, if it thinks fit and with the consent of the parties, hear and determine a complaint notwithstanding that the time within which the defendant was required to appear may not have elapsed. | Hearing by consent before return date of summons |
| 107. Where on a complaint being made before a court as provided in section 81 of this law, the Magistrate decides to issue a summons, the defendant may be directed to appear immediately in cases where an affidavit is made by the complainant either at the time of making the complaint or subsequently that the defendant is likely to leave the district within forty-eight hours. | Summons with immediate return date in special circumstances |
| 108. Nothing contained in sections 105, 106, or 107 shall oblige any Magistrate to issue any such summons in any case where the application for an order may by law be made <i>ex parte</i> . | Discretion in <i>ex parte</i> application |

FORM AND SERVICE OF SUMMONS

- | | |
|---|------------------------------|
| 109. Every summons issued by a court under this Law shall be in writing, in duplicate, signed by the presiding officer of such court or by such other officer as the Chief Judge may from time to time prescribe | Summons to be in duplicate |
| 110. Every summons shall be served by a police officer or by an officer of the court issuing it or other public servant, or through a courier service company duly registered with the Chief Judge as a process service agent of the court under this Law;
Provided that service by courier shall be by application to court after effort to effect personal service has failed. | Service of summons |
| 111. The person effecting service of a summons shall effect it by delivering it –

(a) if on an individual, to him personally; or
(b) if on a firm or corporation –
(i) to one of the partners, or
(ii) to a director, or
(iii) to the secretary, or
(iv) to the chief agent within the jurisdiction, or
(v) by leaving the same at the principal place of business in Nigeria of the firm or | Methods of effecting service |

corporation, or (vi) to anyone having, at the time of service, control of the business of the firm or corporation; (c) If on a Local Government Council, then in accordance with the Local Government Law.	
112. Where the service in the manner provided by paragraph (a) of section 111 cannot by the exercise of due diligence be effected, the serving officer may with leave of the court affix one of the duplicates of the summons to some conspicuous part of the premises or place in which the individual to be served ordinarily resides or works, and then the summons shall be deemed to have been duly served.	Service where person summoned cannot be found
113. Where a public officer is to be served with a summons, the court issuing the summons may send it in duplicate to the head office of the department in which such person is employed for the purpose of being served on such person, if it shall appear to the court that it may be most conveniently so served, and such head of department shall cause the summons to be served in the manner provided by paragraph (a) of section 111 and shall return the duplicate to the court under his signature, with the endorsement required by section 115. Such signature shall be evidence of the service.	Service on public officers
114. Where a court issues a summons to a person outside its jurisdiction, the summons shall be sent in duplicate to a court in whose jurisdiction the person resides or works.	Service outside jurisdiction of court
115. Where the officer who served a summons is not present at the hearing of the case, proof of service, may be done by endorsement on a duplicate of the summons and by an affidavit showing when and how the service was affected.	Proof of service when serving officer not present
116. (1) Where a summons has been served on the person to whom it is addressed or is delivered to any other person, the person to whom it is addressed or the person to whom it is delivered, as the case may be, shall acknowledge receipt at the back of the duplicate.	Receipt of service of summons
(2) Where service is not effected by delivering the summons to an individual but by some other method approved by this Act, the person effecting service shall endorse on the duplicate particulars of the method by which he effected service.	
(3) A person who is required to sign a receipt on the back of a duplicate summons to the effect that he has received the summons and fails to sign the receipt may be:	Person refusing to sign receipt may be arrested
(a) arrested by the person serving the summons or any other person with powers of arrest under this Law and taken before the court which issued the summons; and	
(b) detained in custody or committed to prison for such time not exceeding fourteen days as the court may think necessary.	
117. An affidavit or declaration made before a court by the serving officer or by a witness to the service or return slip of a registered courier service company that a summons has been served and a duplicate of the summons endorsed by the person to whom it was delivered or tendered or with whom it was left shall be admissible in evidence and the statements made in	Proof of service

it shall be deemed to be correct unless and until the contrary is proved.

118. Where the court is satisfied that the suspect has been served with a summons and the suspect does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under section 122, the court may issue a warrant to apprehend him and cause him to be brought before the court.

Summons disobeyed, warrant may issue

ISSUE OF WARRANT OF ARREST ON COMPLAINT ON OATH

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

Issue of warrant for suspect in the first instance

120. Where a warrant of arrest is issued in consequence of a complaint on oath the provisions of section 30 to 40 shall apply to such warrant.

Application of sections 30 to 40 to such warrant

121. Notwithstanding the issue of a summons as in section 101 of this Law, a warrant may be issued at any time before or after the time appointed for the appearance of the suspect.

Warrant may issue before or after return date of summons

DISPENSING WITH PRESENCE OF DEFENDANT

122. (1) Where a Magistrate issues a summons in respect of any offence for which the penalty is a fine not exceeding Ten thousand Naira or imprisonment for a term not exceeding six months or both, the Magistrate on application of the defendant:

Power to dispense with personal attendance of defendant in certain cases

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

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

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

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

provisions contained in this Law for the non-payment of a fine.

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

(5) Where the attendance of a defendant has been dispensed with, and his attendance is subsequently required, the cost of any adjournment for that purpose shall be borne by the defendant.

PART 12 MISCELLANEOUS PROVISIONS REGARDING PROCESS

IRREGULARITIES

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

Irregularity in summons, warrant, service, or arrest

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

124. Where any court or Justice of the Peace, who is not empowered by law does any of the following things, namely –

Irregularities which vitiate proceedings

- (a) attaches and sells property under section 74 of this Law;
 - (b) demands security to keep the peace;
 - (c) demands security for good behaviour;
 - (d) discharges a person lawfully bound to be of good behaviour;
 - (e) cancels a bond to keep the peace;
 - (f) makes an order under section 65 as to a public nuisance;
 - (g) prohibits, under section 72, the repetition or continuance of a public nuisance;
 - (h) tries an offender;
 - (i) decides an appeal,
- such proceedings shall be void.

125. A variance between the charge contained in the summons or warrant and the offence alleged in the complaint, or between any of them and the evidence adduced on the part of the prosecution, shall affect the validity of any proceedings at or subsequent to the trial.

Variance between charge and complaint

126. 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 have jurisdiction.

Process valid notwithstanding death or vacation of

	office of person issuing.
VALIDITY OF PROCESS	
127. The following provisions shall have effect in respect of warrant of commitment and warrants of distress –	Validity of process
(a) A warrant of commitment shall not be held void by reason of any defect in it, where it is alleged that the defendant has been convicted, or ordered to do or abstain from doing an act or a thing required to be done or left undone, and there is a good and valid order to sustain the warrant.	Warrant of commitment
(b) A warrant of distress shall not be held void by reason of any defect, where it is alleged that an order has been made, and there is a good and valid ground to sustain the order, and a person acting under a warrant of distress is not deemed a trespasser from the beginning by reason of any defect in the warrant or of any irregularity in the execution of the warrant.	Warrant of distress
(c) This Law shall not prejudice the right of a person to compensation for any special damage caused by defect in or irregularity in the execution of a warrant of distress.	
128. (1) In addition to the provisions of sections 33 and 34 of this Law in respect of warrants of arrest, all summonses, warrant of every description and process of whatever description shall be sufficiently addressed for service or execution by being directed to the Sheriff.	General addressee of process for issue and execution
(2) Notwithstanding the provisions of subsection (1) of this section, 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, the warrant may be executed by a Police Officer or officer of a court.	
129. The provisions contained in this Law in respect of warrants of arrest, and the provisions contained in this Part relating to summonses, warrants of any description and other process and their issuance, service, enforcement and execution shall, so far as may be, apply to every summons, warrant of any description and other process issued in respect of matters within the criminal jurisdiction of the court.	Certain provisions applicable to all summonses and warrants in criminal matters
PART 13	
SEARCH WARRANT	
130. Where an investigation under this Law is being made by a police officer, he may apply to any court or Justice of the Peace within the local limits of whose jurisdiction he is for the issuance of a search warrant.	Application for search warrant
131. (1) Where a court or Justice of Peace is satisfied by information upon oath and in writing that there is reasonable ground for believing that there is in the State in any building, ship, carriage, receptacle, motor vehicle, aircraft or place –	Cases in which search warrants may be issued
(a) anything upon or in respect of which any offence has been or is suspected to have been	

committed; or

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

(c) anything which there is reasonable ground for believing is intended to be used for the purpose of committing an offence, the court or Justice of the Peace may at any time issue a warrant, called a search warrant, authorising an officer of the court, member of the police force, or other person named to act in accordance with subsection (2) of this section.

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

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

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

(3) in this section and section 132 “offence” includes an offence against a Law of any other state of Nigeria which would be punishable in the State if it had been committed in the State.

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

Discharge of
suspected
person

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

Search warrant
to be signed by
Magistrate or
Justice of
Peace

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

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

Search warrant
to whom
directed

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

Issuance and
execution of
search warrant

136. (1) Where any building or other thing or place liable to search is closed, any person residing in or being in charge of such building, thing or place shall, on demand of the police

Person in
charge of
closed place to

officer or other person executing the search warrant, allow him free and unhindered access to it and afford all reasonable facilities for a search in it.	allow access
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(2) Where access into the building, thing or place cannot be so obtained the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 7, 8 and 9 of this Law.

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

(4) A search under this Part shall, except the Court or Justice of the Peace owing to the nature of the case otherwise directs, be made in the presence of two (2) witnesses and the person to whom the search warrant is addressed may also provide a witness within the neighbourhood.

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

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

137. The occupant of a place searched or some person on his behalf shall be permitted to be present at the search and shall, if he so requires, receive a copy of the list of things seized there, signed or sealed by the witnesses, if any.	Occupant of place searched may attend
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138. A person executing a search warrant beyond the jurisdiction of the Court or Justice of the Peace issuing it shall, before doing so, apply to the Court within whose jurisdiction search is to be made and shall act under its directions	Execution of search warrant outside jurisdiction
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139. Magistrate or Justice of the Peace may direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.	Justice of the peace may direct search in his presence
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DETENTION AND DISPOSAL OF ARTICLES RECOVERED

140. (1) Where upon the execution of a search warrant anything referred to Section 131 of this Law is recovered or seized, it may be detained by the Police, taking reasonable care that it is preserved until the trial or any further proceedings.	Detention of articles recovered
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(2) A list of all things recovered or seized in the course of search and of the places in which they are found shall be drawn up by the person carrying out the search in accordance with Section 136 (5) of this Law and a copy of the list forwarded to the judge, Magistrate or Justice of the Peace who issued the warrant for his information with indication as in the prescribed form set out in the First Schedule to this Law on the search warrant of things:

(a) seized that are detained or caused to be detained; and (b) that were recovered or seized but have been released to the owners.	
(3) Where a defendant is charged to Court with an offence or no appeal or further proceedings is pending in relation to an item recovered or seized during a search, the Police shall: (a) restore to the person who appears to be entitled to them; and (b) where he is the defendant, cause to be restored to him or to his Legal Practitioner or to such other person as the defendant may direct.	
(4) The Police or any other agency carrying out the search is authorized or required by law to dispose of the items seized in accordance with Section 141 of this Law, the Police or other agency shall release the proceeds of the disposal of the seized items to the person entitled to it.	
(5) Any property or a part of the property may be applied to the payment of any cost or compensation directed by the Court to be paid by the defendant, or person entitled to the property.	
141. Where a thing recovered or seized under a search warrant is of a perishable or noxious nature, it may be disposed of in such manner as the Court may direct.	Perishable articles may be disposed of by court
142. Where the thing to be searched for under a search warrant is gunpowder, arm, ammunition or any other explosive, dangerous or noxious substance or thing the person making the search has powers and protection as are given by a law for the time being in force to a person lawfully authorized to search for the thing, the thing shall be disposed of in the same manner as directed by the law, or in the absence of the direction, as the Court may either generally or in any particular instance order.	Search for and disposal of gunpowder
143. Where, in consequence of the execution of a search warrant, there is brought before a Court any forged banknote, banknote paper, counterfeit currency, instrument, or other thing for forgery or counterfeiting, the possession of which, in the absence of lawful excuse, is an offence, the Court may cause the thing to be defaced or destroyed.	Destruction of forged banknotes
144. Where under any search warrant, there is brought before a Court any counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an indictable offence according to any written law for the time being in force, every such thing shall be delivered up to the Commissioner of Police or to any person authorized by the Court to receive same, as soon as it has been produced in evidence and is no longer required as such or as soon as it appears that it will not be required to be produced; Provided that a Judge or Magistrate may in his discretion instead of delivering up such coins or things, order that they be destroyed in his presence	Disposal of counterfeit coin and certain other thing
145. Where a search warrant is issued in respect of an offence against the law of any other State of Nigeria and a summons has been issued for that offence by, or any person has been charged with that offence before a Court of that State, the Court issuing the search warrant may unless he has disposed of the thing in accordance with Section 141 of this law, transmit	Transmission to other State

anything recovered or seized and brought before him to that Court and in relation to anything so transmitted the functions conferred on a Court by Sections 140, 141, 143 and 144 of this Law shall be exercised by the Court instead of by the Court who issued the search warrant.

PART 14
PROVISIONS AS TO BAIL AND RECOGNISANCES GENERALLY

146. When a person who is suspected to have committed an offence or is accused of an offence is arrested or detained, or appears or is brought before a Court, he shall, subject to the provisions of this Part, be entitled to bail. General entitlement to bail
147. (1) Where a person is detained in a prison, police station or any other place of detention, the Court may issue an order to the officer in charge of the prison, police station or other place of detention to produce the person at the time and date specified in the order before the Court. Power of court to order person in custody to be brought before it
- (2) The Court may, on production of the person or subsequently, make such order to give such directives, as it considers appropriate in the circumstances in accordance with the provisions of this Law.
148. (1) Where a child is arrested with or without warrant and cannot be brought immediately before a Court, the police Officer in charge for the time being of the police station to which the child is brought, shall inquire into the case and shall unless: Recognisance by parent or guardian of a child
- (a) the charge is one of homicide; or
 - (b) the offence charged is punishable with imprisonment for a term exceeding three (3) years; or
 - (c) it is necessary in the interest of the child to remove him from association with any reputed criminal or prostitute,
- release the child on a recognizance entered into by his parent or guardian, with or without sureties.
- (2) The parents or guardian of the child shall execute a bond for such an amount as will in the opinion of the officer secure the attendance of the child for the hearing of the charge.
149. (1). A person arrested, detained or charged with an offence punishable with death shall only be admitted to bail by a Judge of the High Court, under exceptional circumstances. Bail where a person is charged with capital offence
- (2) For the purpose of the exercise of the discretion of the Judge in subsection (1) of this Section, “exceptional circumstances” include:
- (a) ill-health of the applicant which shall be confirmed and certified by a qualified medical practitioner employed in a Government hospital, provided that the applicant is able to prove that there are no medical facilities to take care of his illness by the authority detaining him;
 - (b) extraordinary delay in the investigation, arraignment and prosecution for a period exceeding one (1) year; or
 - (c) any other circumstances that the Judge may, in the particular facts of the case, consider exceptional;
- Provided that a child shall not be detained in the same facility as an adult.
- (3) The State or Attorney-General of Ondo State shall be made a party in all applications for bail brought under the provisions of this Section.
-

150. A person charged with an offence punishable with imprisonment for a term exceeding three (3) years shall on application to the Court, be released on bail except in any of the following circumstances: (a) where there is reasonable ground to believe that the defendant will, if released on bail, commits another offence; (b) attempt to evade his trial (c) attempt to influence, interfere with, intimidate witnesses, and or interfere in the investigation of the case; (d) attempt to conceal or destroy evidence; (e) prejudice the proper investigation of the offence; or (f) undermine or jeopardize the objectives or purpose or the functioning of the criminal justice administration, including the bail system.	Bail where a person is charged with offence exceeding 3 years imprisonment
151. In any other circumstance other than those referred to in sections 149 and 150 of this Law, the defendant shall be entitled to bail, unless the Court is satisfied that there are reasons to the contrary.	Where a person is charged with offence not exceeding 3 years.
152. Where a person is brought before a Court on any process in respect of any matter not included in Sections 147 and 150 of this Law, the person may, at the discretion of the Court, be released on his entering into recognizance, in the manner provided in this Law, for his appearance before the Court or any other Court at the time and place mentioned in the recognizance.	Bail in respect of matters other than offences
153. (1) The conditions for bail in any case shall be at the discretion of the Court with due regard to the circumstances of the case and shall not be too excessive. (2) The Court may require the deposit of a sum of money or other security as the Court may specify from the defendant or his surety before the bail is approved. (3) The money or security deposited shall be returned to the defendant or his surety or sureties, as the case may be, at the conclusion of the trial or on an application by the surety to the Court to discharge his recognizance.	Security for bail
154. where in any case the person in respect of whom the Court makes an order requiring that a recognizance be entered into is a child, the child shall not execute the recognizance but the Court shall require a parent, legal guardian or other fit and proper person, with or without sureties, to enter into a recognizance that the child shall do what is required under the Court's order.	Recognisance in respect of a child
155. (1) admitted to bail may be required to produce surety or sureties as, in the opinion of the Court, will be sufficient to ensure his appearance as and when required and the Registrar of the Court shall keep records of details and particulars of such sureties. (2) The defendant or his surety or sureties may be required to enter into recognizance accordingly. (3) No person shall be denied, prevented or restricted from entering into any recognizance or	Sureties

stand as surety for any defendant or applicant by reason only that the person is a woman.

156. A Judge may direct that:

- (a) bail conditions required by a Magistrate or Police Officer be reviewed; or
- (b) defendant in custody in the State be admitted to bail.

Judge may vary bail fixed by Magistrate or police

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

Reconsideration of bail

158. (1) the terms of recognizance fixed by the Court in respect of any surety or sureties shall be processed in that Court.

Before whom recognisance may be executed

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

(3) The recognizance entered into as prescribed in subsection (2) of this Section shall have the same effect as if it had been entered into before that Court.

159. (1) As soon as recognizance has been entered into or money or other security deposited in the Registry of the Court in accordance with the provisions of Section 153 of this Law is executed:

Release on execution of recognizance

- (a) the person for whose appearance it has been executed shall be released;
- (b) where he is in prison or police station or other place of detention, the Court admitting him to bail shall immediately issue a written order of release to the official in charge of the prison or such other place of detention and the official on receipt of the order shall immediately release him.

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

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

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

Mode of entering into recognisance

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

Continuous bail

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

(a) vary the order of release on bail of the defendant at any subsequent hearing; and (b) at any subsequent stage of any proceeding, cause a defendant who has been released on bail to be arrested and be committed to custody: Provided that the Court shall state in its record the reason for the variation of the order or committal of the defendant.	
(3) Nothing in this Section or in any other Section relating to bail is deemed to require the release of a defendant liable to be detained for some matter other than that in respect of which the recognizance was entered into or to which the bail relates.	
162. Where an application is made before the Court by information on oath by a complainant, surety or other person that a defendant bound by a recognizance to appear before a Court or Police Officer: (a) is about to leave Nigeria or the State; or (b) for the purpose of evading justice, is about to leave or has left the division or district of the Court before which is to appear or in which he normally resides, the Court may commit him to prison until the trial, unless the Court considers it fit to admit him to bail on further recognizance.	Defendant bound by recognisance absconding may be committed to correctional centre
163. Where a defendant has been admitted to bail and circumstances arise which, if the defendant had not been admitted to bail would, in the opinion of a Law Officer or Police Officer, justify the Court in refusing bail or in requiring bail of greater amount, a Court may: (a) on the circumstances being brought to its notice by a Law Officer or Police Officer, issue a warrant for the arrest of the defendant; and (b) after giving him an opportunity of being heard, commit him to prison to await trial or admit him to bail for the same or an increased amount as the Court may deem just.	Reconsideration of amount of bail on application by law officer or police
164. Where at any time after a recognizance has been entered into, it appears to the Court that for any reason the surety or sureties are unsuitable, the Court may: (a) issue a summons or warrant for the appearance of the principal; and (b) on his coming to the Court, order him to execute a fresh recognizance with other surety or sureties, as the case may be.	Variation of a recognisance if surety unsuitable
165. (1) Where a defendant who has been admitted to bail is indicted by a Law Officer or Police Officer for another offence, the Court shall, on being informed of this fact on oath by the Law Officer or superior Police Officer, issue a warrant for the arrest of the defendant and commit him to prison in the same manner as if he had been originally committed for trial of the offence for which is indicted. (2) For the purpose of this Section, a defendant shall be deemed to be indicted when the information against him has been filed at the High Court.	Power to revoke bail
166. (1) Any surety may at any time apply to the Court which caused the recognizance to be taken, to discharge the bond either wholly or so far as it applies to the applicant. (2) On an application under subsection (1) of this Section, the Court shall issue a warrant of arrest of the defendant on whose behalf the recognizance was executed and on his appearance, shall discharge the recognizance either wholly or so far as it applies to the applicant and shall require the defendant to find other sufficient sureties or meet some other conditions and if he fails to do so, may make such order as it considers fit.	Discharge of sureties

167. Where a surety dies before the recognizance is forfeited, his estate shall be discharged from all liability in respect of the recognizance.	Death of surety
168. Where a surety to a recognizance becomes insolvent or dies or is of unsound mind or where a recognizance is forfeited, the Court may order the defendant from whom the recognizance was demanded, to furnish fresh security in accordance with the directions of the original order and, if the security is not furnished, the Court may proceed as if there had been default in complying with the original order.	Order of fresh security upon original order
169. (1) Where it is proved to the satisfaction of the Court by which a recognizance has been taken or, when the recognizance bond is for appearance before a Court and it is proved to the satisfaction of the Court that a recognizance has been forfeited, the Court shall record the grounds of proof and may call on any person bound by the bond to pay the penalty or to show cause why it should not be paid.	Forfeiture of recognisance
(2) Where sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the penalty from any person bound, or from his estate if he is dead in the manner laid down in this Law for the recovery of fines.	
(3) A surety's estate shall only be liable under this Section if the surety dies after the recognizance is forfeited.	
(4) Where the penalty is not paid and cannot be recovered in the manner provided in this Law, the person bound shall be liable to imprisonment for a term not exceeding six (6) months.	
(5) The Court may in its discretion remit any portion of the penalty and enforce payment in part only.	
170. The Court may at any time cancel or mitigate the forfeiture, on the person liable under the recognizance applying and giving security to the satisfaction of the Court, for the future performance of the condition of the recognizance and paying, or giving security for the payment of the costs incurred in respect of the forfeiture or on such other conditions as the Court may consider just.	Mitigation of forfeiture
171. Where a defendant required by a Court to find sufficient sureties fails to do so, the Court shall, unless it is just and proper in the circumstances, make some other order in the case of the defendant:	When person fails to find surety
(a) charged with an offence and released on bail, an order committing him to prison until he is brought to trial, discharged or finds sufficient sureties, or meets such other conditions as the Court may direct in the circumstances; or	
(b) ordered to give security for good behavior, an order committing him to prison for the remainder of the period for which he was originally ordered to give security or until he finds sufficient sureties.	
172. (1) Where a recognizance to keep the peace and be of good behavior or not to do or commit some act or thing, has been entered into by a defendant as principal or as surety before a Court, the Court, on proof that the person bound by the recognizance as principal has been convicted of an offence which is by law a breach of the condition of the recognizance, may order that the:	Forfeiture on conviction
(a) recognizance be forfeited; and	
(b) persons bound by it, whether as principal or as sureties or any of those persons, shall	

pay the sums for which they are respectively bound.	
(2) a certified copy of the judgment of the Court by which the defendant was convicted of the offence may be used as evidence in proceedings under this Section and, where the certified copy is so used, the Court shall presume the defendant committed the offence until the contrary is proved.	
173. Where a recognizance is ordered to be forfeited, the Court having jurisdiction over the matter, may immediately or at any time after the order, issue a warrant of commitment against a person liable, whether as principal or surety under the recognizance, for any term not exceeding the term prescribed in respect of a sum in the scale of imprisonment set out in this Law except the amount due under the recognizance is paid.	Where recognisance forfeited warrant may issue
174. Where a defendant who is bound by a recognizance or bond to appear before a Court or Police Station does not appear, the Court may issue a warrant for his arrest.	Arrest on failure to appear
175. All sums paid or recovered in respect of a recognizance order by a Court pursuant to Section 168 of this Law to be forfeited, shall be paid to the Registrar of the Court and a receipt issued which shall be produced in Court as evidence of payment.	Payment on recognizance
176. An order of forfeiture made under this Law shall be subject to appeal.	Appeal
177. (1) The Chief Judge of the State shall make regulation for the registration and licensing of corporate bodies or persons to act bondspersons within the jurisdiction of the Court in which they are registered.	Registration of Bondsperson
(2) The regulation referred to in subsection (1) of this Section shall stipulate the qualifications for registration and the grounds for the revocation of license of the bondsperson.	
(3) No person shall engage in the business of bail bond services without being duly registered and licensed in accordance with subsection (1) of this Section.	
(4) Any person who engages in the business of bail bond services without being registered or licensed or in contravention of the regulation or terms of his license, is liable on conviction to:	
(a) a fine of ₦500,000.00 (Five Hundred Thousand Naira); or	
(b) imprisonment for a term not exceeding twelve (12) months; or	
(c) both fine and imprisonment.	
(5) Upon conviction under this Section, the Court shall forward a report to the Chief Judge of the State, and where there is a gross violation of the terms of the license, recommend that the license be revoked.	
(6) A bondsperson registered under subsection (1) of this Section may undertake recognizance, act as surety, or guarantee the deposit the money as required by the bail condition of a defendant granted bail by the Court within the division or district in which the bondsperson is registered.	
(7) No person or corporate body shall be registered as a bondsperson unless the person is, or the corporate body is composed of persons of unquestionable character and integrity, and must deposit with the Chief Judge of the State sufficient bank guarantee in such amount as may be determined by the Chief Judge in the regulation, having regard to the registered class or limit of the bondsperson's recognizance.	

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

(9) The Chief Judge of the State may withdraw the registration of a bondsperson who contravened the terms of his license.

178. (1) Every bondsperson shall have the powers to arrest any defendant or suspect who is absconding or who he believes is trying to evade or avoid appearance in Court.

Bondsperson
may arrest
absconding
defendant or
suspect

(2) The bondsperson shall, upon the arrest of the absconding defendant or suspect:

- (a) immediately hand him over to the nearest Police Station; and
- (b) take him to the appropriate Court within twelve (12) hours.

PART 15

BRINGING OF PERSON IN CUSTODY BEFORE COURT

179. (1) Where any person for whose appearance or arrest a Court is empowered to issue a summons or warrant is to be confined in any prison or lawful place of detention, the Court may issue an order to the Officer in charge of such prison or place of detention requiring him to cause such prisoner to be brought at a time to be named in the order before such Court.

Power of
Court to
order
prisoner to be
brought
before it

(2) The Officer in charge of the prison or place of detention shall, upon the receipt of such order, act in accordance with the contents of such order and shall provide for the safe custody of the prisoner during his absence from the prison or place of detention for the purpose stated in subsection (1) of this Section.

PART 16

FORMS IN RESPECT OF SUMMONSES, WARRANTS, RECOGNIZANCES AND OTHER SIMILAR PROCESS

180. Subject to the express provisions, if any, of this Law, the forms in the First Schedule to this Law may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply, and when so used, shall be good and sufficient in law.

PART 15

PROVISIONS RELATING TO PROPERTY AND PERSONS

OWNERSHIP OF PROPERTY

181. 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 following provisions shall apply if:

Methods of
stating
ownership of
property

- (a) the property belongs to, or is in the possession of more than one person whether as partners in trade or otherwise, joint tenants, tenants in common or other joint owners or possessors, it may be described in the name of any one of such persons and another

Joint owners

or other persons;	Companies and Associations
(b) the property belongs to a company, association, club or society may, subject to the provisions of any other written law, be describe as the property of such company, association, club or society, by its legal or registered title;	
(c) the property belongs to, or is provided for the use of any public establishment, service or department, it may be described as the property of the State;	Money or property in control of public officers
(d) 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 place, it may be stated as the property of the person in charge of or officiating in the church, chapel, mosque or building or place, or thing, without naming him or them;	Places of worship
(e) 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;	The control of public officers
(f) it is necessary to state the ownership of: i. any work or building made, erected or maintained either wholly or in part at the expense of the public revenue of the State or of any part of it; ii. any town, or village or any Local Government, or of anything belonging to or being in or used in relation to the same; iii. anything provided for the use of any part or of any public institution or establishment, or of any materials or tools provided or used for repairing any such work or building or any public road or highway; iv. any other property whatsoever, whether movable or immovable, 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 jurisdiction;	Public building
(g) the property belonging to a woman who has contracted a marriage under the Marriage Act or a marriage recognized as a valid marriage under any law in force in Nigeria, may be stated as belonging to such married woman.	Married women

DESCRIPTION OF PERSONS

182. (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 reasonably described to identify him.
- (3) Where it is impracticable to give the person's correct and exact description or designation because the name or the description or designation of the person is not known or for any other reason, the description or designation shall be given as is reasonably practicable in the circumstances, or such person may, subject to subsection (4) of this Section, be described as

“a person unknown”.

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

RIGHTS OF WOMEN IN RESPECT OF SEPARATE ESTATE

183. Every married woman shall have in her own name against all persons whatsoever, including her husband, 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.

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

184. In any proceedings taken under the provisions of section 183 of this Law, the husband and wife shall be competent and compellable witnesses in accordance with the provisions of the Evidence Act.

Husband and wife competent as witnesses

PART 18 THE CHARGE

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

Form of charges in Second Schedule to be used and adapted

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

Form of charge

(2) Where the written law creating the offence:

- (a) gives it any specific name, the offence may be described in the charge by that name only;
- (b) 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 facts of the offence with which he is charged.

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

(5) Where the defendant has previously been convicted of any offence and it is intended to prove such previous conviction for the purpose of affecting the punishment which the Court

may award, the subsequent offence shall first be charged and then, if the previous offence is one which under the provisions of any written law, may be so charged a statement of such previous conviction shall be added.

(6). 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.

Legal
Presumption
of charge

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

Particulars in
charge

(2) The particulars in the charge shall describe the offence shortly in ordinary language avoiding as far as possible the use of technical terms.

(3) A charge sheet, prepared by a police prosecutor shall be filed with the photograph of the defendant and his fingerprint impression; Provided that where the photograph or fingerprint impression is not available, it shall not invalidate the charge.

188. 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 188.

Charge of
breach of trust

189. Where a defendant is charged with falsification of accounts, fraudulent falsification of accounts or fraudulent conversion, it shall be sufficient to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud or any particular day on which the offence was committed.

Charge of
falsification of
accounts

190. Where the nature of the offence is such that the particulars required by Sections 186 and 187 of this Law do not give the defendant sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the offence was committed as will be sufficient for that purpose.

Charge may
contain the
manner in
which the
offence was
committed

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

Sense of words
used in charge

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

192. (1) The description of property in a charge shall be in ordinary language indicating with reasonable clearness the property referred to, and where the property is so described, it is not necessary, except when required for the purpose of describing an offence depending on any

Description of
property and
joint owners.

special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.

depending on any special ownership of property or special value of property, to name the person to whom the property belongs or the value of the property.

2) Where the 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 provisions set out in Section 181 of this Law.

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

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

Description of
Coins and
bank or
currency notes

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

194. Where the owner of any property is described under paragraph (b) of Section 181 of this Law as being in any company, association, club or society, proof of the registration of the company, association, club or society shall not be required unless the Court decides that proof shall be given, in which case, a further hearing may be adjourned for that purpose, or the Court may, in its discretion, amend the proceedings by substituting the name of some person or persons for the registered title.

Proof of
registered title

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

Provision as to
statutory
offences

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

196. The description or designation of the defendant in a charge or of any person to whom reference is made, may be described in the manner set out in Section 182 of this Law.

Description of
persons

197. Where it is necessary to refer to a document or an instrument in a charge, it is sufficient to describe it by any name or designation by which it is commonly known, or by the purport of the document without setting out the content or attaching a copy of such document to the charge.	Description of document
198 Subject to any other provisions of this Law, it is sufficient to describe any place, time, thing, matter, act, or omission whatsoever to which it is necessary to refer in a charge in ordinary language in such a manner as to indicate with reasonable clarity the place, time, thing, matter, act or omission referred to.	General rule as to description
199. It is not necessary in stating an intent to defraud, deceive or injure to state an intent to defraud, deceive or injure any particular person, where the law creating the offence does not make an intent to defraud, deceive or injure a particular person an essential ingredient of the offence.	Statement of intent
200. The following defendants may be charged and tried together where the defendants are accused of: (a) the same offence committed in the course of the same transaction; (b) an offence and another of abetting or being an accessory to or attempting to commit the same offence; (c) more than one offence of the same or similar character, committed by them jointly; (d) different offences committed in the course of the same transaction; (e) offences which include stealing, extortion or criminal misappropriation and another accused of receiving or retaining or assisting in the disposal or concealment of property, the possession of which has been transferred by offences committed by the first named persons, or of abetment of or attempting to commit any of the last named offences; and (f) dishonestly receiving stolen property and or assisting in the concealment of stolen property, or in respect of stolen property the possession of which has been transferred by one offence; and another accused of offences committed during a fight or series of fights arising out of another fight, and persons accused of abetting any of these offences.	Defendant who may be charged jointly
201. For every distinct offence with which a defendant is accused, there shall be a separate charge and every charge shall be tried separately except in the following circumstances: (a) any three (3) offences committed by a defendant within twelve (12) months whether or not they are of the same or similar character, or whether or not they are in respect of the same person or persons; or (b) any number of the same type of offence committed by a defendant; or (c) any number of offences committed by a defendant in the course of the same transaction having regard to the proximity of the time and place, continuity of action and community of purpose; or cases mentioned in Sections 202 to 207 of this Law	Separate charges for distinct offences

202. An offence is deemed to be an offence of the same kind as an attempt to commit that offence where the attempt is itself an offence.	Attempt same as substantive offences
203. 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 similar character, more offences than one are committed by the same defendant, charges for the offences may be joined and the defendant accused tried for the offences at one trial.	Trial for more than one offence
204. Where the acts or omissions alleged constitute an offence falling within two (2) or more separate definitions in any written law for the time being in force under which offences are defined or punished, the defendant accused of them may be charged with and tried at one trial for each of those offences.	Offences falling within two definitions
205. Where several acts or omissions, of which one or more than one would by itself or themselves constitute an offence, constituted when combined with a different offence, the defendant accused of them may be charged with and tried at one trial for the offence constituted by those acts or omission when combined or for any offence constituted by any one or more of those acts.	Acts constituting one offence but constituting a different offence when combined
206. Where a single act or omission, or series of acts or omissions is of such a nature that it is doubtful which of the several offences, the facts of which can be proved, will constitute the offence with which the defendant may be charged with having committed all or any of those offences, and any number of those charges may be tried at once or he may be charged in the alternative with having committed any of those offences.	Where it is doubtful which offence has been committed
207. Where a single act or omission, the fact or combination of facts, constitutes more than one offence, the defendant may be charged and tried at one trial for one or more of those offences.	Incidental offences in the same transaction

ALTERATION OR AMENDMENT OF CHARGES

208. (1) A Court may permit an alteration or amendment to a charge or the framing of a new charge at any time before judgment is pronounced.	Alteration or amendment of charge by permission of Court
(2) Any altered or amended charge shall be read and explained to the defendant and his plea to the altered or amended charge shall be taken.	
(3) Where a defendant is arraigned for trial on an imperfect or erroneous charge, the Court may permit or direct the framing of a new charge, or an amendment to, or the alteration of the original charge.	

4) Where any defendant is committed for trial without a charge or with an imperfect or erroneous charge, the Court may frame a charge, or add, or alter the charge as the case may be having regard to the provisions of this Law.	Procedure on imperfect charge
209. (1) Where a new charge is framed or alteration made to a charge under the provisions of Section 208 of this Law, the Court shall call on the defendant to plead to the new or altered charge as if he has been arraigned for the first time.	Procedure on alteration of charge
(2) The Court shall proceed with the trial as if the new or altered charge had been the original charge.	
210. (1) Where the new or altered charge is such that proceeding immediately with the trial is likely in the opinion of the Court to prejudice the defendant in his defence or the prosecutor, as the case may be, in the conduct of the case, the Court may in its discretion immediately proceed with the trial as if the charge had been the original charge.	When court may proceed with trial immediately after altering, adding to or framing charge
(2) Where the 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 to it as having been filed in the amended form.	
211. Where a charge is altered, amended or substituted after the commencement of trial, the prosecutor and the defendant shall be allowed to recall or re-summon and re-examine any witness who may have been examined and to call any further witness; provided that such examination shall be limited to the alteration, amendment or substitution made.	Recall of witnesses when charge is revised
212. An error in stating the offence or to the particulars required to be stated in a charge or an omission to state the offence or those particulars, or any duplicity, mis-joinder or non-joinder of the particulars of the offence, shall not be regarded at any stage of the case as material unless the defendant was in fact misled by the error or omission.	Effect of error
213. Any objection to a charge on the ground that it is imperfect or erroneous shall be taken immediately after the charge has been read over to the defendant and not later.	Objection to charge to be taken at plea
214. No judgment shall be stayed or reversed on the ground of any objection which, if stated after the charge was read over to the defendant or during the proceedings or the trial might have been amended by the Court due to:	Objections cured by verdict
(a) any variance between the charge or any process relating to it and the evidence adduced in support of the charge as to the time when the complaint was alleged to have arisen if it is proved that such complaint was in fact made within the time limited by law for making it; or (b) any variance between the charge or any process relating to it and the evidence adduced in support of the charge as to the place in which the cause of complaint was alleged to have arisen; or (c) any alleged defect in substance or in form in any charge, complaint, warrant or other process relating to the charge and the evidence adduced in respect of the charge.	
215. (1) Where an appellate court is of the opinion that a defendant convicted of an offence was misled in his defence by the absence of a charge, or by an error in the charge, which has occasioned a miscarriage of justice, it may direct that the trial be recommenced on another charge.	Effect of material error

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

CONVICTION OF ONE OF SEVERAL OFFENCES OR OF ANOTHER OFFENCE

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

Where the defendant charged with one offence may be convicted of another

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

Full offence charged-attempt proved

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

Attempt charged-full offence proved

219. Where a defendant has been convicted of an attempt under either Sections 217 or 218 of this Law, he shall not subsequently be liable to be prosecuted for the offence for which he was convicted of attempting to commit.

Liability as to further prosecution

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

On charge of an offence conviction as accessory after the fact to that or connected offence may follow

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

Defendants tried for lesser offence but a higher offence is proved

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

(3) Where a charged is brought for the higher offence pursuant to this Section, the defendant shall be tried before another Court.

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

Conviction of kindred offences relating to property

224. Where on trial for burglary, housebreaking or any other related offence, the facts proved in evidence can justify a conviction for some other offences and not the offence with which the defendant is charged, he may be convicted of the other offence and be punished as if he had been convicted on a charge or an information charging him with the offence.	Defendants charged with burglary may be convicted of kindred offence
225. Where on trial for rape, defilement, incest, unnatural or indecent offences against a person, the facts proved in evidence can ground a conviction for indecent assault and not the offence with which the defendant is charged, he may be convicted of the offence of indecent assault, and be punished as if he had been convicted on a charge or an information charging him with the offence of indecent assault.	On charge of rape, Conviction under defilement, incest, unnatural or indecent assault may follow
226. Where on trial for the offence of defilement, the facts proved in evidence warrant a conviction for indecent assault and not the offence with which the defendant is charged, he may be convicted of indecent assault, although he was not charged with the offence.	On charge of defilement conviction of indecent assault may follow
227. Where a defendant is charged and tried for the murder of a child or for infanticide and it appears on the evidence that the defendant was not guilty of murder or of infanticide, as the case may be, but was guilty of the offence of concealment of birth, the defendant may be convicted of that offence.	Where murder or infanticide is charged and concealment of birth is proved
228. (1) Where a defendant is charged and tried for the murder of a newly-born child or for infanticide and it appears on the evidence that the defendant was not guilty of murder but was guilty of infanticide, the defendant may be convicted of infanticide.	Where murder is charged and infanticide proved
(2) Nothing in subsection (1) of this Section prevents a defendant who is tried for the murder of a newly-born child from being: (a) convicted of manslaughter; or (b) found guilty of concealment of birth; or (c) acquitted on the ground that by virtue of an applicable law, he was not criminally or in accordance with this Law or any other law.	
229. (1) Where a defendant is charged with an offence consisting of several particulars, a combination of some of which constitute a lesser offence in itself and the combination is proved but the remaining particulars are not proved, he may be convicted of, or plead guilty to the lesser offence although he was not charged with it.	Where offence proved is not included in offence charged

(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.

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

Withdrawal of remaining charges on conviction on one of several charges

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

PART 19 PREVIOUS ACQUITTALS OR CONVICTIONS

231. In this Part “offence” includes an offence against a written law of any State of Nigeria.

Interpretation

232. (1) without prejudice to the provisions of Section 219 of this Law, a defendant charged with an offence is not liable to be tried for that offence where it is shown that he has previously been:

Defendant convicted or acquitted not to be tried again for the same or kindred offence

- (a) convicted or acquitted of the same offence by a competent Court;
- (b) convicted or acquitted by a competent Court on a charge on which he might have been convicted of the offence; or
- (c) convicted or acquitted of an offence by a competent Court other than the offence charged, being an offence for which, apart from this Section, he might be convicted by virtue of being charged with the offence charged.

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

233. A defendant acquitted or convicted of an offence may afterwards be tried for a distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of Section 203 of this Law.

A defendant may be tried again on separate charge in certain cases

234. A defendant acquitted or convicted of an offence constituted by an act or omission causing consequences which together with that act or omission constitute a different offence from that for which he was acquitted or convicted, may afterwards be tried for the last-mentioned offence if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted when the consequences create the offence of murder or manslaughter.

Consequences supervening or not known at previous trial

235. A defendant acquitted or convicted of an offence constituted by an act or omission, may, notwithstanding 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.

Where court at first trial was not competent

PART 20
WITNESSES
ENFORCING ATTENDANCE OF WITNESSES

236. (1) The Court may, on an application of the prosecution or the defence, issue a summons or a writ of subpoena on a witness requiring him to attend Court to give evidence in respect of the case, and to bring with him any specified documents or things and any other documents or things relating to them which may be in his possession or power or under his control.

Issue of summons for witness

(2) The person to whom the summons is addressed is not bound to attend Court unless his traveling expenses are paid to him.

(3) Where there is a threat or likelihood of harm or injury to a witness, the Attorney-General may on request provide reasonable protection for safety of the witness

237. (1) A Court with criminal jurisdiction shall have a process server specially assigned to it.

Service of summons and other processes on witnesses

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

(3) A summons shall be served on the person to whom it is directed in the same manner as is set out in Sections 109 to 118 of this Law.

(4) Service of processes may be effected by registered reputable courier companies, recognized and authorized by the Chief Judge in accordance with the provisions of this Law, and such registered courier companies may be assigned to a Court with criminal jurisdiction as a process server in accordance with subsection (1) of this Section.

(5) The Attorney-General of the State or any person so authorized by him or the Police, may serve on a person whom the prosecutor wishes to call as a witness, a witness summons or writ of subpoena.

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

238. Where a witness who has been summoned to give evidence does not: (a) attend Court at the time and place indicated on the summons; and (b) provide any reasonable excuse for his non-attendance, after proof that the summons was duly served on him, or that the person to be served wilfully avoids service, the Court may issue a warrant to arrest and bring him before the Court.	Warrant for witness after summons
239. Where the Court is satisfied in the first instance, by proof on oath, that a person likely to give evidence, either for the prosecution or for the defence, will not attend to give evidence without being compelled to do so, then, instead of issuing a summons, it may issue a warrant for the arrest of the person.	Issue of warrant for witness in first instance Form 13
240. (1) A witness arrested under a warrant shall, if practicable and where the hearing of the case for which his evidence is required is fixed for a time which is more than twenty-four (24) hours after the arrest, be taken before a Magistrate and the Magistrate: (a) may on the witness furnishing security by recognizance to the satisfaction of the Magistrate for his appearance at the hearing, order him to be released from custody; or (b) shall, on the witness failing to furnish the security, order him to be detained for production at the hearing (2) The provisions of this Law relating to bail, summons and warrants in respect of the defendant shall apply to witnesses. (3) A witness arrested or detained under this Section shall not be kept in the same room or place as the defendant, if the defendant is in custody and the defendant shall not be allowed to make any contact with the witness.	Mode of dealing with witness arrested under warrant
241. (1) A witness who: (a) refuses or neglect, without reasonable cause to attend Court in compliance with the requirements of a summons duly served in the manner prescribed by law; or (b) departs from the premises of the Court without the leave of the Judge or Magistrate hearing the case, is liable, on summary conviction, to a fine not exceeding ten thousand naira (N10,000.00) or to imprisonment for a term not exceeding two (2) months. (2) A complaint shall not be made for an offence under this Section except by the order of the Court made during the hearing of the case for which the evidence of the witness is required.	Penalty on witnesses refusing to attend

242. A witness who is present when the hearing or further hearing of a case is adjourned, or who has been duly notified of the time and place to which the hearing or further hearing is so adjourned, shall attend any subsequent hearing and if he defaults, he may be dealt with in the same manner as if he had refused or neglected to attend the Court in obedience to a witness summons.	Non-attendance of witness on adjourned hearing
243. A person present in Court and compellable as a witness, whether a party or not, in a cause, may be compelled by a Court to give evidence, and produce any document in his possession, or in his power, in the same manner, and subject to the same rules as if he had been summoned to attend and give evidence, or to produce the document and may be punished in like manner for any refusal to obey the order of the Court.	Persons in court may be required to give evidence though not summoned
244. (1) A witness shall take an oath or make a solemn affirmation in such a manner as the Court considers binding on his conscience.	Manner of making oath or affirmation
(2) A person of the Moslem faith shall not be required to take an oath in Court unless: (a) he has been given an opportunity to complete the abolutions prescribed by the Moslem faith for persons taking oath on the Holy Qur'an; and (b) the oath is taken upon a copy of the Holy Qur'an.	Swearing of Moslems
245. The Court shall have the power to compel a person present at hearing of a case, who is competent and compellable, to give evidence if the justice of the case so requires (4) Any person in the office of the Director of Public Prosecutions or so authorized and the investigating police officer handling the investigation of the case may serve on any person whom the prosecutor wishes to call as witness, a witness summons or writ of subpoena.	Court to compel witness
246. (1) When a person attending Court and who is required to give evidence, without any sufficient excuse or reason: (a) refuses to be sworn to affirm as a witness; or (b) having been sworn or having taken affirmation refuses to answer any question put to him; or (c) refuses or neglects to produce any document or anything which he is required by the Court to produce, the Court may, if it thinks fit, adjourn the hearing of the case for any period not exceeding eight (8) days where practicable, and may in the meantime by warrant, commit the person to prison or other place of safe custody for a period not exceeding thirty (30) days.	Witness refusing to be sworn, or produce documents
(2) When the person, upon being brought before the Court at or before the adjourned hearing of the case refuses to do what is required of him, the Court may, if it thinks fit, adjourn the hearing of the case for another period not exceeding eight (8) days, and commit the person to the same period referred to in subsection (1) of this Section, and from time to time until the person consents to do what is required of him.	

(3) Nothing in this Section shall:

- (a) affect the liability of the person 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.

EXPENSES OF WITNESSES

247. Where a person attends Court as a witness to give evidence for the prosecution or as an expert witness to the Court in any criminal proceedings, the Court shall order payment by the Registrar to such witness of such sums of money, as it may deem reasonable and sufficient to compensate the witness for his expenses and loss of time which he reasonably incurred in attending Court.

Expenses of witnesses for the prosecution

248. Where a person attends Court as a witness to give evidence for the prosecution or as an expert witness to the Court in any criminal proceedings, the Court shall order payment by the Registrar to such witness of such sums of money, as it may deem reasonable and sufficient to compensate the witness for his expenses and loss of time which he reasonably incurred in attending Court.

Expenses of witnesses for the defence

249. The Court may, if it considers it proper, permit on application of a party, for an adjournment of the proceedings and in so doing, may order the party seeking the adjournment to pay to a witness present in Court and whose evidence it has not been possible to take owing to the adjournment, such sum in the amount payable to a witness in accordance with Sections 247 and 248 of this Law, or such sum as the Court may fix.

Adjournment may be granted subject to witnesses costs

250. The amount of the expenses payable to a witness pursuant to Sections 247 and 248 of this Law shall be processed and the paid by the Registrar of the Court to the witness out of the relevant vote as appropriated by the Chief Judge.

Ascertainment of witnesses expenses

EXAMINATION OF WITNESSES

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

Application of the Evidence Act

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

Power to call or recall witnesses

253. A certificate signed by any of the officers named in Section 55 of the Evidence Act, shall be admissible in evidence in accordance with the provisions of this Law.

Certificates of certain Government technical

254. In a case where the right of reply depends on the question whether evidence has been called for the defence, the fact that the defendant charged has been called as a witness, shall not of itself confer on the prosecution the right of reply, but a law officer for the prosecution shall in all cases have the right of reply.

Right of reply

It is observed that there is no provision for interpreter in ACJA and Ondo. It is therefore suggested that a new section be created in line with S. 195 Lagos.(It shall be the duty of the Court to provide interpreter where the defendant does not understand the language of the Court.)

PART 21 PUBLICITY AND VIEW

255. Subject to the provisions of Sections 256 and 257 of this Law and of any other written law specifically relating to it, the room or place in which any trial is to take place under this Law shall be an open Court to which the public generally may have access as far as it can conveniently contain them.

Public to have access to hearing

256.(1) Notwithstanding the provisions of subsection (1) of this section, the Judge or Magistrate presiding over a trial may, in his discretion and subject to the provisions of section 238 of this Law, exclude the public at any stage of the hearing on the grounds of public policy, decency or expedience.(take note of renumbering from here)

Public may be excluded

(2) Where the court is sitting in a place other than in a building, the authority given in subsection (1) of this section to exclude the public shall be construed as being authority to prevent the public approaching so near to where the court is sitting, as in the opinion of the Judge or Magistrate, to be able to hear what is taking place at the trial or be able to communicate with a person allowed to be present.

(3) The public shall be excluded from all defilement and rape cases subject to the provisions of Section 238 of this Law.”

237. Where a person who in the opinion of the court has not attained the age of eighteen is called as witness in any proceedings in relation to an offence against or any conduct contrary to decency or morality, the court may direct that all or any persons not being:

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

- (a) members or officers of the court; or
- (b) parties to the case, their legal representatives or persons otherwise directly concerned in the case,

be excluded from the court during the taking of the evidence of such person.
Court may exclude certain persons while taking evidence of a child or young person.

238. (1) An order made under either section 236 or 237 of this Law excluding the public from a court shall not unless specifically stated –

Order under section 236 or 237 not to apply to press and certain others

(a) authorise the exclusion of *bona fide* representatives of a newspaper or news agency; or
(b) apply to messengers, clerks and other persons required to attend at the said court for purposes connected with their employment.

(2) Where such an order is made, the Court shall record the grounds upon which such decision is taken.

239. An infant, other than an infant in the arms of parent or guardian, or child shall not be permitted to be present in court during the trial of a defendant charged with an offence or during any proceedings preliminary to the trial:

Prohibition on children being present in court during the trial of other persons

(a) he is the defendant charged with the alleged offence; or
(b) his presence is required as a witness or otherwise for the purposes of justice in which event he may remain for so long as his presence is necessary.

240. (1) Where it appears to the court that in the interest of justice the court should have a view of any place, person or thing connected with the case, the court may, where the view relates to a place, either adjourn the court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.

View by court of *locus*

(2) The defendant shall be present at the view of the place, person or thing concerned.

(3) At the locus, the court shall give directions as it may deem fit for the purpose of preventing communication between the witnesses and the defendant,

(4) A breach of a direction given under subsection (3) of this section shall not affect the validity of the proceedings unless the court otherwise directs.

PART 22 DETERMINATION OF AGE

241. (1) Where the age of a person is in issue in any criminal proceedings, the Court may determine the question by taking into account one or both of the following:

- (a) the apparent physical appearance of the person concerned; or
- (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 Rights Law of Ondo State, 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.

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- (3) An order or judgment of the Court shall not be invalidated by any subsequent proof that the age of the person has not been correctly stated to the court, and the age presumed or declared by the Court to be the age of that person shall, for the purpose of this Law, be deemed to be the true age of that person.”

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

Age in relation
to offences

PART 23

PRESENCE OF DEFENDANT AT TRIAL

243. A defendant shall, subject to the provisions of sections 122 and of subsection (2) of section 255 of this Law, be present in court during the whole of his trial unless

- (a) he misconducts himself in such a manner as to render his continuing presence impracticable or undesirable;
- (b) at the hearing of an interlocutory application; or
- (c) where he authorizes his legal practitioner in writing to represent him in his absence or dispense with his physical presence..

244. (1) Both the complainant and defendant shall be entitled to conduct their cases by a legal practitioner or in person except in a trial for a capital offence.

Counsel for
complainant
and for
defendant

(2) Where the defendant is in custody or on remand he shall be allowed access to his legal practitioner at all reasonable times.

(3) Where the defendant elects to defend himself in person, the court shall inform him of all his rights within the trial and of the possible consequences of his election.

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

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

General
control of
prosecution by
the Attorney-
General

(2) Where proceedings in respect of an offence is instituted by a police officer, it shall be in the name of the Commissioner of Police of Ondo State versus the defendant.

(3) The provisions of subsections (1) and (2) of this section, shall apply in relation to proceedings for an offence against a Federal law as they apply in relation to offences against a law of the state but as if references to the Attorney General of the Federation were references to the Attorney General of Ondo State.

(4) The Attorney-General of the Federation may delegate to the Attorney-General of a State the powers conferred on him by this section either generally or with respect to any offence or class of offences and such offence(s) shall be prosecuted in the name of the Federal Republic of Nigeria.

(5) Such powers so delegated to the Attorney-General of a State may be exercised directly by him or any officer in his Ministry or department.

246. Where a defendant appears before a court on a summons he may be required to enter the dock or to stand or sit adjacent to it as may be directed by the court. Position in court of person summoned

PART 24

PLEAS

247. Notwithstanding anything in this Law or in any other law, the Attorney-General of the State shall have power to consider and accept a plea bargain from a person charged with any offence where the Attorney-General is of the view that the acceptance of such plea bargain is in the public interest, the interest of justice and the need to prevent abuse of legal process. Plea bargain

248. The prosecutor and a defendant or his legal practitioner may before the plea to the charge, enter into an agreement in respect of - Plea and sentence agreements

- (a) a plea of guilty by the defendant to the offence charged or a lesser offence of which he may be convicted on the charge, and
- (b) an appropriate sentence to be imposed by the Court if the defendant is convicted of the offence to which he intends to plead guilty.

(2) The prosecutor may only enter into an agreement contemplated in subsection (1) of this section -

- (a) after consultation with the Police Officer responsible for the investigation of the case and if reasonably feasible, the victim, and
- (b) with due regard to the nature of and circumstances relating to the offence, the defendant and the interests of the community.

(3) The prosecutor, if reasonably feasible shall afford the complainant or his representative the opportunity to make representations to the prosecutor regarding -

- (a) the contents of the agreement; and
- (b) the inclusion in the agreement of a compensation or restitution order.

(4) An agreement between the parties contemplated in subsection (1) shall be reduced

to writing and shall—

- (a) state that, before conclusion of the agreement, the defendant has been informed -
 - (i) that he has a right to remain silent;
 - (ii) of the consequences of not remaining silent;
 - (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 admissions made; and
- (c) be signed by the prosecutor, the defendant, the legal practitioner and the interpreter as the case may be.

(5) The Presiding Judge, or Magistrate before whom criminal proceedings are pending shall not participate in the any discussion carried on with a view to arriving at an agreement contemplated in subsection (1):

Provided that he may be approached by Counsel regarding the contents of the discussions and he may inform them in general terms of the possible advantages of discussions, possible sentencing options or the acceptability of a proposed agreement.

(6) Where a plea agreement is reached by the prosecution and defence, the prosecutor shall inform the Court that the parties have reached an agreement and the Presiding Judge or Magistrate shall then inquire from the defendant to confirm the correctness of the agreement.

(7) The Presiding Judge or Magistrate shall ascertain whether the defendant admits the allegations 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 he is for any reason of the opinion that the defendant cannot be convicted of the offence in respect of which the agreement was reached and to which the defendant has pleaded guilty or that the agreement is in conflict with the defendant's rights referred to in subsection (4) of this section, he shall record a plea of not guilty in respect of such charge and order that the trial proceed.

(8) Where a defendant has been convicted in terms of subsection (7)(a) of this section, the Presiding Judge or Magistrate shall consider the sentence agreed upon in the agreement and if -

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

(9) Where the defendant has been informed by the court about the heavier sentence pursuant to paragraph (c) of subsection (8), the defendant may either -

- (a) abide by his plea of guilty as agreed upon in the agreement and agree that, subject to the defendant's right to lead evidence and to present argument relevant to sentencing, the Presiding Judge, or Magistrate should proceed with the sentencing; or

(b) withdraw from his plea agreement, in which event the trial shall proceed <i>de novo</i> before another Presiding Judge, or Magistrate, as the case may be.	
(10) Where trial proceeds pursuant to paragraph (a) of subsection (9) or <i>de novo</i> before another Presiding Judge, or Magistrate as contemplated in subsection (9)(b)— (a) no reference shall be made to the agreement; (b) no admissions 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.	
(11) “Prosecutor” for the purpose of this section means a Law Officer.	
249 (1) The person to be tried upon any charge or information shall be placed before the Court unfettered unless the Court directs otherwise and the Registrar or other officer of the court shall read and explain the charge or information to that person in the language he understands to the satisfaction of the Court and in the presence of a legal practitioner representing the defendant.	Pleading to information or charge
(2) The defendant shall be called upon to plead instantly to the charge except where the defendant is entitled to service of a copy of the information, he objects on the grounds of non-service and if the Court finds he has not been duly served.	
250. Every person who pleads not guilty shall be deemed to have put himself up for trial.	Effect of plea of not guilty
251. (1) Where a defendant pleads guilty to an offence with which he is charged, the Court shall— (a) record his plea as nearly as possible in the words used by him; (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.	Plea of guilty
(2) Where the Court is satisfied that the defendant intends to admit the truth of all the essential elements of the offence for which he has pleaded guilty, it shall convict him of that offence and pass sentence upon him or make an order against him unless there shall appear sufficient reason to the contrary.	
(3) Where the defendant pleads guilty to a capital offence, a plea of not guilty shall be recorded for him.	
252. Where a defendant pleads guilty to an offence which is included in the offence charged but not guilty of the offence charged, the Court shall follow the provisions of section 251 and if satisfied of the guilt of the defendant may convict the defendant of the offence admitted unless the prosecution states its desire to proceed with the trial of the defendant for the offence stated in the charge.	Plea when offence admitted is included in offence charged
253. If the defendant when called upon to plead stands mute of malice or will not or cannot answer directly when called upon to plead to the charge, the Court shall enter or cause to be entered a plea of not guilty for the defendant and the plea so entered shall have the same force	Failure to plead due to malice

and effect as if such defendant had actually pleaded the same, or else the Court shall then proceed to try whether the defendant is of sound or unsound mind in accordance with the provisions of sections 217 to 229 and if he is found to be of sound mind shall proceed with his trial.

254. (1) Any defendant against whom a charge or information is filed may plead—
- (a) that by virtue of section 173 he is not liable to be tried for the offence with which he is charged; or
 - (b) that he has obtained a pardon for his offence.

Pleas:
autrefois
acquit or
convict,
pardon

(2) If either of such plea 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) If 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.

(4) Nothing in this section shall prevent a person from pleading that by virtue of some other provision of Law he is not liable to be prosecuted or tried for any offence with which he is charged.

PART 25

PERSONS OF UNSOUND MIND

255 (1) If in the course of a criminal trial, the court has reason to suspect the mental capacity or soundness of mind of a defendant, by virtue of which he is unable to stand trial or defend himself, the court shall order the medical examination of the defendant's mental state or soundness of mind by an appropriate health institution.

Procedure
when
defendant is
suspected to be
of unsound
mind

(2) An investigation under subsection (1) may be held in the absence of the defendant if the court is satisfied that owing to the state of the defendant's mind it would be in the interests of the defendant or of other persons or in the interests of public decency that he should be absent.

(3) If the Judge or Magistrate is not satisfied that such person is capable of making his defence, the Court shall postpone the trial and shall remand such person for a period not exceeding one (1) month to be detained for observation in a mental health asylum.

(4) The medical officer shall keep such person under observation during the period of his remand and before the expiration of such period shall certify under his hand to the Court his opinion as to the state of mind of such person, and if he is unable within the period to form any definite conclusion, shall so certify to the Court and shall ask for a further remand. Such further remand may extend to a period of two (2) months.

(5) Any Court before which a person suspected to be of unsound mind is accused of any offence may, on the application of a Law Officer, made at any stage of the proceedings prior to the trial, order that such person be sent to a mental health asylum for observation. The medical officer may, notwithstanding any other provision of Law, detain any such defendant for such period, not exceeding one (1) month, as may be necessary to enable him to form an opinion as to the state of mind of such defendant, and shall forward a copy of his opinion, in

writing, to the Court.

6) Where the medical officer or such official in charge of the asylum or other suitable place to which the person is referred for observation under the provisions of this section fails to submit a report as provided in subsections (4) and (5) of this section within the period stipulated in those sub sections, the court may discharge the person, or shall release him on bail in accordance with the provisions of this Law relating to bail.

256. (1) If 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.

**Certificate of
medical
officer**

(2) If such medical officer certifies that the defendant is of unsound mind and incapable of making his defence, the Judge, or Magistrate shall, if satisfied of the fact postpone the trial save that if the Judge, or Magistrate is satisfied that the defendant is of sound mind and capable of making his defence, the Court shall proceed with 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 such medical officer shall be receivable as evidence under this Section.

(5) If the defendant is certified to be of unsound mind and incapable of making his defence, it shall not be necessary for him to be present in Court during proceedings under this Section.

257. (1) Whenever a defendant is found to be of unsound mind and incapable of making his defence, the Court, if the offence charged is bailable by the Court, may in its discretion, release him on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Court or such officer as the Court appoints in that behalf.

Release of
person of
unsound mind
pending
investigation
or trial

(2) If such a defendant is before a Magistrate charged with an offence which is bailable by a Judge and not by a Magistrate, or if the offence is bailable by a Magistrate but he refuses to grant bail, such Magistrate shall inform the defendant of his right to apply to a Judge for bail and report such fact to a Judge.

(3) If a Judge has refused bail under subsection (1) of this section or after an application made under subsection (2) of this section or if sufficient security is not given or no application is made for bail, the Judge shall report the case to the Governor who after consideration of the report may, in his discretion, order the defendant to be confined in a mental health asylum or other suitable place of safe custody and the Judge shall give effect to such order.

(4) Pending the order of the Governor, the defendant may be committed to prison or other suitable place for safe custody.

258. Whenever a trial is postponed under section 255 or 256, the Court may at any time re-open or commence the trial de novo and require the defendant to appear or be brought before it.	Resumption of trial
259. When the defendant has been released under section 257 the Court at any given time may require the defendant to appear or be brought before it and may again proceed under section 255.	Resumption of proceedings after release under section 255
260. Whenever any person is acquitted by virtue of any provision of the Criminal Law applicable in the State on the ground of insanity or mental disorder, including insanity or mental disorder resulting from intoxication, the verdict of the Court before which the trial has been held, shall state specifically whether he committed the act alleged or not.	Acquittal on ground of insanity
261. (1) Whenever the finding states that the defendant committed the act alleged, the Court before which the trial has been held shall, if such act would but for the incapacity found have constituted an offence, order such person to be kept in safe custody in such place and manner as the Court deems fit and shall report the case for the order of the Governor.	Safe custody of person acquitted
262. When any person is confined under section 257 or 261 the medical officer of the prison or the medical officer attached to the mental health asylum if he is confined in any asylum, shall keep him under observation in order to ascertain his state of mind and such medical officer shall make a special report for the information of the Governor as to the state of mind of such person at that time or times as the Governor shall require.	Observation of defendants of unsound mind
263. When any person is confined under the provisions of section 257 in a prison or a mental health asylum and is certified by the medical officer to be capable of making his defence, such person 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.	Procedure when person of unsound mind reported able to make his defence
264. (1) If the medical officer of a prison or the medical officer attached to a mental health asylum in which a person is confined under section 257 or section 261 certifies that such person in his judgment may be discharged without the risk of his doing injury to himself or to any other person, upon the receipt of report from the Judge, the Governor may order him to be discharged or to be detained in custody or in prison or to be transferred to a mental health asylum if he has not already been sent to such a mental health asylum.	Procedure where person of unsound mind reported fit for discharge
(2) Where the Governor orders the person referred to in subsection (1) of this section to be transferred to a mental health asylum, he may require the appropriate Director of Medical Services to appoint two medical officers to report on the state of mind of such person and upon any other facts the Governor may require and on receipt of such report the Governor may order his discharge or detention as he deems fit.	
265. Where a person is confined in a prison or a mental health asylum, the Governor may direct his transfer from one prison or a mental health asylum to any other prison or a mental health asylum as often as may be necessary.	Transfer from one place of custody to another

266. (1) Whenever any relative or friend of any person confined under section 257 or 261 desires that such person shall be delivered over to his care and custody, the Governor, upon the application of such relative or friend, and on his giving security to the satisfaction of the Governor that the person delivered 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 such person to be delivered to such relative or friend:

Delivery of person of unsound mind to care of relative

(2) Where person is confined under the provisions of section 261, the Governor may further require such relative or friend to give security to the satisfaction of the Governor that if at any time it shall appear to the Governor that such person is capable of making his defence, such relative or friend shall produce such person for trial.

(3) Whenever such person is so delivered to the care and custody of any person, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Governor directs.

(4) Sections 262 and 263 shall apply to persons delivered to the care and custody of persons under this section as far as it is applicable.

267. Whenever it shall be necessary to remove a prisoner to a prison or mental health asylum under the provisions of sections 255 to 267, an order for such removal given under the provisions of sections 255 to 267 shall be sufficient authority for such removal and the detention of such prisoner notwithstanding that such prison or asylum is situate in another State of Nigeria.

Removal to another State

PART 26 REMAND AND OTHER INTERLOCUTORY PROCEEDINGS

268. (1) Any person arrested for any offence triable on information shall within a reasonable time of arrest be brought before a Magistrate for remand and the Magistrate may remand such a person after examining the reasons for the arrests exhibited in a Form requesting for remand filed by the Police and if satisfied that there is probable cause to remand such person pending legal advice of the Director of Public Prosecutions or the arraignment of such person before the appropriate Court or Tribunal.

Court may remand defendant in custody

(2) In this section “probable cause” includes –

- (a) circumstance of the individual case;
- (b) nature and seriousness of the alleged offence;
- (c) reasonable grounds that the person has been involved in the commission of the alleged offence; and
- (d) reasonable grounds that the person may abscond or commit further serious offence.

(3) The Form filed by the Police in accordance with subsection (1) of this section shall be made ex parte and shall be made in the prescribed “Report and Request Form” as contained in **Form 8** of the First Schedule to this Law.”

(4) Following an examination of the Form filed by the Police, the Magistrate shall consider the conduct, personality and social circumstances of the person concerned before making an order of remand.

(5) Where applicable, a Magistrate shall grant bail to any person brought before him pursuant to subsection (1) of this section pending the arraignment of such person before the appropriate Court or Tribunal.

(6) An order of remand made pursuant to subsection (1) of this section shall not exceed a period of thirty (30) days in the first instance and at the expiration of which the Magistrate shall order the release of the person remanded unless good cause is shown why there should be a further remand order for a period not exceeding thirty (30) days.

(7) At the expiration of the further order made pursuant to subsection (6) above, the Magistrate shall issue a hearing notice to the Commissioner of Police and Director of Public Prosecutions and adjourn the matter in order to inquire as to the position of the case and for the Commissioner of Police and Director of Public Prosecutions to show cause why the person remanded should not be released.

(8) The Magistrate may extend the order of remand for a further period of 30 (thirty) days only if satisfied that there is a good cause and that necessary steps have been taken to arraign the person before an appropriate Court or Tribunal.

9) Where good cause is not shown for the continued remand of the person pursuant to subsection (8) of this section, or where the person is still on remand custody after the expiration of the extended period under subsection (8), the court may, with or without an application to that effect, forthwith discharge the person and the person shall be immediately released from custody.

(10) No further application for remand shall be brought by the prosecution after the proceeding in the foregoing section.

11) The power to make inquiry as conferred by this section shall be exercised whether the suspect is present in Court or not.

(12) In this section unless the context otherwise requires, “offences triable on information” means any offence -

- (a) which on conviction shall be punished by a term of imprisonment exceeding two (2) years;
- (b) which on conviction shall be punished by imposition of a fine exceeding Fifty Thousand Naira (=N50,000.00); or
- (c) which on conviction shall be punished by death.

269. The powers conferred on the court under this Part of the Law may be exercised by the court –

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

When court may exercise power to remand

270. The legal advice of the Director of Public Prosecutions shall in all cases be copied to the court, and the court shall act only on such copy of the advice to make any order that may be necessary in the circumstances.	Legal advice of Director of Public Prosecutions
(2) Where the legal advice of the Director of Public Prosecutions indicates that the person remanded has no case to answer, the court shall release the person forthwith.	
271. During remand, the Court may order the defendant to be brought before it.	Court shall bring up defendant during remand
272. If a Court is satisfied that a defendant who has been remanded is, by reason of illness or accident, unable to appear personally before the Court at such adjournment as is mentioned in section 268, the Court may, in the absence of the defendant, order him to be further remanded for such time as shall be deemed reasonable and cause him to be so informed in writing.	Magistrate may adjourn where defendant cannot appear
273. All persons committed to prison under this Law shall be committed to the Correctional centres or other place of safe custody.	Place of commitment

PART 27
ORDER OF PRESENTATION OF CASE AND ADDRESS

274. (1) After the defendant has pleaded not guilty to the charge or information, the prosecutor may open the case against the defendant stating shortly by what evidence he expects to prove the guilt of the defendant.	Opening of case for the prosecution
(2) The prosecution should, in making the opening presentation of his case, also state where appropriate, any statement the defendant or any of the defendants might have made in regard to the offence, whether or not such statement was in his favour or against him.	
(3) The prosecutor shall then examine the witnesses for the prosecution who may be cross-examined by the defendant or his counsel and thereafter re-examined by the prosecutor.	
275. (1) evidence in support of the charge it appears to the court that a case is not made out against the defendant sufficiently to require him to make a defence the court shall in regard to that particular charge discharge him.	No case submission
(2) Where the defendant or his legal practitioner makes a no-case submission in accordance with the provisions of this Law, the court shall call upon the prosecutor to reply.	
(3) The defendant or his legal practitioner shall have the right to reply to any new point of law raised by the prosecutor.	
(4) The court shall give its ruling on the application of the defendant bearing in mind - (a) whether an essential element of the offence has been proved; (b) whether there is evidence linking the defendant with the commission of the offence	

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

276. Defendants case

(1) After the case of the prosecution is concluded, the defendant or the legal practitioner representing him, if any, shall be entitled to address the court to present his case and to adduce evidence if so required.

Defendant's
case

- (2) The defendant or the legal practitioner representing him shall be asked by the court:
- a) whether he wishes to give evidence on his own behalf; and
 - b) whether he wishes to call witnesses other than witnesses to character.

(3) If the defendant says that he does not intend to call any witness other than witness to character, the prosecutor may sum up his case against the defendant and the court shall then call upon the defendant to enter his defence.

277. (1). If a defendant says that he intends to call any witness other than a witness to character, the court shall call upon that defendant to enter upon the defence.

Defendant
calling witness
other than to
character

(2) Notwithstanding the provisions of subsection (1), the court may, before calling upon the defendant to enter upon the defence, call upon the prosecution to sum up his case against any one or more of the defendants against whom it considers that the evidence is not sufficient to justify the continuation of the trial and, after hearing the summing up, if any, may in its discretion record a finding of not guilty in respect of any such defendant or call upon any of them to enter upon his or their defence.

(2) In considering the application of the defendant under this section, the court shall in the exercise of its discretion, consider the following:

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

278. (Defence and Prosecutors right of reply)

Defence and
Prosecutor's
right of reply

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

(2) If the defendant or any of the defendants -

- (a) calls any witness other than to character, or any document other than a document relating to character is put in evidence for the defence, the prosecutor shall be entitled to reply.
- (b) has called only evidence to character, the prosecutor may at the close of the case for the defence adduce evidence of previous convictions of the defendant.

(3) Notwithstanding the provisions of subsection (2) of this section, the prosecutor may be heard in reply –

- (a) on a point of law or,
- (b) where none of the defendant has called evidence other than to character but any of them has introduced new matter in his statement to the court, on such new matter.

279 Addresses to be in writing (lags)

An Address or reply permissible under this Part shall be in writing and may be adopted in open Court.

280. Reference to Court of Appeal (lags)

(1) Where any question as to the interpretation of the Constitution of the Federation arises in the course of a trial and is referred to the Court of Appeal under the provisions of the Constitution, the Court before which the question arose may in its discretion either —

- (a) adjourn the trial until such question shall have been considered and decided; or
- (b) conclude the trial and postpone the verdict until such time as the question has been considered and decided; or
- (c) conclude the trial and pass sentence and suspend execution until such time as the question has been considered and decided, and in any such case the Court in its discretion shall commit the defendant or convicted person to prison or admit him to bail in accordance with sections 115 to 139.

(2) When the question has been decided, the Court shall –

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

281. Stay of proceedings

Subject to the provisions of the Constitution of the Federal Republic of Nigeria, an application for stay of proceedings in respect of any criminal matter brought before the High Court and Magistrates' Court shall not be entertained until judgment is delivered.

PART 28
CONCLUSION OF TRIAL

282. Court may adjourn for Judgment

(1) When the case for both sides is closed, the court shall consider its verdict and for this purpose may retire or adjourn the proceedings for judgment .

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

283. Judgment to be in writing

The Judge or Magistrate shall record his judgment in writing and every such judgment shall contain the point or points for determination, the decision thereon and the reasons for the decision and shall be dated and signed by the Judge or Magistrate at the time of pronouncing it:

~~Provided that a Magistrate, instead of writing such judgment, may record briefly in the book his decision or finding and his reason for such decision or finding, and then deliver an oral judgment.~~

284. Defendant to be discharged if found not guilty

If the court finds the defendant not guilty, it shall forthwith discharge him and record an order of acquittal accordingly.

Defendant to

285. Procedure on finding of guilty

(1) If the finding is guilty the defendant shall, if he has not previously called any witnesses to character, be asked whether he wishes to call any such witnesses and after such witnesses, if any, have 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 287 (2) of this Law.

Procedure on
finding of
guilty

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

286. Sentence after complying with S.285

When the provisions of Sections 285 have been complied with the court may pass sentence on the defendant or adjourn to consider and determine the sentence and shall then announce the same in open court.

Sentence after
complying
with S. 285

287. Sentence

The court shall, in pronouncing sentence, consider the following factors in addition to sections 371 and 384 of this Law:

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

Sentence

287A Sentencing hearing

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

Sentencing hearing

Recommendation for mercy

287B Recommendation for mercy

The court may in any case in recording sentence make a recommendation for mercy but in such case shall give the reasons for its recommendation.

Conviction on other charges pending

287C Conviction on other charges pending

Where a defendant is found guilty of an offence the court may in passing sentence take into consideration any other charge then pending against him if the defendant admits the other charge and desires that it be taken into consideration and if the prosecutor of the other charge consents.

(ii) Where such a desire is expressed and consent given the court shall:-

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

(b) the prosecution shall state the facts of the case in accordance with section 275 of this Law;

(c) Where the other charge pending against the defendant is considered in accordance with sub sections (1) and (2) of this section and sentence passed on the defendant with consideration or in respect of the other pending charge, the defendant shall not, subject to the provisions of sections 214 to 216 of this Law, or unless the conviction has been set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

288. Delivery of judgment when judge or magistrate is unavoidably absent

Where a Judge or Magistrate having tried a case is prevented by illness or other unavoidable cause from delivering his judgment or sentence, such judgment and the sentence, if the same has been reduced into writing and signed by the Judge or Magistrate, may be delivered and pronounced in open court in the presence of the defendant by any any other Judge or Magistrate.

Delivery of judgment when Judge or Magistrate unavoidably absent

WARRANT OF COMMITMENT

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

Direct imprisonment Form 15

290. Authority for carrying out non-capital sentence

A warrant under the hand of the Judge or Magistrate by whom any person shall have been sentenced or committed to prison for non-payment of a penalty or fine shall be full authority to the officer in charge of any prison and to all other persons for carrying into effect the sentence described in such warrant not being a sentence of death.

Authority for carrying out sentence not capital

291. Error or omission not to affect legality of act

The court may at any time amend any defect 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 mentioned in it, or may be inferred from there, that it is founded on a conviction or judgment sufficient to sustain the act.

Error or omission not to affect legality of act

PART 29
COSTS, COMPENSATION AND DAMAGES
COSTS AGAINST DEFENDANT

292. (1) A court may in the course of proceedings or when passing judgment, order that the defendant or convicted person shall pay a sum of money irrespective of any other fine or other punishment that may be imposed or that is imposed on the defendant for the purpose of -

Power of court to order payment of expenses or compensation

- (a) compensating any person injured by the offence, where substantial compensation is in the opinion of the court recoverable by civil suit;
- (b) defraying expenses properly incurred in the prosecution;
- (c) compensating an innocent purchaser of any property in respect of which the offence was committed who has been compelled to give it up;
- (d) defraying expenses incurred in medical treatment of any person injured by the defendant in connection with the offence.

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

(3) The court may make an order for payment of cost or compensation under this section irrespective of the fact that no fine has been imposed on the defendant in the judgment.

(4) At the time of awarding compensation in any subsequent civil suit relating to the same matter the court shall take into consideration any sum paid or recovered as compensation under this section.

Payment to be taken into consideration in subsequent suit

(5). The pendency of criminal proceeding shall not be a bar to a civil action in respect of the same subject matter.

Concurrence of criminal and civil procedure

(6). A court after conviction may adjourn proceedings, to consider and determine sentence appropriate for each particular defendant:

Power of the court to order restitution

- i. in addition to or in lieu of any other penalty authorized by law, order the offender to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate;
- ii. order for the restitution or compensation for the loss or destruction of the victim's property and in so doing the court may direct the offender to:

- (a) return the property to the owner or to a person designated by the owner; or
- (b) if the return of the property is impossible or impracticable, pay an amount equal to the value of the property; or

-
- (c) if the property to be returned is inadequate or insufficient, pay an amount equal to the property calculated on the basis of what is fair and just, having in mind the current market value.

293. Cost against private prosecutor

(1) A Court that acquits or discharges a person charged with 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 and the payment of such costs or any part of it may be ordered by the Court to be made out of any moneys taken from such person on his arrest or may be recovered by distress.

Cost against private prosecutor

(2) No order as to costs as aforesaid may be made if the Court considers that the private prosecutor had reasonable grounds for making his complaint and the costs awarded shall be as the Court shall deem fit.

294. (1) When any person causes the arrest, or arrest and charge of any person or persons and it appears to the court that there was no sufficient ground for causing the arrest, or that the accusation is false, vexatious or frivolous, it may for reason recorded order the person to pay reasonable compensation to the person or persons arrested or arrested and charged.

Compensation in cases of false and vexatious accusation

(2) The court may, in default of payment of such compensation or any part of it, award a term of imprisonment against the person against whom the order was made, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in this Law.

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

295. (1) The person to whom compensation is awarded under **section 294 of this Law** may refuse to accept any such order for compensation.

Injured person may refuse to accept compensation; but payment of compensation is a bar to further liability

(2) Where the person received the compensation **under section 294 of this Law** or where the offender, having been ordered to make compensation under the section, suffers imprisonment for non-payment thereof, the receipt of such compensation, or the undergoing of such imprisonment, as the case may be, shall act as a bar to any further action for the same injury.

(3) Before making an order for compensation under this Law, the court shall explain the full effect of this section to the person to whom compensation would be payable.

296. (1) When an offender is sentenced to pay a fine, or a person is ordered to pay compensation to another person under **Section 294 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 person may be imprisoned, issue a warrant for the levy of the amount by any means permitted by law, including:

Warrant for levy of fine

- (a) by the seizure and sale of any movable property belonging to the person; or
-

-
- (b) by the attachment of any debts due to the person; or
 - (c) subject to the provisions of the Land Use Act by the attachment and sale of any immovable property of the offender situated within the jurisdiction of the court.

(2) A warrant for seizure and sale of the movable property of any person under this section, shall be addressed to the court within the local limits of whose jurisdiction it is to be executed.

(3) When execution of a warrant is to be enforced by attachment of debts or sale of immovable property, the warrant shall be sent for execution, to any court competent to execute orders for the payment of money in civil suits and such court shall, follow the procedure for the time being, in force for the execution of such orders.

297(1) When an offender has been sentenced to only a fine with or without a sentence of imprisonment in default of payment of the fine, the court authorized by section 296 to issue a warrant may, exercise all or any of the following powers: -

Powers of court when offender is sentenced to only fine.

- (a) allow time for payment of the fine;
- (b) direct that the fine be paid by installments;
- (c) postpone the issue of a warrant under section 295;
- (d) without postponing the issue of a warrant under section 295, postpone the sale of any property seized under such warrant;
- (e) postpone the execution of the sentence of imprisonment in default of payment of the fine.

(2) Any order made in the exercise of the powers referred to in subsection (1) may be made subject to the offender giving such security as the court may deem fit, by means of a bond with or without sureties, and such bond may be conditioned either for the payment of the fine in accordance with the order or for the appearance of the offender as required in the bond or both.

(3) In like manner, the court may order that the execution of the sentence of imprisonment upon an offender who has been committed to prison in default of payment of a fine, be suspended and that he be released but only subject to the offender giving security as set forth in subsection (2) above.

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

DAMAGES IN CASES OF DISHONESTY

297. (1). Where in a charge for 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.

Damages recoverable as penalty

(2) The damages awarded under this section, shall be recovered in like manner, as

prescribed in section 296 of this Law.

PART 30
SEIZURE, RESTITUTION, FORFEITURE AND DISPOSITION OF PROPERTY.

298. Power of court to order restitution.

A court after conviction may adjourn proceedings to consider and determine sentence appropriate for each convict:

- (a) in addition to or in lieu of any other penalty authorised by law, order the convict to make restitution or pay compensation to any victim of the crime for which the offender was convicted, or to the victim's estate; or
- (b) order for the restitution or compensation for the loss or destruction of the Victim's property and in so doing the court may direct the convict:
 - (i) to return the property to the owner or to a person designated by the owner,
 - (ii) where the return of the property is impossible or impracticable, to pay an amount equal to the value of the property, or
 - (iii) where the property to be returned is inadequate or insufficient, to pay an amount equal to the property calculated on the basis of what is fair and just

299. When any property regarding which any offence appears to have been committed or which appears to have been used for the commission of any offence is produced before any criminal court during any trial, the court may make such order as it thinks fit for the proper custody of that property pending the conclusion of the proceedings or trial and, if the property is subject to speedy or natural decay, may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of, and the proceeds dealt with as the court may direct.

Order for custody and disposal of property pending trial

300. (1)

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

Order for disposal of property after trial

(2) Notwithstanding that the trial, proceeding or an appeal in respect of the case is pending, the court may, in any case, make an order with respect to property under the provisions of subsection (1) for the delivery of any property, to any person appearing to be entitled to the possession of such property, on his executing a bond, with or without sureties, to the satisfaction of the court, undertaking to restore such property to the court.

(3) Any order made under this section may be appealed against as if it is a decision in the

final judgment of the court giving the direction.

301. (1) Where the court orders the forfeiture or confiscation of any property but does not make an order for its destruction or for its delivery to any person, the court may direct that the property shall be kept or sold and that the same or, if sold, the proceeds of the sale be held as it directs until some person establishes to the court's satisfaction, a right to such property.

Custody or
sale of
property

(2) If no person establishes such a right within six months from the date of forfeiture or confiscation of such property, the proceeds of the sale shall be paid into the general revenue of the State.

(3) When an order is made under this section in a case which an appeal lies, such order shall not, except when the property is livestock or is subject to speedy and natural decay, be carried out until the period allowed for presenting such appeal has passed or when such appeal is entered, until the disposal of such appeal.

302. In this Part of this Law, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but 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.

Meaning of
"property"

303. 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 sections 299 and 300 of this Law.

Seizure of
things
intended to be
used in
commission of
offence

304. (1) On a conviction for an offence relating to obscene publication, the court may order the confiscation and destruction of all the copies of the publication or thing, including those that remain in the possession or power of the person convicted.

Destruction of
sedition:
prohibit
obscene
publicat
and of o
objects

(2) The court may, in like manner, on conviction of a person for an offence relating to adulterated or unfit food, drink or drug, order that it or they be confiscated and destroyed, including such other adulterated or unfit items in the possession or power of the person convicted.

305. Where a court is satisfied by information on oath, that there is reasonable ground for believing that there is in the State in any building, ship, carriage, receptacle or place, anything in respect of which an order may be made under section 303 or 304 of this Law, such court may issue a search warrant to search for any such thing and if such thing be found, the same shall be brought before any court and dealt with as that court may think proper.

Search warrant
may be used to
search for
things subject
to sections 302
and or 303

306. (1) Whenever a person is convicted of an offence carried out by criminal force, and it appears to the court that by such force any person has been dispossessed of any immovable property, the court may, if it thinks fit, order the possession of the same to be restored to such person.

Restoration of
possession of
immovable
property

2) No such order shall prejudice any right or interest to or in such immovable property which any person, including the person convicted, may be able to establish in a civil suit.

307. (1) The seizure by the police, of property taken during arrest or investigation under this Law, or alleged or suspected to have been stolen or found in circumstances which create a suspicion of the commission of an offence, shall be immediately (within a period not exceeding 48 hours of such taking of the property or thing), reported to a court, and the court shall make such order as it thinks fit, in respect of the disposal of the property or its delivery to the person entitled to its possession, on such conditions as the court thinks fit, or, if such person cannot be ascertained, respecting the custody and production of such property.

Procedure upon seizure of property taken during arrest or investigation or stolen

(2) If the person entitled to the possession of property referred to in subsection (1) is unknown, the court may detain it and shall in such case, issue a public notice in such form as it thinks fit, specifying the articles of which the property consists and requiring any person who may have a claim thereto, to appear before the court and establish his claim within six months from the date of the notice

308. (1) If no person within the period referred to in section 307 establishes his claim to property referred to in that section and if the person in whose possession such property was found is unable to show that it was lawfully acquired by him, such property shall be at the disposal of the court and may be sold in accordance with the orders of the court and proceeds forfeited to the State.

Procedure where owner of property seized is unknown

(2) At any time within two years from the date of the property coming into the possession of the police, the court may, direct the property or the proceeds of the sale of the property to be delivered to any person proving his title thereto, on payment by him, of any expenses incurred by the court in the matter.

309. If the person entitled to the possession of property referred to in section 307 is unknown or absent and the property is subject to speedy and natural decay or, for the benefit of the owner, the court may, at any time direct it to be sold and the provisions of this Law shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to sell perishable property

310. When any person is convicted of any offence relating to property and it is proved that any person has bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money, has on the arrest of the convicted person been taken out of his possession, the court may, on the application of such purchaser and on the restitution of the stolen property to the person, entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser, shall be delivered to him.

Payment to innocent person of money found on defendant

311. (1) Where, upon the arrest of a person 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 –

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

Restitution and disposition of property found on arrested person

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

312. (1) Where any person is convicted of an offence relating to property, the court convicting him may order that such property or a part thereof, be restored to the person who appears to it to be the owner, either on payment or without payment by the owner, to the person in whose possession the property or a part thereof then is, of any sum named in such order.

Restitution of
stolen property

(2) This section shall not apply to-

- (a) any valuable security which has been paid or discharged in good faith by any person liable to pay or discharge the same; or
- (b) any negotiable instrument which shall have been received in good faith by transfer or delivery by any person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen.

313. Where any person is charged with an offence relating to counterfeit coin and in that person's possession, actual or constructive, was found any counterfeit coin or any matter or thing intended to be used for the purpose of making counterfeit coins then, whether such charge proceeds to conviction or not, such coin or matter or thing shall not be returned to the person charged or to the person from whom the same was taken but shall be destroyed in such a manner as the court may order.

Destruction of
articles
relating to
counterfeiting
where charge
is laid

314. Where any person comes into possession of any 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 coins, he may hand such coin, matter or thing to any public administrative officer, officer of the Central Bank of Nigeria designated by the Bank to receive the same, or to any police officer not below the rank of an inspector, and such public administrative officer, officer of the Central Bank of Nigeria, or police officer –

Destruction of
articles
relating to
counterfeiting
where no
charge is laid.

- (a) if satisfied that such coin is not counterfeit, or that any of such articles are not intended to be used for the purpose of making counterfeit coins, shall return the coin or such articles, as the case may be, to the person purporting to be the owner thereof, if known; and
- (b) if satisfied that such coin is counterfeit or such matter or thing is intended to be used for the purpose of making counterfeit coins and if no charge is to be preferred against any person in connection with any such coin, matter or thing, may destroy, or cause to be destroyed such coin, matter or thing in such manner and by such persons as may be approved by the Federal Ministry of Finance.

(2) Notice shall have been given to the person who appears to be the owner of such coin, matter or thing, if such person is known and can easily be found, that such coin, matter or thing will be destroyed at the end of a specified number of days unless such owner shows that the coin is not counterfeit or that the matter or thing is not intended to be used for the purpose of making counterfeit coin; and

(3) A reasonable time shall be given such person for providing such proof as aforesaid, and the person who alleges that he is the owner of or otherwise entitled to such coin, matter or thing shall have no claim against any such administrative officer, officer of the Central

Bank of Nigeria, police officer or the State in respect of any such coin, matter or thing so destroyed.

315. (1) Subject to the provisions of this section, sections **313 and 314** of this law shall apply in relation to notes purporting to be legal tender in Nigeria as those sections apply in relation to coins.

Detention and
destruction of
counterfeit
notes, etc

(2) No note, coin, matter or thing shall be destroyed by virtue of the foregoing provisions unless either –

- (a) a court orders its destruction, in connection with a conviction for an offence, or
- (b) it appears to a Magistrates' court having jurisdiction in the place where the note, coin, matter or thing is for the time being situated, on an application made in accordance with rules of court, that the existence of the note, coin, matter or thing involves a breach of the law and the court makes an order for its forfeiture and destruction accordingly; or
- (c) in the absence of any conviction for an offence in respect of it and any pending prosecution for such an offence, and of any order or pending application for an order for its forfeiture, the note, coin, matter or thing-
 - (i) has been voluntarily surrendered by the person having possession of it, to the proper official of the Central Bank of Nigeria or a superior police officer, or
 - (ii) is discovered in a lodgment made with the said bank by a commercial bank.

316. Subject to the express provisions of any written law relating thereto, every article, not pecuniary, forfeited in respect of a summary conviction offence or the seizure, forfeiture or disposition of which may be enforced by the court may be sold or disposed of in such manner as the court may direct, and the proceeds of such sale shall be applied in the like manner as if the proceeds were a penalty imposed under the written law on which the proceedings for the forfeiture is founded.

Mode of
dealing with
forfeiture not
pecuniary

PART 31

SUMMARY PROCEDURE IN PERJURY

317. (1) If it appears to a court that a person has been guilty of perjury in any proceedings before it, the court, subject to the provisions of subsection (2) of this section and in addition, in the case of a Magistrate, to subsection (3) of this section, may –

Perjury,
Summary
procedure

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

(b) try him summarily for contempt of court and if he is found guilty, commit him to correctional for a period not exceeding six months or fine him in such sum in accordance with the scale of fine in the Fourth Schedule to this Law.

(2) Where a court decides to try a person summarily under subsection (1) of this section, for contempt of court, such court 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.

(3) (a) If a court orders a person to be imprisoned or to pay a fine under subsection (1) of this section, it shall neither issue a warrant of commitment nor make an order for imprisonment for non-payment of the fine but shall -

- (a) either remand such person or release him on a recognisance with or without sureties, to come up before the court when called upon and
- (b) forthwith forward to the Chief Judge or such Judge as the Chief Judge may direct, a certified copy of the proceedings

(4) The Chief Judge or Judge to whom a certified copy of the proceedings is forwarded pursuant to subsection (3) of this section may, without hearing argument and in the absence of the person concerned set aside or confirm such order or reduce the sentence of imprisonment or the amount of the fine and shall inform the court immediately of his decision.

(5) If the Chief Judge or Judge does not wholly set aside the court's order the court shall forthwith issue its warrant of commitment or make the necessary order for payment of the fine in accordance with the terms of the Chief Judge or Judge's order.

(6) Any imprisonment or fine ordered or imposed under this section shall be a bar to any other proceedings for the same offence except where the order of the court has been wholly set aside.

PART 32

TRIALS GENERALLY

318. Trials shall be held in the High Court on information filed by -

- (a) the Attorney General of the State as the case may be, or a law officer in his office,
- (b) Private prosecutor,
- (c) any other person authorized by the Attorney-General.

in accordance with the provisions of this Law.

Trials to be held in courts having criminal jurisdiction

(2) Trials shall be held in the Magistrate court or any other court or tribunal exercising criminal jurisdiction in accordance with the provision of this Law relating to summary trials.

319.

(1) Where a defendant charged before the court is not represented by counsel, the court shall –

- (a) inform him of his right to counsel of his choice; and
- (b) enquire from him, whether he wishes to engage his own counsel, or a counsel engaged for him by way of legal aid.

Non-appearance/Non representation of counsel

(2) Where counsel who had appeared on behalf of the defendant ceases to appear in court in two consecutive sessions of the court, the court shall enquire from the defendant if he wishes to engage on his own another counsel or counsel engaged for him by way of legal aid.

(3) The court shall allow the defendant reasonable time but not exceeding 30 days to engage

another counsel of his choice.

(4) In the circumstance where the defendant fails, or is unable to secure counsel arranged by him after a reasonable time, the court shall have the power to direct that counsel arranged by way of legal aid represent the defendant.

(5) The court may assign to any counsel whose place of practice is within the jurisdiction of the court, any case of any defendant who has no legal representation, and such counsel shall undertake the defence of such defendant with all due diligence, and in such cases, the counsel shall not pay any filing fee or service fee in respect of the case so assigned.

(6) Where the defendant chooses to represent himself, the court shall inform him of all his rights under this Law, and the court shall indicate the fact of having so informed the defendant on the record; Provided that no defendant charged with a capital offence or an offence punishable with life imprisonment shall be allowed to represent and defend himself in person.

PART 33 SUMMARY TRIALS

320 (1) Trial shall be held summarily in the following instances:-

Summary
Trials

- (a) in the High Court in respect of perjury.
- (b) in respect of offences which by any law of Ondo State are triable summarily,
- (c) in respect of all trials for simple offences or misdemeanor, in the Magistrates courts or tribunals.

(2) In all trials in the Magistrate court or tribunal, the prosecution shall, on request, provide the defendant all materials that the prosecution intends to rely on at the trial, before or at the commencement of the trial.

321.(1) If, subject to the provisions of section 122 of this Law, when the case is called, the defendant appears voluntarily in obedience to the summons or is brought before the court under a warrant, and the complainant having, to the satisfaction of the court, had due notice of the time and place of hearing, does not appear in person or in the manner authorized by any written law, the court shall dismiss the complaint.

Non-
appearance of
prosecutor

(2) Where however, the court receives a reasonable excuse for the non-appearance of the complainant or his representative or for other sufficient reason, it shall adjourn the hearing of the complaint to some future day upon such terms as the court may think just.

If when a case is called, the defendant does not appear, or pleads guilty under the provisions of section 122 of this Law, and no sufficient excuse is offered for his absence, then the court, if satisfied that the summons, if any, has been duly served, may issue a bench warrant, for his arrest or, if not satisfied that the summons has been duly served or if a warrant had been issued, in the first instance, for the arrest of the defendant, the court may adjourn the hearing of the case to some future day, in order that proper service may be effected or, until the defendant is arrested as the case may be.

Non-
appearance of
defendant

(2) If the defendant is afterward, arrested on a bench warrant or other warrant as aforesaid, he shall be brought before the court who shall thereupon, commit him by warrant to prison or to

such other place of safe custody as it 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 court, be served with due notice.

323. (1) Where the legal representative of the defendant ceases to appear in Court, the Court shall after a reasonable period of non-appearance enquire from the defendant if he wishes to engage another counsel arranged by him or a counsel engaged by way of legal aid.

Non-
appearance of
defendant's
counsel

(2) The Court shall allow the defendant to make his own arrangement if he indicates to do so.

(3) Where a defendant fails or is unable to secure legal representation, the Court shall have power to order that the defendant be represented by way of legal aid.

324. (1) Every legal practitioner other than a law officer who is engaged in any matter shall be bound to conduct the case on behalf of the prosecution or defendant as the case may be until final judgment, unless allowed for any special reason to cease from acting by the Court of its own motion or upon application by the legal practitioner.

Change of
legal
practitioner

(2) Where a legal practitioner wishes to disengage from a matter, he shall notify the Court, not less than three (3) clear days before the date fixed for hearing, notice of which shall be served on the Court and on all parties.

(3) Such legal practitioner shall not be bound except under express agreement or unless re-engaged to take any proceedings in relation to any appeal from such judgment.

325. (1) When the case is called and neither the complainant nor the defendant appears, or the defendant appears and the complainant does not appear, the court shall make such order as the justice of the case requires.

Non-
appearance of
both parties

(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 as if it were a fine.

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

Appearance of
both parties

327. If a complainant at any time before a final order is made in any case, satisfies the court that there are sufficient grounds for permitting him to withdraw his complaint, the court may permit him to withdraw the complaint and shall thereupon discharge the defendant.

Withdrawal of
complaint

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

Manner of
hearing

(2) If the defendant says that he is guilty and the court is satisfied that he intends to admit the offence and shows no cause or no sufficient cause why sentence should not be passed, the court shall proceed to sentence.

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

(4) The court may in its discretion permit professional and technical witnesses to remain in court. The failure to comply with the provisions of subsection (3) of this Law, shall not invalidate the proceedings but would affect the weight of evidence given by that witness who fails to leave the court upon such direction being given. (5) 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 and also, if the court thinks fit, to hear such witnesses as the complainant may call in reply if the defendant has called any witnesses or given any evidence. (6) 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. (7) If 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 questions to that witness, and shall record the defendant's answer. (8) The defendant shall take his plea in the dock, and the court may thereafter direct him where to sit in the court.	Witnesses in general to be out of hearing
329. If at the close of the evidence in support of the charge, it appears to the court that a case is not made out against the defendant sufficiently to require him to make a defence the court shall, as to that particular charge, discharge him. The court may be guided by the provisions of section 277 (2) of this Law	Discharge of defendant when no case to answer
330. At the close of the evidence in support of the charge, if it appears to the court that a <i>prima facie</i> case is made out against the defendant sufficiently to require him to make a defence, the court shall call upon him for his defence and – (a) if the defendant is not represented by a legal practitioner, the court shall inform him of the alternatives open to him, namely – (i) he may give evidence in the witness box, after being sworn as a witness; in which case he will be liable to cross-examination, or (ii) he may remain silent, if he so wishes, in which case, the case will be decided only on the evidence given in support of the charge ; (iii) he may call any witness or adduce any other evidence in his defence. (b) if the defendant is represented by a legal practitioner, the court shall call upon the legal practitioner to proceed with the defence.	Defence
331. The defendant may apply to the court to issue any process for compelling the attendance of any witness for the purpose of examination or the production of any document or other thing and the court shall issue such process unless for reasons to be recorded by it in writing it considers that the application is made for the purpose of vexation or delay or of defeating the aims of justice.	Process for compelling production of evidence at instance of defendant
332. Failure to comply with the requirements of paragraph (a) of section 330 of this Law shall not of itself vitiate the trial; Provided that the court called upon the defendant for his defence and asked him if he had any witnesses and heard the defendant and his witnesses and other	Saving as to section 330 (a)

evidence, if any.

333. If the defendant adduce 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 matter.

Evidence in reply

334. 1) In certain exceptional circumstances, where the evidence of a technical, professional or expert witness would not ordinarily be contentious as to require cross-examination, the court may grant leave for the evidence to be taken in writing or by electronic recording device, on oath or affirmation of the witness, and the deposition shall form part of the record of the court.

Power to take deposition in certain cases

(2) Where it appears to the court that a person who is seriously ill or hurt may not recover, but is able and willing to give material evidence relating to an offence and it is not practicable to take the evidence in accordance with the provisions of this Act, the Judge or Magistrate shall:

Notices given to parties

(a) take in writing the statement on oath or affirmation of the person and subscribe the statement and certify that it contains accurately the whole of the statement made by the person; and

(b) add a statement of his reason for taking the statement, the date and place when and where the statement was taken, and shall preserve the statement and file it for record.

(3) The court shall cause reasonable notice of the application to take the deposition in accordance with subsections (1) and (2) of this section and of the time and place where it is to be taken to be served on the prosecutor and defendant and if the defendant, is in custody and his presence is required for the deposition, he shall be brought by the person in whose custody he is, to the place where the statement is to be taken, under an order in writing of the court.

335. (1) Such statement to be taken under Section 334 may afterwards be used in evidence on the trial of any person accused of an offence to which the same relates in accordance with the provisions of the Evidence Act.

When statement may be used in evidence

(2) The signature and attestation of the Judge or Magistrate shall be sufficient *prima facie* proof of the content 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.

336. (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 to be kept for that purpose and such book shall be signed by the court at the conclusion of each day's proceedings.

Notes of evidence to be taken

(2) The Transcript of any electronic recordings of the court proceedings shall be signed or otherwise authenticated by the presiding Judge at any adjournment of the case or at the conclusion thereof in a manner authorized from time to time by the Chief Judge in accordance

with such condition as may be imposed by rules of court, and the signed transcript shall be taken as part of proceeding.

(3) No person shall be entitled, as of right, to inspection of or to a copy of the record so kept as aforesaid save as may be expressly provided for by the rules of the court or by any other law.

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

337. It shall be the duty of a court trying a case summarily to make or cause to be made such local inspection as the circumstances of the case may require.

Local
inspection

338. 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 such first named case, the court may, if it thinks fit, hear and determine such complaints in the same proceeding.

Cross
complaints

339. 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.

Joinder of
complaints

MAKING OF ORDER

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

Giving of
decision upon
conclusion of
hearing

BINDING OVER

341. (1) On 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 behavior.

Power to bind
parties to be of
good behavior

(2) Where any person is in breach of such order made pursuant to subsection 1 of this section, he may be imprisoned for a term not exceeding 3 months in addition to any other punishment to which such person is liable.

(3) Before any such binding order pursuant to sub section 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 AND ACQUITTAL

342. Where a complaint is dismissed on merit, such dismissal shall have the same effect as an acquittal.

Effect of
judgment of
dismissal "on
merits", "not
on merits" and
"without
prejudice"

(2) Where a complaint is dismissed but not on merits, or stated to be dismissal without prejudice, such dismissal shall not have the same effect as an acquittal.

PART 34

SUMMARY TRIAL OF A CHILD OR YOUNG PERSON BY MAGISTRATE

343. Where any child or young person is proceeded against before a court for any offence, the court shall have regard to the provisions of the Child Rights Law of the State(strike out).

Summary trial
of child by
Magistrate

PART 35

SUMMARY TRIAL OF PERSON CHARGED WITH INDICTABLE OFFENCE

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

Power to
remand

345. (1) A law officer in the case where any charge of an indictable offence is being proceeded with summarily by a Magistrate, may, at any time before judgment, request such Magistrate to deal with the case as one for trial on information.

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

(2) On receipt of such request, the Magistrate shall adjourn the proceeding until such a time as information is filed in the High court; Provided that such information shall be filed within a period of 30 days from the date the order granting the request.

(3) The Magistrate shall make the case returnable for a period not exceeding 32 days from the date of the grant of the request.

(4) If at the end of the period of 30 days provided in subsection (2) of this section, the information against the defendant has not been filed at the High Court, the Magistrate shall proceed on the return date to try the charge summarily, or may make an order releasing the defendant on bail pending his arraignment on the information as requested by the Law officer.

346. (1) Where a charge for an offence is being tried summarily by a Magistrate, such Magistrate shall, at the request of any person in charge of the prosecution made at any time before judgment, adjourn the hearing of the charge in order that a law officer may be consulted with a view to obtaining a request to proceed in accordance with section 345 (1) of this Law.

Adjournment
for law
officer's
decision

Provided that the request for the Law officer shall be filed within 14 days of the date the Magistrate grants such request of the person prosecuting, failing which the Magistrate shall proceed to try and conclude the case summarily.

(2) Where the Magistrate grants an adjournment at a request under subsection (1) of this section, such adjournment shall not be for a period exceeding 15 days, and the Magistrate may

accordingly grant the defendant bail.

347. (1) Any person convicted of any offence tried summarily may, instead of or in addition to any prescribed punishment, be ordered to enter into his own recognisance, with or without sureties, in such amount as the court thinks fit, that he shall keep the peace and be of good behavior for a reasonable period fixed by the court.

Security for
keeping the
peace in cases
tried
summarily

(2) Such person may be ordered to be imprisoned until such recognisance is entered into; Provided that such imprisonment shall not extend for a term longer than one year and shall not together with the fixed term of imprisonment, if any, extend for a term longer than the longest term for which he might be sentenced to be imprisoned without fine for such offence which he was convicted.

348 (1) Where an offence for which the Magistrate court has no jurisdiction to try is preferred against a defendant, the officer in charge of the Divisional Police Station, or the head of the legal unit of the Police State Command shall at the end of investigation submit the original case file to the office of the Attorney General or such other officer as he may designate.

Case files, Legal
Advice, and
related
proceedings

(2) The Attorney General shall, within 21 days of receipt of the police case, file, issue and serve his legal advice indicating whether or not there is a prima facie case against the defendant for which he can be prosecuted.

(3) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has no prima facie case to answer, he shall serve a copy of the legal advice on the:

(a) Officer in charge of the police station or the head of the police legal unit through whom the police case file was sent to the Attorney-General;

(b) court before whom the suspect was remanded in prison, where he is in remand custody, or before whom the suspect was granted bail, where he is on bail; and

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

(4) Where the offence is one for which a magistrate court has jurisdiction to try, the prosecutor shall file the charge at the magistrate court, accompanied with:

(a) the list of witnesses;

(b) the list of exhibits;

(c) statements of the witnesses and of the defendant; and

(d) any report, document or material that the prosecution intends to rely on at the trial of the offence,

but the prosecution may, with leave of the court, file and serve any additional document.

(5) The police or the officer in charge of the prison in which the suspect is remanded in custody shall on receipt of the legal advice, release the suspect immediately from detention where there is no case to answer.

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- (6) The court referred to in subsection (3) (b) of this section, shall, on receipt of the legal advice, dismiss the charge against the suspect and accordingly discharge the suspect.
- (7) The Attorney-General shall send a Law Officer in his office to the court where the order of remand was made and ensure the discharge of the remand order and of the suspect.
- (8) Where the Attorney-General is of the opinion, as contained in the legal advice, that the suspect has a prima facie case to answer, he shall file and serve the charge or information in accordance with the provisions of this Act.
- (9) A form as prescribed in the **First Schedule to this** Law, indicating a desire to be represented by legal practitioner of his choice or by a legal practitioner from the Legal Aid Council or any other organisation providing free legal representation to defendants shall be attached to each legal advice for the purpose of endorsement by the person in respect of whom legal advice is preferred and against whom the information is filed.
- (10) Where the defendant indicates in the form referred to in subsection (9) of this section that, he wishes to be represented by a legal practitioner of the Legal Aid Council or any other organisation providing free legal representation, he shall forward the form to the Chief Registrar of the court before whom the charge or information for his trial has been filed and the Chief Registrar shall, within 14 days of receipt of the form, ensure that a legal practitioner of the Legal Aid Council as stipulated under this subsection or any other organization providing free legal representation for the defendant, and by notice in writing inform the defendant of the particulars of the legal representation arranged for him.
- (11) The Chief Register shall, upon getting the form, forward same to the State Director-Legal Aid Council or the office of such other organization referred to in subsection (9) of this section nearest to where the court is located.

PART 36

INFORMATION

347. Every information shall bear the date when it was signed and with such modifications as shall be necessary to adapt it to the circumstances of each case and shall be as set out in the schedule.

Form of
information

348.(1) An information shall contain:

Contents of
information

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

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

(c) the statement of offence shall describe the offence shortly in ordinary language, avoiding

as far as possible the use of technical terms and without necessarily stating all the essential elements of the offence, and, if the offence charged is one created by a written law, shall contain a reference to that written law;

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

(e) if the law that creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the defendant notice of the matter with which he is charged;

(f) the law and section of the law against which the offence is said to have been committed shall be mentioned in the charge;

(g) the fact that the 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; 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;

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

(2) The forms set out in the Third Schedule to this Law hereto 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 the like effect or conforming to it 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.

Forms in Third
Schedule

349.(1) An information shall be filed in the registry of the court before whom the prosecution seeks to prosecute the offence, and may include:

Contents of
information,
Proof of
Evidence, etc

(a) the proof of evidence, consisting of:

- (i) the list of witness(es);
- (ii) the list of exhibit(s) to be tendered;
- (iii) copies of statement(s) of the defendant(s);
- (iv) any other document, report, or material that the prosecution intends to use in support of its case at the trial;
- (v) particulars of place of custody, if the defendant is in custody where known;
- (vi) particulars of plea bargain arranged with the defendant, if any;
- (vii) any other relevant document as may be directed by the court.

(b) a copy of the form for information on Legal representation as provided under Section 346(6) of this Law

(2) The Prosecution shall at any time before judgment be at liberty to file and serve notice of additional evidence.

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

350. The provisions relating to charges in this Law shall apply to count(s) of an information.

Application of
rules relating
to charges

PROCEEDINGS PRELIMINARY TO TRIAL

351. (1) An information may be filed by the Attorney-General through the Director of Public Prosecutions or any officer in his department, or by any other person authorized under this Law to do so, before the High Court charging any person with an offence for which that person may lawfully be tried.

Procedure on
information of
offenders

(2) An information shall be signed by the Attorney-General or a Law Officer.

352. (1) Wherever an information has been filed in the court, the Chief Judge shall take appropriate steps to ensure that the information filed is assigned to a court for trial within fifteen (15) days of its filing.

Information to
be assigned to
court within 15
days of filing

(2) On assigning the information, the appropriate court to which the information is assigned shall within fourteen (14) days of such assignment issue notice of trial to the witness(es) and defendant(s) and a reproduction warrant properly endorsed by the Judge in respect of the person charged if he is in custody for the purpose of ensuring his appearance on the date of arraignment, and the Chief Registrar shall ensure the prompt service of the notice and information not more than three (3) days from the date they are issued.

Notice of trial
to be issued
within 14 days

(3) If the defendant named in the information is in custody, the notice of trial and the information shall be delivered to him through the officer in charge of the prison in which he is detained, and the warrant for his production shall be served on such officer of the prison.

(4) If the defendant is not in custody, the notice of trial and the information shall be served on him personally.

(5) Where it is impossible or impracticable to effect personal service of the notice of trial and information on the defendant, same may be served on him, with leave of court, through his legal practitioner, if any, or on his surety or sureties, or on any adult in his household, 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 the information were served on him less than 3 days before the date of trial, if he consents to being so tried.

353. The Chief Registrar of the High Court shall receive an information from a private

Information by
private person

person if –

(a) such information is endorsed by the Attorney-General of Ondo State or law officer to the effect that he has seen such information and declines to prosecute the offence set out in the information; and

(b) such private person has entered into a recognisance in the sum of Fifty Thousand Naira (N50, 000.00) with or without surety, to prosecute the said information to conclusion at the times at which the defendant shall be required to appear and pay such costs as may be ordered by the court, or, instead of entering into such recognisance shall have deposited in the registry of the court, such sum of money as the court may fix.

354. Where any private person has complied with the provisions of section 353 of this Law, the information shall be signed by such person and not by a law officer, and such person shall be entitled to prosecute the information.

Conditions to
be fulfilled by
private
prosecutors

VENUE

355. The place of trial shall be determined in accordance with the provisions of this Law.

Venue

356. Notwithstanding the provisions of section 355 of this Law –

Change of
venue/cause
commenced in
wrong division

(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; Provided that where the defendant objects, the courts shall transfer the case to the proper division in which it ought to have been commenced.

(b) either the prosecutor or the defendant, whenever he considers that the ends of justice so requires, in any case, 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.

Either party
may petition
for change of
venue

357. 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; and all recognisances, subpoenas, and proceedings in or relating to the case shall thereupon be deemed to be returnable at such latter place or division and all witnesses who are or summoned to attend the trial shall be informed accordingly and shall attend at such latter place or division.

Effect of
change of
venue

NOTICE OF TRIAL

358. The Registrar or any other person directed by the court, shall endorse on, or annex to, every information delivered to the sheriff or proper officer, for service in accordance with Section 352 of this Law, a notice of trial, as in form L in the fifth schedule, or as near thereto as may be.

Form of notice
of trial

359. 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

Copy of
information
and notice of

the same or annexed thereto, and if there are more parties charged than one then as many copies as there are parties, together with a similar notice for service on each witness bound to attend the trial.	trial to be delivered to sheriff
360. The Sheriff or other proper officer shall on receipt of the information and notice of trial, serve the person named in the notice at least seven (7) working days before the date specified on the notice.	Time and mode of summoning parties on information
361. Notice of trial shall at the same time be served on all the witnesses, and such service of the notice on the witnesses shall be in the like manner as service on the defendant who is not in custody.	Service of notice of trial on witness(es)
362. The Chief Judge shall have the power to register any reputable courier company for the purpose of undertaking service of criminal processes, and such company shall serve all processes in accordance with this Law.	Registered courier companies may serve processes
363. The officer serving the copy of the said information and notices shall forthwith make to the registrar or other proper officer a return of the mode of service thereof with the necessary endorsement of service on the person named for service on the notice or information.	Return of service

PROCEEDINGS AT TRIAL AND SUBSEQUENT PROCEEDINGS

364. Where any person against whom an information has been duly preferred, and on whom such information and notice of trial have been duly served, does not appear to plead to such information, whether he is under recognisance, to appear or not, the court may issue a bench warrant for his arrest.	Bench warrant where defendant does not appear
365. Where a person is accused of a capital offence or offence punishable by life imprisonment, the State shall be represented by a law officer, or a legal practitioner, and if the defendant is not defended by a legal practitioner, the court shall assign a legal practitioner for his defence.	Counsel for the State and defence in capital cases
366.(1) The person to be tried upon an information shall be arraigned in accordance with the provisions of this Law, relating to the taking of pleas and the procedure thereon.	Arraignment, time for raising certain objections
(2) After the plea of the defendant to the information or any charge has been recorded, it shall no longer be open to that defendant to raise at that court any objection to the validity of the charge or information.	

ATTENDANCE OF WITNESSES

- | | |
|--|---|
| 367. Every person who is summoned as a witness whether for the prosecution or for the defence, shall be bound to attend the court on the day fixed for the trial of such case and on subsequent dates until the conclusion of the case or until he has been discharged by the court from further attendance. | Attendance of witness bound by recognisance to attend |
| 368. If any person who has been summoned to attend as a witness, whether for the prosecution or for the defence, does not attend the court on the day fixed for the trial of such case or on any further adjourned date, and he offers no reasonable excuse for his absence, despite the fact that he was duly served with the notice of the trial, the court may issue a bench warrant that such person be arrested and be brought before the court, at a time to be mentioned in the warrant, in order to give evidence on behalf of the prosecution or of the defence as the case may be. | Warrant for arrest of witness not attending on recognisance |
| 369. Where a person named on a summons or writ of subpoena wilfully refused to accept service of such summon or writ of subpoena, the court shall issue a bench warrant for such person to be arrested and be brought before the court at a time to be mentioned in the warrant in accordance with the summons or writ of subpoena. | Warrant for arrest of witness disobeying summons |
| 370. Any person who fails to attend as witness in either of the cases mentioned in the two last preceding sections shall be liable, on the summary order of the court, to a fine in a reasonable sum not less than five thousand naira (N5, 000.00). | Fine for non-attendance of witness |

PART 37

PROVISIONS RELATING TO SENTENCES OF DEATH, IMCORRECTIONALMENT, AND FINE

GENERAL

- | | |
|---|--|
| 371. (1)) Subject to the provisions of any written law relating to any specific offence or class of offence and to the jurisdiction conferred on any court or on any person presiding over such court, the provisions hereinafter in this part shall apply to sentences of death, imprisonment, fine, and other non-custodial sentences. | Construction of provisions relating to punishments |
| (2) In determining a sentence, the court shall have the following objectives in mind, and may decide in each case which of the objectives are more appropriate or even possible, that is: | |
| a. Prevention: That is the objective of persuading the convict to give up committing crime in the future, because the consequence of crime is unpleasant; | |
| b. Restraint: That is the objective of keeping the criminal from committing more crimes by isolating him from society; | |
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- c. Rehabilitation: That is the objective of providing the convict with treatment or training that will make him into a reformed citizen;
 - d. Deterrence: That is the objective of warning others not to commit crimes by making an example of the convict;
 - e. Education of the public: That is the objective of making a clear distinction between good and bad conduct by punishing bad conduct;
 - f. Retribution: That is the objective of giving the convict the punishment he deserves, and giving the society or the victim revenge;
 - g. Restitution: That is the objective of compensating the victim of the crime; and
 - h. Restoration: That is the objective of restoring social equilibrium or harmony to the society affected by the crime.

CAPITAL SENTENCES

372. (1) The punishment of death is inflicted by hanging the offender by the neck till he be dead.	Death
(2) Sentence of death shall be pronounced by the court in the following form-	
“The sentence of the court upon you is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul.”	
373. (1) Where sentence of death has been passed such sentence shall only be carried out in accordance with the provisions of this Part of this Law.	Prior formalities generally
(2) Where a woman found guilty of a capital offence is found 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 pregnancy is found
(3) 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 shall be substituted with a sentence to life imprisonment or to such other term as the court may deem appropriate in consideration of the principles in section 371 of this Law.	Where offender is a young person
374. A certificate signed by the Registrar, or other officer of the court, that such sentence has been passed, and naming the person against whom it has been passed, shall be sufficient authority for the detention of such person.	Authority for detention
375 (1). Any Judge who pronounces a sentence of death shall issue` and affix the seal of the court on a certificate to the effect that sentence of death has been pronounced upon the person named in the certificate, and such certificate shall be sufficient and	Judge's certificate of death sentence to be sufficient

full authority in law for the detention of the offender in safe custody until the sentence of death pronounced upon him can be carried into effect and for carrying such sentence of death into effect in accordance with and subject to the provisions of this Part.	and full authority for execution of offender, unless he is pardoned or reprieved
(2) The court, either at trial or on appeal, shall issue a report for the purpose of advice on the exercise by the Governor, as the case may be, of the Powers of Prerogative of Mercy under this part of this Law, and such report shall form part of the record of proceedings in the case.	Steps to be taken by the Registrar
376. The Registrar of the court by which the person is sentenced to death shall, as soon as practicable after sentence has been pronounced-	
(a) hand two copies of the certificate issued by the Judge under the provisions of section 374 of this Law to the Correctional Service officer responsible for the safe custody of the sentenced person, one of which copies shall be retained by the Correctional Service officer and the other handed to the superintendent or other officer in charge of the Correctional Service in which the person 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 the proceedings in the case.	
377. Where a person-	Stage at which Governor to consider report
(a) has been sentenced to death; and	
(b)	
(b) has exercised his legal rights of appeal against the conviction and sentence and the conviction and sentence have not been quashed or the sentence has not been reduced, or has failed to perfect or prosecute such application or appeal within the time prescribed by law:	
(a) the Governor shall, after obtaining the advice of the Advisory Council on the Prerogative of Mercy, decide whether or not the sentence should be commuted to imprisonment for life, or that the sentence should be commuted to any specific period, or that the offender should be otherwise pardoned or reprieved;	
(b) where, for the purposes of subsection (1) of this section, the Advisory Council on the Prerogative of Mercy is required to advise the Governor in relation to any person sentenced to death, the Attorney-General of the State 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.	
378. Where a person sentenced to death desires to have his case considered by the Advisory Council on the Prerogative of Mercy, he shall forward his request through his legal practitioner or officer in charge of the Correctional Service facility in which	Convict may send request to Advisory Council

he is confined, through the Attorney-General of the State and the Council shall consider his request and make their recommendation to the Governor.

379.(1) Where the Governor decides that the sentence should be commuted or that the offender 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 Service in which the offender is confined, and another copy of which shall be sent to the Sheriff, directing that the execution be not proceeded with, and, as the case may be, that the offender be imprisoned in accordance with the recommendation, or that the offender be released, subject in either case to such conditions, if any, as may be specified.

Where a commutation, pardon or reprieve is granted

(2) The Sheriff and the Superintendent or other officer in charge of the Correctional Service facility in which the offender is confined shall comply with and give effect to every order issued under the provisions of subsection (1) of this section.

380. The Attorney -General shall communicate the decision referred to in section 379 (1) of this Law to the Registrar of the High Court who shall cause the order to be reflected in the record of the court.

Copy of order to be sent to Judge

381. (1) If the Governor decides that the sentence should not be commuted or that the offender should not be pardoned or reprieved, he shall cause the Sheriff to be informed in writing with the public seal affixed, and shall be as in one of the forms set out in the Fifth Schedule of this Law or as near thereto as circumstances permit.

Where no pardon or reprieve is granted

(2) The sentence of death pronounced upon the offender shall be carried into effect in accordance with and subject to the provisions of this part.

(3) When the place or time of execution or the place of burial is appointed by some person and is not stated in the order of the appropriate authority the specified officer shall endorse on the order over his signature the place and time of execution and place of burial or some one or more of them according to the terms of the order.

382. A copy of the order of execution of the Governor shall be forwarded to the official in charge of the prison in which the person sentenced is confined, and the said official in charge of the Correctional Service facility shall give effect to the order of execution.

Copy of order to be sent to correctional official

PROCEDURE WHERE WOMAN CONVICTED OF CAPITAL OFFENCE IS ALLEGED TO BE PREGNANT

383. (1) Where a woman convicted of an offence punishable with death alleges that she is pregnant, or where the court before or by which a woman is so convicted thinks

Procedure where woman convicted of

fit so to do, the court shall, before sentence is passed on her, determine the question whether or not she is pregnant.

capital offence
is alleged to be
pregnant

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

(3) Where a woman found guilty of a capital offence is found to be pregnant in accordance with section 383(2), the sentence of death shall not be passed on her but shall be substituted with a sentence of imprisonment for life.

(4) Where in proceedings under this section the court finds that the woman in question is not pregnant the court shall pronounce sentence of death upon her.

(5) An appeal shall lie against such finding and the appeal court, if satisfied that the finding should be set aside, shall quash the sentence passed on her and substitute a sentence of imprisonment for life.

SENTENCING GENERALLY OTHER THAN CAPITAL SENTENCE

Imprisonment

384. (1) On conviction, a court may sentence the offender to a term of imprisonment as prescribed by the enabling legislation.

Court to
determine term
of
imprisonment

(2)

(2) In exercising its discretion of sentencing or review of sentence, the court shall take into consideration the following factors:

- (i) each case should be treated on its own merit;
- (ii) the objectives of sentencing, including the principles of reformation;
- (iii) the High Court acting in its appellate jurisdiction may reduce the sentence imposed by the trial court when it is excessive or based on wrong principles;
- (iv) a trial court ought not to pass the maximum sentence on a first offender;
- (v) the period spent in custody awaiting or undergoing trial;
- (vi) trial court should conduct an inquiry into the defendant's antecedents before sentencing;
- (vii) it may be desirable to adjourn for sentencing in order to have time to consider any evidence adduced at the sentencing hearing in accordance with section 284 of this law;

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- (viii) where there is doubt as to whether the defendant or convict has attained the age of 18, the court should resolve the doubt in his favour;
 - (ix) a defendant should not be given consecutive sentences for two or more offences committed in the same transaction;
 - (x) an appeal court should not increase the sentence of a lower court beyond the maximum number of years the lower court has power to impose;
 - (xi) imprisonment should apply only to those offenders who should be isolated from society and with whom other forms of punishment have failed or is likely to fail.

385. Where the court has power to pass a sentence of imprisonment, the court, may order the offender be detained within the precincts of the court or at any police station till such hour not later than eight in the evening on the day on which he is convicted, as the court may direct;

Power to order detention for one day in precincts of the court

386. Where a sentence of imprisonment is passed on any person by a court the court may order that the sentence shall commence at the expiration of any term of imprisonment to which that person has been previously sentenced by any competent court in Ondo State so however that where two or more sentences passed by a Magistrate 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 the greater.

Consecutive sentence of incorrectional ment

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

Date from which sentence commences

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

Power to impose fine in lieu of imprisonment

(2) In the case of a conviction in the High Court, the amount of the fine shall be in the discretion of the court, and any term of imprisonment imposed in default of payment of the fine shall not exceed two (2) years.

(3) In the case of a conviction in a Magistrate's court-

(a) the amount of the fine shall be in the discretion of the court but shall not exceed the maximum fine authorized to be imposed by the Magistrate by or under the law by virtue of which he was appointed a Magistrate; 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 this Law.

(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) of this section, exceed the maximum term authorized as a punishment for the offence 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.

389. When sentence of imprisonment is passed on an escaped convict, such sentence shall take effect after he has suffered imprisonment for a further period equal to that which at the time of his escape remained unexpired of his former sentence.

Escaped
prisoners:
effect of
escape on
punishment

FINES

390. A person convicted of an offence punishable by-

(a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment; or

Fines,
imprisonment
in default of
payment

(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;

Provided that the court shall consider the option of community sentence on the defendant where he defaults in paying fine.

391. The Chief Judge shall have power to review from time to time the provisions for the amount of fines, compensation or other sums of money prescribed under this Law.

General
provision on
review of sums
of amount

392. (1) Where under any written law, the court is empowered to impose a penalty for a summary conviction offence, it may, in the absence of express provisions to the contrary in the same or any other written law, order a defendant who is 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 undergo community sentence or be imprisoned, in accordance with the scale set forth in the Fourth Schedule to this Law.

General power
of awarding
imprisonment
in default of
payment of
penalty

(2) Subject in every case to the provisions of the written law on which the order is founded, the period of imprisonment, which is imposed by the court in respect of the non-payment of any sum of money ordered to be paid by an order shall be of such period as will in the opinion of the court satisfy the justice of the case but shall not exceed the maximum fixed in the scale, in the Fourth Schedule to this Law.

Scale of
imprisonment
for non-
payment of
money ordered
to be paid

Limitation of

(3) No commitment for non-payment of a fine shall be for a longer period than two years, except where the law under which the conviction has taken place prescribes or allows a longer period.	imprisonment in default of payment of fine
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ASSESSMENT OF FINE

393. (1 A court in fixing the amount of any fine to be imposed on an offender shall take into consideration amongst other things, the means of the offender.	Payment and allocation of fines and fees
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(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) the repayment to the informant or complainant of any court or other fees paid by him and ordered by the court to be repaid to him;

(b) the payment of any outstanding court fees not already paid by the informant or complainant which may be payable under rules of court;

(c) the balance, if any, remaining after the above payments have been made shall be paid into the Consolidated Revenue Fund of the State.

COMMITMENT OF DEFENDANT FOR NON-PAYMENT OF FINE OR PENALTY

394. In any case where an order is made against any person for the payment of a sum of money and such person is in default of payment and liable to be imprisoned the court may do any of the following; (a) impose a community sentence order; or (b) issue a warrant of commitment ;	Power to impose community sentence or commit defendant in certain cases
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(c) allow time for the payment of the said sum;

(d) direct payment of the said sum to be made by instalments; or

(e) direct that the person liable to pay the said sum shall be at liberty to give, to the satisfaction of the court, security, either with or without a surety or sureties, for the payment of the said sum or any instalment thereof.

395. (1) Where time has been allowed for the payment of a sum adjudged to be paid by a conviction or order, further time may, on an application by or on behalf of the person 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 such court may direct payment by instalments of the sum so adjudged to be paid.	Allowance of further time and payment by installments
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Default in one

(2) Where a sum of money is directed to be paid by instalments and default is made in the payment of any instalment, the same proceedings may be taken as if default has been made in the payment of all the instalments then remaining unpaid.	payment renders all payable
(2) If before the expiration of the time allowed the person convicted surrenders himself to the court having jurisdiction to issue a warrant of commitment in respect of the non-payment of such sum as aforesaid, and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court may if it thinks fit forthwith issue a warrant committing him to the Correctional Services.	Surrender before committal date
(1) Where the person liable to pay any sum and to whom time has been given to pay either with or without a surety or sureties makes default in such payment or fails to enter into the security required by the Court, the Court may issue its warrant of commitment requiring any Police Officer to take and convey such person to prison and there deliver him to the Superintendent of Prisons, and requiring him to receive such person into the prison and imprison him with or without labour, as the case may be, for such time as shall be directed and appointed by the warrant of commitment, unless the sum of money adjudged to be paid by the order and also all other costs, charges, and expenses shall be paid.	Power to postpone issue of warrant of commitment
(2) Where application is made to the Court for committing a person to prison 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 the Court may seem just.	
(3) When the Court orders the imprisonment of any person, the Court may, if it deems fit, order that such imprisonment shall not commence immediately, but shall commence on any day not more than three months after the date of such order as the Court may fix and in such case the Court may discharge him upon his entering into a recognisance, with or without sureties, conditioned for his re-appearance on such day to undergo such imprisonment.	
396. Any warrant of commitment issued under the provisions of this section may be executed on any day including a Sunday or a public holiday.	Warrant of commitment
397. In all cases where any person against whom a warrant of commitment for non-payment of any sum of money adjudged to be paid by an order is issued, pays or tenders to the person having the execution of the same the sum or sums in such warrant mentioned together with the amount of the expenses of such warrant up to the time of such payment or tender, the person having the execution of such warrant shall cease to execute the same.	Payment of penalty to person executing warrant
398. (1) Where any person is brought to any Correctional Service facility to be imprisoned by virtue of a warrant of commitment there shall be endorsed on such	Commencement of imprisonment

warrant the day on which such person was arrested and the imprisonment shall be computed from such day and inclusive of that day.

(2) The person executing the warrant of commitment shall ensure that the warrant bears the passport photograph of the person committed.

399. Where any person has been committed to Correctional Services by the court for default in finding a surety or sureties the court may, on application made to it by such person or by some person acting on his behalf, inquire into the case of such person, and if upon new evidence produced to the court or proof of a change of circumstances the court thinks having regard to all the circumstances of the case that it is just so to do, the court may reduce the amount for which it was ordered that the surety or sureties should be bound, or dispense with the surety or sureties, or otherwise deal with the case as the court may think just.

Varying of or
discharging
order for
sureties

400. (1) Where any person has been committed to Correctional Services by the court for non-payment of any sum of money adjudged to be paid by an order, such person may pay or cause to be paid to the officer in charge of the Correctional Service facility the sum mentioned in the warrant of commitment together with the amount of the costs, charges and expenses, if any, also mentioned in it and the officer in charge of the Correctional Service shall receive the same and discharge such person, unless he is also in custody for some other matter.

Right of
person
imprisoned in
default to be
released on
paying sum

(2) In any case where under the last preceding subsection a sum has been received in part satisfaction of a sum due from a prisoner in consequence of the conviction of the court such sum shall be applied firstly, towards the payment in full or in part of any costs or damages or compensation which the court may have ordered to be paid to the complainant, and, secondly, towards the payment of the fine, if any, imposed on the prisoner.

(3) Subject to the provisions of subsection (2) of this section where an amount is paid towards a fine the procedure in this subsection shall be followed-

Part payment
after
commitment

(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 such person is liable;

(b) the superintendent or other officer in charge of a Correctional Service facility in which a person is confined who has made such part payment shall as soon as practicable after that take such person before a court and such court shall certify the amount by which the term of imprisonment originally awarded is reduced by such payment in part satisfaction and shall make such order as is required in the circumstances:

Provided that where in the opinion of the superintendent or other officer earlier mentioned, the delay occasioned by taking such person before a court shall be such that the person will be detained beyond the date upon which he should by reason of

such part payment be released, such superintendent or other officer may release such person on the day which appears to such superintendent or other officer to be the correct day, endorse the warrant accordingly and shall as soon as practicable after that inform the court of the action taken and such court shall then make such order or record as the court may consider to be required in the circumstances.

(4) In reckoning 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 in reckoning the sum which will secure the reduction of a term of imprisonment, fractions of a Naira shall be omitted.

DISTRESS

401. 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 order such fine or penalty to be recoverable by distress and in default of such distress satisfying the amount of the fine or penalty as earlier mentioned, may order that the offender be imprisoned, in accordance with the scale set forth in Fourth Schedule to this Law.

Fines may be ordered to be recoverable by distress

402. (1) Where the court orders a sum to be recoverable by distress the court shall issue its warrant of distress for the purpose of recovering the same, such warrant shall be in writing and signed by the court, it shall authorize the person charged with the execution of it to take any money as well as any goods of the person against whom distress is levied and any money so taken shall be treated as if it were the proceeds of sale of goods taken under the warrant.

Warrant of distress

(2) In the execution of a distress warrant the following provisions shall have effect-

Procedure on the execution of distress warrant

(a) a warrant of distress shall be executed by or under the direction of the Sheriff;

(b) if the person charged with the execution of the warrant is prevented from executing the same by the fastening of doors or otherwise, the Judge/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;

(c) the wearing apparel and bedding of the person and of his family to the value of five thousand Naira (N5, 000.00) the tools and implements of his trade, shall not be taken;

(d) except as provided in paragraph (e) of this subsection and so far as the person 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 (14) days after the making of the distress; but where consent in writing is so given as earlier said the sale may be in accordance with such consent;

(e) subject to paragraph (d), the goods distrained on shall be sold within the time fixed by the warrant, unless the sum for which the warrant was issued and also the charges, if any, of taking and keeping the goods distrained on, are sooner paid;

(f) if any person charged with the execution of a warrant of distress willfully retains from the proceeds 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 Magistrate, to a penalty considered appropriate by the court:

Provided that nothing in this provision shall affect the liability of any such person to be prosecuted and punished for extortion; or for the return of the sum of money or value of such item extorted, by such person.

(g) 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/Magistrate; and it shall be lawful for the person upon whose movable 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;

(h) a person charged with the execution of a warrant of distress shall sell the distress or cause the same to be sold, and may deduct out of the amount realised 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 him, the remainder of such amount, in order that the same 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 person upon whose movable property the distress was levied.

403. 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, the warrant of commitment under the provisions of section 396 of this Law, shall apply.

Part payment
to reduce
period of
imprisonment
in proportion

PART 38 DEPORTATION

404. (1) Court may recommend deportation for offences punishable by imprisonment without option of fine

Where a person is convicted of an offence punishable by imprisonment without the

option of a fine, the Court may, in addition to or instead of any other punishment, recommend to the Minister of Internal Affairs that he be deported if it appears to the Court to be in the interest of peace, order and good governance that an order of deportation should be made under this Section.

Deportation in default of security for peace

Where, upon any affidavit, it appears to a Court that there is reason to believe that any person in the State is about to commit a breach of the peace, or that his conduct is likely to produce or excite to a breach of the peace, the Court, after due inquiry at which the person concerned shall be present, may order him to give security in two or more sureties for peace and good behaviour, and in default, may recommend to the Minister of Internal Affairs that he be deported.

Deportation of a person threatening peace and order

Where it is shown by evidence on oath to the satisfaction of a Court that any person in the State is conducting or has conducted himself so as to constitute a threat to peace and order, or is endeavouring or has endeavoured to excite enmity between any section of the people of the Federal Republic of Nigeria or is intriguing or has intrigued against constituted power and authority in Nigeria, the Court shall recommend to the Minister of Internal Affairs that he be deported.

Procedure prior to court recommending deportation

- (1) Where a person required to give security under this Part defaults in so doing and the Court contemplates recommending to the Minister of Internal Affairs, the deportation of a person to whom this section relates, before making any such recommendation, the Court shall require the person concerned to attend before the Court and, being informed of the allegations made against him, be given an opportunity to show cause why he should not be deported.
- (2) After considering the representation, if any, of the person concerned and the facts upon which the proceedings are founded, the Court shall decide whether or not to recommend to the Minister of Internal Affairs that the person concerned be deported.

Procedure on recommendation of deportation

Where the Court decides to recommend to the Minister of Internal Affairs the deportation of any person under this Part, the Court shall forward to the Minister of Internal Affairs the recommendation together with a report setting out the reasons why the Court considers it necessary to make the recommendation and a certified true copy of any proceedings relating to it.

Detention of person concerned

Where a recommendation for deportation has been made in respect of a person to whom this Part relates, such person may be detained in custody pending the decision of the Minister of Internal Affairs and during such time shall be deemed to be in lawful custody.

Order of deportation

If the Minister of Internal Affairs decides that in the interest of peace, order, and good governance, an order of deportation should be made, he may issue a written order directing the person to be deported to a place outside Nigeria.

Minister of Internal Affairs may withhold order and remit case to Court

If the Minister of Internal Affairs decides that no order of deportation shall be made, he shall inform the Court, the Court shall proceed to make such order of imprisonment or other punishment as may be authorised by Law.

Provisions as to sentence of deportation

- (1) If a person ordered to be deported is sentenced to any term of imprisonment, such sentence of imprisonment shall be served before the order of deportation is carried into effect.
- (2) An order of deportation shall be expressed to be in force for a limited time or for an unlimited time and shall require the deported person to report himself to the nearest Administrative Officer or Police Officer at intervals of not less than thirty (30) days.
- (3) An order of deportation shall be sufficient authority to all persons to whom it is directed or delivered for execution to receive and detain the person named in the order and to carry him to the place named.
- (4) If a person leaves or attempts to leave the district or place to which he has been deported, while the order of deportation is still in force, without the written consent of the Minister of Internal Affairs which consent shall be given subject to any terms as to security for good behaviour or otherwise as to the Minister of Internal Affairs shall deem fit or wilfully neglects or refuses to report himself as ordered, such person is liable to imprisonment for six (6) months and to be again deported on a fresh warrant under the original order or under a new order.
- (5) The provisions of this Law on deportation shall not apply to Nigerian Citizens.

405. (1) Where a child is alleged to have committed an offence, the provisions of the Child Rights Law of Ondo State, shall apply.

(2) Notwithstanding subsection (1) above, the provisions of this Law relating to bail shall apply to bail proceedings of a child.

PART 40 PROBATION AND NON-CUSTODIAL ALTERNATIVES

PROBATION

Conditional
release of
offenders

406. (1) Where any person is charged before a court with an offence punishable by such court, and the court thinks that the charge is proved but is of the opinion that having regard to the character, antecedents, age, health, or mental condition of the person charged, or to the trivial nature of the offence or to the extenuating circumstances under which the offence was committed, it is inexpedient to inflict any punishment or any order other than a nominal punishment or that it is expedient to release the offender on probation the court may without proceeding to conviction make an order either-

- (a) dismissing the charge; or
- (b) discharging the offender conditionally on his entering into a recognisance, with or without sureties, to be of good behaviour and to appear at any time during such period not exceeding three years as may be specified in the order.

Compensation
for loss or
injury and
costs may be
awarded

(2) The court may, in addition to any such order, order the offender to pay such damages for injury or compensation for any loss suffered by any person by reason of the conduct or omission of such offender, and to pay such costs of the proceedings as the court thinks reasonable and if the offender is a child and it appears to the court that the parent or guardian of the offender has condoned to the commission of the offence the court may order payment of such damages and costs by such parent or guardian.

Restitution of
stolen property

(3) Where an order under this section is made the order shall, for the purpose of vesting or restoring stolen property and of enabling the court to make orders as to the restitution or delivery of property to the owner and as to the payment of money upon or in connection with such restitution or delivery, have the like effect as a conviction.

Probation
orders and
conditions of
recognisances

407. (1) A recognisance ordered to be entered into under this Part shall if the court so orders contain a condition that the offender be under the supervision of such person or persons of either sex, called a probation officer, as may, with the consent of such probation officer, be named in the order during the period specified in the order, and an order requiring the insertion of such conditions as earlier stated in the recognisance is in this Part of this Law referred to as a probation order.

(2) A recognisance under this Part of this Law may contain such additional conditions

with respect to residence, abstention from alcohol 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.

(3) The court by which a probation order is made shall furnish to the offender a notice in writing stating in simple terms the conditions he is required to observe.

408. The person 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 person so named another person may by consent be substituted by the court before which the offender is bound by his recognisance to appear for conviction or sentence.

Relieving
probation
officer of his
duties

Duties of
probation
officers

409. (1) It shall be the duty of a probation officer, subject to the directions of the court-

(a) if the person on probation is not actually with the probation officer to visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order or subject thereto as the probation officer may think fit; and

(b) to see that he observes the conditions of his recognisance;

(c) to report to the court as to his behaviour;

(d) to advise, assist, and be friendly and when necessary to endeavour to find him suitable employment.

(2) The Chief Judge shall make regulation with respect to the appointment of probation officers, including designation of persons of good character as probation officers from which list any court within the division or district where the probation officer resides may make its appointment under section 408 of this Law.

Variation of
terms and
conditions of
probation

410. The court before which any person is bound by a recognisance under this Part of the Law to appear for conviction and sentence or for sentence-

(a) may at any time if it appears to it upon the application of the probation officer that it is expedient that the terms or conditions of the recognisance should be varied, summon the person bound by the recognisance to appear before it and if he fails to show cause why such variation should not be made, vary the terms of the recognisance by extending or diminishing the duration provided that it shall not exceed three years from the date of the original order, or by altering the conditions or by inserting additional conditions; or

(b) may on application being made by the probation officer, and on being satisfied that the conduct of the person bound by the recognisance has been such as to make it unnecessary that he be any longer under supervision, discharge the recognisance.

Offender
failing to
observe
conditions of
release

411. (1) If the court before which an offender is bound by his recognisance under this Part of this Law to appear for conviction or sentence is satisfied by information on oath that the offender has failed to observe any of the conditions of his recognisance, it may issue a warrant for his arrest or may if it thinks fit instead of issuing a warrant in the first instance issue a

summons to the offender and his sureties, if any, requiring him or them to attend at such court and at such time as may be specified in the summons.

(2) The offender when arrested shall if not brought immediately before the court before which he is bound by his recognisance to appear for conviction or sentence be brought before another court.

(3) The court before which an offender on arrest is brought or before which he appears in pursuance of such summons may if it is not the court before which he is bound by his recognisance to appear for conviction or sentence remand him in custody or admit him on bail until he can be brought before the last mentioned court.

(4) An offender so remanded in custody may be committed during remand to any Correctional Service facility to which the court having power to convict or sentence him has power to commit prisoners.

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

PART 41 SUSPENDED SENTENCE, COMMUNITY SERVICE AND COMMUNITY SERVICE CENTRES

412. Notwithstanding the provision of any other legislation creating any offence, and where the court sees reason, the court may order that:

Suspended
Sentence

(1). The sentence it imposed on the convict be, with or without conditions, suspended, in which case the convict shall not be required to serve the sentence in accordance with the conditions of such suspension, if any.

Community
Service

(2). The court may, with or without conditions, sentence the offender to perform specified service in his community or such community or place as the court may direct; Provided that no person shall be sentenced to suspended sentence or to community service for any offence involving the use of arms or offensive weapon, or for an offence which the punishment exceeds 3 years imprisonment.

(3) The objective of subsections (1) and (2) above is to:

- (a) reduce congestion in correctional centres;
- (b) rehabilitate prisoners by doing productive work;
- (c) prevent minor offenders mixing with hardened criminals.

413. A person convicted of an offence triable summarily may be ordered by the Court

to render community service in lieu of sentence or fine.

Arrangements
for
Community
Service

414 (1) There shall be established by the Chief Judge in every Judicial Division a Community Service Centre to be headed by a Registrar who shall be responsible for overseeing the execution of Community Service Orders in that Division.

(415) The function of the Centre shall include the following:

collation and storage of data about offenders sentenced to Community Service including the sentence, the date of the sentence, the nature, duration and location of the Community Service, the physical address of the offender, the physical measurement, photograph, full fingerprint impressions and other means of identification as may be appropriate;

- (a) to provide assistance to the court in arriving at appropriate Community Service Order in each case;
- (b) monitor the operation of Community Service in all its aspects;
- (c) counsel offenders with a view to bringing about their reformation;
- (d) recommend to the court a review of the sentence of offenders on Community Service who have shown remorse;
- (e) propose to the Chief Judge measures for effective operation of Community Service Orders;
- (f) ensure that Community Service Officer perform their duties in accordance with the law;
- (g) to perform such other functions as may be necessary for the smooth administration of Community Service Orders.

(2) The Registrar shall be assisted by **Community Service Officer**, including security agents who shall supervise the implementation of Community Service Orders that may be handed down by the courts.

(3) A Community Service Officer shall be appointed in each Magisterial District in the State by the Attorney-General of the State after consultation with the Commissioner responsible for Social Development

(4) The Community Service Officer and the person against whom the order is made shall enter into a written agreement specifying the number of hours of service that would be rendered on a daily or weekly basis;

(5) the written agreement referred to in subsection (4) above shall be filed in the Court's registry by the community service officer;

(6) where the person against whom the order is made refuses or defaults to enter into the written agreement or where he breaches the terms of the agreement on more than three occasions without any lawful justification or excuse, the Court on the application of the Community Service Officer, the court may issue a summons requiring the

offender to appear before it.

(7) If the offender fails, refuses or neglects to appear in obedience to the summons, the court may issue a warrant of arrest.

(8) If it is proved to the satisfaction of the court that the offender has failed to comply with any of the requirements of the Community Service Order, the court may either:

- (a) vary the order to suit the circumstances of the case; or
- (b) impose on him or her a fine not exceeding twenty thousand naira (N20,000.00); or
- (c) cancel the order and sentence the offender to any punishment which could have been imposed in respect of the offence provided that the period of Community Service already performed may count in the reduction of the sentence.

(9) The person against whom the order was made shall bear the burden of showing any lawful or valid excuse justifying or excusing the breach of the written agreement in which case the Court may permit the continuation of the community service order.

(10) The Court, if satisfied, that the person against whom the order was made has no lawful or valid excuse, shall impose custodial sentence or fine having regard to the punishment prescribed for the offence to which he was charged and the length of community service already performed.

(4) Where the court has made an order committing the offender to render Community Service, such Community Service shall be in the nature of:

- (a) environmental sanitation such as cutting grasses, washing drainages, cleaning the environment, washing public toilets, community road works, etc; or
- (b) assisting in the care of children or the elderly in Government-approved homes;
- (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 offender.

(5) The Community Service sentence shall be performed as close as possible to the place where the offender resides.

(6) Before passing a community service order, the court shall consider the circumstances, character, antecedents of the offender and other factors that may be brought to its attention by the Registrar of the Community Service Centre.

(7) A person sentenced to Community Service shall not at the same time be sentenced to a term of imprisonment for the same offence, but may in default of performing his Community Service diligently and to the satisfaction of the court, be sentenced to a term of imprisonment for the remaining part of his community service to which he is

in default or neglected.

(8) Upon sentence to Community Service, an offender shall be required to produce a guarantor who shall undertake to produce the offender if the offender absconds from Community Service.

(9) The guarantor shall be a relation of the offender or any other responsible person of adequate means or substance who shall produce the offender when required by the Court failing which the guarantor shall be liable to a fine of Ten Thousand Naira (N10, 000.00) more as the circumstances of each case may require.

Duration and
supervision of
community
service

414. (1) The Community Service Order shall be performed for a period of not more than one year and the offender shall not work for more than five hours a day.

(2) The offender shall be under the supervision of a supervising officer or officers as may be designated by the Community Service Centre.

(3) The Community Service Order shall contain such directives as the court may consider necessary for the supervision of the offender.

(4) The Registrar of the court making the Community Service Order shall forward to the Registrar of the Community Service Centre a copy of the order together with any other documents and information relating to the case.

Default in
complying
with
community
service order

415. (1) If at any time during the Community Service period, the Registrar of the Community Service Centre informs the court of the default of the offender in complying with the directives of the Community Service Order, the court may issue a summons requiring the offender to appear before it.

(2) If the offender fails, refuses or neglects to appear in obedience to the summons, the court may issue a warrant of arrest.

(3) If it is proved to the satisfaction of the court that the offender has failed to comply with any of the requirements of the Community Service Order, the court may either:

(d) vary the order to suit the circumstances of the case; or

(e) impose on him or her a fine not exceeding twenty thousand naira; or

(f) cancel the order and sentence the offender to any punishment which could have been imposed in respect of the offence provided that the period of Community Service already performed may count in the reduction of the sentence.

(4) A supervising officer shall not employ the offender for his or her personal benefit.

(5) If a supervising officer employs the offender for his or her personal benefit, the officer shall be liable to a fine of Ten Thousand Naira (N10, 000.00) or more as the

court may deem fit.

416. Where an offender has been ordered to undergo Community Service on conviction by an original court but has committed another offence during the period of Community Service, the following rules shall apply:

Commission
of further
offence

(a) the subsequent court may add to the sentence or impose a term of imprisonment which might have been passed by the original court and cancel the order of Community Service.

(b) the subsequent court may take into account the period of Community Service served in reduction of the term of imprisonment.

(c) where the original court is a High Court and the subsequent court is a subordinate court, the subordinate court shall send the copy of the proceedings to the High Court and on receipt of the proceedings from the subordinate court, the High Court shall proceed under paragraphs (a) and (b) of this section;

(d) where the original court is a subordinate court and the subsequent court is a High Court dealing with the matter at first instance or on appeal, the High Court shall proceed under paragraphs (a) and (b) of this section.

417. (1) An offender undergoing Community Service who intends to change his or her place of residence shall inform the supervising officer of his or her intention to do so.

Amendment,
review and
discharge of
community
service orders

(2) On receipt of the information, the supervising officer shall furnish the Registrar of the Community Service Centre with the information giving the details of the case.

(3) Upon application by the Registrar of the Centre, the court shall make appropriate amendment in the Community Service Order and inform the court having jurisdiction over the area where the offender intends to reside.

(4) The court shall give the offender a copy of the amended Community Service Order which the offender is required to present to the subsequent Community Service Centre.

418. (1) Where an offender has been ordered to undergo Community Service for a period of more than four months, the supervising officer shall from time to time give a report to the Registrar on the offender's performance and general conduct.

Discharge of
community
service order

(2) The supervising court based on the report made by the Registrar, may reduce the period of the Community Service specified in the Community Service Order by not more than one third where the offender is of good conduct.

(3) The Registrar shall make a report to the supervising court on the termination of a Community Service Order.

(4) The supervising officer who is to be responsible for the supervision of an offender shall be the officer designated by the Registrar of the Community Service Centre and if that supervising officer dies or is unable for any reason to carry out his or her duties, another supervising officer shall be appointed by the Registrar of the Community

Service Centre.

(5) Where the offender is a female, the supervising officer shall be a female.

NEW PROVISION

Rehabilitation and Correctional Centre

(1) A person convicted of an offence triable summarily may be sentenced and ordered to serve the sentence at a Rehabilitation and Correctional Centre established by

the Ondo State Government in lieu of imprisonment.

(2) A court in making an order of confinement at a Rehabilitation and Correctional Centre shall have regard to the following—

(i) the age of the person convicted;

(ii) state of health of the person convicted;

(iii) the fact that the person convicted is a first offender; and

(iv) any other relevant circumstances necessitating an order of confinement at Rehabilitation and Correctional Centre.

(3) A court may make an order directing that a child standing criminal trial be remanded at a Rehabilitation and Correctional Centre.

PART 42

PAROLE

419. Where the Comptroller of Correctional Service in the State makes a report to the court recommending that a person sentenced and serving his sentence in the correctional service is of good behaviour, and has served at least one thirds of his/her correctional service term, if he/she is sentenced to a term of correctional service, for at least fifteen (15) years or if he is sentenced to life imprisonment, the court may after hearing the prosecution and the prisoner or his legal representative, order that the remaining term of his imprisonment be suspended, with or without conditions, as the court may deem fit, and the prisoner shall be released from correctional service on such order.

Court may direct release of defendant before completion of sentence

FEEES

420. Subject to the provisions of this Law in every proceeding before any court such fees as may be prescribed under this Law shall be paid.

Payment of fees

421. A court may in any proceeding in which good cause appears to the court for so doing, suspend payment of any fees payable 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

Suspension of payment of fees

payment of such fees.

State not
required to pay
fees

422. 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.

PART 43

FORMS

423. (1) Subject to the express provisions, if any, of the rules, the forms and precedents contained in the Schedules to this Law may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply.

Use of forms
in Schedules

(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

Power to make
rules of court

424(1) The Chief Judge of Ondo State may make rules in respect of any or all of the following matters-

- (a) fees to be paid under this Law; and periodic review of such fees;
- (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) prescribing anything or any person required to be prescribed under the provisions of this Law;
- (f) regulation and management of non-custodial punishments provided under this Law; and
- (g) generally, for carrying into effect the purposes of this Law.

(2) Where rules are made under this Section, separate rules shall be made in respect of the practice and procedure in Magistrates' Courts, save where the procedure prescribed by the rules applies equally to the High Court and to Magistrates' Courts.

Savings as to
other forms
and procedure

FORMS AND PROCEDURE UNDER OTHER WRITTEN LAWS

425. (1) Nothing in this Law shall affect the use or validity of any special forms in respect of any procedure or offence specified under the provisions of any written law or the validity of any other procedure provided by any other written law.

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

PART 44

ESTABLISHMENT OF THE ADMINISTRATION OF CRIMINAL JUSTICE MONITORING COMMITTEE

426. (1) There is hereby established, a body to be known as the Administration of Criminal Justice Monitoring Committee (in this Law referred to as “the Committee”).

Establishment
of the
Administration
of Criminal
Justice
Monitoring
Committee

(2) The Committee shall consist of the following members, that is:

- (a) Attorney-General of Ondo State or his/her representative who shall be the Director of Public prosecutions and who shall be the Chairman;
- (b) the Commissioner of Police, Ondo State Police Command or his/her representative who shall not be below the rank of Deputy Commissioner of Police;
- (c) the Controller of the Nigerian **Correctional Service**, Ondo State **Correctional Service** or his/her representative who shall not be below the rank of Deputy Controller of **Correctional Service**;
- (d) one other officer nominated by the Attorney-General who shall not be less than a Deputy Director in the Ministry of Justice of Ondo State;
- (e) the Chief Registrar of the High Court of Ondo State or his/her representative not below the rank of an Assistant Chief Registrar who must be a legal practitioner;
- (f) two persons representing Human Right Organizations;
- (g) one person appointed on merit to represent the Nigerian Bar Association;
- (h) a legal practitioner representing the Legal Aid Council in Ondo State.

Membership
of the
Committee

(3) Any member not being a public officer may resign his/her appointment by a letter to the Chairman.

(4) Members of the Committee not being public officers shall be paid such allowances as may be determined.

(5) Members of the Committee who are not public officers may hold office for four years and may be appointed for another term of four years.

427. (1) The committee shall be charged with the general supervision of the administration of criminal justice in Ondo State.

(2) Without prejudice to the generality of subsection (1) of this section, the committee shall ensure that:

- (a) criminal matters are speedily dealt with;
- (b) congestion of criminal cases in courts is drastically reduced;
- (c) congestion in **correctional service** is reduced to the barest minimum;
- (d) persons awaiting trial are, as far as possible, not detained in **correctional service** custody
- (e) the relationship between the organs charged with the responsibility for all aspects of the administration of criminal justice is cordial and there exists

Functions of
the Committee

maximum co-operation amongst the organs for effectiveness of the system of administration of criminal justice in Ondo State; (f) it collates, analyses and publishes information in relation to the administration of criminal justice in Ondo State; (g) it carries out such other activities as are conducive to the effective and smooth administration of criminal justice and the objectives of this Law.	
428. (1) The committee shall establish and maintain a secretariat with such number of staff to be drawn from the State Ministry of Justice as may be required for the efficient running of its affairs. (2) The secretariat shall be headed by a secretary who shall be appointed by the Attorney-General on the recommendation of the Committee. (3) The Secretary shall be a legal practitioner of not less than ten (10) years post call experience and shall possess sound knowledge of the practical functioning of the criminal justice system and adequate experience in justice system administration. (4) The Secretary shall be responsible for the execution of the policy of the committee and the day to day running of the affairs of the committee. (5) The Secretary shall hold office for a term of four years and may subject to satisfactory performance be re-appointed for another term of four years and no more. (6) Subject to this section, the Secretary shall hold office on such terms as to emoluments and otherwise as may be specified in the instrument of appointment.	Secretariat of the Committee
429. (1)The committee shall be funded through: (a) Budgetary allocation by the Chambers of the Attorney-General of Ondo State. (b) such monies as may from time to time be provided for the committee by any public, private or International Organization by way of grants, support or assistance; and (c) any other donations. (2) The Secretary of the committee shall be responsible to the Chairman for the purpose of controlling and disbursing monies from the fund established under this section.	Funds for the Committee
430. (1) The Secretary shall submit to the Attorney-General of Ondo State not later than 31st December in each financial year, an estimate of its expenditure and income during the next financial year. (2) The committee shall keep proper accounts and records in respect of each financial year and shall cause its accounts to be audited not later than two months from the end of each financial year.	Annual Estimates and Accounts
431. The committee shall prepare and publish an annual report of its activities not later than six months of the current year.	Annual Report
432. (1) For the purpose of carrying out the functions conferred on the committee under this Law, the committee, subject to existing laws- (a) shall have a right of access to all the records of any of the organs in the	Power to obtain information

administration of justice sector to which this Law applies;

(b) may by notice in writing served on any person in charge of any such organs require that person to furnish information on such matters as may be specified in the notice.

(2) It shall be the duty of any person required to furnish information pursuant to subsection (1) (b) of this section to comply with the notice within a stipulated time.

433. (1) The committee may make standing orders regulating its proceedings.

Proceedings
and quorum

(2) The quorum at a meeting of the committee shall consist of the Chairman or his representative and two other members of the committee.

(3) Subject to the provisions of the applicable standing order, the committee shall meet quarterly.

(4) At any meeting of the committee, the Chairman or in his absence his representative shall preside at that meeting.

(5) Where upon any special occasion the committee desires to obtain the advice of any person on any particular matter, the committee may co-opt that person to be a member for as many meetings as may be necessary.

(6) The validity of any proceedings of the committee thereof shall not be affected by-

(a) any vacancy in the membership of the committee; or

(b) any defect in the appointment of a member of the committee.

(7) Any 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.

FIRST SCHEDULE

FORMS

FORM NO. I

GENERAL FORM OF TITLE OF PROCEEDINGS

(For use in the High Court)

IN THE HIGH COURT

In the High Court of the.....in the Judicial Division
Charge No.....20.....,

Complaint

Between

.....Complainant,
and
.....Defendant.

(For use in Magistrate's Court or other Courts)

IN THE MAGISTRATE'S COURT

In the Magistrate's Court of the.....Magisterial
District
Charge No.....20.....,

Between

.....Complainant,
and
.....Defendant.

Section 47

FORM NO.2

ORDER OF RECOGNISANCE TO KEEP THE PEACE, AND BE OF GOOD BEHAVIOUR

(General Title-Form No. 1)

Before the High Court of the.....in the
Magistrate's

Judicial Division sitting at.....
Magisterial District

The.....day of.....Two thousand
and.....

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

It is ordered that the defendant do forthwith to the satisfaction
of.....enter into a recognisance in the sum
of.....with.....surety.....in the sum
of.....[each] to keep the peace and be of good behaviour towards the State and
all persons, and especially towards the complainant, for the term
of.....now next ensuing:

And it is ordered that if the defendant fails to comply with this order he be
imcorrectionaled in the correctional at.....for the
Space 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 installments of..... for every.....days, the first
installment to be paid] forthwith [or on the.....day of.....]:

And in default of payment it is ordered that the sum due be levied by distress and sale of the
defendant's goods, and in default of sufficient distress that the defendant be imcorrectionaled
in the said correctional for the space of.....commencing at the termination
of the imcorrectionalment before ordered, unless the said sum [and all costs and charges of the
(said distress and) committed] be sooner paid.

.....
Judge [or Magistrate]

FORM NO 3

Section 81
COMPLAINT

(General Title-Form No 1)

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

.....
..... taken before me this.....day
of.....

.....
Judge [or Magistrate]

FORM NO. 4
Section 105

SUMMONS TO DEFENDANT

(General Title-Form No. 1)

To A.B of..... Complaint has been
made this day by..... for that you on the.....day
of..... at.....in
the.....aforesaid

***State concisely the substance of the complaint**

day*.....
..... You are therefore hereby summoned to appear
before the..... High Court sitting
at..... Magistrate's
on theday of....., at the hour of..... in the.....noon
to answer to the said complaint.

Dated this.....day of....., 20.....

.....
Judge [*or Magistrate*]

FORM No. 5

WARRANT FOR ARREST OF DEFENDANT WHO HAS DISOBEYED SUMMONS

(General Title-Form No. 1)

To.....Police Officer or To each and all Police Officers. Complaint has been made on the.....day of..... that A.B hereinafter called the defendant on the.....day of.....,

***State concisely the substance of the complaint**

at.....in the aforesaid, did*
.....

And the defendant was thereupon summoned to appear before the _____
High Court sitting at.....in the Magistrate's

Judicial Division sitting at.....on the.....day
Magisterial District
of.....at the hour of.....in the..... of.....at
the hour of.....in the..... noon, to answer to the said
charge.....
.....

An oath has been made that the defendant was duly served with the summons, but did not appear, and that such complaint is true.

You are therefore hereby commanded to bring the defendant before High/ Magistrate's
Court of thein
the.....Judicial Division/ Magisterial District sitting at
.....forthwith to answer to the said complaint and be further
dealt with according to law.

Dated the.....day of.....two thousand and
.....

.....
Judge[or Magistrate]

Section 119

WARRANT FOR ARREST OF DEFENDANT IN FIRST INSTANCE

(General Title-Form No. 1)

To.....Police Officer Complaint on oath has
been made on the.....day of.....,
by.....that A.B., hereinafter called the defendant on
the.....day of.....
at.....in the.....aforesaid,

***State concisely the substance of the complaint**

did*.....
.....You are therefore hereby commanded to bring
the defendant before High Court/ Magistrate's Court of thein the
Judicial Division/ Magisterial District sitting at.....forthwith
to answer the said complaint and be dealt with according to law.

Dated the.....day of.....two thousand and

.....
Judge [or Magistrate]

**SEARCH WARRANT
INVENTORY OF ITEMS RECOVERED DURING EXECUTION OF SEARCH
WARRANT IN TERMS OF SECTION 131**

A. LIST OF ITEMS DETAINED AND PLACE OF SUCH DETENTION

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

B. LIST OF ITEMS RELEASED TO THE OWNER(S)

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

WITNESSES

.....

NAME/RANK/FORCE No. OF OFFICER
EXECUTING THE WARRANT.

.....
NAME/TITLE OF THE OCCUPIER
OF THE PLACE SEARCHED

.....
NAME/RANK.FORCE No OF
ACCOUNTING OFFICER
WITNESS

.....
NAME.TITLE OF AN
INDEPENDENT

DATED THEDAY OF..... 20.... ..

**REPORT AND REQUEST FORM FOR REMAND
(Section 269)**

(General Title Form No.1)

BETWEEN

**COMMISSIONER OF POLICE
DIRECTOR OF PUBLIC PROSECUTIONS**

Applicant

AND

XYZ

Respondent

To: The Registrar of the Court

The Court is hereby informed that there is a probable cause to order the remand of XYZ (state particulars of the Respondent namely age, sex, 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 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 or other detention place) who is reasonably suspected to have committed the offence of _____ contrary to section _____ of the _____ within _____ - _____ Magisterial District/Judicial Division 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 circumstance of arrest: _____

2. Arrested with Exhibit(s) _____ Yes _____ No (Tick appropriately)
(disregard (3) and (4) below if the Respondent was not arrested with Exhibit(s))
3. If arrested with Exhibit(s), state clearly the particulars of the Exhibit(s) _____

-
4. If arrested with Exhibit(s), state clearly how the items are related to or linked with the committal of the alleged offence: _____

5. State particulars of other evidence or report linking the Respondent to the committing of the offence such as forensic evidence, marks or finger prints, etc

6. Confessional statement _____ Yes _____ No

7. Any previous conviction for the same or similar offence _____ Yes _____ No

8. If (7) above is Yes, state the particulars of previous conviction(s)

Found in custody or possession of offensive weapon, object or substance: _____
Yes _____ No

9. Identification by victim(s) or witness(es) _____ Yes _____ No

(State the particulars of such victim(s) or witness(es))

- i. Name:
Age
Sex
Address:
Occupation:
- ii. Name:
Age
Sex
Address:
Occupation:
- iii. Name:
Age
Sex
Address:
Occupation:
- iv. Name:
Age
Sex
Address:
Occupation:
- v. Name:
Age

vi. Sex
Address:
Occupation:
Name:
Age
Sex
Address:
Occupation:

10. Need for further investigation _____ Yes _____ No
11. Period/duration required for further investigation _____ (state
approximate days/weeks/months required to complete investigation)
12. Any further relevant information _____

-

Signed
(Commissioner of Police/ Director
of Public Prosecution /Law
officer/Police officer)

For Service on
XYZ
The person arrested
Address of the person arrested

FORM NO. 9
Section 346(6)

INFORMATION ON LEGAL REPRESENTATION

The office of the Director of Public Prosecutions has determined that proceeding shall continue against you as per the attached legal advice.

Indicate whether you wish to be represented by a legal practitioner arranged by you or by the Legal Aid Council or any organisation providing free legal representation.

(1). If you wish to be represented by a legal practitioner arranged by you, please indicate below the particulars of such legal practitioner:

Name of Legal Practitioner: _____

Address of Legal Practitioner: _____

Telephone Number of Legal Practitioner: _____

E-mail of Legal Practitioner: _____

Signature of the Defendant: _____

Signature of the Correctional official or police official in charge of place of custody of Defendant: _____

(2) If you wish to be represented by a legal practitioner arranged by way of legal aid, please provide the relevant information below. If you do not know any organisation you wish to apply to provide counsel to represent you, kindly enter the "Legal Aid Council" as the name of organisation:

Name of the organisation : _____

Address of the Defendant (or Place of custody is on remand) _____

Signature of the Defendant: _____

Signature of the Correctional official or police official in charge of place of custody of Defendant: _____

CONVICTION (FORFEITED RECOGNISANCE)
(General Title-Form No. 1)

Before the High/Magistrate's Court ofin
the.....Judicial Division/ Magisterial District sitting at

The.....day of.....two thousand
and.....

A.B., hereinafter called the defendant, was by his recognisance entered into
the.....day of....., bound in the sum of....., and his
sureties C.D and F.F. in the sum ofeach, the condition of the
recognisance being that the said defendant
should.....

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

It is therefore adjudged that the said recognisance be forfeited, and that the
said.....pay to.....the sum
of.....and the further sum of.....for costs
[by installments of.....for every.....days, the first
installment to be paid] forthwith [or on the.....day
of.....]:

And in default of payment it is ordered that the sum due from the said
.....under this order be levied by distress and sale of his goods, and in
default of sufficient distress that he be imcorrectionaled in the correctional
at.....for the peace of.....unless the said
sums [and all costs and charges of the (said distress and) committed] be sooner paid.

.....
Judge [or Magistrate]

BENCH WARRANT

(General Title-Form No.1)

To.....Policemen and officers or to each and all the policemen with officials of..... E.F. was duly summoned to appear before the High/Magistrate's Court of the.....Judicial Division/Magisterial District sitting at..... on.....day the.....day of.....at the hour of.....in the.....noon, to testify what he should know concerning a certain complaint against A.B.

And he has neither appeared thereto, nor offered any just excuse for his neglect.

And it has been proved on oath that summons has been duly served on him [and that a reasonable sum has been paid (*or* tendered) to him for his costs and expenses in that behalf].

You are therefore hereby commanded to bring him before the High/ Magistrate's Court of thein the..... Judicial Division/ Magisterial Division sitting at.....forthwith to testify what he knows concerning the said matter.

Dated the.....day of.....two thousand and.....

.....
Judge [or Magistrate]

Section 220

WARRANT FOR ARREST OF WITNESS IN FIRST INSTANCE

(General Title-Form No.1)

To.....
A.B has been charged by.....for that he on
the.....day of.....at.....in the
.....aforesaid did*.....

***State concisely the substance of the complaint**

.....
And it appearing to me by oath of..... that E.F. is
likely to give material evidence concerning the said matter, and that it is probable he will not
attend to give evidence unless compelled so to do:

You are therefore hereby commanded to bring him before the

High Court/ Magistrate's Court ofin the.....
Judicial Division/Magisterial District sitting atforthwith
to testify what he knows concerning the said matter.

Dated the.....day of.....two thousand
and.....

.....
Judge [or Magistrate]

Section 227
FORM NO. 14

WARRANT OF COMMITMENT OF WITNESS

(General Title-Form No. 1)

To.....and to the superintendent of.....correctional
E.F.....having appeared or being brought before the
High Court /Magistrate's Court ofin the
.....Judicial Division/ Magisterial District sitting at.....on the
.....day of, 20..... to testify 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
premises and did not offer any just excuse for his refusal.

You the said Police Officer are hereby commanded to convey the said E.F safely to
the said correctional, and there deliver him to the Superintendent thereof, together with this
Warrant, and you, the Superintendent of the said correctional, to receive him into your
custody, and keep him for the space of....., unless he in the meantime
consents to be examined and answer concerning the premises.

Dated the.....day of.....two thousand and.....

.....
Judge [or Magistrate]

FORM NO 15

Section 287

CONVICTION (IMCORRECTIONALMENT)

(General Title- Form No. 1)

Before the High Court/ Magistrate's Court ofin
the..... Judicial Division/ Magisterial District sitting
at.....The.....day of.....
two thousand and.....

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

And it is adjudged that the defendant, for his said offence, be incorrecionaled in the
correctional at.....and kept for the period
of.....

If costs are ordered, add-

And it is ordered that the defendant pay to the said.....sum
of.....for costs [by installments of.....for every
.....days, the first installment to be paid] forthwith [or on theday
of.....20.....]:

And in default of payment it is ordered that sum due be levied by distress and sale of the
defendant's goods, and in default of sufficient distress that the defendant be incorrecionaled
in the correctional at for the space of..... commencing at the termination of the
imcorrectionalment before adjudged, unless the said sum [and all costs and charges of the
(said distress and) commitment be sooner paid]

.....

Judge [or Magistrate]

FORM NO 16
Section 290, 291 and 294
ORDER FOR MONEY (NOT A CIVIL DEBT)
(General Title- Form No. 1)

Before the High Court/Magistrate's Court of..... in
the..... Judicial Division/ Magisterial District sitting
at.....The.....daytwo
thousand and.....

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

On hearing the said complaint, it is ordered that the defendant pay to
said..... the sum of.....and also the
sum of.....for costs [by installments of.....for every
.....days, the first installment to be paid] forthwith [or on the.....day
of.....20.....]:

And in default of payment it is ordered that sum due be levied by distress and sale of
the defendant's goods, and in default of sufficient distress that the defendant be
imcorrectionaled in the correctional
at.....and there kept to hard labour [or
without hard labour] 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 NO 17

Section 290

ORDER OF DISMISSAL WITH DAMAGES

(General Title- Form No. 1)

Before the High Court/ _Magistrate's Court ofin the
.....Judicial Division/ Magisterial District sitting
at.....The.....day of.....two thousand
and.....

Complaint having made A.B that C.D hereinafter called the defendant, on
the.....day of....., 20.....at.....in
the.....aforesaid Judicial Division/ Magisterial District,
did.....

.....And
the Court being of opinion that the said offence was of so trifling a nature that it is inexpedient
to inflict any punishment, doth hereby dismiss the said information:

But order that the defendant do pay the complainant for
damages andfor costs [by installments of..... for every
.....days, the first installment to be paid] forthwith [or on the
.....day of.....]:

And in default of payment it is ordered that the said sums levied by distress and sale
of the defendant's goods, and in default of sufficient distress that the defendant be
imcorrectionaled in the correctional at..... for the space of..... unless the said
sums [and all costs and charges of the (said distress and) commitment] be sooner paid.

.....
Judge [or Magistrate]

FORM NO 18
ORDER FOR OTHER MATTERS
(General Title- Form No. 1)

Before the High Court/ Magistrate's Court of.....in the
..... Judicial Division/ Magisterial District sitting at
The.....day of.....two thousand
and.....

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

On hearing the said complaint, it is ordered that the defendant do
.....:

If imcorrectionalment is ordered, add-

And it is adjudged that if the defendant neglect or refuse to obey this order, he be
imcorrectionaled in the correctional
at..... for the space
of.....days [or unless the said order be sooner obeyed].

If costs are ordered, add-

And it is ordered that the defendant pay to the said.....sum
offor costs [by installments of.....for everydays, the first
installment to be paid] forthwith [or on theday
of.....]:

And in default of payment it is ordered that sum due be levied by distress and sale of
the defendant's goods, and in default of sufficient distress that the defendant be
imcorrectionaled in the said correctional for the space of..... commencing at the
termination of the imcorrectionalment before adjudged, unless the said sum [and all costs and
charges of the (said distress and) commitment] be sooner paid

.....
Judge [or Magistrate]

FORM NO 19
ORDER OF DISMISSAL
(General Title- Form No. 1)

Before the High Court/ Magistrate's Court of.....in the
..... Judicial Division/ Magisterial District sitting at
The.....day of.....two thousand
and.....

Complaint having been made by that A.B
hereinafter called the defendant, on the.....day
of.....,at.....in the.....aforesaid, did.
.....

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

This Court having heard and determine the said complaint doth dismiss the same:*

If costs are ordered, add-

And it is ordered that the complainant pay to the defendant the sum
of.....for costs [by installments of.....for everydays, the
first installment to be paid] forthwith [or on theday
of.....]:

And in default of payment it is ordered that sum 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 correctional at..... for the space of....., unless the said
sum[and all costs and charges of the (said distress and) commitment be sooner paid]

.....
Judge [or Magistrate]

Section 401
FORM NO 20
WARRANT OF DISTRESS (FOR PENALTY)
(General Title- Form No. 1)

To.....
A.B., hereinafter called the defendant, was on the..... day
of.....convicted before the High
Magistrate's
Court sitting at.....for that he on
the.....day of.....at..... in
the.....aforesaid, did.....

And it was adjudged that the defendant for the said offence should be
imprisoned [or forfeit and pay the sum
of.....] and should also pay the sum
of.....[for compensation and] for costs [by
installments of..... for
every.....days, the first installment to be paid] forthwith [or on
the.....day of.....], and that in default the said sum [or sums] should be
levied by distress,..... and default
having been made in payment.

You are hereby commanded forthwith to make distress of the goods of the defendant
(except the wearing apparel and bedding of him and his family, and, the tools and implements
of his trade) and if within the space of five clear days next after the making of such distress,
unless he consents in writing to an earlier sale, the sum stated at the foot of this warrant,
together with the reasonable costs and charges of the making and keeping of the said distress,
be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of
that court, and if no such distress can be found, to certify the same to that court.

Dated the.....day of.....two thousand
and.....

.....

Judge [or Magistrate]

Amount adjudged.

Paid

Remaining due

Cost of issuing this warrant

Total amount to be levied

N	K

SECOND SCHEDULE
Sections 179, 180 and 424
CHARGES

FORM OF CHARGE UNDER THE CRIMINAL CODE

CHARGES UNDER CRIMINAL CODE WITH ONE HEAD

Criminal Code section 118

1. That you.....on the.....day of.....atbeing a witness upon the trial of a case in the Magistrate's Court of the..... Magisterial District sitting at.....in which onewas complainant and onewas defendant, knowingly falsely swore that you saw one M.N. snatch a leather wallet from one Y. Z. in the.....on theday of, and thereby committed an offence punishable under section 118 of the Criminal Code.

Criminal Code Section 120(1)

2. That you, on the.....day of.....at..... with intent to mislead the court in the course of the trial of..... fabricated evidence by means other than perjury to wit:.....and thereby committed an offence against section 120(1) of the Criminal Code.

Criminal Code Section 249(a)(i)

3. That you, being a common prostitute, on the.....day of.....,at.....behaved in an, indecent manner by exposing your naked person in Broad Street and thereby committed an offence punishable under section 249(a)(i) of the Criminal Code.

Criminal Code Section 325

4. That you on the.....day of....., at.....unlawful killed C.D and thereby committed an offence punishable under section 325 of the Criminal Code.

Section 326(3)

5. That you on the.....day of.....at.....aided A.B in killing himself and thereby committed an offence punishable under section 326(3) of the Criminal Code

Section 332(1)

6. That you on the.....day of....., at.....unlawfully wounded C.D with intent to maim, disfigure or disable or to do some grievous harm or to resist the lawful arrest of yourself and thereby committed an offence punishable under section 332(1) of the Criminal Code.

Section 338(1)

7. That you on the.....day of.....
.....at.....unlawfully wounded C.D and thereby committed an offence punishable under section 338(1) of the Criminal Code

Section 360

8. That you, on the.....day of.....
.....at.....unlawfully and indecently assaulted M.S and thereby committed an offence punishable under section 360 of the Criminal Code

Section 402

9. That you, on the.....day of.....
.....at.....robbed C.D of (state the thing)and thereby committed an offence punishable under section 402 of the Criminal Code

Section 419

10. That you, on the day of.....
.....at.....with intent to defraud, obtained from S.P five yards of cloth by falsely pretending that you were a servant to J.S and that you had then been sent by the said J.S to S.P for the said cloth, and that you were then authorized by the said J.S to receive the cloth on behalf of the said J.S and thereby committed an offence punishable under section 419 of the Criminal Code

11. That you, on the.....day of20.....
at....., with intent to defraud, obtained from A.Bby falsely pretending that you were able to double money.

Section 430(1)

12. That you.....on the.....day of
....., at....., had in your possession one gold watch reasonably suspected of having been stolen or unlawfully obtained and thereby committed an offence punishable under **section 430(1) of the Criminal Code**

Section 443

13. That you, on the.....day of.....
at....., willfully and unlawfully set fire to a house and thereby committed an offence punishable under **section 443 of the Criminal Code.**

Section 467(2)(i)

14 That you, on the.....day of..... at.....
forged an accountable receipt purporting to be the receipt of C.D., and thereby committed an offence contrary to **section 467(2)(i) of the Criminal Code.**

CHARGES WITH TWO OR MORE HEADS

Section 230

15. *first*

That you, on the.....day of....., at.....unlawfully supplied to C.D (state thing supplied) knowing that it was intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an offence punishable under **section 230 of the Criminal Code.**

Secondly

That you, on or about the.....day of....., at.....unlawfully procured for C.D (state thing procured) knowing that it was intended to be unlawfully used to procure the miscarriage of a woman and thereby committed an offence punishable under **section 230 of the Criminal Code**

Section 248

16. *First*

That you, on the.....day of....., at....., sold matches made with white (yellow) phosphorus and thereby committed an offence punishable under section 248(a) of the Criminal Code

Secondly

That you, on the.....day of....., at.....had in your possession for the purposes of sale of matches made with white (yellow) phosphorus and thereby committed an offence punishable under **section 248(a) of the Criminal Code**

Section 390

17. *First*

That you, on the.....day of....., at.....stole (state the thing stolen) the property of C.D and thereby committed an offence punishable under **section 390 of the Criminal Code**

Secondly

That you, on the.....day of....., at.....stole (state the thing stolen) which had been entrusted to you by C.D for you to retain in safe custody and thereby committed an offence punishable under **section 390(8) (b) of the Criminal Code.**

Thirdly

That you, on the.....day of....., at.....stole (state the thing stolen) which had been received by you for and on

account of C.D and thereby committed an offence punishable under section 390 (8) (c) of the Criminal Code

THIRD SCHEDULE

INFORMATION PRECEDENT

1

STATEMENT OF OFFENCE

Perjury, contrary to section 118 of the Criminal Code.

Particulars of offence

A.B., on the day of , 20 , in the district/division of , being a witness upon the trial of an action in the High Court in which one was plaintiff, and one was defendant, knowingly gave false testimony that he saw one M.W in the street called the Marina, Lagos, on the day of , 20 .

2

STATEMENT OF OFFENCE

Uttering counterfeit coin, contrary to section 151 of the Criminal Code.

Particulars of offence

A.B., on the day of , 20 , at market in the district/division of uttered a counterfeit shilling, knowing the same to be counterfeit.

3

STATEMENT OF OFFENCE

Murder, contrary to section 319 of the Criminal Code.

Particulars of offence

A.B., on the day of , 20 in the district/division of , murdered J.S.

4

STATEMENT OF OFFENCE

Accessory after the fact to murder, contrary to section 322 of the Criminal Code.

Particulars of offence

A.B., well knowing that one, H.C, did on the day of of, 20, in the province of , murder C.C., did on the day of , 20' in state of , and on other days thereafter receive, comfort, harbor, assist and maintain the said H.C.

STATEMENT OF OFFENCE

Particulars of offence

A.B., on the _____ day of _____, 20____ in the province of _____,
unlawfully killed J.S.

STATEMENT OF OFFENCE

Particulars of offence

A.B., on the _____ day of _____, 20____ in the province of _____, wounded C.D., with intent to maim, disfigure or disable, or to do some grievous harm, or to resist the lawful arrest of him the said A.B

A.B., on the _____ day of _____, 20____ in the province of _____, unlawfully wounded C.D

STATEMENT OF OFFENCE

Particulars of offence

A.B., on the _____ day of _____, 20____ in the district/division of _____, had carnal knowledge of E.F without her consent.

STATEMENT OF OFFENCE

Particulars of offence

A.B., on the _____ day of _____, 20____ in the district/division of _____, published defamatory matter affecting E.F., 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 390, Criminal Code

Particulars of offence

A.B., on the day of , 20 in the district/division of
, stole a bag, the property of the C.D

SECOND COUNT

Receiving stolen goods, contrary to section 427, of the Criminal Code.

Particulars of offence

A.B., on the day of , 20 in the district/division of
, did receive a bag, the property of C.D., knowing the same to
have been stolen.

10

STATEMENT OF OFFENCE

FIRST COUNT

Stealing by clerks contrary to section 390(6) of the Criminal Code.

Particulars of offence

A.B., on the day of , 20 in the district/division of
, stole two hundred naira which had been entrusted to him by
H.S., for him, the said A.B., to retain in safe custody.

SECOND COUNT

Stealing by agents and others, contrary to section 390(8)(b) of the Criminal Code.

Particulars of offence

A.B., on the day of , 20 in the district/division of
, stole two hundred naira which had been received by him for
and on account of L.M.

11

STATEMENT OF OFFENCE

Robbery with violence, contrary to section 402 of the Criminal Code.

Particulars of offence

A.B., on the day of , 20 in the province of
, robbed C.D of a watch, and at, or immediately before or immediately after,
the time of such robbery did use personal violence to the said C.D.

STATEMENT OF OFFENCE
Demanding property by written threats, contrary to section 407 of the Criminal Code.

A.B., on the _____ day of _____, 20____,
in the province of _____, with
intent to extort money from C.D., caused the said C.D. to receive a letter containing threats of
injury or detriment to be caused to E.F.

STATEMENT OF OFFENCE
Attempt to extort by threats contrary to section 408, of the Criminal Code.

A.B., on the _____ day of _____, 20____ in the district/division of _____ with intent to extort money from C.C., accused or threatened to accuse the said C.D of an unnatural offence.

STATEMENT OF OFFENCE
Obtaining goods by false pretences, contrary to section 419, of the Criminal Code

A.B., on the _____ day of _____, 20____ with intent to defraud, obtained from S.P. five yards of cloth by falsely pretending that he, the said A.B., was a servant to J.S., and that he, the said A.B., had then been sent by the said J.S. to S.P. for the said cloth, and that he, the said A.B., was then authorized by the said J.S. to receive the said cloth on behalf of the said J.S.

STATEMENT OF OFFENCE
Burglary, contrary to section 411, and stealing, contrary to 390(4)(b) of the Criminal Code.

A.B., on the _____ day of _____, 20...., in the district/division of _____, did break and enter the dwelling-house of C.D., with intent to commit a felony therein, namely to steal therein, and did steal therein one watch, the property of S.T.

STATEMENT OF OFFENCE

Conspiracy to defraud, contrary to section 422 of the Criminal Code.

A.B., on the _____ day of _____, 20____, and on divers days between that day and the _____ day of _____, 20____, in the district/division of _____, conspired together with intent to defraud by means of an advertisement inserted by them, the said A.B. and C.D., in the H.S. newspaper, falsely representing that A.B. and C.D. were then carrying on a genuine business as jewelers at _____, in the district/division of _____ and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum of

Fraudulent false accounting, contrary to section 438 of the Criminal Code.

A.B., on the _____ day of _____, 20____ in the district/division of _____, being clerk or servant to C.D., with intent to defraud, made, or was privy to making a false entry in a cash book belonging to the said C.D., his employer, purporting to show that on the said day two hundred naira had been paid to L.M

Fraudulent false accounting, contrary to section 438 of the Criminal Code.

A.B., on the _____ day of _____, 20____ in the district/division of _____, being clerk or servant to C.D., with intent to defraud, omitted or was privy to omitting from a cash book belonging to the said C.D., his employer, a material particular, that is to say, the receipt on the said day of one hundred naira from H.S.

Arson, contrary to section 443, of the Criminal Code.

A.B., on the _____ day of _____, 20____ in the district/division of _____, willfully and unlawfully set fire to a house.

Particulars of offence

20

Particulars of offence

Particulars of offence

21

Particulars of offence

Forgery, contrary to section 467(2), of the Criminal Code.

A.B., on the _____ day of _____, 20____ in the province of _____, forged a certain will purporting to be the will of C.D.

Uttering a false document, contrary to section 468 of the Criminal Code.

A.B., on the _____ day of _____, 20____ in the province of _____, knowingly and fraudulently uttered a certain forged will purporting to be the will of C.D.

Prior to the commission of the said offence, the said A.B. has been previously convicted of burglary on the _____ day of _____ 20____, at the Sessions held at.....
[Indictment Rules 1915, rule 11]

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FOURTH SCHEDULE

Item 1

**SCALE OF IMCORRECTIONALMENT FOR NON-PAYMENT OF MONEY
ORDERED TO BE PAID
(Section 390)**

Where the fine	The period of imcorrectionalment shall not exceed-
does not exceed two thousand Naira	seven days;
exceeds two thousand Naira and does not exceed five thousand Naira	fourteen days;
exceeds five thousand Naira and does not exceed twenty thousand Naira	one month;
exceeds twenty thousand Naira and does not exceed sixty thousand Naira	two months;
exceeds sixty thousand Naira and does not exceed one hundred thousand Naira	three months;
exceeds one hundred thousand Naira and does not exceed two hundred thousand Naira	four months;
exceeds two hundred thousand Naira and does not exceed four hundred thousand Naira	five months;
exceeds four hundred thousand Naira but does not exceed six hundred thousand Naira	six months;
exceeds six hundred thousand Naira and does not exceed one million Naira	seven months;
exceeds one million Naira and does not exceed two million Naira	eight months;
exceeds two million Naira and does not exceed five million Naira	nine months;
exceeds five million Naira and does not exceed ten million Naira	ten months;
exceeds ten million Naira	at discretion of the court, to the maximum of 18 months.

FIFTH SCHEDULE

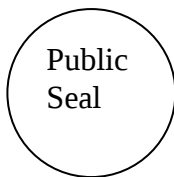
FORMS OF ORDERS

FORM A

Section 384

(As amended by L.N. 122 of 1964)

Order for Sentence of Death to be Carried Out



ORDER FOR EXECUTION

WHEREAS at the..... holding
at.....on the.....day of20.....,
one.....was duly convicted of a
capital offence and was sentenced to death:

AND WHEREAS a written report of the case from the trial Judge, together with such
other information derived from the record of the case or elsewhere, having been duly taken
into consideration at a meeting of the Advisory Council on the prerogative of money
designated for the purpose in his own deliberate judgment thereafter has decided to
recommend to me that I should exercise my powers in relation to the person so convicted:

AND WHEREAS I have decided in accordance with the advice of the said
Minister/Commissioner to confirm the sentence:

NOW THEREFORE I do hereby order that the sentence be carried out according to the
law and that the said.....be executed
at..... at a time and by the person appointed by you and that the body of
the said.....be buried in the usual
place for internment for condemned criminal executed at the place of execution.

AND FOR SO DOING this shall be your Warrant.

GIVEN under my hand and the Public Seal of the Federal Republic of Nigeria
this.....day of.....20.....

.....
President/Governor

To the Sheriff at.....

FORM B
ORDER OF COMMUTATION OF SENTENCE

WHEREAS on the.....day of.....20.....,
one..... was duly convicted of a
capital offence and was sentenced to death by the.....holding
at.....

AND WHEREAS a written report of the case from the trial Judge, together with such
other information derived from the record of the case or elsewhere, having been duly taken
into consideration at a meeting of the Advisory Council on the Prerogative of Mercy
designated for the purpose in his own deliberate judgment thereafter has decided to
recommend to me that I should exercise my powers in relation to the person so convicted:

AND WHEREAS I have decided in accordance with the advice of the appropriate
authority to confirm the sentence:

NOW THEREFORE I do hereby commute the sentence and direct that the said be
carried out, and that in lieu thereof the said...
.....beimcorrectionaled
for.....

GIVEN under my hand and the Public Seal of the Federal Republic of Nigeria
this.....day of.....20.....

.....
President/Governor

To the Sheriff at.....
(For transmission to the appropriate correctionals authority).

FORM C

Sections 30

ENDORSEMENT ON WARRANT OF ARREST

Whereas proof has this day been made before me that the namesubscribed to the within warrant is in the handwriting of the within mentioned.....

I hereby authorized.....who brings me this warrant warrant and all other persons to whom this warrant was originally directed and also all police officers of theto execute this

warrant within.....and to bring the saidif apprehended withinbefore me or before some Magistrate of the.....to be dealt with according to law.

GIVEN under my hand this.....20.....

.....
Judge/Magistrate

FORM D

ENDORSEMENT ON WARRANT OF DISTRESS

Section 403

Whereas proof has this day been made before me that the name ofsubscribed to the within warrant is in the handwriting of the within mentioned.....
.....you.....are

hereby commanded forthwith to make distress of the goods of the defendant (except the wearing apparel and bedding of him and his family, and, to the value of ten naira, the tools and implements of his trade); and if within the space of the five clear days next after making of such distress unless he consents in writing to an earlier sale, the sum stated in the within warrant, together with the reasonable cost and charges of making and keeping of the said distress, be not paid, then to sell the said goods, and pay the money arising therefrom to the registrar of this court, and if no such distress can be found, to certify the same to this court.

Dated the....., 20.....

.....
Judge [or Magistrate].

FORM E

Warrant to arrest a person failing to appear pursuant to Recognisance
(TITLE OF PROCEEDINGS)

To.....
and.....
Whereas.....of..... is bound by
recognisance to appear before this court on.....
.....(*state when*) but has failed so to appear:

You are hereby commanded to arrest the said.....
.....and bring him before me at
.....without delay.

.....
Judge (or Magistrate)

FORM F
Warrant to carry out Sentence
(TITLE OF PROCEEDINGS)

To.....and to the Superintendent of Correctional:
The defendant.....was on the..... day
of....., 20....., sentenced as follows-

<i>No</i>	<i>Offence</i>	<i>Term, Fine, Compensation, Costs, or Strokes</i>	<i>Term in default</i>

The defendant has made default in payment of the above sum (or sums, or 1st and 2nd above-named sums, *or as the case may be.*)

The imcorrectionalment is to commence forthwith [upon the expiration of any other term of imcorrectionalment which the defendant may be now serving]

The terms are to concurrent [*or consecutive, or concurrent as to the* and....., and consecutive as to, *or as the case may be.*]

The imcorrectionalment is to be without hard labour.]

You are hereby commanded to take the said defendant [and imcorrectional him] [and cause him to be caned] in accordance with the above sentence and the law.

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

.....
Judge (or Magistrate)

FORM G
Recognisance of Witness

[rule 6(2)]

In the Magistrate's Court of..... C.D.
of.....

(address and occupation or profession)

acknowledges that he/she owes to the Federal Government the sum ofpayment
thereof to be enforced against him/her by due process of law if he/she fails to comply with the
conditions endorsed hereon.

Signature of C.D.....

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

.....

Magistrate
(Endorsement)

Conditions

The condition of this recognisance is that whereas A.B (*hereinafter called the Defendant*) was this day charged before me (*name of Magistrate*), the above-mentioned Magistrate, with (*state shortly particulars of offence*):

If therefore the said C.D. appears at the High Court of the State on a date to be notified to him/her later and there gives evidence upon the trial of any information against the accused and in all respects compiles with the requirements of any notice which he/she may subsequently receive relating to this recognisance,
then this recognisance shall be void but otherwise shall remain in full force.

FORM H

[rule 6(3)]

Recognisance of Witness Conditionally Bound Over

In the Magistrate's Court of..... C.D.

.....

(address and occupation or profession)

Signature of C.D.....

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

.....

Magistrate
(Endorsement)

Conditions

Whereas A.B (*hereinafter called the accused*) was this day charged before me (*name of Magistrate*), the above-mentioned Magistrate, with (*state shortly particulars of offence*):and

Whereas C.D has been informed that he/she is only conditionally bound over to give evidence at the trial of A.B but that, after receiving a notice that he/she will be required to give evidence at the said trial, he/she will then be firmly bound by the following conditions:

If therefore the said C.D. appears at the High Court of State on a date to be notified to him/her later and there gives evidence upon the trial of any information against the accused and in all respects compiles with the requirements of any notice which he/she may subsequently receive relating to this recognisance,

then this recognisance shall be void but otherwise shall remain in full force.

FORM I

[rule 6(4)]

Notice to Witness that Accused has not been Committed for Trial

In the Magistrate' court of.....

Whereas you C.D of..... were on the.....day of....., 20....., bound by a recognisance in the sum of..... to appear on a date to be notified to you at the High Court of..... State and give evidence upon the trial of A.B:

This is to give you notice that the Magistrate has determined not to commit the said A.B for trial and that consequently you will not be required to appear at the High Court for the purpose aforesaid.

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

.....
Judge (or Magistrate)

FORM J

*Notice to Witness bound over that he is to be Treated as having been bound over
Conditionally*

In the Magistrate' court of.....

Whereas you, C.D of..... were on
the.....day of....., 20....., bound by a
recognisance in the sum of..... to appear at
the High Court of..... State on a date to be notified to you and there
give evidence upon the trial of A.B:

And whereas the Magistrate has since committed the said A.B for trial at the High
Court of..... State and has directed that you are to be treated as
having been bound over to attend the trial conditionally upon notice being given to you:

This is to give you notice that you are not bound by the recognisance entered into by
you until and unless you subsequently receive notice that you will be required to give
evidence at the trial of the accused A.B.

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

.....
Judge (or Magistrate)

FORM K

Notice to Witness bound over or treated as bound over Conditionally

In the Magistrate' court of.....

or

In the High Court of.....

Whereas you C.D of..... were
on the.....day of....., 20....., bound over
conditionally in the sum of..... to appear upon
being given to you to give evidence upon the trial of A.B (or, whereas you C.D were given
notice, after entering into a recognisance to give evidence upon the trial of A.B., that you
would not be bound by such recognisance until and unless you
subsequently receive notice that you will be required to give at the trial of A.B):

This is to give you notice that you are required to appear and give evidence at the
High Court of.....State at the trial of A.B on the.....(or on a date to be
subsequently notified) and that unless you do so the said recognisance will be forthwith
enforced against you.

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

Registrar of Magistrate's Court

Or

.....
Registrar of the High Court

FORM L

NOTICE OF TRIAL
(Section 352,358)

In the Magistrate' court of.....

or

In the High Court of.....

Charge no:

[Case Title]

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

Also find attached the "Information on Legal Representation" Form which you must complete
and return to the Registry of this court within 14 days of service on you of this notice of trial.

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

.....
Registrar of Magistrate's Court

or

.....
Registrar of the High Court

FOR SERVICE ON:

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

This printed impression has been carefully compared by me with the Bill which has been passed by the Ondo State House of Assembly and found by me to be a true copy of the said Bill.

Rt. Hon. (Barr.) Princess Akindele
Jumoke Yetunde
Speaker, Ondo State House of Assembly

Adeyelu Micheal Bode
Clerk of the House of Assembly

GOVERNOR'S ASSENT

I hereby signify my assent to this Bill

GOVERNOR'S SEAL

Dr. Olusegun Mimiko
Governor of Ondo State of Nigeria

Dated this.....day of....., 2015