

ADMINISTRATION OF CRIMINAL JUSTICE LAW NO. 10 2007

COMMENCEMENT 28<sup>TH</sup> MAY 2008

A LAW ON CRIMINAL JUSTICE ADMINISTRATION IN THE HIGH COURT AND MAGISTRATES' COURTS OF LAGOS STATE AND FOR OTHER CONNECTED PURPOSES

THE LAGOS STATE HOUSE OF ASSEMBLY enacts as follows:

Arrest, how made

1. In making an arrest, the police officer or other person making the arrest shall touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

2. No unnecessary restraint

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 of an attempt to escape or unless the restraint is considered necessary for the safety of the person arrested.

3. Notification of cause of arrest

(1) Except when the person arrested is in the actual course of the commission of a crime or is pursued immediately after the commission of a crime or escape 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 right to:

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

b. Consult a counsel of his choice before making or writing any statement or answering any question put to him after arrest.

(3) The Police officer or the person making the arrest shall inform the person arrested that he may apply for free legal representation from the office of the Public Defender, Legal Aid Council or any such agency.

Arrest in lieu

4. No person shall be arrested in lieu of any other person

5. (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. If the person arrested is admitted to bail and bail is furnished, the person shall not 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.

(2) Whenever it is necessary to search a person, he shall be searched by a person of the same sex with a 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 offensive weapons 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 a 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 that the 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 a court but is released on the ground that there is no sufficient reason to believe that he has committed an offence, any property taken from him shall be restored to him.

(6) When a person is in lawful custody on a 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 to make an examination of the person in custody as is reasonably necessary in order to ascertain the facts which may afford such evidence, and to use a force as is reasonably necessary for that purpose.

(7) If there is no qualified medical practitioner available, the Police officer or any person acting in good faith in aid and under the direction of such practitioner or Police officer as the case may be, make such an examination of the person in custody as is reasonably necessary in order to ascertain the facts which may afford such evidence and to use a force as is reasonably necessary for that purpose.

6 (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 particulars of all items or properties recovered from the person arrested or about to be arrested.

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

#### 7. Search of place entered by person sought to be arrested

(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 the place shall, on demand by such police officer or person acting for the police officer, allow him free access and afford all reasonable facilities to search the place for the person sought to be arrested.

(2) If access to such place cannot be obtained under subsection (1), any such person or police officer may enter the 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) Where the person to be arrested enters an apartment in the actual occupation 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 the opportunity and facility for withdrawing and may then enter the apartment but the notice shall not be necessary if the person making the arrest is a woman.

#### 8. Power to break out of any house for purpose of liberation

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

#### 9. Arrested persons to be taken at once to police station

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

(2) The person who is arrested, under sub-section (1) of this section while in custody shall be given reasonable facilities for obtaining legal advice, take steps to furnish bail, and otherwise make arrangements for his defence or release.

(3) Where any person who is arrested, with or without a warrant, volunteers to make a confessional statement, the Police shall ensure that the making and taking of such statement is recorded on video 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 writing in the presence of a legal practitioner of his choice.

#### 10. Arrest without warrant and procedure thereon

(1) A police officer may, without an order from a magistrate and without a warrant, arrest a person—

(a) whom he suspects upon reasonable grounds of having committed an indictable offence against a Federal law or against the law of the 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) who commits an offence in his presence;

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

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

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

(f) whom he suspects upon reasonable ground of having been concerned in any act committed at any place out of the state which, if committed in the state, would have been punishable as an offence, and for which he is, under any enactment in force in Lagos State, liable to be arrested and detained in the State;

(g) having in his possession without lawful excuse any implement of housebreaking, firearm, or any offensive or dangerous weapon;

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

(j) found in the State taking precautions to conceal his presence in circumstances which afford reason to believe that he is taking such precautions with a view to committing an offence which is a felony or misdemeanour.

(2) The authority given to a police officer to arrest a person who commits an offence in his presence, shall be exercisable in respect of offences committed in the officer's presence notwithstanding that the 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 the arrest.

#### 11. Refusal to give name and residence

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

(2) When the true name and residence of the person referred to in sub-section(1) have been ascertained he shall be released on his executing a recognisance, with or without sureties, to appear before a magistrate if so required:

But if such person is not resident in Lagos, the recognisance shall be secured by a surety or sureties resident in Lagos.

(3) If the true name and residence of the person cannot be ascertained within twenty-four hours from the

time of arrest, or if he fails to execute the recognisance, or, if required to furnish sufficient sureties, he shall forthwith be brought to the nearest magistrate having jurisdiction by way of a complaint on oath.

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

#### 12. Arrest by private persons

(1) A private person may arrest any person who commits an indictable offence in his presence or whom he reasonably suspects of having committed an indictable offence.

(2) After the arrest of the person under subsection(1), a private person shall not subject the arrested person to torture, inhuman or degrading treatment.

#### 13. Arrest by owners of property

(1) A person found committing an offence involving damage to property may be arrested without a warrant by the owner of the property or his servants or persons authorised by him.

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

#### 14. Treatment of person arrested by private person

(1) A private person who arrests any other person without a warrant, shall without unnecessary delay hand over the person arrested to a police officer, or in the absence of a police officer shall take the person to the nearest police station.

(2) The Police officer shall make a note of the name, residence, and other particulars of the private person making the arrest.

(3) The private person making the arrest shall make a statement of the circumstances of the arrest.

(4) If there is reason to believe that such person comes under the provisions of subsection (1) of section 3, a Police officer shall re-arrest him

(5) If there is reason to believe that he has committed an indictable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which the officer has reason to believe to be false, he shall be dealt with under the provisions of section 11 of this Act. If there is no sufficient reason to believe that he has committed any offence, he shall be released at once.

15. Offence committed in presence of judge or magistrate

When an offence is committed in the presence of a judge or magistrate, the judge or magistrate may himself arrest or order any person to arrest the offender and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

16. Arrest by a judge or magistrate

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

(2) Where a person is arrested in accordance with the provisions of subsection 1 of this section, 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 the person had been brought before him by or under the directions of any other person.

17. Release on bail of a person arrested without warrant

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

(2) The officer in charge of a police station may release the person arrested, on bail upon his entering into a recognisance, with or without sureties for a reasonable amount to appear before the court or at the Police station at the time and place named in the recognisance.

(3) Where a person is taken into custody, and it appears to the Police officer in charge of the station that the offence is of a capital nature, the person arrested shall be retained in custody. The Police officer shall bring the person arrested before a Court having jurisdiction with respect to the offence within a reasonable time.

18(1) Where a person taken into custody is not released on bail, a Magistrate having jurisdiction with respect to the offence may be notified by application on behalf of the arrested person.

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

19. Discharge of person for want of evidence

When a person has been taken into police 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 and he is satisfied that there is no sufficient reason to believe that the person has committed any offence, forthwith release the person.

20. (1) Officers in charge of Police station shall report to the nearest Magistrate the cases of all persons arrested without warrant within the limits of their respective station whether such persons have been admitted to bail or not and the chief magistrate shall notify the chief Registrar of the High court of such report who shall forward the report to the Director of Public Prosecution.

(2) Where no report is made, in accordance with subsection (1) the chief magistrate shall notify the chief Registrar of the High court of the development.

21. General authority to issue warrant

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

22. Form and contents of warrant of arrest

(1) Every warrant of arrest issued under this Law or, unless the contrary is expressly stated, under any other written law shall bear the date of issue, shall contain all necessary particulars and shall be signed by the judge or magistrate by whom it is issued.

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

23. Warrant issued on complaint to be in writing on oath

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

24. Warrant may be issued on any day

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

25. Warrants, to whom directed and duration

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

(2) It shall not be necessary to make any such warrant returnable at any particular time and a warrant shall remain in force until it is executed or until it is cancelled by a judge or a Magistrate, as the case may be.

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

(1) A 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



warrant.

(2) The person in subsection (1), 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 requirements placed by law on such a police officer.

#### 27. Procedure for execution of warrant.

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

(2) Every such warrant may be executed by a police officer at any time and in any place other than in a court room in the state.

(3) The person executing any the 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 grounds that it is likely to occasion escape, resistance, or rescue.

(4) Every person arrested on the warrant shall, subject to the provisions of sections 29 and 30 be brought before the court which issued the warrant within a reasonable time after he is so arrested.

#### 28. Power to arrest on warrant but without the warrant

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

29(1) A court on issuing a warrant for the arrest of a 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 arrest on his entering into such recognisance for his appearance as may be required in the endorsement.

(2) The endorsement shall specify the—

(a) number of sureties, if any;

(b) amount in which they and the person named in the warrant are respectively to be bound or are to provide 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 condition 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) shall not have effect with respect to a warrant executed outside the State.

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

(1) Where a warrant of arrest is executed in the State outside the division or district of the court by which it was issued, the person arrested shall, unless security is taken under section 29, be taken before the court within the division or district in which the arrest was made.

(2) The 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:

(3) if the person has been arrested in respect of a 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 29 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 section 17.

### 31. Re-arrest of person escaping

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.

### 32. Provisions of sections 1 and 2 to apply to re-arrest under section 31

The provisions of sections 1 and 2 shall apply to re-arrest under section 31, although a person making such re-arrest is not acting under a warrant and is not a police officer having authority to re-arrest.

### 33. Assistance to judge, magistrate or police officer

Every person is bound to assist a judge or police officer reasonably demanding his assistance in the—

(a) arresting or preventing the escape of any other person whom the judge, magistrate or police officer is authorised to arrest;

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

### 34. Power of magistrate to require execution of recognisance for keeping the peace

(1) Whenever a magistrate is informed on oath that any person is likely to commit a breach of the peace or disturb the public peace, or to do a wrongful act that may likely occasion a breach of the peace or disturb the public peace, the magistrate may in manner hereinafter provided, require the person to show cause why he should not be ordered to enter into a recognisance, with or without sureties, for keeping the peace for a period, not exceeding one year, as the magistrate thinks fit.

(2) Proceedings shall not be taken under this section unless the person against whom information is made is in Lagos State and is within the district to which the magistrate is assigned or the place where the breach of the peace or disturbance has occurred is within the district to which the magistrate is assigned.

#### 35. Security for good behaviour for suspected persons

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

#### 36. Security for good behaviour for habitual offenders

Whenever a magistrate is informed on oath that a person within the district habitually commits or conspires or attempts to commit, or aids in the commission of offences involving breach of the peace the Magistrate may, in manner hereinafter provided require such person to show cause why he should not be ordered to enter into a recognisance, with surety, for his good behaviour for a period, not exceeding three years, as the magistrate thinks fit.

#### 37. Order to be made

When a magistrate acting under section 34, 35, or 36 considers it necessary to require any person to show cause under these sections, he shall make an order in writing setting forth the—

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

#### 38. Procedure in respect of person present in court

If the person in respect of whom an order under section 37 is made is present in court, the order shall be read over to him or, if he so desires, the content of the order shall be explained to him.

#### 39. Summons or warrant in case of person not present

(1) If the person against whom an order under section 37 is made is not present in court, the magistrate shall issue a summons requiring him to appear, or, when the person is in custody, a warrant directing the officer in whose custody he is to bring him before the court:

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

#### 40. Copy of order under section 37 to accompany summons or warrant

Every summons or warrant issued under section 39 shall be accompanied by a copy of the order made under section 37, and the copy shall be delivered by the officer serving or executing such summons or warrant to

the person served with or arrested under the same.

#### 41. Power to dispense with personal attendance

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 his legal practitioner.

#### 42. Inquiry as to truth of information

(1) When an order under section 37 has been read or explained under section 38 to a person in court, or when any person appears or is brought before a magistrate pursuant to a summons or warrant issued under section 39, the magistrate shall proceed to inquire into the truth of the information upon which the action has been taken, and to take such further evidence as may appear necessary.

(2) Such inquiry shall be made, as nearly as may be practicable, in the manner prescribed under this law for conducting trials and recording evidence in trials before magistrates' courts.

(3) Pending the completion of the inquiry under subsection (1), the magistrate, if he considers that immediate measures are necessary for the prevention of a breach or disturbance of public peace or the commission of an offence or for the public safety, may, for reasons to be recorded in writing, direct the person in respect of whom the order under section 37 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 the recognisance is entered into or, in default of execution, until the inquiry is concluded:

Provided that—

(a) no person against whom proceedings are being taken under section 42 shall be directed to enter into a recognisance for maintaining good behaviour; and

(b) the conditions of such recognisance, whether as to the amount thereof or as to the provisions of sureties or the number thereof or the pecuniary extent of their liability shall not be more onerous than those specified in the order under section 37; and

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

(4) For the purposes of this section the fact that a person comes within the provisions of section 36 may be proved by evidence of general repute or otherwise.

(5) 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.

#### 43. Order to give security

(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:

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 37;

(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 child, the recognisance shall be entered into as provided in section 117.

#### 44. Discharge of person against whom allegation is made

If on an inquiry under section 42 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 the 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.

#### 45. Commencement of period for which security is required

(1) If a person in respect of whom an order requiring security is made under section 34 is, at the time the 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.

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

#### 46. Conditions of recognisance

The recognisance to be entered into any person shall bind him to keep the peace or to be of good behaviour, as the case may be, and in the latter case the commission or conspiracy or attempt to commit or the aiding, counselling, or procuring the commission at 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.

#### 47. Power to reject sureties

A magistrate may refuse to accept a surety offered under any of the preceding sections if in the opinion of the magistrate, the surety is not a fit and proper person.

#### 48. Procedure on failure of person to give security

(1) If a person ordered to give security as does not give such security on or before the date on which the period for which the security is to be given commences, he shall be committed to prison, or, if he is already in prison, be detained in prison until such period expires or until within a period he gives the security to the court or magistrate who made the order requiring it.

(2) When a person who has been ordered by a magistrate pursuant to subsection (1) of this section fails to give such security the magistrate shall commit the person to prison for a period not exceeding one month and the order shall be vacated after the expiration of one month.

(3) if the security is subsequently presented 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.

49. Whenever a Magistrate is of the opinion that a person imprisoned for failing to give security may be released without hazard to the community the Magistrate shall order the person to be discharged.

50. Power of High Court to review recognisance

The High Court may at any time, for sufficient, vary uphold or cancel any recognisance for keeping the peace or for good behaviour executed under any of the preceding sections by order of any court.

51. Discharge of sureties

(1) Any surety for the peaceable conduct or good behaviour of another person 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.

(2) On the application being made, the magistrate shall if satisfied 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 the magistrate, such magistrate after hearing such person may discharge the recognisance and in such event order the 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 46, 47, 48, and 49 be deemed to be an order under section 43.

52. Police to prevent offences and prevent injury to public property

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

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

53. Information of plan to commit an offence

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

54. Arrest to prevent an offence

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 so designing, if it appears to such officer that the commission of the offence cannot otherwise be prevented.

55. The provisions of sections 55, 56 and 57 shall apply except when express provision is made therein in respect of any particular court or form of trial to all criminal trials and other criminal proceedings in the high courts and magistrates' courts.

#### 56. General authority to bring persons before courts

Every court has authority to cause to be brought before it any person who is within the jurisdiction and is charged with an offence committed within the Lagos 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.

#### 57. Right to report offence

Any person may make a report to a Police officer that an offence has been, is being or likely to be committed.

#### 58. Venue

Subject to the powers of transfer contained in the enactment or Law establishing any court the place for the trial of an offence shall be in the Division or district—

(a) where the offence was committed;

(b) where the act was done, or where such consequence ensues or to be done;

(c) when the act is an offence by reason of its relation to any other act which is also an offence;

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

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

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

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

(e) an offence committed while the offender is in the course of performing a journey the offender or the person against whom or the thing in respect of which the offence was committed resides, is or pass through in the course of that journey;

(f) where any cause is commenced in any other division than that in which it ought to have commenced, it may, notwithstanding be tried therein, unless the accused person shall object at or before the time when he is called upon to plead or to state his answer in such cause

(g) whenever either the prosecutor or the accused person he considers that the end of justice so require, may apply to the court either to transfer the hearing from one division to another or from one part of the division to another part of the same division.

#### 59. Effect of change of venue

Where any case shall be 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 a latter place or division and all witnesses who are bound by recognisances or

summoned to attend the trial shall be informed accordingly and shall attend at the latter place or division.

#### 60. Offences against Federal laws

Where an offence is against a Federal law—

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

(b) is completed in the 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 the State.

#### 61. Judge to decide in case of doubt of venue

(1) Whenever any doubt arises as to the magistrate's court in which an offence shall be tried, a high court judge shall, upon the application of a magistrate or the accused, decide in which magistrate's court the offence shall be tried.

(2) Any such decision of a high court judge shall be final and conclusive except that it shall be open to an accused person to show that no magistrate's court in the Lagos State has jurisdiction in the case.

#### 62. A defendant to be sent in certain cases to another magistrate

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

Court having concurrent jurisdiction

63. If such offences as are mentioned in section 62 have been committed in a district within which one or more courts shall have concurrent jurisdiction, the remitting magistrate shall, unless he is authorised to proceed in the case, send the person charged and 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.

64. The remitting magistrate shall send to the court to which the defendant is remitted for trial all authenticated copies of the information, summons, warrant, and all other process or documents regarding the case, in his possession.

#### 65. Removal under warrant

Where a defendant is to be sent into custody, a warrant shall be issued by the remitting magistrate, 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 defendant is remitted for trial.



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

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

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

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

(3) If the defendant is not detained or placed in custody, the magistrate shall inform him that he has directed the transfer of the case and the provisions of the last preceding subsection relating to the transmission and use of the documents in the case shall apply.

67. Courts may assume jurisdiction under certain conditions

(1) Notwithstanding the provisions of sections 58, 59 and 62, a judge or magistrate of a division in which a person in another division,

(i) is arrested

(ii) is in custody on a charge;

(iii) has appeared in answer to summons lawfully issued may if he considers that justice would be better served and having regard to the accessibility and convenience of witness, proceed to hear the charge, try and punish the defendant as if the offence had been committed in the division;

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

(3) if at any time during the course of any proceedings taken against the defendant before any court pursuant to this section it appears that the defendant would suffer hardship if he is proceeded against and tried in the division, the court shall without prejudice to a magistrate's powers under section 62, cease to proceed further in the matter.

(4) Where any person is charged with two or more offences, he may be proceeded against, tried and punished in respect of all those offences in any division in which he could be proceeded against, tried or punished in respect of any of those offences and all the offences with which that person is charged shall for all purposes be deemed to have been committed in that division.

## Assumption of jurisdiction after commencement of proceedings

68. If any cause is commenced in any other division other than that in which it ought to have commenced, a judge or magistrate may assume jurisdiction in accordance with the provisions of section 67 and all acts performed and all decisions given by the judge or magistrate during the trial shall be deemed to be valid in all respects as if the jurisdiction has been assumed prior to the performance of the said acts and the giving of the said decisions.

### 69. Information by the Attorney-General

(1) Notwithstanding anything to the contrary in this Law or any other law of the House of Assembly, the Attorney-General of the State may exhibit an information in respect of any indictable offence, created by any law or in respect of any offence created by an Act the prosecution for which offence, or an element thereof has been committed in the state.

70. Where any person other than the Attorney-General of the state, initiates, or prosecutes in any criminal proceedings for an offence against a law of the state on behalf of the state, or where any public officer initiates, or prosecutes in his official capacity in any such criminal proceedings, such person or public officer shall initiate or prosecute such case, subject to such general or specific direction as may be given by the Attorney-General of the state.

71. In any criminal proceedings for an offence against a law of the state and at any stage before judgment the Attorney-General of the State may discontinue the proceedings either by himself or through officers of his department and the defendant shall be discharged in respect of the charge or information immediately.

(2) If the defendant has been committed to prison he shall be released, or if on bail the recognisances shall be discharged, and, where the defendant is not before the court when such discontinuance is entered, the registrar or other proper officer of the court shall immediately cause notice in writing of the entry of such discontinuance to be given to the officer in charge of the prison or other place in which the defendant may be detained and such notice shall be sufficient authority to discharge the defendant or if the defendant is not in custody shall immediately cause such notice in writing to be given to the defendant and his sureties and shall in either case cause a similar notice in writing to be given to any witnesses bound over to prosecute.

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

72. (1) In any remand proceedings with respect to any indictable offence against a law before a Magistrate, the Attorney-General of the state may indicate to the court either personally by himself or through any of the officers in his chambers in writing informing the Magistrate by way of legal advice through the prosecuting

Police officer or a Law officer that the state intends that the proceedings shall be discontinued and thereupon the suspect shall immediately be discharged in respect of the offence.

(2) Where following any remand proceedings before a Magistrate, a person is charged with an offence on information before a high court, the Attorney-General of the state may indicate by himself or through an officer in his chambers by stating orally in the open court or by informing the court in writing that the state intends that the proceedings shall be discontinued and such person shall immediately be discharged in respect of the charges that constitute the information.

### 73. Withdrawals from prosecution in trials before a High court or magistrate's court

(1) In any trial before a high court or magistrate's court a prosecutor with the consent of the court, may, or on the instruction of the Attorney-General of the State, at any time before judgment is pronounced or an order of committal is made, withdraw from the prosecution of any person either generally or in respect of one or more of the offences with which such person is charged and upon such withdrawal—

(a) if it is made in the course of a trial—

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

or

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

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

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

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

74.(1) The Commissioner of Police shall forward all duplicate case files with respect to indictable offences to the office of the Attorney –General for the purpose of issuance of legal advice.

(2) The legal advice issued by the office of the Attorney –General with respect to such indictable offences or any person shall be conclusive.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, the Attorney –General may request for duplicate files relating to any offence for the purpose of issuance of legal advice.

(4) Where the facts of a Police duplicate file forwarded to the office of the Attorney –General in any proceedings with respect to any indictable offence against a Law of a state, indicate a prima facie case against a person the Attorney-General shall inform the Magistrate in writing by way of legal advice through any of the officers in his chambers or the prosecuting police officer.

(5) The office of the Attorney –General shall ensure service of the copy of the legal advice upon a person in respect of whom legal advice is preferred through the prison authority if the person is remanded in police custody and through the appropriate court if the person is on bail.

(6) A form indicating a desire to be represented by counsel of his choice or by the office of the Public defender, legal aid council or any other organisation providing legal aid shall be attached to each legal advice for purposes of endorsement by the person in respect of whom legal advice is preferred.

75. Notwithstanding anything in this Law or any 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 the abuse of legal process.

76. (1) The prosecutor and a defendant or his legal practitioner may before the plea to the charge enter into an agreement in respect of –

(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 representation 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 in writing and shall be signed

(5) The presiding judge or magistrate before whom criminal proceedings are pending shall not participate in the discussions contemplated in subsection (1)

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

(6) where a plea agreement is reached by the prosecutor and the defence, the prosecutor shall inform the court that the parties have reached an agreement and the presiding judge or magistrate shall then inquire from the defendant to confirm the 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 offender 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) the presiding judge or magistrate shall consider the sentence agreed upon in the agreement and if he is-

(a) satisfied that such sentence is an appropriate sentence impose the sentence or

(b) of the view that he would have imposed a lesser sentence than the sentence agreed upon in the agreement, impose the lesser sentence; or

(c) ) of the view that the offence requires a heavier sentence than the sentence agreed upon in the agreement, he shall inform the accused of such heavier sentence he considers to be appropriate

(9) Where the accused person has been informed of the heavier sentence as contemplated in subsection (8) above, the defendant may-

(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 proceed with the sentencing or

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

(10) Where a trial proceed as contemplated under subsection (9) (a) or de novo before another presiding judge or magistrate, as contemplated in subsection (9) (b)

(a) no reference shall be made to the agreement

(b) no submissions contained therein or statement 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

77. Different methods of instituting criminal proceedings

Subject to the provisions of any other enactment criminal proceedings may in accordance with the provisions of this Law be instituted—

(a) in magistrates' courts on a charge; and

(b) in the High Court—

(i) by information of the Attorney-General of the State in accordance with the provisions of section 69; and

(ii) by information filed in the court after the accused has been summarily committed for perjury by a judge or magistrate under the provisions of section 303;

78. Particulars of instituting criminal proceedings in magistrates courts

(1) Proceedings in a magistrate's court may be instituted 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 date and place where the offence is alleged to have been committed.

(2) The charge sheet shall be signed by a Law officer or the Police officer in charge of the case.

79. A magistrate may issue a summons or warrant as set out to compel the appearance before him, of any person of any person alleged of having committed in any place in any place whether within or outside Nigeria any offence triable in the state.

#### 80. Summons and warrant

In every case the court may proceed 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.

#### 81. Issue and service on any day

(a) A summons may be issued or served on any day from Monday to Saturday between the hours of 8 a.m. and 6 p.m.

(b) A summons served on a Sunday or public holiday shall not be invalid but shall take effect from the next working day.

#### 82. Issue of summons and contents thereof

Where a charge is preferred before a magistrate as provided in section 78 and the magistrate decides to issue a summons in the first instance such magistrate shall issue a summons directed to the person or persons charged with the offence, stating concisely the substance of the charge and requiring him to appear at a certain time not less than forty-eight hours after the service of such summons before the court to answer to the said charge and to be further dealt with according to law.

#### 83. Hearing by consent before return date of summons

The court may, if it deems it fit and with the consent of the parties, hear and determine a charge notwithstanding that the time within which the defendant was required to appear may not have elapsed.

#### 84. Discretion in ex parte applications

Nothing contained in section 81, 82 or 83, shall oblige any magistrate to issue any such summons in any case where the application for an order may by law be made ex parte.

#### 85. Summons to be in duplicate

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 from time to time prescribe.

#### 86. Service of summons

Every summons shall be served by a police officer or by an officer of the court issuing it or other public servant.

#### 87. Normal methods of effecting service

The person effecting service of a summons shall effect it by delivering it if on—

- (a) an individual, to him personally; or
- (b) a firm or corporation to one of the following:
  - (i) one of the partners, or
  - (ii) a director, or
  - (iii) the secretary, or

(iv) the chief agent within the jurisdiction, or

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

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

(c) a local government council then in accordance with the appropriate provision of a Local Government Law operating in the State.

#### 88. Service where person summoned cannot be found

Where service in the manner provided by paragraph (a) of section 87 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, and thereupon the summons shall be deemed to have been duly served.

#### 89. Service on Government servant

Where the person summoned is in the service of Government the court issuing the summons may send it in duplicate to the director or head of the department in which such person is employed for the purpose of being served on such person, if it shall appear to the court that such is the most convenient form of service , and such director or head of the department shall thereupon cause the summons to be served in the manner provided by paragraph (a) of section 87 and shall return the duplicate to the court under his signature, with the endorsement required by section 92. Such signature shall be evidence of the service.

#### 90. Proof of service when serving officer not present

Where the officer who served a summons is not present at the hearing of the case proof of such service, may be done by endorsement on the duplicate of such summons and by affidavit showing when and how service was effected.

#### 91. Service outside local division or district

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

#### 92. Receipt of service summons

(1) Where a summons has been served upon the person to whom it is addressed or is delivered to any other person the person to whom it is addressed or the person to whom it is handed, shall endorse the duplicate.

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

#### 93. Person refusing to endorse may be arrested

Every person who is required to endorse to the effect that he has received the summons and fails to endorse



may be arrested by the person serving the summons and taken before the court which issued the summons and may be detained in custody or committed to prison for such time as the court may think necessary.

94. Summons disobeyed, warrant may issue

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

95. Issue of warrant for defendant in the first instance

Where upon a complaint being made before a magistrate as provided in section 23 such magistrate decides to issue a warrant in the first instance such magistrate shall issue a warrant to arrest the person complained against to bring him before the court to answer the said complaint and be dealt with according to law.

96. Application of sections 21-30 to such warrant

Where a warrant of arrest is issued in consequence of a complaint on oath as aforesaid the provisions of sections 21 to 30 shall apply to such warrant

97. Warrant may issue before or after return date of summons

Notwithstanding the issue of a summons as in section 79 , a warrant may be issued at any time before or after the time appointed for the appearance of the defendant.

98. Irregularity in summons, warrant, service or arrest

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

99. Variation between charge summons or warrant

No variation between the allegation contained in the summons or warrant and the offence alleged in the charge, or between the 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.

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

A summons or warrant or other process issued under any written law shall not be invalidated by reason of the death of the person who signed the same or his ceasing to hold office or have jurisdiction.

101. Validity of process

The following provisions shall have effect in respect of warrants of commitment and warrants of distress—

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

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

#### 102. General addressee of process for issue and execution

(1) In addition to the provisions of sections 25 and 26, all summonses, warrants and processes of every description shall be sufficiently addressed for service or execution by being directed to the sheriff.

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

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

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

The provisions contained in sections 22, 24 and 27 relating to summonses, warrants of any description and other process and their issue, service, enforcement and execution shall, so far as may be, apply to every summons, warrant of any description and other process issued in respect of matters within the criminal matters jurisdiction of the court under any written law.

#### 104. Cases in which search warrants may be issued

(1) Where a magistrate is satisfied by information upon oath or 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—

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

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

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

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

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

#### 105. Discharge of suspected person

If the occupier of any building or the person in whose possession any thing named in a search warrant is found is brought before a magistrate and he is not charged with any offence, he shall forthwith be discharged by such magistrate.

106. Search warrant to be signed by magistrate

- (1) Every search warrant shall be signed by the magistrate issuing same.
- (2) Every such warrant shall remain in force until it is executed or until it is cancelled by the court.

107. Search warrants to whom directed

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.

108. Time when search warrant may be issued and executed

- (1) A search warrant may be issued and executed on any day including a Sunday or public holiday. It shall be executed between the hours of 5.00 a.m. and 8.00 p.m. such authorisation may be contained in the warrant at the time of issue or may be endorsed thereon by any magistrate at any time thereafter prior to its execution.

109. Person in charge of closed place to allow access

- (1) Whenever 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 officer or other person executing the search warrant, allow him free access thereto and afford all reasonable facilities for a search therein.
- (2) If access into such building, thing or place cannot be so obtained the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 7 and 8.
- (3) When any person in or about such building, thing or place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If the person to be searched is a woman she shall if practicable be searched by another woman and may be taken to a police station for that purpose.

110. Detention of articles seized

- (1) When upon the execution of a search warrant anything referred to in section 104 is seized and brought before any magistrate, he may detain or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the trial.
- (2) If any person is committed for trial, or if any appeal is made, he may order it to be detained in such manner and place and by such person as he may direct for the purpose of the trial or pending the hearing of the appeal.
- (3) If no person is committed for trial or no appeal is made, the magistrate shall, except in the cases herein after mentioned, unless he is authorised or required by law to dispose of it otherwise, direct—
  - (a) that the property or a part thereof is restored to the person who appears to the magistrate to be entitled thereto, and if he is the person charged, that it be restored either to him or to such other person as the person charged may direct; or
  - (b) that the property or a part thereof be applied to the payment of any costs or compensation directed to be

paid by the person charged.

#### 111. Perishable articles may be disposed of by court

Where anything seized under a search warrant and before a magistrate is of a perishable or noxious nature such thing may be disposed of in such manner as the court may direct.

#### 112. Search for and disposal of gun powder

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

#### 113. Destruction of forged banknotes

If, in consequence of the execution of a search warrant, there is brought before any magistrate any forged bank-note, bank-note paper, instrument, or other thing, the possession of which, in the absence of lawful excuse, is an indictable offence according to any enactment for the time being in force the judge, if such person is committed for trial, or, if there is no commitment for trial, the magistrate may cause such thing to be defaced or destroyed.

#### 114. Transmission to court of other State

Where a search warrant is issued in respect of an offence against the law of any other State of the federation and a summons has been issued for that offence by, or any person has been charged with that offence before, by a court of that State, the magistrate issuing the search warrant may unless he has disposed of the thing in accordance with section 111, transmit anything seized and brought before him to that court.

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

When discretionary

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

When to be ordinarily granted

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

#### 116. . Security for bail

(1) The security for bail in any case shall be at the discretion of the court such bail security shall be fixed having regard to the circumstances of the case and shall not be excessive.

(2) The court may require the deposit of money or any other security as specified by the court from the applicant and/or his surety before the bail is approved.

(3) where the money is deposited as security for bail, it shall be kept in an interest yielding account by the Chief Registrar of the court and at the end of the trial, it shall be disposed of in accordance with subsection (4) of this section.

(4) Such money or any other security deposited shall be returned to the applicant and/or his surety at the conclusion of the trial or upon an application by the surety to the court to discharge the recognisance subject to section 129 of this law.

#### 117. Recognisance in respect of children

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

#### 118. Sureties

(1) A defendant admitted to bail may be required to produce such surety or sureties as, in the opinion of the court admitting him to bail, will be sufficient to ensure his appearance as and when required and shall with him or them enter into a recognisance accordingly.

(2) The court shall make direction and impose conditions it deems necessary to ensure that the identity, residence and status of surety is properly verified.

(3) No person shall be denied or prevented from entering into a recognisance or standing as surety or providing any security on the ground that the person is a woman.

#### 119. Admission to bail after its refusal

A judge may, if he thinks fit, admit any person charged before a Magistrate court to bail although the court before whom the charge is made has not thought it fit to do so.

#### 120. Judge may vary bail fixed by magistrate or police

Notwithstanding the provisions of sections 116 and 117, a judge may in any case direct that any person in custody in the State be admitted to bail or that the bail required by a magistrate's court or police officer be reviewed.

#### 121. Before whom recognisance may be executed

When in respect of any recognisance the court has fixed the amount in which the sureties, if any, are to be bound, the recognisance need not be entered into before the said court, but may be entered into by the parties before any other court, or before any registrar, or before any superior police officer or officer in charge of a police station, or where any of the parties is in a prison before the superintendent or other person

in charge of such prison, and thereupon all the consequences of law shall ensue and the provisions of this Law with respect to recognisances before a court shall apply as if the recognisance had been entered into before the court.

#### 122. Mode of entering into recognisance

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

#### 123. Conditional bail

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

#### 124. Discharge from custody

(1) Where the entering into a recognisance is a condition for the release of a person, that person shall be released as soon as the recognisance has been entered into and if he is in prison or police custody, the court shall issue an order of release to the Superintendent of the prison or other place of detention and such officer on receipt of the order shall release him.

(2) Nothing in this section or in any other section relating to bail shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the recognisance was entered into or to which the bail relates.

#### 125. Person bound by recognisance who absconds may be committed to prison

If a court by way of information on oath by a complainant, surety or other person that any person bound by recognisance to appear before any court or police officer is about to leave the state, for the purpose of evading justice, the court may cause him to be arrested and may commit him to prison until the trial unless the court shall deem it fit to admit him to bail upon further recognisance.

#### 126. Reconsideration of amount of bail on application by law officer or police

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 judge or magistrate, as the case may be, may, on the circumstances being brought to his notice by a law officer or police officer, issue his warrant for the arrest of the defendant and, after giving the defendant an opportunity of being heard, may either commit him to prison to await trial or admit him to bail for the same or an increased amount as the judge or magistrate may think just

127. Power to revoke bail

(1) Where a defendant who has been admitted to bail by a magistrate is indicted by a law officer for an offence which is not bailable by a magistrate, the magistrate shall, on being informed of the fact by any superior police officer, issue a warrant for the arrest of the defendant and commit him to prison in the same manner as if he had been originally committed for trial of the offence for which he is indicted

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

128. Variation of a recognisance where surety is unsuitable

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

129. Discharge of sureties

(1) Any surety may at any time apply to the court to discharge the recognisance either wholly or so far as it applies to the applicant.

(2) On such application being made the court shall issue a warrant of arrest directing that the defendant be brought before the court.

(3) On the appearance of such defendant pursuant to the warrant or on his voluntary surrender, the Court shall direct the recognizance to be discharged either wholly or so far as it relates to the applicant or applicants and shall call upon the defendant to find other sufficient surety or sureties and enter into fresh recognizance and if he fails to do so the Court may deal with him in the same manner as if he were a person who has failed to comply with the Court order to enter into recognizance, with or without sureties, as the case may be.

130. When any surety becomes insolvent, insane or dies or when any recognizance is forfeited under the provisions of section 132, the Court may order the defendant to furnish fresh security in accordance with the directions of the original order, and if the security is not furnished, such Court may proceed as if there had been default in complying with such an original order.

131. Where the surety dies before the recognizance is forfeited, his estate shall be discharged from all liability in respect to the recognizance.

132. (1) Where it is proved to the satisfaction of a Court that a recognisance entered into under this Law has been forfeited, The Court shall record the facts and by order declare the recognisance to be forfeited, the court shall record the grounds of such proof and may call upon any person bound by the recognizance to pay the penalty or show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty not paid, the Court may proceed to recover same from any person bound or from his Estate if he is dead in the manner laid down in the 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.

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

134. (1) Where a recognisance to keep the peace and to be of good behaviour or not to do or commit some act or thing, has been entered into by any person as defendant or as surety before the Court, A Court may, upon proof of conviction of the defendant by such recognizance of any offence which is by law a breach of the condition of the same, by order, declare that such recognizance be forfeited and adjudge the persons bound thereby, whether as defendant or as sureties or any of such persons to pay the sums for which they are respectively bound.

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

135. Where any recognisance is declared or adjudged to be forfeited, the Court having jurisdiction over the matter of the complaint may, immediately or at any time after such declaration issue a warrant of commitment against any person liable, whether as principal or surety under such recognizance, for any term not exceeding the term prescribed by law in respect of a like sum in the scale of imprisonment set forth in section 323 with or without hard labour, unless the amount due under such recognizance is paid.

136. All sums paid or recovered in respect of any recognizance declared or adjudged by the Court in pursuance of section 134 to be forfeited shall be paid to the Chief Registrar of the Court.

137. Any order of forfeiture made under section 132 or 134 shall be subject to appeal in accordance with the procedure provided by Law.

138. (1) The Chief Judge may, by regulation, register and license individuals or corporate bodies or persons to act as Bondsperson within the jurisdiction of the Court in which they are registered.

(2) The regulation referred to in this subsection (1) above shall stipulate the qualification for registration and grounds for revocation of license of the Bondsperson.



(3) No person shall engage in the business of bail bond services without being duly registered and in accordance with the provisions of subsection (1) of this section.

(4) Any person who engages in bail bound services without registration and license under this Law, or otherwise violates the terms of license shall be liable to fine of -N500,000 or 12 months imprisonment or both.

(5) Such bondspersons registered under the provisions of subsection (1) of this section may undertake recognizance, act as surety, or guarantee the deposit of money as required by the bail condition of any person granted bail by the Court within the jurisdiction in which the bondsperson is registered.

(6) No person or organization shall be registered as a Bondsperson unless the person is, or the organization is composed of persons of unquestionable character and integrity, and must deposit with Chief Judge sufficient bank guarantee in such amount as may be determined by the Chief Judge in the regulation, which shall be such sum of money as the registered class or limit of the Bondsperson's recognizance shall determine.

(7) Every registered bondsperson shall maintain with a bank or insurance company designated in his licence , such fully paid deposit to the limit of amount or bonds or recognisances to which his licence permits him to undertake.

(8) 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 appearances in Court; if he can not bring the person arrested within 12 hours of the arrest before a Court, he shall hand the person arrested over to the Police who shall produce such person before the appropriate Court.

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

140. (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, the Court may issue an order to the Superintendent of Prisons requiring him to cause such a prisoner to be brought at a time to be named in the order before such Court.

(2) The superintendent of prisons on receipt of such order, shall act in accordance and shall provide for the safe custody of the prisoner during his absence from prison for the purpose.

141. Subject to the express provisions of this Law, if any, of the rules, the forms contained in the First Schedule 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.

142. Where in any summons, warrant of any description charge sheet, information or any document whatsoever issued by a Court in the exercise of its criminal jurisdiction or filed in Court, 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-

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

(b) If the property belonged to Joint Stock Companies, Company, Association, Club or Society, it may be described by its legal or registered title;

(c) Property belonging to or provided for the use of any public establishment, service or department may be described as the property of the state;

(d) Where it is necessary to state the ownership of any church, chapel, mosque or building or place set apart for religious worship or of anything belonging to or being in the same, it may be stated that such church, chapel, mosque, or building or place, or such thing is the property of any clergyman, minister or other person officiating therein or of the church warden or church wardens of such church, chapel or building or place, without being necessary to mention his name;

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

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

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

(2) It shall not be necessary to state the person's correct name, or his abode, style, degree or occupation, so far as the person has been sufficiently described to identify him.

(3) Where it is impracticable to give the person's correct and exact description or designation because the name or such description or designation of the person is not known or for other reason, such description or designation shall be given as is reasonable in the circumstances, such person may be describe as ' person unknown'

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

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

145. In any proceedings taken under section 144, the husband and wife shall be competent and compellable witnesses in accordance with the provisions of Part 9 of the Evidence Act.

146. Forms of charges to be used and adapted

Charges may be as in the format set out in the Forms and may be modified in such respects as may be necessary to adapt them to the circumstances of each case

147. Form of charge

(1) Every charge shall contain the following:

(a) the offence with which a defendant is charged

(b) if the written law creating the offence gives it any specific name the offence may be described in the charge by that name only.

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

(d) The written law and the section of the written law against which the offence is said to have been committed

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

#### 148.(1) Particulars in charge

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

(2) 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 one offence within the meaning of section 152.

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

(4) Where the nature of the offence is such that the particulars required by section 147 and subsections (1) to (3) of this section 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.

#### 149. Sense of words used in charge

(1) In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively in the written law creating such offence.

(2) Figures and abbreviations may be used for expressing anything which is commonly expressed thereby.

#### Owner and value of property need not be named unless specifically required

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

(2) Where property is vested in more than one person and the owners of that property are referred to in the charge the property may be described as being owned in accordance with the appropriate provision set out in section 142

(1) Coin and currency notes may be described as money, and any averment as to any money, so far as regards the description of the property, shall be sustained by proof of any amount of coin or of any bank or currency note, although the particular species of coin of which such amount was composed or the particular nature of the bank or currency note shall not be proved, and in cases of stealing and defrauding by false pretences, by proof that the defendant dishonestly appropriated or obtained any coin or any bank or

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

(4) Where the ownership of any property is described under paragraph (b) of section 142 as being in any joint-stock company, company, association, club or society by its registered title, proof of the registration of the company, association, or society shall not be required unless the court decides that such proof shall be given, in which case the further hearing may be adjourned for the purpose or the court may, in its discretion, amend the proceedings by substituting the name of some person or persons for such registered title.

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

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

(6) The description or designation of the defendant in a charge or of any other person to whom reference is made therein may be described in the manner set forth in section 143.

(7) Where it is necessary to refer to any document or instrument in a charge, it shall be sufficient to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy thereof.

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

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

151. When persons may be charged together

(1) The following persons may be charged and tried together or separately as the court may deem fit.

(a) When two or more persons who are charged with the same offence or of different offences committed in the same transaction: or

(b) when a person is accused of committing an offence and another of abetting or being accessory to or attempting to commit such offence: or

(c) when a person is accused of any offence of theft, criminal misappropriation, criminal breach of trust and another of receiving or retaining or assisting in the disposal or concealment of the subject matter of such offence,

152. Separate charges for distinct offences

For every distinct offence with which any person is accused there shall be a separate charge and every such charge shall be tried separately except in the cases mentioned in sections 153.

153. When offences may be charged together

Offences may be charged and tried together as the court may deem fit in the following circumstances

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

(ii) any number of the same type of offence committed by a person or

(iii) any number of offences committed by a person in the course of the same transaction having regard to the proximity of time and place continuity of action and community of purpose.

154. Where the charge preferred against any person is imperfect or erroneous the court may permit or direct the framing of a new charge or add to or otherwise alter the original charge.

155 (1) Alteration of charge

The prosecution may apply to alter or add to any charge at any time before judgment is given or verdict returned

(2) Every such alteration or addition or new charge shall be read and explained to the defendant..

(3) No formal application shall be required for a prosecution to frame a new charge or amend the charge before the court.

156.(1) If a new charge is framed or alteration made to a charge under the provisions of section 154, the court shall call upon the defendant to plead and to state whether he is ready to be tried on such charge or altered charge

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

(3) If the new or altered charge is such that proceeding immediately with the trial is likely, in the opinion of the court, to prejudice the defendant or the prosecutor the court may either direct a new trial or adjourn the trial for such period as the court may consider necessary.

(4) Where a charge is so amended, a note of the order for amendment shall be endorsed on the charge, and

the charge shall be treated for the purpose of all proceedings in connection therewith as having been filed in the amended form.

157. Recall of witnesses when charge altered

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

158. Effect of error

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

159. Objections cured by verdict

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 during the progress of the trial might have been amended by the court because of—

- (a) any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the time at which the cause of complaint is alleged to have arisen if it is proved that such complaint was in fact made within the time, if any, limited by law for making the same; or
- (b) any variance between the charge or any process relating thereto and the evidence adduced in support of the charge as to the place in which the cause of complaint is alleged to have arisen; 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

Full offence charged—attempt proved

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

161. Attempt charged—full offence proved

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

162. Defendant Liability as to further prosecution

Where a person has been convicted of an attempt under either section 160 or 161 such person shall not subsequently be liable to be prosecuted for the offence for which he was convicted of or attempting to commit.

163. Where a person is charged with an offence, and the evidence establishes that he became an accessory

after the fact to that offence or to some other offence of which a person charged with the first mentioned offence may be convicted by virtue of any of sections 160, 161 and 164 to 171, 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.

164. Person tried for misdemeanour not to be acquitted if felony proved, unless court so direct

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

165. Conviction of related offences relating to property

Where a person is charged with any of the following offences—

(a) stealing any property, contrary to section 390 of the Criminal Code;

(b) obtaining or inducing the delivery of any property by a false pretence, and with intent to defraud, contrary to section 419 of the Criminal Code;

(c) obtaining or inducing the delivery or payment of any property or money by means of a fraudulent trick or device, contrary to section 421 of the Criminal code;

(d) receiving any property obtained by means of an act constituting a felony or misdemeanour, contrary to section 427 of the Criminal Code, and the evidence establishes the commission by him with respect to the same property of any other of those offences, he may be convicted of that other offence although he was not charged therewith.

166. Persons charged with burglary may be convicted for any other offence

If at any trial for any of the offences mentioned in the Criminal Code the facts proved in evidence justify a conviction for some other of the said offences, and not the offence the defendant is charged he may be found guilty of the said other offence and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such offence.

167. If at any trial for rape conviction or for defilement of a girl under the age of thirteen years the facts proved in evidence authorised a conviction under section 358 of the Criminal Code or for an indecent assault and not the offence wherein the accused is charged, he may be convicted of an offence under section 358 of the Criminal Code or of indecent assault, as the case may be, and thereupon he shall be punished as if he had been convicted on a charge or an information charging him with such an offence of indecent assault.

168. If on any trial for an offence under section 221 of the Criminal Code the facts proved in evidence warrant a conviction for an indecent assault and not the offence wherewith the defendant is charged, the defendant may be convicted of indecent assault, although he was not charged with that offence.



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

Whereupon the trial of any defendant for the murder of any child or for infanticide it appears upon the evidence that such a defendant was not guilty of murder or of infanticide, as the case may be, but was guilty of the offence specified in section 329 of the Criminal Code, such a defendant may be found guilty and convicted of that offence.

170. Where murder is charged and infanticide proved

(1) Where upon the trial of a woman for the murder of her newly-born child it appears upon the evidence that having regard to the provisions of section 327a of the Criminal Code she was not guilty of murder but was guilty of infanticide she may be found guilty of infanticide.

(2) Nothing in subsection (1) shall prevent a woman who is tried for the murder of her newly-born child from—

(a) being convicted of manslaughter; or

(b) being found guilty of concealment of birth in pursuance of section 169 of this law; or

(c) being acquitted upon the ground that by virtue of section 28 or 29 of the Criminal Code she was not criminally responsible, and being dealt with under section 223.

171. Where offence proved is included in offence charged

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

(2) When a person 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.

172. Withdrawal of remaining charges on conviction on one of several charges

(1) When more than one charge is made against a person 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 such charge or charges so withdrawn.

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

173. Person convicted or acquitted not to be tried again for same or kindred offence

(1) Without prejudice to section 162, a person charged with an offence (in this section referred to as “the

offence charged”) shall not be liable to be tried if it is shown—

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

(2) Nothing in subsection (1) above shall prejudice the operation of any law giving power to any court, on an appeal, to set aside a verdict or findings of any other court and order a re-trial.

174. Person acquitted or convicted may be tried again on separate charge in certain cases

A person acquitted or convicted of any offence may afterwards be tried for any distinct offence for which a separate charge might have been made against him on the previous trial under the provisions of section 153.

175. Consequences supervening or not known at previous trial

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

176. Where court at first trial was not competent

A person acquitted or convicted of any offence constituted by any 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.

177. Issue of summons for witness

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

(2) If the proceedings is pursuant to private prosecution, the person to whom such summons is addressed shall not be bound to attend unless his travelling expenses are paid to him.

178. Service of summons on witness

(1) (a) Every court having criminal jurisdiction shall have a process server assigned to it whose responsibility

shall be amongst others the due efficient and efficacious service of witness summons and such other court processes as may require service.

(b) A proof of service of such summons shall be filed in the court's file

(2) Every such summons or other process shall be served upon the person to whom it is directed in the same manner as is set out in section 87 or 89 or, with leave of the court, section 88 and the provisions of sections 90 to 93 shall apply to such summons.

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

180. Issue of warrant for witness in first instance

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

181. Any witness who—

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

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

182. Non-attendance of witness on adjourned hearing

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

183. Persons in court may be required to give evidence though not summoned

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

#### 184. Attendance of witness bound by recognisance to attend

Every person who is bound by recognisance to attend at any criminal sessions as a witness, whether for the prosecution or for the defence, in any case to be tried at such sessions, shall, if he has received a subpoena or notice, be bound to attend the court on the date appointed for the trial of such case, and on subsequent dates of the sessions, until the case has been disposed of or until he has been discharged by the court from further attendance.

#### 185. Warrant for arrest of witness not attending on recognisance

If any person who has been bound by recognisance to attend as a witness, whether for the prosecution or for the defence, at the trial of any case does not attend the court on the day appointed for the trial of such case after having been served with notice of the trial, and no reasonable excuse is offered for such non-attendance, the court may issue a warrant to arrest such person, and to bring him, at a time to be mentioned in the warrant, before the court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

#### 186. Warrant for apprehension of witness disobeying summons

If any person to whom any writ of subpoena is directed does not attend the court at the time and place mentioned therein, and no reasonable excuse is offered for such non-attendance, then, upon the court being satisfied that the writ was duly served or that the person to whom the writ is directed wilfully avoids service and that such person is likely to give material evidence, the court may issue a warrant to arrest such person, and to bring him, at a time to be mentioned in the warrant, before the court in order to give evidence on behalf of the prosecution or of the defence, as the case may be.

#### 187. Fine for non-attendance of witness

Every person who defaults in attending as a 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 of five thousand naira,

#### 188. Writs of subpoena

Every person whose attendance as a witness, whether for the prosecution or for the defence, is required in any case, and who has not been bound by recognisance to attend as a witness at the criminal sessions in which such case is to be tried, may be summoned by a writ of subpoena.

#### 189. Service of subpoena

The registrar, on being furnished with the names and places of abode of any witness on behalf of the prosecution or defence whose attendance is required to be secured by subpoena, shall prepare and deliver to the sheriff for service a writ or writs of subpoena directed to such witnesses, together with as many copies thereof as there may be witnesses named in such writ or writs and when application shall be made to postpone any trial by reason of the absence of any witness stated to be material it shall be taken as prima

facie evidence that the party applying for such postponement has not exercised all due and necessary diligence to secure the attendance of such witness if it shall appear that no subpoena to such witness was issued out four clear days before the first day of the criminal sessions.

#### 190. Witness refusing to be sworn, or produce documents

(1) When any person attending either in obedience to a summons or after notification as in section 183 or by virtue of a warrant or being present in court and being verbally required by the court to give evidence in any case—

(a) refuses to be sworn as a witness; or

(b) having been so sworn, refuses to answer any question put to him by the sanction of the court; or

(c) refuses or neglects to produce any documents which he is required by the court to produce, without in any such case offering any sufficient excuse for such refusal or neglect, the court may, if it deems fit, adjourn the hearing of the case for any period not exceeding eight days where practicable, and may in the meantime, by warrant, commit such person to prison or other place of safe custody, unless he consents to do what is so required of him.

(2) If such person, upon being brought before the court at or before such adjourned hearing again refuses to do what is so required of him, the court may, if it deems fit, again adjourn the hearing of the case, and commit him for the like period, and so again from time to time until such person consents to do what is so required of him.

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

#### 191. Expenses of witnesses for the prosecution

Where any person appears before the court on summons, recognisance or by virtue of a warrant to give evidence against any person accused of any offence the court shall order payment, in accordance with the provisions of any rules of court, such person shall be paid allowance approved by the office of the Attorney-General of the state.

#### 192. Expenses of witnesses for defendant

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

#### 193. Adjournment shall be granted subject to witnesses' costs

In addition to any other power conferred on a court the court shall, if it considers it proper so to do on

adjournment granted at the request of either party, direct that the amount payable to any witnesses in accordance with the provisions of this Law and any rules of court, or such sum not exceeding such amount as the court may fix, shall be paid by the party requesting the adjournment to such witnesses as may be present and whose evidence it has not been possible to take owing to the granting of the adjournment.

#### 194. Ascertainment of witness's expenses

The amount of expenses and compensation payable to any witness attending before the court shall be ascertained by the registrar, certified under his hand and shall be paid out of general revenue to the witness by the Accountant-General of the State.

195. It shall be the duty of the court to provide interpreter where the defendant does not understand the language of the court

#### 196. Application of the Evidence Act

Subject to the provisions of any other written law the examination of witnesses shall be in accordance with the provisions of Parts 9 and 10 of the Evidence Act.

#### 197. Power to call or recall witnesses

The court at any stage of any trial, inquiry or other proceedings under this Law shall call any person as a witness and examine such person or recall and re-examine any person already examined if his evidence appears to the court to be essential to the just decision of the case.

#### 198. Certificates of certain Government technical officers

Certificates signed by any of the officers named in section 41 of the Evidence Act shall be admissible in evidence in accordance with the provisions of sections 42 to 44 of the Evidence Act.

#### 199. Right of reply

In cases where the right of reply depends upon the question whether evidence has been called for the defence the fact that the defendant has been called as a witness shall not of itself confer on the prosecution the right of reply:

Provided that a law officer when appearing as counsel for the prosecution shall in all cases have the right of reply.

#### 200. Public to have access to hearing

Subject to the provisions of sections 202 and 217 and of any other written law specifically relating thereto the room or place in which any trial is to take place under this Law shall be an open court to which the public generally may have access as far as it can conveniently contain them:

#### 201. Public shall be excluded

The judge or magistrate presiding over such trial shall, in his discretion and subject to the provisions of section 203 exclude the public at any stage of the hearing on the grounds of public policy, decency or expedience:

(2) Where the court is sitting in a place other than in a building, the authority given to exclude the public shall be construed as being authority to prevent the public from 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 and communicate with any person allowed to be present there.

202. The Court shall where a person who in the opinion of the court has not attained the age of seventeen is called as witness in any proceedings in relation to an offence against or any conduct contrary to decency or morality, direct that all or any persons not being members or officers of the court or parties to the case, their legal practitioners or persons otherwise directly concerned in the case, be excluded from the court during the taking of the evidence of such person.

#### 203. Order under s. 201 or 202 not to apply to press and certain others

(1) An order made under either section 201 or 202 excluding the public from a court shall not unless specifically stated—

(a) authorise the exclusion of bona fide representatives of a newspaper or news agency; or

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

(2) Where such an order is made the judge or magistrate, as the case may be, shall record the grounds upon which such decision is taken

#### 204. Prohibition of children in court during the trial of other persons

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

#### 205. View by court of locus

(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 shall, where the view relates to a place, either adjourn the court to that place and there continue the proceedings or adjourn the case and proceed to view the place, person or thing concerned.

(2) The defendant shall be present at the view.

(3) In the case of any such view being had the court shall give such directions as it shall deem fit for the purpose of preventing communication between the witnesses and the defendant:

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

#### 206. Presumption and determination of age

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

#### 207. Age in relation to offences

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

#### 208. Presence of defendant at trial

Every defendant shall, subject to section 217, be present in court during the whole of his trial unless he misconducts himself by so interrupting the proceedings or otherwise as to render his presence impracticable.

#### 209. (1) Both the Counsel for complainant and for defendant

(1) Both the prosecution and the defendant shall be entitled to conduct their respective cases in person or by a legal practitioner.

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

#### 210. Position of person summoned in the court

Where a defendant appears before a court on a summons he shall be required to enter the dock or to stand or sit adjacent thereto as may be ordered by the court.

#### 211. Pleading to information or charge

The person to be tried upon any charge or information shall be placed before the court unfettered unless the court shall direct otherwise, and the charge or information shall be read over and explained to him to the



satisfaction of the court by the registrar or other officer of the court, and where applicable in the presence of a legal practitioner, representing the defendant.

(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 ground of non-service and the court finds that he has not been duly served.

#### 212. Effect of plea of not guilty

Every person that pleads not guilty shall be deemed to have put himself up for trial.

#### 213. Plea of guilty

Where a defendant pleads guilty to an offence with which he is charged the court shall record his plea as nearly as possible in the words used by him invite the prosecution to state the facts of the case and enquire from the defendant whether his plea of guilty is to the facts as stated by the prosecution and if satisfied that the defendant intended to admit the truth of all the essentials of the offence of which he has pleaded guilty convict him of that offence and pass sentence upon him unless there shall appear sufficient cause to the contrary.

#### 214. Plea when offence admitted is included in offence charged

If the defendant when called upon to plead to a charge for any offence can lawfully be convicted on such charge or of some other offence not stated in such charge he shall plead not guilty of the offence stated in the charge but guilty of such other offence .

#### 215. Failure to plead due to malice

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 and effect as if such defendant had actually pleaded the same, or else the court will 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.

#### 216. Pleas: autrefois acquit or convict, pardon

(1) Any defendant against whom a charge or information is filed shall 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.

(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.

#### 217. Procedure when defendant is suspected to be of unsound mind

(1) When a judge or magistrate holding a trial has reason to suspect that the defendant is of unsound mind and consequently incapable of making his defence the judge, or magistrate, shall in the first instance investigate the fact of such unsoundness of mind.

(2) Such investigation may be held in the absence of the defendant if the court is satisfied that owing to the state of mind of the defendant it would be in the interests of the safety of the defendant or of other persons or in the interests of public decency that he should be absent, and the court shall receive as evidence a certificate in writing signed by a medical officer to the effect that such defendant is in his opinion of unsound mind and incapable of making his defence or is a proper person to be detained for observation in a mental health asylum, or the court shall, if it deems fit, take oral evidence from a medical officer on the state of mind of such defendant.

(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 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 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 month, as shall 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.

#### 218. Certificate of medical officer

(1) If such medical officer shall certify that the defendant is of sound mind and capable of making his defence, the court shall, unless satisfied by the defence that the defendant is of unsound mind, proceed with the trial.

(2) 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, shall postpone the trial, 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.

#### 219. Release of person of unsound mind pending investigation or trial

(1) (a) Whenever the 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, shall, 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.

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

(2) If a judge has refused bail under paragraph (a) of subsection (1) or after an application made under paragraph (b) of subsection (1) or if sufficient security is not given or if 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.

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

#### 220. Resumption of trial

Whenever a trial is postponed under section 217 or 218 the court shall at any time reopen or commence the trial de novo and require the defendant to appear or be brought before such court.

#### 221. Resumption of proceedings under section 217

When the defendant has been released under section 217 the court at any given time shall require the defendant to appear or be brought before it and shall again proceed under section 217.

#### 222. Acquittal on ground of insanity (including insanity resulting from intoxication)

Whenever any person is acquitted by virtue of the said section 28 or 29 (2) (b) of the Criminal Code the verdict of the court before which the trial has been held shall state specifically whether he committed the act alleged or not.

#### 223. Safe custody of person acquitted

(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 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.

(2) The Governor shall at his discretion, order such person to be confined in a mental health asylum, prison or other suitable place of safe custody.

#### 224. Observation of prisoners of unsound mind

When any person is confined under section 219 or 223, in a prison, medical officer of the prison if such person is confined in a 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.

#### 225. Procedure when person of unsound mind reported able to make defence

When any person is confined under the provisions of section 219 in a prison or 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.

#### 226. Procedure where person of unsound mind reported fit for discharge

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 219 or section 223 shall certify that such person in his judgment shall be discharged without him doing injury to himself or to any other person, the Governor shall thereupon 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, and in case he orders him to be transferred to such a mental health asylum may require the 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 shall require and on receipt of such report the Governor shall order his discharge or detention as he deems fit.

#### 227. Transfer from one place of custody to another

Where a person is confined in a prison or an 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 shall be necessary.

#### 228. Delivery of person of unsound mind to care of relative

(1) Whenever any relative or friend of any person confined under section 219 or 223 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:

Provided that if such person is confined under the provisions of section 223, the Governor shall 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.

(2) 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.

(3) Sections 224 and 225 shall, mutatis mutandis, apply to persons delivered to the care and custody of persons under this section.

#### 229. Removal to another State

Whenever it shall be necessary to remove a prisoner to a prison or mental health asylum under the provisions of this Part an order for such removal given under the provisions of this Part 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.

#### 230. Trials

(1) Trials shall be held—

(a) in the High Court—

(i) on information, filed by a law officer or private prosecutor; or

(ii) on information exhibited by the Attorney-General of the State under the provisions of section 69; or

(iv) summarily, in accordance with the provisions of sections 232 to 252;

(b) in magistrates' courts summarily in accordance with the provisions of sections 232 to 252.

231. The chief judge shall by rule direct that any offence or class of offence shall not be triable summarily by the high court throughout the state or in any specified part of the state.

#### 232. Summary trials

Trial shall be held summarily in the high court, in the following instances-

(i) in respect of perjury and contempt

(ii) in respect of offences which by any law of the state house of assembly are triable summarily;

(iii) in respect of all trials for simple offences or misdemeanour in the Magistrates' court or tribunals

(2) in all other trials in the magistrates' courts or tribunals the prosecution shall on request provide the defendants with statement of witness and report of experts that the prosecution intends to rely on at the trial before or at the commencement of the trial.

233. The provisions of this law shall apply to trials under sections 230 to 252 save that where the provisions of these stated sections conflict with the provisions so applied, the provisions of sections 230 to 252 shall prevail.

#### 234. Local inspection

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 shall require.

#### 235. Date and place of hearing

On the date and at the place mentioned in the summons or which the defendant is brought before the court under a warrant, as the case may be, the case in which the summons or warrant was issued shall be mentioned for hearing in the court.

#### 236. Non-appearance of prosecutor

If 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 prosecutor having, to the satisfaction of the court, had due notice of the time and place of hearing does not appear in person or in the manner authorised by any written law the court shall dismiss the case unless the court, having received a reasonable excuse for the non-appearance of the prosecutor or his representative or for other sufficient reason, deem fit to adjourn the hearing of the same to some future date upon such terms as the court shall deem just.

#### 237. Non-appearance of defendant's counsel

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

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

(3) In circumstances 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

#### 238. Change of legal practitioner

(1) Every legal practitioner 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 judgement, unless allowed for any special reason to cease from acting by the court of its own motion or upon application by the legal practitioner.

(2) Were a legal practitioner wishes to disengage from a matter, he shall notify the court, not less than 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:

Provided that the provisions of this section shall not apply to Law officers from the office of the Attorney-General.

#### 239. Non-appearance of defendant

(1) When a case is called, in which summons has been issued, and the defendant does not appear, and no sufficient excuse is offered for his absence then the court, if satisfied that the summons, if any, has been duly served, shall issue a warrant, called a bench warrant, for his arrest or if not satisfied that the summons has been duly served the court shall adjourn the hearing of the case to some future date, in order that proper service shall be effected or until the defendant be arrested as the case shall be.

(2) If the defendant is arrested on a bench warrant or other warrant as the case may be, he shall be brought before the magistrate who shall then commit him by warrant to prison or to such other place of safe custody as he shall deem fit, and order him to be brought at a certain date and place before the court;

#### 240. Non-appearance of both parties

When a case is called and neither the prosecutor nor the defendant appears, the court shall make such order as the justice of the case requires.

241. When a case is called and both the prosecutor and the defendant appear, the court shall proceed to hear and determine the case.

#### 242. Witnesses in general to be out of hearing

(1) At the commencement of hearing of a case, the court shall direct that all witnesses shall leave the court and upon such direction, the provisions of section 187 of the Evidence Act shall apply.

Provided that the judge or magistrate shall in his discretion permit professional and technical witnesses to remain in court: failure to comply with the provisions of this subsection shall not invalidate the proceedings.

(2) The court shall then proceed to hear the prosecutor and such witnesses as he shall call and other evidence as he shall adduce in support of the charge, and also to hear the defendant and such witnesses as he shall call and such other evidence as he shall adduce in his defence and also, if the court deems fit, to hear such witnesses as the prosecutor shall call in reply if the defendant has called any witnesses or given any evidence.

(3) The prosecutor and the defendant shall put questions to each witness called by the other side and where the defendant gives evidence he shall be cross-examined.

(4) 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 his answer on the minutes

#### 243 Discharge of defendant when no case to answer

(1) 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 discharge him.

(2) Where the defendant is represented by legal practitioner, he shall by application, invoke the provisions of subsection (1) of this section.

(3) Where the defendant is not represented by legal practitioner, the court shall discharge him after hearing the prosecution on the issue consider, if the provisions of subsection (1) of this section avails the defendant.

#### 244. Defence

(1) At the close of the evidence in support of the charge if it appears to the court that a prima facie case is made out against the defendant sufficiently to require him to make a defence the court shall call upon him for his defence and—

(a) if the defendant is not represented by a legal practitioner, the court shall inform him that he has three alternatives open to him, namely—

(i) he shall make a statement, without being sworn, from the place where he then is; in which case he will not be liable to cross-examination; or

(ii) he shall give evidence in the witness box, after being sworn as a witness; in which case he will be liable to cross-examination; or

(iii) he need say nothing at all, if he so wishes, and in addition the court shall ask him if he has any witnesses to examine or other evidence to adduce in his defence and the court shall then hear the defendant and his witnesses and other evidence, if any; and

(b) if the defendant is represented by a legal practitioner, the court shall call upon the legal practitioner to proceed with the defence.

(2) If the defendant or his legal practitioner states that he has witnesses to call but that they are not present, the court may, in the circumstances set forth in sections 177 to 183 take the necessary steps to compel their attendance.

#### 245. Evidence in reply

If the defendant adduces in his defence new matter which the prosecutor could not foresee the prosecutor



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

#### 246. Power to take evidence of persons seriously ill

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

#### 247. Notices to be given to parties

The court shall cause reasonable notice of the intention to take the evidence of a seriously ill person and of the time and place to where it is to be taken to be served upon the prosecutor and the defendant and if the defendant is in custody he shall be brought by the person in whose charge he is under an order in writing of the magistrate to the place where the statement is to be taken.

#### 248. When statement shall be used in evidence

(1) Evidence of seriously ill persons taken in accordance with section 246 shall be used in evidence at the trial of any defendant of an offence to which the same relates in accordance with the provisions of section 35 of the Evidence Act.

(2) The signature and attestation of the judge or magistrate shall be sufficient prima facie proof of any statement, and that the same was taken in all respects according to law and such attestation and signature shall be admitted without further proof unless the court shall see good reason to doubt the genuineness.

249.-(1) The Court shall in every case take notes in writing of the oral evidence, as it considers material, in a book to be kept for that purpose and such book shall be signed by the Judge or Magistrate at the conclusion of each day's proceedings.

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

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

250. Upon the conclusion of the hearing of the case, 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 shall make such other order as shall deem fit.

251. On any summary trial, the Court shall, whether the charge is to be dismissed or not, bind over any person involved in the charge with or without a surety or sureties, to be of good behaviour, and shall order any person so bound, in default of compliance with the order, to be imprisoned for any term not exceeding three months, with or without compulsory labour, in addition to any other punishment to which such person is liable.

252.-(1) Where a charge is dismissed and such dismissal is stated to be on the merits, such dismissal shall have the same effect as an acquittal.

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

253. Prosecutorial authority shall be exercised in the High Court in the name of the "People of Lagos State".

254. 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.

255.-(1) Where an information is exhibited in the High Court under the provisions of this Law, it shall set out

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(a) a description of the offence charged or where more than one offence is charged of each offence so charged, in a separate paragraph called a count:

(b) a statement of the offence charged, called "the statement of offence".

(c) a short description of the offence in ordinary language, avoiding as 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, a reference to that written Law:

(d) the particulars of the offence in ordinary language: Provided that where any written Law limits the particulars of an offence which are required to be given in information, nothing in this paragraph shall require any more particulars to be given than those so required:

(e) consecutively numbered counts, where the counts are more than one:

(f) proof of evidence;

(g) list of witnesses; and

(h) lists of exhibit(s).

(2) The forms set out to this or forms conforming to that as nearly as shall be, shall be used in the cases to which they are applicable and in other cases forms to the like effect or conforming to that as nearly as shall be used, the statement of offence and the particulars of offence being varied according to the circumstances of each case.

(3) The prosecution shall at any time before judgment be at liberty to file notice of additional evidence.

256.-(1) Subject to the provisions of this Section, an information shall be filed by the Attorney-General through the Director of Public Prosecutions or by 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 shall lawfully be tried.

(2) Wherever an information has been filed in the Court, the Chief Judge shall take appropriate steps to ensure that the information file is assigned to a Judge within fifteen (15) days of its filing.

(3) On assigning the information, the appropriate Court to which the information is assigned shall within fourteen (14) days of such assignment issue hearing notices to the witnesses and defendant 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.

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

(5) If the defendant is not in custody, the hearing notice and the information shall be served on him personally

(6) Where it is impossible or impracticable to effect personal service of the hearing notice and information on the defendant, same shall be served on him, with leave of Court, through his legal practitioner, if any, or on his surety or sureties, or on any adult of his household, and such service shall be served on him, with leave of Court, through his legal practitioner, if any, or on his surety or sureties, or on any adult of 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 three (3) days before the date of trial, if he consents to being tried.

257. An information shall be signed by a Law Officer.

258. The Chief Registrar of the High Court shall receive an information from a private person if-

(a) it has endorsed on a certificate by a Law Officer to the effect that he has

such information and declines to prosecute at the public instance the offence;

and

(b) such private person has entered into a recognizance in the sum of ten thousand Naira (N=10,000:00) together with one surety to be approved by the Registrar in the like sum, to prosecute the information to conclusion at the times at which the defendant shall be required to appear and to pay such costs as shall be required to appear and to pay such cost as shall be ordered by the Court, or, In lieu of entering into such recognizance, shall have deposited the said sum In Court to abide by the same conditions.

259. Form of notice of trial

The registrar or his deputy, or any other person directed by the court, shall endorse on, or annex to, every information and every copy delivered to the sheriff or proper officer, for service, a notice of trial, such notice shall specify the particular sessions at which the party is to be tried on the said information and shall be in the following form, or as near to that as shall be—

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

260. Prisoner shall be tried at once

(1) Nothing shall prevent any person in custody or awaiting trial at the opening of or during any sessions, from being tried, if he has been served with a copy of the information and notice of trial not less than three days before the date on which he is to be tried:

Provided that such last mentioned period of three days shall be reduced to a shorter period if such person shall express his consent and no special objection be made thereto on the part of the State.

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

261. Return of service

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.

262. Bench warrant where the defendant does not appear

Where any person against whom an information has been duly preferred, and who is then at large, does not appear to plead to such information, whether he is under recognisance to appear or not, the court shall issue a warrant for his arrest.

263. Counsel for State and defence in capital cases

Where a person is charged with a capital offence the State shall be represented by a law officer, or legal practitioner and if the defendant is not defended by a legal practitioner the court shall, assign a legal practitioner for his defence.

264. Arraignment. Time for raising certain objections

(1) The person to be tried upon an information shall be arraigned in accordance with the provisions sections 211 to 216 of this law.

(2) An objection to the sufficiency of evidence disclosed in the proof of evidence attached to the information, shall not be raised before the close of the prosecution's case.

265. Application of Law to trials

In addition to the provisions of sections 253 to 267 and other express provisions of this Law or any other enactment relating to trials of indictable offences the provisions of this Law relating to evidence, adjournment, addresses, the discharge and sentencing of convicted persons, the awarding of compensation, costs and the directing and ordering of forfeitures and also all other incidental matters relating to the trial of a case other than those specifically mentioned, shall be applicable to a trial on information.

266. Trials according to practice of high court of justice where no rules exist

Where a matter arises in respect of which no adequate provisions are made in the rules, the court shall adopt such procedure as will in its view do substantial justice between the parties concerned.

267. A witness arrested or detained under this law shall not be kept in the same room or place with the defendant, nor shall the defendant be allowed to make contact with such witness.

268. Any person arrested for any indictable offence shall within a reasonable time of arrest be brought before a magistrate for remand, and the magistrate shall have power to remand such person after examining the reasons for the arrests exhibited in the request form filed by the police and if satisfied that there is

probable cause to remand such person pending legal advice of the Director of Public Prosecution and/or the arraignment of such person before the appropriate court or tribunal.

In sections 268 to 271 “Probable cause” includes circumstances of the individual case, nature and seriousness of the alleged offence, reasonable grounds that the person has been involved in the commission of the alleged offence and reasonable grounds that the person shall abscond or commit further serious offence.

(2) The request form filed by the police in accordance with subsection (1) of this section shall contain reasons for the request for remand.

(3) Following an examination remand form filed by the police, the magistrate shall consider the conduct personality and social circumstances of the person concerned before making an order of the remand.

(4) Where applicable, a magistrate shall grant bail to any person brought before him pursuant to with subsection (1) of this section pending the arraignment of such person before the appropriate court or tribunal.

(5) An order of remand made pursuant to with subsection (1) of this section shall not exceed a period of thirty (30) days in the first instance and 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 one month.

(6) At the expiration of the further order made pursuant to subsection (5) above, the magistrate shall issue a hearing notice to the Commissioner of Police and/or 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/or Director of Public Prosecutions to show cause why the person remanded should not be released.

(7) The magistrate shall extend the order to remand only if satisfied that there is a good cause shown and that necessary steps have been taken to arraign the person before an appropriate court or tribunal.

(8) The power to make an inquiry as conferred by this section, shall be exercised whether the suspect is present in court or not.

(9) In this section unless the context otherwise requires, “indictable offence” means any offence-

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

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

(c) which on conviction shall be punished by death

(10) An application for remand shall be made in accordance with the prescribed form in the schedule to this law.

269. During remand, the court shall order the defendant to be brought before it.

270. Magistrate shall adjourn where defendant cannot appear

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 in section 296 mentioned, the court shall, 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.

271. Place of commitment

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

272. Opening of case for the prosecution

After the defendant has pleaded not guilty to the charge or information the person appearing for the prosecution shall open the case against the defendant with an opening statement and then adduce evidence in support of the charge.

273. In certain cases prosecution has no right of reply

(1) After the case for the prosecution is concluded the defendant or the legal practitioner representing him, if any, shall be entitled to address the court at the commencement or conclusion of his case, as he deems fit, and if no witnesses have been called for the defence, other than the defendant himself or witnesses solely as to the character of the defendant and no document is put in as evidence for the defence, the person appearing for the prosecution shall not be entitled to address the court a second time but if in opening the case for the defence the person appearing for the defendant has in addressing the court introduced new matter without supporting it by evidence the court, in its discretion, shall allow the prosecution to reply.

(2) Addresses under the provisions of subsection (1) shall be in writing and read in open court.

274. Cases in which prosecution shall reply

If any witness, other than the defendant himself or witnesses solely as to the character of the defendant, is called or any document is put in as evidence for the defence, the person appearing for the defendant shall be entitled after evidence on behalf of the defendant has been adduced to address the court a second time on the whole case and the prosecution shall have a right of reply.

275. Reply by law officer

The provisions of sections 273 and 274 shall not affect the right of reply by a law officer or a Police officer who is a legal practitioner.

#### 276. Reference to Court of Appeal

(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 said Constitution the court before which the question arose shall 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 respite execution thereof 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 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; or

(b) acquit or convict the defendant; or

(c) order the execution of the sentence, as the circumstances shall require

277. Subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 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.

#### 278. Deliberation by court

When the case for both sides is closed the court shall consider its verdict and for this purpose shall adjourn the matter for judgment.

#### 279. 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 and the reasons for the decision and shall be dated and signed by the judge or magistrate at the time of pronouncing it:

280. If the finds the defendant not guilty he shall be discharged and acquitted.

#### 281. Defendant to be asked whether he has anything to say before sentence

If the court convicts the defendant or if he pleads guilty, it shall be the duty of the registrar to ask the defendant whether he has anything to say why sentence should not be passed on him according to law but the omission of the registrar to ask him or his being so asked by the judge or magistrate instead of the registrar shall have no effect on the validity of the proceedings.



#### 282. Sentence

If the court finds the defendant guilty of the offence, the court shall either pass sentence on the defendant or make an order or reserve judgment and adjourn the case to some future day.

#### 283. Conviction on other charges pending

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

(2) Where such a desire is expressed and consent given the court shall enter or cause an entry to that effect to be made on the record, and upon sentence being pronounced the defendant shall not, subject to the provisions of sections 174 to 176 or unless the conviction which has been had is set aside, be liable to be charged or tried in respect of any such offence so taken into consideration.

#### 284. Security for appearing up for judgment

When a person is convicted of any offence the court shall, instead of passing sentence, discharge the offender upon his entering into his own recognisance, with or without sureties, in such sum as the court shall deem fit, on the condition that he shall appear and receive judgment at some future sitting of the court or when called upon.

#### 285. Delivery of judgment when judge or magistrate is absent

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

#### 286. Direct imprisonment

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

#### 287. Authority for carrying out non capital sentences

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

#### 288. Error or omission not to affect legality of act

The court shall at any time amend any defect in substance or in form in any order or warrant of commitment and no omission or error as to time and place and no defect in form in any order or warrant of commitment given under this Law, shall be held to render void or unlawful any act done or intended to be done by virtue

of such order or warrant if it is mentioned, or may be inferred, that it is founded on a conviction or judgment sufficient to sustain it.

#### 289. Costs 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, shall 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 thereof 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.

(2) No order as to costs as aforesaid shall 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.

(3) Costs shall be awarded under this section and shall be in addition to any compensation awarded and accepted under section 290.

#### 290. Compensation in case of false and vexatious charge

If in any case before a court one or more persons is or are charged with any offence and the court by whom the case is heard discharges or acquits any or all of the defendant and the judge or magistrate presiding over the court is of opinion that the accusation against any or all of them was false and either frivolous or vexatious the judge or magistrate shall for reasons to be recorded, direct that compensation be paid as the court shall deem fit to the defendant or to each or any of them by the person upon whose complaint the defendant was or were charged.

#### 291. Enforcement of award of compensation

Any sum so awarded as compensation shall be specified in the order of discharge or acquittal, as the case shall be, and the court shall order that on default of payment within such time as to the court seems proper of any sum awarded for compensation, the person making default be imprisoned, with or without hard labour, for any term not exceeding the term prescribed in respect of a like sum in the scale of imprisonment set forth in section 323.

#### 292. Saving of express procedure for awarding costs and compensation

The provisions of sections 289 and 290 shall be subject to any express provision made in any written law relating to the procedure to be followed in the awarding of costs or compensation in respect of conditions specified in such written law.

#### 293. Injured person may refuse to accept compensation; but payment of compensation is bar to further liability

(1) The person to whom compensation is awarded shall refuse to accept any such order for compensation

but where any person receives compensation for an injury under the award of the court as above mentioned, or where the offender, having been ordered to make compensation, suffers imprisonment for non-payment, the receipt of such compensation, or the undergoing of such imprisonment, as the case may be, shall be a bar to any action for the same injury.

(2) Before making an order under subsection (1) the court shall explain the full effect of that subsection to the person to whom compensation would be payable.

#### 294. Order for disposal of property regarding which offence committed

(1) During or at the conclusion of any trial or inquiry the court shall make such order as it thinks fit for the disposal whether by way of forfeiture, confiscation or otherwise of any moveable or immovable property and in case of immovable property, the production of title document, deed certificate of occupancy or receipt of purchase of such property shall be deemed as production of the property itself before the court for the purpose of the exercise of the power of forfeiture, confiscation or otherwise conferred by this section.

(2) Where the court orders the forfeiture or confiscation of any property as provided in subsection (1) but does not make an order for its destruction or for its delivery to any person the court may direct that the property shall be kept or sold and that the same, if sold, the proceeds thereof shall be held as it directs until some person establishes to the court's satisfaction a right. If no person established such a right within six months from the date of forfeiture or confiscation of such property, the proceeds shall be paid into and form part of the general revenue.

(3) The power conferred by subsections (1) and (2) upon the court shall include the power to make an order for the forfeiture or confiscation or for the destruction or for the delivery to any person of such property, but shall be exercised subject to any special provisions regarding forfeiture, confiscation, destruction, detention or delivery contained in the written law under which the conviction was had or in any other written law applicable to the case.

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

#### 295. Seizure of things intended to be used in commission of offence

The court shall 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 offence triable by the court and shall direct the same to be forfeited, confiscated, held or otherwise dealt with in the same manner as property under section 294.

#### 296. Destruction of seditious and prohibited publications

(1) On a conviction under section 51, 58 or 232 of the Criminal Code the court shall order the confiscation and destruction of all the copies of the thing in respect of which publications the conviction was had and which are in the custody of the court and also all those which remain in the possession or power of the person convicted.

(2) The court shall in like manner on a conviction for an offence under section 243 of the Criminal Code order the food or drink in respect of which the conviction was had and also all other unfit or adulterated food or drink which remain in the possession or power of the person convicted to be destroyed.

#### 297. Search warrant shall be used to search for things subject to sections 295 and 296

Where a magistrate 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 shall be made under section 295 or 296 such magistrate shall 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 the court shall deem proper.

#### 298. Restoration of possession of immovable property

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

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

#### 299. Payment to innocent person of money found on defendant

When any person is convicted of any offence which includes or amounts to stealing or receiving stolen property and it is proved that any other 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.

#### 300. Restitution and disposition of property found on person arrested

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 shall order-

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

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

### 301. Restitution of property stolen

(1) Where any person is convicted of having stolen or having received stolen property, the court convicting him shall order that such property or a part thereof be restored to the person who appears to be the owner, either on payment or without payment by the owner to the person in whose possession such property or a part thereof, or any sum named in such order.

(2) This section shall not apply to—

(a) any valuable security which has been bona fide paid or discharged by any person liable to pay or discharge the same; or

(b) any negotiable instrument which shall have been bona fide received by transfer or delivery by any person for a just and valuable consideration without notice or without any reasonable cause to suspect that it had been stolen.

### 302. Mode of dealing with non pecuniary forfeiture

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 shall be enforced by the court shall be sold or disposed of in such manner as the court shall 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 proceeding for the forfeiture is founded

### 303. Perjury Summary procedure

(1) If it appears to a court that a person has been guilty of perjury in any proceeding before it, the court, subject to the provisions of subsection (2) and (3), shall—

(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 as for a contempt of court and if he is found guilty commit him to prison subject to the limit of jurisdiction of the court—

(2) Where a judge or magistrate decides to try a person summarily under subsection (1) for contempt of court such judge or magistrate shall record in the evidence book the fact of such decision, 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 thereof and shall record such explanation in the book aforesaid.

(3) (a) If a magistrate orders a person to be imprisoned or to pay a fine under subsection (1) he shall neither issue his warrant of commitment nor make an order for imprisonment for non-payment of the fine but shall either remand such person or release him on a recognisance with or without sureties to come up before the

court when called upon and shall forthwith forward to the Chief Judge or such judge as the Chief Judge shall direct a certified copy of the proceedings and the Chief Judge or judge as aforesaid shall without hearing argument and in the absence of the person concerned set aside or confirm such order or reduce the sentence of imprisonment or the amount of the fine and shall inform the magistrate as soon as practicable thereafter of his decision.

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

(4) 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 a magistrate has been wholly set aside.

#### 304. Construction of provisions relating to punishments

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 of section 304 to 333 shall apply to sentences of death, imprisonment, fine and other non-custodial sentences

#### 305. Capital Sentences

(1) Punishment of death is inflicted by hanging the offender by the neck till he be dead.

(2) Sentence of death shall be pronounced in the following form—

“The sentence of the court upon you is that you be hanged by the neck until you be dead and may the Lord have mercy on your soul.”

#### 306. Prior formalities - generally

(1) Where sentence of death has been passed such sentence shall only be carried out in accordance with the provisions of sections 305 to 315.

(2) Where a woman found guilty of a capital offence is in accordance with the provisions of section 315 is found to be pregnant the sentence of death shall not be passed on her but shall be substituted with sentence of imprisonment for life.

(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 the court shall order such person to be detained at the discretion of the Governor and if so ordered he shall be detained in accordance with the provisions of section 334 notwithstanding anything to the contrary in any written law.

#### 307. Authority for detention

A certificate signed by the registrar, or other officer of the court, that such sentence has been passed, and naming the person condemned, shall be sufficient authority for the detention of such person.

### 308. Procedure of pardon vested in Governor

The provisions of sections 309 to 314 shall apply in the case of a sentence of death for an offence in respect of which the power of pardon is vested in the Governor.

### 309. Judge's certificate

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 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 sections 305 to 315.

### 310. Steps to be taken by the registrar

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 309 to the prison officer responsible for the safe custody of the sentenced person, one of such copies shall be retained by the prison officer and the other handed to the superintendent or other officer in charge of the prison 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

### 311. Judge to forward report to Commissioner for Justice

The judge who passed sentence shall as soon as practicable after sentence has been pronounced, transmit to the Attorney-General a certified true copy of the record of the proceedings at the trial, together with a copy of the certificate issued by him under the provisions of section 309 and a report in writing signed by him containing any recommendations or observations with respect to the sentenced person and with respect to the trial that he deems fit to make to make for the purpose of enabling the Advisory committee on prerogative of mercy advise the Governor on the exercise of the prerogative of mercy.

### 312. Stage at which Governor to consider report

(1) Where a defendant—

- (a) has been sentenced to death; and
- (b) has exercised his legal rights of appeal against the sentence and the conviction and sentence have not been quashed or reduced or has failed to perfect or prosecute such application or appeal within the time prescribed by law the Governor shall consider the report made under section 311 and after obtaining the advice of the Advisory council decide whether or not to commute the sentence to imprisonment for life or

commute the sentence to any specific period or decide whether the prisoner should be otherwise pardoned or reprieved.

(2) Where for the purposes of subsection (1) the Advisory council is required to in relation to any person sentenced to death, the Attorney-General shall cause a record of the case to be prepared and submitted to the Advisory council and the Advisory council shall in giving its advice have regard to the matters set out in that report .

### 313. Where no commutation pardon or reprieve

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 and the sentence of death pronounced upon the offender shall be carried into effect in accordance with and subject to the provisions this Part and the sheriff shall thereupon make arrangements accordingly pursuant to the sentence of death pronounced upon the offender.

### 314. Where a pardon or reprieve is granted

(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, one copy of which shall be sent to the superintendent or other officer in charge of the prison in which the offender is confined, and another thereof shall be sent to the sheriff, directing that the execution should not proceed, and, that the offender be imprisoned in accordance with the recommendation, or that the offender be released, subject to such conditions, if any, as shall be specified.

(2) The sheriff and the superintendent or other officer in charge of the prison in which the offender is confined shall comply with and give effect to every order issued under the provisions of subsection (1).

### 315. Procedure where pregnant woman is convicted of a capital offence

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

(2) The question whether the woman is pregnant or not shall be determined by the court on such evidence as shall be laid before it on the part of the woman or by the prosecution, and the court shall find that the woman is not pregnant unless it is proved affirmatively to the satisfaction of the court that she is pregnant.

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



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

(5) The court shall report to the appropriate authority any case in which the court passes a sentence of imprisonment for life under this section.

Imprisonment to be with labour

316. Imprisonment, shall be with labour unless otherwise ordered.

317. Power to order detention

Power to order detention

Where the court has power to pass a sentence of imprisonment the court, in lieu of passing sentence of imprisonment, shall order that the offender be detained within the precincts of the court or at any police station till such sentence is passed:

Provided that the court shall, before making an order of detention under this section, take into consideration the distance between the place of detention and the offender's abode, if his abode is known to or ascertainable, the court shall not issue any such order of detention under this section as will deprive the offender of a reasonable opportunity of returning to his abode on the day on which such order of detention is issued.

318. Consecutive sentences of imprisonment

Where a sentence of imprisonment is passed on any person by a court the court shall order that the sentence shall commence at the expiration of any other term of imprisonment to which that person has been previously sentenced by any competent court in Nigeria However where two or more sentences passed by a magistrate's 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.

319. Date from which sentence commences

A sentence of imprisonment takes effect from and includes the whole of the day of the date on which it was pronounced provided that in reckoning the length of imprisonment, the court shall direct that any period of detention prior to conviction shall be taken into consideration.

320. Power to impose fine in lieu of imprisonment

(1) Subject to the other provisions of this section, where a court has authority under any written law to impose imprisonment for any offence and has no specific authority to impose a fine for that offence, the court may, in its discretion, impose a fine in lieu of imprisonment.

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

(3) In the case of a conviction in a magistrate's court the amount of the fine shall be in the discretion of the court but shall not exceed the maximum fine authorised to be imposed by the magistrate under the law . 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 subsection (2) of section 323.

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

#### 321. Escaped prisoners effect of escape on punishment

A person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty is liable upon recapture to undergo the punishment which he was undergoing at the time of his escape, for a term equal to that during which he was absent from prison.

#### 322. Fines, imprisonment in default of payment

A person convicted of an offence punishable by—

- (a) imprisonment as well as fine, and sentenced to pay a fine, whether with or without imprisonment; or
- (b) imprisonment or fine, and sentenced to pay a fine, may be ordered to suffer imprisonment, in default of payment of the fine, for a certain term, such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced.

#### 323. General power of awarding imprisonment in default of payment of penalty

(1) Where by any written law the court is empowered to impose a penalty for a summary conviction offence it may, in the absence of express provision to the contrary in the same or any other written law, order a defendant who is convicted of such offence, in default of payment of the sum of money adjudged to be paid by the order, at the time specified in the order, as the case may be, to be imprisoned, with labour, in accordance with the scale set out in this section.

(2) Subject to the provisions of the written law on which the order is founded, the period of imprisonment, whether with labour, which is imposed by the court in respect of the non-payment of any sum of to be paid by

an order shall be such period as in the opinion of the court will satisfy the justice of the case but shall not exceed the maximum fixed in the following scale:

Limitation of imprisonment in default of payment of fine shall not exceed the following where fine:

does not exceed ₦5000 naira - seven days;

Does not exceed ₦6000 - fourteen days;

Does not exceed ₦7000 – one month;

Does not exceed ₦8000 – two months;

Does not exceed ₦9000 – four months;

Does not exceed ₦10000 – six months;

Does not exceed ₦11000 – one year;

Does not exceed ₦12000 – two years;

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

#### 324. Payment and allocation of fines and fees

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 as they appear or are known to the court and where a fine is imposed the payment of the court fees and police fees payable in the case shall not be taken into consideration in fixing the amount of the fine, but the amount of the fine, or of such part as may be paid or recovered, shall be applied as follows—

- (a) the repayment to the informant or victim of any court or other fees paid by him and ordered by the court to be repaid;
- (b) the payment of any court fees not already paid by the informant or victim which may be payable under the rules of court;
- (c) the balance, if any, remaining after the payments have been made shall be paid into general revenue

#### 325. Power to commit defendant in certain cases

(1) In every case where an order is made against any person for the payment of a sum of money and such person is liable to be imprisoned for a certain term unless such sum shall be paid the court may do all or any of the following -

- (a) issue a warrant of commitment forthwith;
- (b) allow time for the payment of the said sum;
- (c) direct payment of the said sum to be made by instalments; or
- (d) 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.

(2) 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, such court may direct payment by instalments of the sum so adjudged to be paid.

(3) 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 had been made in the payment of all the instalments then remaining unpaid.

(4) Where 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, and states that he prefers immediate committal to awaiting the expiration of the time allowed, the court shall if it deems fit issue a warrant committing him to prison.

#### 326. Power to postpone issue of warrant of commitment

(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 shall 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.

(2) Where application is made to the court for a warrant for committing a person to prison for non payment of any sum of money adjudged to be paid by an order, the court may, if it deems it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the court may seem just.

(3) When the court orders the imprisonment of any person, the court shall, if it deems fit, order that such imprisonment shall not commence forthwith, 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 either suffer the person to go at large until such day or discharge him upon his entering into a recognisance, with or without sureties, conditioned for his reappearance on such day to undergo such imprisonment.

(4) Any warrant of commitment issued under the provisions of this section may be executed on any day including a Sunday or a public holiday.

#### 327. Payment of penalty to person executing warrant

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.

### 328. Commencement of imprisonment

Where any person is brought to any prison to be imprisoned by virtue of a warrant of commitment there shall be endorsed on such warrant the day on which such person was arrested and the imprisonment shall be computed from such day.

### 329. Varying of or discharging order for sureties

Where any person has been committed to prison by the court for default in finding a surety or sureties the court may, on application made to it by such person or by some person acting on his behalf, inquire into the case of such person, and upon new evidence produced to the court or proof of a change of circumstances the court having regard to all the circumstances of the case 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 shall deem just.

### 330. Right of person imprisoned in default

(1) Where any person has been committed to prison 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 prison the sum mentioned in the warrant of commitment together with the amount of the costs, charges and expenses, the Superintendent shall receive same and discharge such person, unless he is in his custody for some other matter.

(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) where an amount is paid towards a fine the following procedure shall be followed—

(A) the imprisonment shall be reduced by a number of days bearing as near as possible the same proportion to the total numbers of days for which such persons committed as the sum so paid towards the fine bears the amount of the fine for which such person is liable.

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

Provided that where in the opinion of the Superintendent or other officer, the delay occasioned by taking such a person to before a Court shall be such that the person will be detained beyond the date upon which by

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

(4) In reckoning the number of days by which anytime 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 the term of imprisonment, fractions of a kobo shall be omitted.

331. Where under the authority of any written law, The Court imposes a fine or any pecuniary penalty whether or not that fine and penalty is accompanied by a power to oppose imprisonment and no special other recoverable by distress and in default of such distress satisfying the amount of the fine or penalty as mentioned above, shall other than that the offender be imprisoned, with or without labour as the case may be, in accordance with scale set forth in Section 323.

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

(2) In the execution of a distress warrant, the following provision shall have effect –

(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 or Magistrate shall, by a written endorsement on the warrant, authorize him to use such force as shall be necessary to enable him execute the warrant:

(c) The wearing apparel and bedding of the person and the family, to the value of ten thousand Naira (N10,000) and the tools and implementation of his trade, shall not be taken;

(d) Except as provided in paragraph (e) 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 after making of the distress; but where consent is in writing is so given, the sale may be in accordance with such consent;

(e) The goods distrained on shall be sold within the time fixed by the warrant, unless the sum of which the warrant was issued and also the charges, of taking and keeping the goods distrained on, are paid;

(f) If any person charged with the execution of a warrant of distress willfully retains from the proceeds of any property sold to satisfy the distress, or otherwise exacts, any greater costs or charges than those that to which 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 not exceeding twenty thousand Naira (N20,000;00) provided that nothing shall affect the liability of any such person to be prosecuted and punished for extortion;

(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 in charge with execution of the warrant to the Judge or Magistrate: and 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; and

(h) A person charged with the execution of a warrant distress shall sell the distress or cause same to be sold, and may deduct out of the amount realized by such sales all costs and charges actually incurred in effecting such sale, and shall pay to the Court or person specified by the Court, the remainder of such amount, in order that the same may be applied in the payment of the sum in which the warrant was issued and of the property 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.

333. Where a part only of the amount ordered to be recovered by the 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 commitment shall be drawn up accordingly and after such committal the provision of Section 330 shall apply.

334. when any person is ordered to be detained at the discretion of the Governor, he shall notwithstanding anything in this Law or in any other written law contained be liable to be detained in such a place and under such conditions as the Governor may direct and whilst so detained shall be deemed to be in legal custody.

(2) a person detained at the discretion of the Governor may at any time be discharged by the Governor on licence.

(3) a licence may be on such form and may contain such conditions as the Governor may direct.

(4) a licence may at any time be revoked or varied by the Governor and where a licence has been revoked the person to whom the licence relates shall proceed to such place as the Governor may direct and if he fails to do so may be arrested without warrant and taken to such place.

335. 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 or good governance that an order of deportation should be made under this section.

336. Where upon any affidavit, it appears to a Court that there is reason to believe that any person in a state is about to commit a breach of peace, or that he is likely to produce or excite to a breach of 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.

337. Where it is shown on evidence on oath to the satisfaction of a Court that any person in the state is conducting or has conducted himself so as to be dangerous to peace and good order, or is endeavouring or has endeavoured to excite enmity between any section of 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.

338. (1) Where a person required to give security under section 336 defaults in so doing and the Courts contemplates recommending to the Minister of Internal Affairs, the deportation of a person to whom section 337 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 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.

339. Where the Court decides to recommend to the Minister of Internal Affairs the deportation of any person under Section 336, 336 or 337, the Court shall forward to the Minister of Internal Affairs the recommendation together with a report setting out reasons why the Court considers it necessary to make the recommendation and a certified true copy of any proceedings relating to that.

340. Where a recommendation for the deportation has been made in respect of the person to whom Section 335, 336 or 337 relate, 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.

341. 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 shall by writing under his hand and seal order the person to be deported to such place outside Nigeria as he may direct.

342. If the Minister of Internal Affairs decides that no order of deportation shall be made, the Court so informed, shall, in the case where a recommendation has been made under section 335 of imposing any other



punishment, deal with the case as if no such recommendation had been made, and make such order of punishment as may be authorized by law.

343.- (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 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 the 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 the security for good behaviour or otherwise as to the Minister of Internal Affairs shall deem fit or willfully neglects or refuses to report himself as ordered, such person is liable to imprisonment for six months and to be again deported on a fresh warrant under the original order or under a new order.

344. Where a child or young person is brought before the High Court or Magistrates' charged with an offence, the charge shall be inquired into in accordance with the provisions of the Children and Young Persons Law and not in accordance with the provisions of this Law.

345. - (1) Where any person is charged before a Court for a non-indictable offence and the Court finds 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 offence or to the extenuating circumstances under which the offence was committed, it is inexpedient to impose any punishment other than a normal punishment, or that it is expedient to release the offender on probation or for community service, the Court shall without proceeding to conviction make an order either-

(a) dismissing the charge; or

(b) discharging the offender conditionally on his entering into recognizance, with or without sureties, to be of good behaviour for period of one year and not exceeding three years.

(2) The Court shall in addition to any such order, order the offender to pay such damages for injury or compensation for loss not exceeding twenty thousand Naira (N20,000:00) or if a higher limit is fixed by any enactment relating to the offence that higher limit, and to pay such costs of the proceedings as the court

thinks reasonable and if the offender has not attained the age of eighteen years and it appears to the court that the parent or guardian of the offender has conduced to the commission of the offence the court may under and in accordance with section 344 of this Law after hearing such parent or guardian, order payment of such damages and costs by such parent or guardian.

(3) Where an order under this section is made the order shall, for the purpose of reverting 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.

#### 346. Probation orders and conditions of recognisances

(1) A recognisance ordered to be entered into under section 345 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, be named in the order during the period specified in the order, and an order requiring the insertion of such conditions in the recognisance is in section 345 to 349 referred to as a probation order.

(2) A recognisance under section 345 to 349 shall contain such additional conditions with respect to residence, abstention from intoxicating liquor and any other matters as the court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or the commission of other offences.

(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.

#### 347. Relieving probation officer of his duties

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.

#### 348. Duties of probation officers

It shall be the duty of a probation officer, subject to the directions of the court—

(a) to visit or receive reports on the person under supervision at such reasonable intervals as may be specified in the probation order or subject as the probation officer may deem fit; if the person on probation is not actually residing with the probation officer

(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 befriend him and when necessary to endeavour to find him suitable employment.

#### 349. Variation of terms and conditions of probation

The court before which any person is bound by a recognisance under sections 345 to 349 to appear for

conviction and 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, however, 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 no longer under supervision, discharge the recognisance.

### 350. Rules governing community service

(1) 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: or

(b) assisting in the care of children and the elderly in Government approved homes; or

(c) any other type of service which in the opinion of the court would have a beneficial and salutary effect on the character of the offender

(2)(i) 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.

(ii) The written agreement referred to in subsection (2) paragraph (i) above shall be filed in the court's registry by the community service office.

(iii) 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, shall issue a bench warrant for his arrest.

(iv) 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.

(v) The court, if satisfied that the person against whom the order was made has no lawful or valid excuse, shall proceed to convict and make a custodial sentence having regard to the punishment prescribed for the offence to which he was charged and the length of community service already performed.

(3) A community service officer shall be appointed in each Magisterial district in the state.

#### 351. Provisions in case of offender failing to observe conditions of release

(1) If the court before which an offender is bound by his recognisance under sections 350 to 351 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 shall issue a warrant for his arrest or shall if it deems fit instead of issuing a warrant in the first instance issue a summons to the offender and his sureties, if any, requiring him or them to attend at such court and at such time as may be specified in the summons.

(2) The offender when arrested shall if not brought forthwith before the court in 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 as aforesaid may if it is not the court before which he is bound by his recognisance to appear for conviction or sentence remand him to custody or on bail until he can be brought before the last mentioned court.

(4) A 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 shall, without further proof of his guilt, convict and sentence him for the original offence.

352. Notwithstanding any law or custom to the contrary, enacted or obtaining all Magistrates of the Magistrates' courts of Lagos state shall henceforth be addressed as "Your Honour"

353. From and after the coming into operation of this Law, no person shall be committed for trial on a coroner's inquisition.

#### 354. Payment of fees

(1) Subject to the provisions of section 355 in every proceeding had before any court such fees as may be prescribed under this Law shall be paid.

(2) A court may in any proceeding in which good cause appears to the court for so doing, suspend payment of any fees payable therein until the conclusion of such proceeding and the court may then direct such fees to be paid as costs by any party to the proceeding by whom the court has power to order costs to be paid or remit the payment of such fees.

355. State not required to pay fees

The provisions of this Law relating to fees and to the giving of security shall not apply to the State or any public officer acting in his official capacity.

356. Use of forms in First, Second and Third Fourth and fifth Schedules

(1) Subject to the express provisions, if any, of the rules, the forms and precedents contained in the First, Second and Third, Fourth and fifth Schedules may, in accordance with any instructions contained in the said forms, and with such variations as the circumstances of the particular case may require, be used in the cases to which they apply and, when so used, shall be good and sufficient in law.

(2) The forms in the said Schedules may be added to, revoked, replaced or varied by the rules in all respects as if they had originally been so made.

357. Power to make rules of court

(1) The Chief Judge of Lagos State may make rules in respect of any or all of the following matters—

(a) fees to be paid under this Law;

(b) forms to be used for the process and procedure of the courts;

(c) accounts to be rendered of moneys received by any person under this Law;

(d) the method of issue of process under this Law, and the manner of receipt of and accounting for fees in respect of such process;

(e) prescribing any rule required to be prescribed under the provisions of this Law; and

(f) 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 the High Court in magistrates' courts, save where the procedure prescribed by the rules applies equally to the High Court and to magistrates' Courts.

358. Saving as to other forms and procedure

Nothing in this Law shall affect the use or validity of any special forms in respect of any procedure or offence and specified under the provisions of any other written law nor the validity of any other procedure provided by any other written law.

359. Proceedings in relation to which sections have effect

(1) The provisions of sections 359 to 363 shall have effect in relation to proceedings in the High Court or in a magistrate's court.

(2) The provisions of sections 359 to 363 shall apply to all trials held under this Law and where there is a conflict between the provisions of sections 359 to 363 and any other provisions of this Law, the provisions of sections 359 to 363 shall prevail.

### 360. Plea by corporation

(1) Where a corporation is called upon to plead to any charge or information (including a new charge or information framed under the provisions of section 154, or a charge or information added to or altered under the provisions of section 154 or section 155) it may enter in writing by its representative a plea of guilty or not guilty or any plea which may be entered under the provisions of section 216, and if either the corporation does not appear by a representative or, though it does so appear, fails to enter as aforesaid any plea, the court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

(2) A representative for the purposes of this law need not be appointed under the seal of the corporation and a statement in writing purporting to be signed by a managing director of the corporation or by any person (by whatever name called) having, the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this law, shall be admissible without further proof as prima facie evidence that the person has been so appointed.

### 361. Matters to be read explained to representative

Where a representative appears, any requirement of this Law that says anything shall be done in the presence of the defendant, or, shall be read or said or explained to the defendant, shall be construed as a requirement that that thing shall be done in the presence of the representative or read or said or explained to the representative:

Provided that paragraph (a) of subsection (1) of section 244 shall be sufficiently complied with if the representative is asked if he has any witnesses to examine or other evidence to adduce for the defence, and if the witnesses and other evidence if any are heard.

### 362. Non-appearance of representative

Where a representative does not appear, any such requirement as is referred to in section 360, shall not apply.

### 363. Service on corporation

The provisions of paragraph (b) of section 87 shall apply to the service on a corporation of any information, notice or other document which is by this Law required to be served upon or delivered to a person charged as they do to the service of a summons.

364.-(1) This Section applies to a summons (other than a summons to compel the attendance of a witness) which is issued under this Law on information or complaint.

(2) A summons to which this Section applies which is issued in one State may be served on the person to whom it is addressed in another State.

(3) Service under this Section may, subject to the Rules of Court in force under this Law, be effected in the same way as it could be effected in the State in which the summons was issued.

(4) Service so effected shall have the same force and effect as if it has been served in the State in which the summons was issued, and if the person on whom service has been effected fails to appear before the Court and at the time and place specified in the summons and it appears to the Court that service was effected sufficient time before the time so specified, may be taken as if service has been effected in the State in which the summons was issued.

(5) The provisions of Sections 92 and 93 shall apply in relation to a summons served outside the State in which it was issued as they apply to such summons served within the State in which it was issued but as if the reference in Section 93 to "the Court which issued the summons" were a reference to the Court of a Magistrate of the State in which it was served.

365.-(1)(a) When a subpoena or summons has been issued in accordance with Sections 1 to 363 by any Court, Judge or Magistrate in any State requiring any person to appear and give evidence or to produce books or documents in any proceedings under this Law, such subpoena or summons may, if the Court, Judge or Magistrate is satisfied that the testimony of such person or the production of such books or documents is necessary in the interests of justice, by leave of such Court, Judge or magistrate on such terms as the Court, Judge or Magistrate may impose, be served on such person in any other State.

(b) When a person has been bound by recognizance in accordance with Sections 1 to 363 to attend as a witness at any Court or State, a notice of the hearing or trial of the case in respect of which he is bound may be served on such person in any other State or part of the Federation.

(2) If a person upon whom a subpoena, summons or notice of hearing has been served in accordance with subsection (1) fails to attend at the time and place mentioned in such subpoena, summons, or notice of hearing such Court, Judge or Magistrate shall on proof that the subpoena, summons, or notice of hearing was duly served on such person, issue such warrant for the arrest of such person as such Court, Judge or Magistrate might have issued if the subpoena, summons or notice of hearing had been served in the State in which it was issued.

(3) Such warrant may be executed in such other State in the manner provided in this Section 364 to 372 in case of warrants issued for the arrest of persons charged with an offence.

366.-(1) Where-

(a) any defendant before any Court of a State is confined in a prison or other lawful place of confinement in any other State; or

(b) it appears to any Court of a State that the attendance of any person who is in lawful confinement in any State is necessary for the purpose of obtaining evidence in any proceedings before the Court under this Law, the Court shall issue an order directed to the Superintendent or other officer in charge or the prison or place where the person is confined requiring him to produce the person at the time and place specified in the order.

(2) Any order made under this Section shall be served upon the Superintendent of Prisons or officer to whom it is directed in whatever State he may be and he shall produce the defendant in such custody at the time and place specified.

(3) The Court before which any person is produced in accordance with an order issued under paragraph (b) of subsection (1) of this Section may make such order as to the costs on compliance with this order as the Court deems just.

367. When any summons, subpoena, notice or other process has under the provisions of Sections 364 to 372 have been served out of the State in which it was issued, such service may be proved-

(a) by affidavit sworn before any Magistrate or Justice of the Peace having jurisdiction in the state in which such service was effected; or

(b) in any manner in which such service might have been proved if it has been effected within the State in which the summons, subpoena, notice, or process was issued.

368.-(1) Where a Court, a Judge, a Magistrate or a Justice of the Peace of any State has in accordance with this Law, issued a warrant for the arrest of a person, a Magistrate of another State being a State in or on his way to which the person against whom the warrant has been issued is or is supposed to be, shall, on being satisfied that the warrant was issued by the Court, Judge, Magistrate or Justice or the Peace, make an endorsement on the warrant in the form, or to the effect of the form, in the forms authorizing its execution in that other State.

(2) A warrant so endorsed is sufficient authority to the person bringing the warrant, to all Police Officers and persons to whom the warrant is directed and to all Police Officers in that other State to execute the warrant in that other State, to arrest the person against whom the warrant was issued and to bring that person before a Magistrate of that State.

(3) The Magistrate before whom the person is brought shall-



(a) by warrant under his hand, order the person to be returned to the State in which the original warrant was issued and, for that purpose, to be delivered into the custody of the person bringing the warrant or of a Police Officer or other person to whom the warrant was originally directed; or

(b) where the offence charged is an offence in respect of which he may admit a person to bail, admit the person to bail, on such recognisances as he thinks fit,

on condition that the person appears at such time (not exceeding one month after the date of the order admitting him to bail) and at such place in the State in which the original warrant was issued as the Magistrate specifies to answer the charge or complaint or to be dealt with according to law.

369.-(1) Where a person is arrested without a warrant in a State and there is in that State no Magistrate who has jurisdiction with respect to the offence with which the person arrested is charged, the person arrested shall be taken as soon as practicable before a Magistrate of a State who has such jurisdiction:

Provided that if the person arrested cannot be taken before a Magistrate who has jurisdiction within twenty-four hours of his arrest and is then detained in custody, he shall be taken as soon as practicable before a magistrate of the State in which he was arrested and such Magistrate shall-

by warrant under his hand, order the person to be returned to the State in which there is a Magistrate who has jurisdiction with respect to the offence and for that purpose to be delivered into the custody of a Police Officer or other person by whom he was arrested; or

(a) where the offence charged is an offence in respect of which he may admit a

person to bail, on such recognisances as he thinks fit, on condition that the person appears at such time (not exceeding one month after the date of the order admitting him to bail) and at such place in the State in which a Magistrate has jurisdiction with respect to the offence charged as may be specified in the order to answer the charge or complaint or be dealt with according to law.

(2) A Magistrate before whom a person is brought has, for the purposes of this Section, the same power to remand the person and admit him to bail for that purpose as he has in the case of persons arrested under warrants issued by him.

370.-(1) Where a person arrested is dissatisfied with an order made under subsection (3) of Section 368, or under subsection (1) of Section 369, he may apply to a Judge of the High Court of the State in which he was arrested for a review of the order and the Judge may review the order.

(2) A Judge to whom an application is made for the review of an order may-

(a) except where the offence charged is an offence in respect of which bail

may not be granted, order the release on bail of the arrested person on such terms and conditions as the Judge thinks fit; or

(b) direct that the arrested person be kept in such custody as the judge directs in the

State in which the person is apprehended until the order has been reviewed.

(3) The review of the order shall be by way of re-hearing, and evidence in addition

To, or in substitution for, the evidence given on the making of the order may be given on or in connection with the review.

(4) Upon the review of an order, the Judge may-

(a) confirm or vary the order or substitute a new order; or

(b) if it appears to him that-

(i) the charge is of a trivial nature; or

(ii) the application for the return of the person has not been made in good faith in the interests of justice; or

(iii) for any reason it would be unjust or oppressive to return the person either at all or until the expiration of a certain period, order the discharge of the person or order that the person be returned after the expiration of a period specified in the order and that he be released on bail until the

expiration of that period.

(2) For the purposes of this section-

(a) a Judge has the same power to admit a person to bail as he has in the case of persons arrested under warrants issued by him or by any Magistrate or Justice of the Peace of the State in which he exercises jurisdiction;

(b) a Judge, in varying an order relating to admittance to bail or substituting a new order admitting a person to bail, may impose terms requiring the arrested to return to the State in which the original warrant was issued within such time (whether more or less than one month after the making of the order) as he thinks fit.

371.-(1) Where a person has, in pursuance of Sections 368, 369 or 370, been admitted to bail in a State, by a Magistrate in that State, or where the person was admitted to bail by a Judge of the High Court of that State, and the Judge or Magistrate, is satisfied that the person has failed to comply with the conditions of the recognizance upon which he was so admitted to bail, that Magistrate or Judge may declare the recognizance to be forfeited.

(2) When a recognizance is so declared to be forfeited, payment of any sum due under the recognizance by a person residing in the State in which the recognizance was declared to be forfeited may be enforced in the same manner as a recognizance entered into in that State in accordance with the provisions of Sections 1 to 363.

(3) An amount recovered in pursuance of this Section shall be transmitted to the principal officer of the Treasury of the State in which the original warrant was issued.

#### Execution of warrants outside State of issue

372. (1) Where a court of a State has in accordance with Sections 1 to 363, issued a warrant of distress, a magistrate of another State being a State in which any money or goods of the person against whom the warrant is issued are supposed to be, shall, on being satisfied that the warrant was issued by the court, make an endorsement on the warrant in the form, or to the effect of the form, authorising its execution in that other State.

(2) A warrant so endorsed may be executed by the same person in the same manner and to the same extent as a warrant of distress issued by the court by which it was endorsed.

(3) The amount recovered under a warrant endorsed, after deduction of the proper costs and charges of the execution and any sum payable to any person upon whose goods the distress was levied, shall be transmitted to the court by which the original warrant was issued.

373. This law shall apply to-

(a) all cases filed after the commencement of this law, and

(b) existing cases where the defendant elects to be tried under the law

374. Repeal

Subject to the provisions of section 373 of this law, the Criminal Procedure Law Cap. C18 2003, shall cease to have effect from the commencement of this law.

375. Interpretation

(1) In this Law, unless the context otherwise requires—

“adult” means a person who has attained the age of eighteen years or over;

“asylum” includes a mental health asylum, a mental or other hospital, a prison and any other suitable place of custody for medical observation

“charge” means the statement of offence or statement of offences with which an accused 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;

“child” means any person who has not attained the age of eighteen years;

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

“complainant” includes any informant or prosecutor in any case relating to a summary conviction offence;

“complaint” includes the allegation that any person has committed an offence made before a magistrate or police officer for the purpose of moving him to issue process under this Law;

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

“court” includes the High Court and a magistrate’s court;

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

“deported” with its grammatical variations and cognate expressions means in the case of a person not a citizen of Nigeria to a place outside Nigeria”

“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 within the meaning of the Law establishing that court;

“Federal law” means any Act enacted by an act of the National Assembly having effect throughout the Federation and any ordinance enacted prior to October 1, 1960 which under the constitution of the Federation has effect with respect to the Federation;

“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” means a guardian (other than a guardian of the estate of a child) appointed in accordance with the law.

“High Court” means the High Court established for Lagos 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 four hundred naira;

not being an offence declared by the law creating it to be punishable on summary conviction;

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

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

“judge” means a judge of the High Court;

“justice of the peace” means a person appointed to be a justice of the peace under any law of the state;

“Law officer” means the Attorney-General and the Solicitor-General of Lagos state and includes the Director of Public Prosecution 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 enactment.

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

“law of Lagos state” means any written law in force in Lagos state which is not a Federal law;

“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 any law of Lagos state;

“magistrates’ court” means a magistrate’s court established under a law of Lagos state;

“medical officer” means the medical officer attached to any mental health asylum or any medical officer from whom a court requires an opinion;

“offence” means an offence against any enactment in force in Lagos state;

“officer in charge of a police station” includes, the officer in charge of a police station or any police officer who acts in the absence of the officer in charge;

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

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

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

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

“police officer” includes any member of the police force, established by the Police Act and where the context so admits shall include any officer of any law enforcement agency established by law or Act;

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

“private prosecutor” does not include any person prosecuting on behalf of the state, a public officer prosecuting in his official capacity or police officer;

“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;

“Representative” in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing which the representative of a corporation is by this law authorised to do but a person so appointed shall not, by virtue only of being so appointed, be qualified to act on behalf of the corporation before any court for any other purpose;

“registrar” includes the Chief Registrar and a registrar of the High Court and of a magistrate’s 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 imprisonment is imposed by a court on any person either with or without the option of a fine, or in respect of the non-payment of any sum of money, or for failing to do or abstaining from doing any act or thing required to be done or left undone or a community service order, 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 authorised 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 law, and such judge when so sitting and presiding and such magistrate when so sitting as aforesaid shall be deemed to be a “court” or “summary court” within the meaning of the 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;

“superintendent of prisons” has the meaning as in the Prisons Act

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

### 376. Citation and commencement

This law may be cited as the Administration of Criminal Justice Law 2007 and shall come into force on the 28<sup>TH</sup> day of May, 2008

FORMS

**FORMS**  
**Form No. 1**  
**GENERAL FORM OF TITLE OF PROCEEDINGS**  
**(For use in the High Court)**

IN THE HIGH COURT OF .....

In the High Court of .....the in the .....Judicial Division

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

Charge

Between:

.....Complainant,

and

..... Defendant.

(For use in Magistrates Court)

IN THE MAGISTRATES COURT

In the Magistrate's Court of the Magisterial District Charge

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

Charge

Between:

.....Complainant,

and

..... Defendant.

FORMS 2-19 STILL BEING EDITED

**SECOND SCHEDULE**

**CHARGES**

Second Schedule

**CHARGES**

Under Criminal Code with One Head

1. Deleted by 1966 No. 84.

2. That you, on the..... day of ..... 20..... at ..... being a witness upon the trial of a case in the Magistrate's Court of the ..... Magisterial District sitting at ..... in which one..... was complainant and one ..... was defendant, knowingly falsely swore that you saw one M.N. commit an offence at the ....., Lagos, on the day of and thereby committed an offence punishable under section 118 of the Criminal Code.

3. 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.

4. 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) (1) of the Criminal Code.

5. That you, on the day of at unlawfully killed C.D. and thereby committed an offence punishable under section 325 of the Criminal Code.

6. 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.

7. 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.

8. 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.



9. 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.

[s. 360.]

10. 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.

[s. 402.]

11. That you, on the day of , at  
with intent to defraud, obtained from S P. 5 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 authorised 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.

[s. 419.]

12. That you, on the day of 20 , at ,  
with intent to defraud, obtained from A.B by falsely pretending that  
you were able to double money.

13. 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.

[s. 430 (1).]

14. That you, on the day of , at ,  
wilfully and unlawfully set fire to a house and thereby committed an offence punishable under section 443 of  
the Criminal Code.

[s. 443.]

15. 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) (1) of the Criminal Code.

[s. 467 (2) (i).]

**Charges with two or more Heads**

16. 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.

[s. 230.]

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.

17. 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.

[s. 248.]

Secondly.

That you, on the day of , at  
had in your possession for the. purposes of sale matches made with white (yellow) phosphorus and thereby committed an offence punishable under section 248 (a) of the Criminal Code.

18. 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.

[s. 390.]

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 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.

Miscellaneous

19. That you, being the holder of a retail liquor licence, on the  
day of , permitted drunkenness to take place on your premises  
situate at and thereby committed an offence punishable  
under section 38 (a) of the Liquor (Licensing) Law.

[Liquor (Licensing) Law. Cap. L68. s. 38 (a).]

20. That you, on the day of , at  
kept a dog over the age of six months without a licence and thereby committed an offence against section 5  
and punishable under section 18 of the Dogs Law.

[Dogs Law. Cap. D5. s. 5.]

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

[Unlicensed Guides (Prohibition) Law Cap. U1. s. 5 (1).]

22. That you, on the day of , at ,  
drove a motor vehicle on the Marina recklessly, having regard to all the circumstances of the case and  
thereby committed an offence punishable under section 28 of the Road Traffic Law.

[Road Traffic Law 22. Cap. R10. s. 28.]

Third Schedule

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 province 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 province 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 province 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 20 in the province of  
, murder C.C., did on the day of  
20 in the province of , and on other days thereafter receive,  
comfort, harbour, assist and maintain the said H.C.

5

Statement of Offence

Manslaughter, contrary to section 325 of the Criminal Code.

Particulars of Offence

A.B., on the day of 20 ,  
in the province of unlawfully killed J.S.

6

Statement of Offence—First Count

Wounding with intent, contrary to section 332, subsection (1), of the Criminal Code.

Particulars of Offence

A.B., on the day of 20 ,  
in the province of wounded C.D., with intent to maim,  
disfigure, or to do some grievous harm, or to resist the lawful arrest of him the said A.B.

Statement of Offence—Second Count

Wounding, contrary to section 338, subsection (1), of the Criminal Code.

Particulars of Offence

A.B., on the day of , 20 ,  
in the province of , unlawfully wounded C.D.

7

Statement of Offence

Rape, contrary to section 358 of the Criminal Code.

Particulars of Offence

A.B., on the day of , 20 ,  
in the province of , had carnal knowledge of E.F. without her consent.

8

Statement of Offence

Publishing defamatory matter, contrary to section 375 of the Criminal Code.

Particulars of Offence

A.B., on the day of , 20 ,

in the province of , published defamatory matter affecting E.F.,

in the form of a letter [book, pamphlet, picture, or as the case may be].

[Innuendo should be stated where necessary.]

9

Statement of Offence—First Count

Stealing, contrary to section 390 of the Criminal Code.

Particulars of Offence

A.B., on the day of , 20 ,

in the province of , stole a bag, the property of C.D.

Statement of Offence—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 province of , did receive a bag, the property of C.D.,

knowing the same to have been stolen.

10

Statement of Offence

Stealing by clerks and servants, contrary to section 390 (6) of the Criminal Code.

Particulars of Offence

A.B., on the day of , 20 ,

in the province of being clerk or servant of M.N., stole from the

said M.N. ten yards of cloth.

11

Statement of Offence—First 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 province 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.

Statement of Offence—Second Count

Stealing by agents and others contrary to section 390 (8) (c) of the Criminal Code.

Particulars of Offence

A.B., on the day of , 20 ,

in the province of stole two hundred naira which had been received by him for and on account of L.M.

12

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.

13

Statement of Offence

Demanding property by written threats, contrary to section 407 of the Criminal Code.

Particulars of Offence

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.

14

Statement of Offence

Attempt to extort by threats, contrary to section 408 of the Criminal Code.

Particulars of Offence

A.B., on the day of , 20 ,

in the province of with intent to extort money from C.D.,

accused or threatened to accuse the said C.D. of an unnatural offence.

15

Statement of Offence

Obtaining goods by false pretences, contrary to section 419 of the Criminal Code

Particulars of Offence

A.B., on the day of , 20 ,

in the province of 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 aid J.S. to S.P. for the said cloth, and that he, the said A.B., was then authorised by the said J.S. to receive the said cloth on behalf of the said J.S.

16

Statement of Offence

Burglary, contrary to section 411, and stealing, contrary to section 390 (4) (b) of the Criminal Code.

Particulars of Offence

A.B., in the night of the day of , 20 ,

in the province 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.

17

Statement of Offence

Conspiracy to defraud, contrary to section 422 of the Criminal Code.

Particulars of Offence

A.B. and C.D., on the day of , 20 ,

and on divers days between that day and the day of

20 , in the province of conspired together with intent to defraud

by means of an advertisement inserted by them, the said A.B. and C.D., in the U.S. newspaper, falsely



representing that A.B. and C.D. were then carrying on a genuine business as jewellers

at in the province of and that they were

then able to supply certain articles of jewellery to whomsoever would remit to them the sum of four naira.

18

Statement of Offence—First Count

Fraudulent false accounting, contrary to section 438 of the Criminal Code.

Particulars of Offence

A.B. on the day of , 20 ,

in the province 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.

Statement of Offence—Second Count

Fraudulent false accounting, contrary to section 438 of the Criminal Code

Particulars of Offence

A.B., on the day of , 20 ,

in the province 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.

19

Statement of Offence

Arson, contrary to section 443 of the Criminal Code.

Particulars of Offence

A.B. on the day of , 20 ,

in the province of wilfully and unlawfully set fire to a house.

20

Statement of Offence

Arson, contrary to section 443 of the Criminal Code.

A.B., arson, contrary to section 443 of the Criminal Code. C.D., accessory before the fact to same offence.

Particulars of Offence

A.B., on the day of , 20 ,  
in the province of wilfully and unlawfully set fire to a house.  
C.D., on the same day, in the province of , did counsel  
or procure the said A.B. to commit the said offence.

21

Statement of Offence—First Count

Offence under section 449, subsection (1) of the Criminal Code.

Particulars of Offence

A.B. on the day of , 20 ,  
in the province of with intent to obstruct the use of  
of the Nigerian Railway, displaced a sleeper belonging to the said railway.

Statement of Offence—Second Count

Obstructing railway, contrary to section 459 of the Criminal Code.

Particulars of Offence

A.B. on the day of , 20 ,  
in the province of by unlawfully displacing a sleeper  
belonging to the Nigerian Railway, caused an engine or vehicle in use upon the said railway to be obstructed  
in its passage.

22

Statement of Offence

Damaging trees, contrary to section 451 of the Criminal Code.

Particulars of Offence

A.B. on the day of , 20 ,  
in the province of wilfully and unlawfully  
damaged a cocoa tree there growing.

23

Statement of Offence—First Count

Forgery, contrary to section 467 (2) of the Criminal Code.

Particulars of Offence

A.B. on the day of , 20 ,

in the province of forged a certain will purporting to be the will of C.D.

Statement of Offence—Second Count

Uttering a false document, contrary to section 468 of the Criminal Code.

Particulars of Offence

A.B. on the day of , 20 ,

in the province of knowingly and fraudulently uttered  
a certain forged will purporting to be the will of C.D.

24

Statement of Previous Conviction

6

Prior to the commission of the said offence, the said A.B. .had been previously convicted of,  
burglary on the day of 20  
at the Sessions held at Lagos.

(Indictment Rules 1915 r.11)