

CHAPTER 32
CUSTOMARY COURTS LAW

Arrangement of sections

Section

1. Short title
2. Interpretation.
3. Establishment of Courts.
4. Composition: Quorum.
5. Proceedings of the Court.
6. Oath of Members and Official Oath.
7. Disciplinary control of court members.
- 8 Eligibility of court membership.
9. Tenure of office, dismissal, disciplinary control
- 10 Immunity of court members.
11. Officers of court.
12. Jurisdiction of court.
13. Venue in criminal matters
14. Venue in civil causes or matters
15. Law to be administered.
16. Guardianship of children.
17. Reconciliation to civil cases.
18. Reconciliation in criminal cases.
19. Whipping.
20. Substantial justice to be done.
21. Practice and procedure
22. Proceedings to be in open court
23. Sessions.
24. Court to ensure speedy trials.
25. Adjournments.

26. Appearance and representation.
27. Evidence to be recorded to writing.
28. Court to state reasons for decision.
29. Places of imprisonment.
30. Recovery of fines.
31. Restoration of property unlawfully obtained.
32. Compensation.
33. Costs in criminal cases
34. Power to summon witnesses
35. Persons in court to be required to give evidence.
36. Evidence of persons outside jurisdiction.
37. Execution of judgments of courts,
38. Execution of judgments of other court*
39. Power to grant interim orders.
40. Power to appoint receiver or manager
41. Search warrants.
42. Inspection
43. Appointment of Customary Court Adviser,
44. Returns and reports of cases.
45. Transfer by Chief Judge or Judge
46. Effect of order of transfer
47. Reports to Adviser
48. No fees payable on transfer
49. Court to which appeal shall lie.
50. Appeal as of right and with leave of Court.
51. Time for appeals.
52. Power of appellate court in criminal appeal
53. Power of appellate court in civil appeal.
54. Appellate court's power of inspection.
55. .Adjudication without authority
56. Interference with persons earning out duties under this Law

- 57. Unauthorized fees and fines prohibited.
- 58. Corruption by member, officer or servant of court prohibited
- 60. Failure to obey court summons
- 61. Refusal to give evidence
- 62. Giving false evidence.
- 63. Perverting course of justice
- 64. Dismissal of servant for giving evidence
- 65. Falsification of records and returns
- 66 Jurisdiction of other courts.
- 67. Court member's interest in case.
- 68. Rules of court.

SCHEDULE

SUBSIDIARY LEGISLATION

CHAPTER 32

CUSTOMARY COURTS LAW

A Law to make provisions for the constitution of customary courts and for the administration of justice therein.

27th August 1991

PART 1— PRELIMINARY

I This Law may be cited as the Customary Courts Law

Short title

2. In this Law-

Interpretation

“Attorney-General' means Attorney-General and Commissioner for Justice of the State:

"cause" means an action, suit or other original proceeding between a plaintiff and a defendant and includes a criminal proceeding;

"Chief Judge" .means Chief Judge of the State;

"Chief Registrar" means Chief Registrar of the High Court:

"Constitution" means Constitution of the Federal Republic of Nigeria. 1999;

"Court" or "Customary Court" means customary court established under section 3(1);

"customary law" means a body of rules regulating rights and imposing correlative duties being a rule or body of rules which obtains and is fortified by established usage and which is appropriate and applicable to any particular cause, matter, dispute, issue or question;

"decision" includes judgment, decree, conviction, sentence, determination, recommendation and any order of the court under this Law,

"Governor" means Governor of the State:

"High Court" includes a Judicial Division of the High Court,

"Judicial Service Commission" means Enugu State Judicial Service Commission; established under section 197 of the constitution.

"land cause" or "land matter" means a cause or matter relating to land or to a right of occupancy or other interest relating to any piece of land in the State;

"Magistrate's Court" means Magistrate's Court established under the Magistrate's Courts Law;

"Magisterial District" means District as defined in the Magistrate s Courts Law;

"matter" includes any proceeding in a court not in a cause;

"member" means member of a court;

"president" means president of a customary' court;

"State" means Enugu State of Nigeria.

PART 11—ESTABLISHMENT AND CONSTITUTION OF CUSTOMARY COURTS

3. (1) The Governor may by warrant under his hand, establish for a local government area such number of courts as he deems desirable for the purpose of the exercise of jurisdiction in accordance with this Law

(2) A warrant issued under subsection (1) has the force of law with effect from the date specified in the warrant and where no date is specified, then with effect from the date of publication of the warrant in the State Gazette..

(3) A court established pursuant to this section shall be a court of record

4. (1) A Customary Court shall consist of a president and two other members all of whom shall be appointed by the Judicial Service Commission

Establishment of courts

Composition Quorum

(2) For the purpose of hearing any cause or matter in a court, it shall be sufficient if there be present at the hearing two members of the court

5. (1) The president shall preside over the sitting of the court and in his absence or incapacity, the members present shall choose one of their number to preside and the member so presiding shall for that sitting, have all the powers and privileges of the president.

(2) In all causes and matters before the court the opinion of the majority shall, in the event of any member disagreeing, be the decision of the court, but where there is equality of votes the president or other member presiding shall have a casting vote.

(3) A member who disagrees with the opinion of the majority in any cause or matter may request the president to record his views; and the president shall record the same.

PART 111 — GENERAL PROVISIONS

6. (I) No person appointed the president or member of a Customary Court shall sit or in any way act in that capacity until he has taken and, subscribed both the Oath of Court Member and the Public Officers Oath in the manner prescribed by the Oaths Law.

Oath of
Members
and Official
Oath

(2) The oaths shall be administered by the Chief Judge or by such other Judge or officer of the High Court as the Chief Judge may direct.

7. (1) The power to appoint, dismiss and exercise disciplinary control over f court members of a Customary Court shall vest in the Judicial Service Commission

Disciplina
ry control
of court
members

(2) The Governor may make regulations providing for-

- (a) the salaries and other perquisites payable to a member; and
- (b) the terms and conditions of service of a member.

8. (1) No person shall be appointed a member of a Customary Court unless he-

Eligibility of
Court
membership

- (a) is literate in English and understands Igbo or any other local language
- (b) has wide knowledge of the customary law, tradition and usages prevailing in the area of jurisdiction of the court;
- (c) is a person of good character;
- (d) is not less than thirty-five nor more than sixty-five years of age; and
- (e) is resident within the area of jurisdiction of the court to which his appointment relates.

(2). Notwithstanding subsection (1), a person shall not qualify for appointment as a member of the court if for the time being he—

(a). is a member of any legislative body, a member of a local government council or an executive member or other officer of a political party, in any place in Nigeria;

(b). has been convicted by a court whether in Nigeria or anywhere else of an offence involving fraud or dishonesty and has not received a free pardon;

(c). has under any law for the time being in force in Nigeria been found or declared to be of unsound mind or adjudged to be a lunatic, and has not received a certificate of sanity; or

(d). has been declared bankrupt.

Tenure of
Office,
dismissal,
disciplinary
control

9. (1) A member of a Customary Court shall hold office for three years but is eligible for reappointment for a second term or for further term or terms of three years, in each case, as the Judicial Service Commission may deem necessary.

(2) Notwithstanding subsection (1), the Judicial Service Commission may, as it deems appropriate, dismiss, remove or otherwise exercise other disciplinary control over a member of the court who—

(a) is unable to perform the functions of his office due to infirmity of mind or of the body or for any other reason;

(b) gives or accepts a bribe or is, in the opinion of the Commission involved in any corrupt practice, abuse of power, abuse of office or in any other act of misconduct: or

(c) for any other reason the Commission considers not worthy to be or remain a member of a Customary Court.

{3} Notwithstanding any other provision of this Law, a member of the court shall automatically cease to be a member where at any time circumstances arise or become known which shall otherwise have disqualified him from appointment as such a member by virtue of subsection (1) (e) or (2) of section 8,

Immunity of
Court
members

10. A member of the court shall not be liable in any action for any act done or ordered to be done by him or thing said by him in good faith within his powers and jurisdiction under this Law.

Officers of
Court

11- (I) Subject to other provisions of this Law, the Chief Registrar shall post fit and proper staff of the High Court or of a Magistrate's Court to each Customary Court.

(2) Any staff posted to a Customary Court by virtue of subsection (I) shall be an officer of court and shall perform such duties in the execution of the judgments, orders, summonses, warrants and other processes and authorities of the Customary Court as may from time to time be assigned to them in accordance with the rules of court or in any other manner.

PART IV, -JURISDICTION

Jurisdiction of
Court

12. (1) A Customary Court shall have and exercise jurisdiction over all persons and classes of persons within the territorial limits of its jurisdiction

(2) A Customary Court shall have and exercise jurisdiction over causes and matters set out in Column 1 of the Schedule to this Law to the extent or limits set out in column 2 thereof opposite such causes and matters.

Venue in
criminal
matters

13. (I) Subject to the extent or limit of jurisdiction set out in the second Schedule an offence shall be tried and determined by the Customary Court established for the area or areas within which the offence was committed.

(2). Where —

(a). it is uncertain in which area of jurisdiction of a court an offence was committed;

(b). an offence is committed partly in the area of jurisdiction of a court and partly in the area of jurisdiction of another court;

(c). an offence is a continuing one and continues to be committed in the areas of jurisdiction of two or more courts, or

(d). an offence consists of several acts committed in the areas of jurisdiction of two or more courts;

the offence may be tried and determined by a court established for any of such areas.

(3). Whenever a doubt arises in any court as to the appropriate court for the trial and determination of an offence, the court shall refer the issue to the Customary Courts Adviser who shall direct on the appropriate court for the trial and determination of the offence.

(4). Where the court fails to refer an issue to the Customary Courts Adviser in accordance with subsection (3), the accused person may refer the issue to the Customary Courts Adviser.

(5). Upon the direction of the Customary Courts Adviser pursuant to subsection (3) or (4), the matter shall be deemed to be pending in the appropriate court as directed by the Customary Courts Adviser, and the trial shall proceed in that court.

14. (1) Subject to the extent or limit of jurisdiction of the Customary Court—

(a) all civil causes and matters other than land matters shall be tried and determined by a court established for the area in which the cause of action arose;

(b) all land causes and land matters shall be tried and determined by a court established for the area or areas within which the land that is the subject-matter of the dispute is situated.

Venue in
civil
causes or
matters

(2) Where in any land cause or land matter, the land is situated partly within the area of jurisdiction one court and partly within the jurisdiction of another court, the Customary Courts Adviser shall determine which of the courts shall exercise jurisdiction over that cause or matter, and upon the determination of the Customary Courts Adviser, such court shall hear and determine the land cause or land matter as if the land is situated wholly within its area of jurisdiction.

PART V. — LAW TO RE ADMINISTERED

15. (1) Subject to the provisions of the Constitution and of this Law, a Customary Court shall administer—

Law to be
administere

(a). the customary law prevailing in the area of jurisdiction of the court or binding on the parties to a dispute, so far as that customary law is not repugnant to natural justice, equity and good conscience, and is not incompatible either directly or by necessary implication with any written law for the time being in force;

(b). the provisions of any written law which the court is authorized to enforce by virtue of this Law or any other Law; and

(c). the provisions of bye-laws or rules made or deemed to be made by a local government council or statutory corporation, having authority in the area of jurisdiction of the court

(2) Customary law shall be deemed to be binding upon a person where that person—

(a) is an indigence of a place in which the customary law is in force;

(b). being in a place in which the customary law is in force, does an act in violation of the customary law;

(c). in cases of claims under any customary law of inheritance, makes a claim in respect of the property, or estate of a deceased person who prior to his death was an indigence of the place in which the customary law is in force ; or

(d). agrees or is deemed to have agreed to be bound by the customary law;

(3). Subject to other provisions of this Law, for any contravention of a customary law, a Customary Court may impose a penalty authorized by or consistent with the customary law applicable in its area of jurisdiction.

(4). Nothing in subsection (3) shall empower a Customary Court to impose any penalty that —

(a). involves mutilation, tenure or other personal violence; or

(b). is repugnant to natural justice or incompatible with human dignity.

(5). Where an act which constitutes a contravention of any customary law also constitutes an offence under the Criminal Code or any other enactment, the Customary Court shall require the accused person to elect whether to be tried in the Customary Court or in the Magistrate's Court or the High Court.

(6). For greater certainty and avoidance of doubt, it shall be the duty of the Customary Court to inform an accused person of his right of election under this section.

(7). Where an accused person elects to be tried in a Magistrate's Court or the High Court, the Customary Court shall not try the accused but shall forthwith forward the case file to the Customary Courts Adviser who shall forward the same to the appropriate Magistrate's Court or the High Court.

(8) Where an accused person elects to be tried in a Magistrate's Court or the High Court or where at any time a criminal proceeding in a Customary Court is adjourned, the Customary Court shall grant bail to the accused person upon such terms and conditions as it deems just.

(9). For greater certainty and avoidance of doubt, where an accused person is brought before a Customary court on any charge, the Customary Court shall, whether or not it has jurisdiction, grant him bail upon such terms and conditions as it deems just.

16. (I) In any matter relating to the guardianship of a child, the interest and welfare of the child shall be of first and paramount consideration.

(2) Whenever it shall appear to a Customary Court that the interest of the child requires that an order made by it be reviewed, it may on its own motion or upon the application of any interested person, vary or discharge the order

17. In civil causes or matters, a Customary Court may promote reconciliation among the parties and encourage and facilitate the amicable settlement of such causes or matters.

Reconciliation in civil cases

18. In criminal causes involving common assault or other offence with respect to which a Customary Court has jurisdiction and which is not aggravated in degree, the court may, as it deems fit and on any terms approved by it, promote reconciliation among the parties and encourage and facilitate the amicable settlement of such causes; and may for that purpose stay the proceedings.

Reconciliation in criminal cases

19. (1). Notwithstanding the provisions of any written law or a customary law, no sentence of whipping shall be passed on any female or on a male other than provisions a juvenile offender.

Whipping provisions

(2) For the purpose of this section, "juvenile" means a male person who has not attained the age of seventeen years

20. No proceedings in a Customary Court and no summons, warrant, order, decree or other process issued or made by the court shall be declared void or otherwise varied upon appeal, solely by reason of any defect in procedure or want of form; but every court or authority exercising appellate jurisdiction by virtue of this Law or any other law, shall decide all

Substantial justice to be done

Guardianship of children

matters brought to it on appeal from a Customary Court as substantial justice of the case may require.

PART VI. - PRACTICE AND PROCEDURE

21. The practice and procedure in a Customary Court shall be in accordance with this Law and such rules as may be made pursuant to section 68.

Practice and
procedure

22. (1) The place in which a Customary Court sits to hear and determine any cause or matter shall be an open court wherein members of the public generally may freely go in and go out while such members are of good behaviour.

Proceedings
to be in open
court

(2) Notwithstanding subsection (1), the court may, as the occasion requires, regulate the ingress into and egress from a place in which it sits—

(a). in the interest of orderly proceedings of the court; and

(b). having regard to the accommodation capacity of that place

(3) Without prejudice to subsection (2), any rule that may be made pursuant to section 68 may contain provisions excluding the public from any Customary Court in cases—

(a). where a person under the age of seventeen years is involved; or

(b). where the presence of the public is likely to render the administration of justice impracticable

23.(1) A Customary Court shall hold sessions or shall sit at such times and in such places as may be necessary for the convenient or speedy despatch of its business.

Sessions

(2) The Customary Courts Adviser may direct that sessions of the court be held at such other times and in such other places as he deems appropriate

Court to
ensure speedy
trials

24. Every Customary Court shall try and determine all causes or matters before it with utmost despatch.

25. (1) Without prejudice to section 24, a Customary Court may as the circumstances and justice of any case require, adjourn its sitting from day to day or to any other convenient day.

(2) If the members of a Customary Court are not present at the place appointed for any sitting of the court, or if the quorum is not formed, then any member present, an officer of the court or any other person authorized to that behalf by the president, may adjourn the sitting to such time and place as may—

(a). be provided by the practice and rules of court,

(b). be considered convenient to the court; or

Adjournmen
ts

(c). be considered convenient to both the court and the parties.

(3). A person adjourning the sitting of the court pursuant to subsection (2), shall announce viva voce the adjourned date and place for the sitting.

(4). Where the sitting of the court is adjourned in accordance with subsection (2) all persons liable or bound to be present at the sitting so adjourned shall similarly be liable or bound to be present at the adjourned date and place,

(5). Where no person adjourned the sitting in accordance with subsection (2), then all persons liable or bound to be present at such sitting shall remain liable or bound to attend the court at the next succeeding date not being a Saturday Sunday or public holiday.

Appearance
and
representation

26. (1) In any cause or matter, each party shall appear in person to conduct his case or defence.

(2) Notwithstanding subsection (1), in a civil cause or matter, the court may as the expediency or justice of any case requires, permit—

(a) the spouse, guardian, master, servant or any member of the household, of a party; or

(b) a person having possession or custody of an animal or any other thing in respect of which the cause or matter is brought to the court;

to appear as or represent a plaintiff or defendant.

(3) Subject to this Law or any other written law, in any cause or matter where a Government Ministry or Department a local government, a statutory corporation or other body corporate, is a party, such Ministry, Department, local government, corporation or body may be represented by any of its members, officers or staff, who satisfies the court that he is duly authorized to do so.

Evidence to
be recorded in
writing

27. Evidence given in any proceeding before a Customary Court shall, as far as practicable, be recorded in writing by the president or in his absence, by any other member presiding at the sitting.

Court to state
reasons for
decision

28. Every Customary Court shall record the reasons for its decision in every cause or matter.

PART VII. - ANCILLARY POWERS

29. Every person sentenced to imprisonment by a Customary Court or taken in execution of a process of such court may be detained in a prison established under any law to force in the State.

Places of
imprisonment

30. (1) A Customary Court may order that any fine which it may impose shall be paid at such time or times or by such instalments as it thinks just.

Recovery
of fines

(2) Where any person is committed to prison by a court for non-payment of a fine and he thereafter pays the whole or part of the fine, his imprisonment shall be reduced by the number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed as the amount actually paid bears to the amount of fine for which such person is liable.

31. (1) When any person is convicted by a Customary Court of stealing or dishonestly or unlawfully obtaining any property, the court convicting him may order that the property or any part of that property be restored to the person who appears to it to be in lawful possession of the property or to be the owner thereof.

Restoration
of property
unlawfully
obtained

(2). This section does not apply to—

(a). any valuable security which has been paid or discharged in good faith by any person liable to pay or discharge the same; or

(b). any negotiable instrument which shall have been received in good faith by transfer or delivery by any person for just and valuable consideration without notice or without any reasonable cause to suspect that it is stolen.

32. A Customary Court may direct any compensation as it deems fit to be paid to a person injured or aggrieved by an act or omission of another; and where the injured or aggrieved person accepts the compensation, he shall not be entitled to maintain any action for the recovery of damages for any loss or injury- sustained by him by reason of the act or omission of that other person.

Compensation
to aggrieved
person

33. A Customary Court may order any person convicted before it of an offence to pay the prosecutor or complainant in addition to any penalty accused imposed, such reasonable costs as the court thinks fit.

Costs in
against
accused

34. (1) Subject to the rules made under section 68 of this Law, every Power to Customary Court shall have power to summon before it for the purpose of giving evidence, any person within the area of the jurisdiction of the court, and any person outside such area but within the State.

Power to
summon
witnesses

(2) Where a person to whom a summons is directed is not subject to the jurisdiction of the court, the summons shall not be deemed to be valid unless it is endorsed by a Magistrate within whose area of jurisdiction the person is found.

35. Any person present in a Customary Court may be required by the court to give evidence in the same manner as if he had been summoned to attend and give evidence.

Persons in
court may
be required
to give
evidence

36. If in any cause or matter, a Customary Court considers that the interest of justice requires that the evidence of a person not subject to the jurisdiction of the court should be obtained, the court may make an application to a Magistrate's Court in the area in which such person is found, and if the magistrate to whom the application is made in his discretion thinks fit so to do, he may make an order accordingly

Execution
of
judgement
of court

37. A judgment or order given or made by a Customary Court in a civil cause or matter may be enforced by seizure and sale of the property of the person against whom the judgement or order as may be prescribed by rules made under section 68 of this law or under any law in force in the State.

Execution
of
judgements
of other
courts

38. A Customary Court shall carry into execution any decrees, judgment order and other decision of—

- (a) the Supreme Court;
- (b) the Court of Appeal;
- (c) the Federal High Court;
- (d) the High Court;
- (e) the Customary Court of Appeal if any, or any other Customary Court;
- (f) any Magistrate's Court; and
- (g) the Rent Tribunal.

which may be lawfully directed to it; and shall execute all warrants and serve all processes issued by any court and directed to the Customary Court for execution or service; and shall generally give such assistance to any court as may be required.

Power to
grant interim
orders

39. If in any cause where a final determination is pending in a Customary Court, it is established that any property in dispute in the cause is in danger of being wasted, damaged, alienated or otherwise injuriously dealt with by any party to the cause, the court may issue an injunction to such party restraining him from doing the particular act complained of or doing anything that may alter the character of the property.

Power to
appoint
receiver or
manager

40.(I) A Customary Court may, whenever it thinks it necessary so to do for the preservation, proper custody or management of any estate or property in recover or dispute in a cause, appoint any person as a receiver or manager to receive and to take charge of the estate or property and deal with it in such manner as shall he directed by the court.

(2) An appointee under subsection (I) shall be a person who has no interest in the cause or matter before the court and who the court believes is of such proven integrity to handle the estate or property.

(3) Any person appointed a receiver or manager under subsection (I) shall be responsible to the court for all things done as receiver or manager, and shall account for or pay to the court all money received in respect of any estate or property under his charge .

41. (1) The president may by warrant in writing authorize—

Search
warrants

(a) any premises to be searched by a police officer for any property alleged to be stolen or unlawfully obtained; and

(b) the seizure of any such property by a police officer; and the police officer shall execute the warrant according to law.

(2). The information upon which an application for a search warrant is based shall be given in writing and upon oath.

(3). Any property seized as a result of any search under this section shall be taken before the Customary Court to be dealt with according to law.

42. In any cause or matter it shall be lawful for a Customary Court on the application of either party or on its own motion—

Inspection

(a). to make such order as the court thinks fit for the inspection whether by the court, the parties or by a witness, in respect of any property the inspection of which may be material to the proper determination of the question in dispute: and

(b). to give such direction as the court thinks fit respecting such inspection

PART VIII— CONTROL OF CUSTOMARY COURTS

43.(1) For the purpose of this Law, the State Judicial Service Commission shall appoint a legal practitioner of not less than ten years standing who in the opinion of the Attorney-General is a fit and proper person for the appointment, to be the Customary Courts Adviser.

Appoint
ment of
Customa
ry Courts
Adviser

(2). The Customary Courts Adviser shall advise any Customary Court or the members of the court in the performance of their functions either with respect to matters referred to him or with respect to such other matters as he thinks fit.

(3). For the effectual performance of his functions under this section, the Customary Courts Adviser may require any person including a member of staff of a Customary Court to supply or produce to him any books, records or information as he deems necessary, and that person shall comply.

44. At such times and in such form as may be prescribed by the Customary Courts Adviser, every Customary Court shall submit to him—

Return
s
Report
s of
Cases

(a). a list of causes and matters decided or disposed of by or brought before the court during any prescribed period; and

(b). a report on any case or class of cases tried by the court.

PART IX- TRANSFER OF CASES

45. (I) On application by—

(a). any party to a cause or matter:

(b). the Customary Courts Adviser.

Transfer
by Chief
Judge or
Judge

in respect of a cause or matter pending in any Customary Court in the State, the Chief Judge may at any time or at any stage of the proceedings before final judgment, by order stop the hearing of the cause or matter on such terms as he considers just; and may in his discretion—

(i) if the cause or matter appears to be within the jurisdiction of any other customary Court, by the same or another order, direct that the same be inquired into, tried or determined by that other Customary Court; or

(ii). direct in like manner that the same shall be inquired into, tried or determined by the Magistrate's Court or the High Court.

(2). The power of the Chief Judge under subsection (1) in respect of a cause or matter pending in any Customary Court in the State may be exercised by a Judge in charge of a Judicial Division wherein the Customary Court is located if an application is made to the Judge by a party or the Customary Court Adviser.

(3). The court to which any cause or matter is transferred pursuant to subsection (1) or (2) shall be informed in writing of the reason for making the order of transfer.

(4). Where an order made by a Judge in exercise of the power conferred on him by subsection (2) is inconsistent with any order made by the Chief Judge under subsection (1), the order made by the Chief Judge shall prevail and the order made by the Judge shall not be valid.

46. (1) Every order of transfer made under section 45 of this Law shall operate as a stay of proceedings before the Customary Court to which it may be addressed in any cause or matter to which the order extends or is applicable; and a certified true copy of the records of proceedings in respect of such case or matter shall be transmitted to the court to which the same shall be taken in such court as if the cause or matter was commenced in that court.

Effect
of
order
of
transfer

(2) An order of transfer made under section 45 may, if it appears expedient to the person making the order, be transmitted in the first instance by telegram and such telegram shall, until the order is received, have the same validity and effect as if it were the order itself.

47. (1) Subject to other provisions of this Law, a Customary Court may, on its own motion or on the application of any party to a cause or matter before it, whether that cause or matter is criminal or civil, report to the Customary Courts Adviser the pendency of the cause or matter which in the opinion of that court should, for a reason to be stated, be transferred from that court to another Customary Court, a Magistrate's Court or the High Court.

Reports to
Adviser

(2). Upon receipt of the report mentioned in subsection (1), the Customary Courts Adviser shall send the report to the Chief Judge who may, if he considers it appropriate so to do, exercise his powers or transfer under section 45, and the exercise of such power shall have the same effect as if a party to the cause or matter or the Customary Courts Adviser made an application under that section.

48. Notwithstanding the provisions of any written law or rules of court, no fee shall be paid in respect of any transfer of causes or matters under the provisions of this Part.

No fees
payable on
transfer

PART X-APPEALS

49. (1) Subject to the provisions of the Constitution and of this Law, an appeal from the decision of a Customary Court in any cause or matter shall lie—

Court to
which appeal
shall lie

(a) to the Magistrate's Court within the area of jurisdiction of the Customary Court that gave the decision if the Magistrate's Court has original jurisdiction to try the cause or matter;

(b). where a Magistrate's Court has no jurisdiction.to the High Court in the Judicial Division of which the Customary Court that gave the decision is located.

(2) Where the area of jurisdiction of the Customary Court that gave the decision is partly within one Magisterial District or Judicial Division and partly within another Magisterial District or Judicial Division, as the case may be, the Customary Courts Adviser, may upon application by a party wishing to appeal, direct on the appropriate court to which the appeal shall lie.

Appeal as of
right and
with leave of
court

50. (1) An appeal shall lie as of right to the appropriate appellate court from the final decision of the Customary Court—

(a). in a civil cause or matter or in any proceeding involving or under customary law, where—

(i). the matter in dispute in the appeal is not less than one hundred naira in value; or

(ii). the appeal involves a claim to or a question respecting any property or other right, of not less than one hundred naira in value; and

(b) in all criminal proceedings

(2). An appeal shall lie with the leave of the appropriate appellate court from the decision of a Customary Court in such other cases where, by virtue of the provisions of any enactment in force in the State, an appeal does not lie as of right.

Time for
appeals

51. (I) An appeal shall be entered by the appellant in the manner provided by the rules under section 68, and such appeal shall be entered not later than thirty days from the decision appealed against.

(2). Notwithstanding subsection (I), the Customary Court may, where the justice of the case requires, allow leave to appeal out of time upon such terms and conditions as it deems just.

(3). Where the Customary Court refuses leave to a person wishing to appeal, he may apply to an appropriate appellate court for leave to appeal, and the appellate court may refuse or grant the same upon such terms and conditions as it deems just.

Power of
appellate
court in
criminal
appeal

52. (I) An appellate court exercising its appellate jurisdiction in criminal matters under this Law shall in the exercise of that jurisdiction—

(a). if it considers that there is no sufficient ground for interfering with the decision appealed against, confirm that decision and dismiss the appeal and

(b). if it considers that there is sufficient ground for interfering with the decision appealed against, set aside that decision and either—

- (i) acquit the appellant; or
 - (ii) order the retrial of the appellant before a Customary Court of competent jurisdiction on the same charge or on any charge which might have been laid on the facts as disclosed by the evidence, or
 - (iii). re-try the appellant on the same charge or any charge which might have been laid on the facts as disclosed by the evidence, and make such order or pass such sentence as to the court may seem just; or
 - (iv). substitute any other decision, whether as to guilt or punishment, which the court of first instance could have made on the facts disclosed by the evidence; or
 - (v). substitute a special finding to the effect that the appellant was guilty of the act or omission charged, but was insane so as not to be responsible, by virtue of the provisions of section 18 of the Criminal Code, for his conduct at the time when he did the act or made the omission, and thereupon the appropriate provisions of Chapter 38 of the Criminal Procedure Law shall apply.
- (2) in exercising its power to substitute any other decision for that made by the court of first instance under paragraph (b) (iv) of subsection (1), the appellate court shall not find an accused person guilty of an offence with which he was not charged before the court of first instance unless it is satisfied that the defence of the appellant before the court of first instance could not substantially have been affected if he was so charged.
- (3). Any powers conferred by subsection (1) may be exercised notwithstanding that the decision of the court of first instance is correct under customary law.
- (4). At any stage of the proceedings on appeal, the appellate court may order evidence to be adduced.

53. In the exercise of its appellate jurisdiction in a civil matter under this Law, an appellate court may-

- (a). whether after hearing the whole case or not. reverse, vary or confirm the decision of the court from which the appeal is taken, and make any such order as the court of the first instance could have made in such cause or matter or as it considers the justice of the case requires;
- (b). quash any proceedings and thereupon, where it considers it desirable, order any such case or matter to be reheard de novo before the court of first instance or before any other- Customary Court or before any appropriate appellate court.

54. Where an appeal lies from an order or decision of a Customary Court, the appellate court shall have power to inspect the records or books of the trial court relating to the appeal.

PART XI.—OFFENCES

Power of
appellate
court in
civil appeal

Appellate
court's
power of
inspection

Adjudicati
on without
authority

55. (I) Any person who—

(a). exercises or attempts to exercise judicial powers within the area of the jurisdiction of a duly constituted Customary Court, except in accordance with the provisions of any written law; or

(b). sits as a member of such court without due authority; is guilty of an offence and liable on conviction before the High Court or a Magistrate's Court to imprisonment for twelve months or to a fine of two hundred naira or to both such imprisonment and fine.

(2). A person adjudicating as an arbitrator upon any civil matter where the parties to the dispute have agreed to submit the dispute to him for decision or advice shall not be deemed to be exercising judicial powers under paragraph

(a). of subsection (I).

(3). No prosecution under this section shall be instituted without the consent in writing of the Attorney-General.

56. Any person who-

(a). assaults, obstructs, molests, or resists; or

(b). aids or incites any other person to assault obstruct, molest or resist;

any person acting or proceeding to act in the execution of his duty under the provisions of this Law is guilty of an offence and liable on conviction to a fine of one hundred naira or to imprisonment for one year or to both such fine and imprisonment.

57. (I) No fees or fines in excess of those authorized by or under this Law or any other written law shall be demanded or exacted from any person in respect of any cause or matter in a Customary Court.

(2) .Any member, officer or servant of a Customary Court who contravenes any provision of subsection (1) of this section is guilty of an offence and liable on conviction to a fine of one hundred naira or to imprisonment for six months or to both such fine and imprisonment.

58. (1) Any member, officer or servant of a Customary Court who accepts, claims, or obtains, or agrees or attempts to accept, claim or obtain for himself or for any other person, any bribe or other reward, whether in money or otherwise for—

(a) doing or forbearing to do any act which he is authorized or required to do in the exercise of his functions, under this Law, or

(b) corruptly showing favour or disfavour to any person , is guilty of an offence

(2) Any person who—

(a). gives or offers;

Interference
with persons
carrying out
duties under
this Law

Unauthoriz
ed fees and
fines
prohibited

Corruptio
by memb
officer or
servant o
court
prohibite

(b). accepts or obtains; or

(c). agrees to give or offer or accept or obtain;

for himself or for any other person, any bribe or other reward, whether in money or otherwise for inducing by corrupt or illegal means or by corrupt personal influence, any member, officer or servant of any Customary Courts

(i). to do or forbear to do any act which that member, officer or servant, is authorized to do in exercise of his functions under this Law; or

(ii). to show favour or disfavour to any person: is guilty of an offence

(3). Any person convicted of an offence under any provisions of this section is liable to a fine of four hundred naira or imprisonment for two years or to both such fine and imprisonment.

Contempt of court

59. Any person who—

(a) fails to produce or deliver up a document when ordered to do so by a Customary Court; or

(b). refuses—

(i). to answer any question lawfully asked by a Customary Court; or

(ii). to sign any statement lawfully required by a Customary Court, or

(c). insults the president or any other member during a sitting of the court, or

(d). intentionally interrupts, disturbs or obstructs a proceeding of a Customary Court at any stage, or

(e). commits any other act of intentional disrespect to any proceeding of a Customary Court, or to any member or members before whom such proceeding is being heard or taken;

is guilty of an offence and liable on conviction to a fine of fifty naira or imprisonment for three months.

(2) Any person who within the premises in which any proceeding of a court is being heard or taken or within the precinct of such a court shows disrespect, in speech or manner to or with reference to the proceeding or any member before whom the proceeding is being heard or taken, is guilty of an offence and liable on conviction to a fine of fifty naira or imprisonment for three months.

Failure to obey court summons

60. (1) Any person who, without reasonable excuse, fails to obey any valid summons issued under this Law is guilty of an offence.

(2) A person who commits an offence under subsection (1) may be arrested and brought before the Customary Court that issued such summons or before such other court as may

have jurisdiction over such person, and that person shall be liable on conviction to a fine of ten naira or imprisonment for fourteen days.

Refusal to
give
evidence

61. Any person who without reasonable excuse refuses to give evidence on being required to do so by a Customary Court under the provisions of this Law is guilty of an offence and liable on conviction to a fine of ten naira or in default of payment of the fine, to imprisonment for fourteen days.

Giving false
evidence

62. Any person who in any proceeding before a Customary Court, gives evidence, whether on oath or in any other manner, which he knows to be false or does not believe to be true, is guilty of an offence and liable on conviction before a Magistrate's Court of competent jurisdiction or the High Court to a fine of four hundred naira or imprisonment for two years or to both such fine and imprisonment.

Pervverting
course of
justice

63. Any person who, with intent to defeat, obstruct or prevent the course of justice in any cause or matter in a Customary Court—

(a). attempts wrongfully to interfere with or influence a witness who has given evidence in connection with such evidence;

(b). causes any person to delay giving or to refrain from giving evidence before the court: or

(c). prevents any person from giving evidence before the court; is guilty of an offence and liable to conviction to a fine of fifty naira or imprisonment for three months.

Dismissal of
servant for
giving
evidence

64. (I) Any person who dismisses a servant or staff because that servant or staff has given evidence in a proceeding of a Customary Court is guilty of an offence and liable on conviction to a fine of one hundred naira or evidence, imprisonment for six months or to both such fine and imprisonment.

(2) Any person who-

(a). when property is attached or taken under the process or authority of a court knowingly and with intent to hinder or defeat the attachment or process, receives, removes, retains, conceals, or disposes of such property; or

(b). retakes possession of any right or interest over any portion of land from a person who by virtue of a writ, order, judgment or other decision of a Customary Court is entitled to such right or interest;

is guilty of an offence and liable on conviction to a fine of one hundred naira or imprisonment for six months or to both such fine and imprisonment.

65.(1) Any member, staff or servant of a Customary Court who knowingly renders false returns of the cases tried or the penalties inflicted by returns the court, is guilty of an offence and liable on conviction before the High Court or Magistrate's Court of competent jurisdiction to a fine of two hundred naira or imprisonment for one year or to such fine and imprisonment.

Falsification
of records
and returns

(2) Any person charged in accordance with this Law or rules made under this Law with the duty of recording the proceedings of a Customary Court, who knowingly makes a false record of the proceedings of the court is guilty of an offence and liable on conviction to a fine of two hundred naira or imprisonment for one year, or to both such fine and imprisonment.

PART XII—MISCELLANEOUS

66. The jurisdiction of a Customary Court under this Law to try criminal and civil causes or matters not being cases based on customary law does not affect the original jurisdiction of the Magistrate's Court or High Court to try such cases, and jurisdiction to try such cases shall be exercised concurrently by the Customary Court, Magistrate's Court and High Court, except as may be provided by any written law.

Jurisdiction of
other courts
not affected
except as
maybe
provided by
law

67. Where a member of a Customary Court has an interest in a cause or matter within the Court's jurisdiction, that member shall, before the commencement of any proceeding, declare his interest: and shall thereafter withdraw from sitting on that particular cause or matter.

Court
member's
interest in
case

68. Subject to the provisions of this Law, the Chief Judge shall make rules providing for any or all of the following matters—

Rules of
court

- (a). regulation of the practice and procedure of Customary Courts.
- (b). recording of the proceedings of Customary Courts;
- (c). issuing of processes for commencing proceedings in respect of any cause or matter and for compelling the attendance of accused persons before the court;
- (d). exclusion of the public from a Customary Court in accordance with the provision of this Law;
- (e). regulation of the issue of summons to witnesses in Customary Courts:
- (f). execution of the decrees or orders of Customary Courts;
- (g) execution of warrants and service of processes of Customary Courts where decrees or orders are made or warrants or processes are issued in respect of persons or property not within the area of jurisdiction of the Customary Court making or issuing the same,

- (h). specifying the courts or authorities by which decrees, orders, warrants or processes mentioned in paragraphs (I) and (g) of this section shall be earned into execution, executed or served;
- (i). recording and perpetuation of decisions of Customary Courts in land causes and matters by reference to plans and the fixing of landmarks,
- (j). matters relating to costs of proceedings in Customary Courts;
- (k). regulating the fees payable with respect to causes and matters in Customary Courts or appeals from the courts;
- (l). waiver of fee fees in particular cases and the circumstances, conditions and the mode of application, where necessary for such waiver;
- (m). grant of bail to accused persons and to convicted persons pending an appeal and the regulation of the conditions of and the procedure for the granting of such bail;
- (n). assignment or allocation of duties to officers of Customary Courts;
- (o). the time within which any act, matter or thing shall be carried out or performed for purposes of this Law
- (P). sentence to be imposed by fee court; and
- (q) generally for the carrying into effect of fee provisions of this Law.

SCHEDULE

(Section 12)

JURISDICTION OF CUSTOM ARY COURT IN CIVIL AND

LCRIMINAL CAUSES AND MATTERS

(COLUMN 1)	(COLUMN 2)
Causes and Matters	Extent or Limit of Jurisdiction of Customary Court
Land causes and Land matter	Unlimited
Matrimonial causes in respect of marriage under customary law	Unlimited
Debt, demand or damages claimed between persons married under customary law, or arising from marriage under customary law	Unlimited
Custody of children and other causes and matter relating to children to children under customary law	Unlimited
Causes and matters relating to inheritance upon intestacy under customary law and grant of power or authority to any	#200

person to administer the estate of an intestate under customary law

Civil actions in contracts and torts at common law and at customary law #200

Breaches of local government bye-laws or rules of statutory corporations and other offences committed in contravention of any written law, punishable by imprisonment not exceeding four hundred naira Twelve months imprisonment or #200 fine

Stealing of farm produce or livestock the market value of which does not exceed twenty naira Twelve months imprisonment or #200 fine

SUBSIDIARY LEGISLATION

Customary Court Law

CUSTOMARY COURTS RULES

ORDER I -PRELIMINARY

1. These rules may be cited as the Customary Court Rules

2. In these Rules—

" action " means a civil proceeding commenced by a writ of summons and includes a criminal proceeding:

"attachment" includes distress and seizure;

"bailiff " means any officer so designated by the Chief Registrar and includes any officer posted to a Customary Court as a court messenger,

"charge" means the statement of offence or statement of offences with which an accused person is charged in a Customary Court;

"civil proceedings" means all civil actions triable in a Customary Court and all proceedings in relation to the making of an order for the payment of any sum of money or for the doing or abstaining from doing of any act or thing not enforceable by fine or imprisonment in the first instance;

"claim" includes any claim for a debt, monetary demand, damage or other relief as well as any claim for the recovery of any chattel or other thing under the Customary Courts Law;

"complainant" includes any informant or prosecutor in a case;

"complaint" means the allegation that any named person has committed an offence made before the president or the Registrar for the purpose of moving the Customary Court to issue a process;

"Court" or "Customary Court means Customary Court established under the Law;

"criminal" includes quasi-criminal, and with reference to matter of jurisdiction, includes all such matters that are not in the nature of civil cause or action;

Short titl

Interpretation

"defendant "means a person against whom a cause or an action is instituted or other claim made, in a Customary Court and includes every person arraigned upon a criminal charge before a Customary Court;

“execute” in relation to a process or order of the court means to serve that process or order, or otherwise carry out the order of the court;

“judgment includes the dismissal of a claim as well as any other adjudication, order, or decision;

“judgment creditor" means any person for the time being entitled to enforce a judgment,

“judgment debtor" means a person liable under a judgment and includes every person required by a judgment, or order in a civil cause to pay money or to do or abstain from doing an act;

"juvenile offender” means a male offender who in the opinion of the court has not attained the age of seventeen years;

“Law" means Customary Courts Law;

“order" includes an injunction, an order for the payment of costs by any party and an order for the payment of a counter-claim by a plaintiff as well as any conviction for an offence

“plaintiff includes every person that asks for any relief, otherwise than by way of a counter-claim as a defendant, against any form of proceeding, whether in the form of a writ, petition or in any other form;

"quorum” means the minimum number of the court members including the president, that may try any case;

"Registrar" means Registrar of any Customary Court:

“writ of execution” includes a writ of attachment and sale.

ORDER 2. —INSTITUTION OF CIVIL PROCEEDINGS

1. On the application of any person desirous of instituting civil proceedings under the Law and on payment of the prescribed fees, the Registrar shall enter in a book to be kept for that purpose in his office and called the Civil Cause Book a statement in writing which shall be called a plaint and which shall state the names and last known places of abode of the parties as well as the substance of the claim intended to be brought. Every plaint shall be numbered in order in each year as it is entered in the Civil Cause Book. The Registrar shall deliver a plaint note to the applicant.

2. Upon entering a plaint, the court shall issue a summons directed to the defendant, requiring him to appear on the date named in the summons at a certain time and place, before the court, to answer to the plaint and the Registrar shall attach a copy of the plaint to the summons.

3. In all cases the value of property involved or the amount of the damages claimed must be stated in the plaint but such value of such damages shall not be more than the jurisdiction of the Customary Court set out in the Schedule to the Law .

Issue of writ

Statement of
value of
property or
amount of
damages
claimed
Schedule
Service of
summons

4. The summons shall be served personally on the defendant by delivery of a copy to him.

5. Where it appears to the court that for any reason a party is evading service in respect of any process other than a warrant and that such service cannot conveniently be effected, the court after being satisfied by the bailiff that it is necessary so to do, may order that service be effected in any of the following ways—

Substituted
service

(a) by delivery of the process to some person on it being proved that there is reasonable probability that the document would in the ordinary course, through that person, come to the knowledge of the person to be served;

(b) by notice put at the building or premises of the Customary Court or at some other place of public resort in the Local Government Area wherein the proceedings in respect of which the service is made have been instituted or at the usual or last place of abode or of business of the person to be served;

(c) in such other manner as the court may order; and upon compliance with an order of the court under this rule, such service shall be deemed to be good and sufficient service of the process upon the person to be served.

6. Service shall not be made on a Sunday nor on a public holiday, nor before 6.00 am, nor after 6.00 pm. on any other day unless the court directs otherwise by order endorsed on the document to be served.

Service
prohibited on
sundays etc.

7.(1) A book shall be kept in every court for recording service of process.

(2) The Registrar shall in every case enter in the book—

(a) the name of the plaintiff or of the complainant,

(b) the name of the defendant;

(c) the particular Customary Court issuing the process;

(d) the method of service of the process; and

(e) the manner in which the person serving the process has ascertained that he served it on the right person.

(3) Where any process has not been duly served, the cause of failure to serve it shall be fully stated.

(4) Every entry in such book or a certified true copy of an entry shall be sufficient evidence of the several matters therein stated.

8.(1) Where any summons or other process is served by the bailiff or such other person as is appointed by the court the service may be proved by endorsement on a copy of the summons or other process under the hand of the person serving it, showing the fact and the mode of service.

(2) Where the person to be served is outside the jurisdiction of the Customary Court, it shall be sufficient if it is endorsed by a Magistrate, a Justice of the Peace or a president of a court.

9. In case a summons issued for the commencement of an action or matter is not served within a year from the date of issue of the summons the same shall become void; but the Customary

Court, may, at any time renew the same for a further period not exceeding three months at any one time.

ORDER 3. —PARTIES

1. Where after an action has been brought in a Customary Court, any change or transmission of interest or liability occurs in relation to any party to the action, or any party to the suit dies, or the action in any way becomes incapable of being carried on, any person interested may obtain from the court an order enabling or compelling proper parties to carry on the proceedings. Any person served with such an order may within the period specified by the court in the order, apply to the court to discharge the order.

2. Where a plaintiff sues, or any defendant is sued in a representative capacity, it shall be expressed in the summons. The court may order any of the persons represented to be made parties either in lieu of or in addition to the previously existing parties

Provided that before the summons is issued, the plaintiff shall file before the Registrar a written authority to sue, duly signed or thumb- impressed by the person or persons whom he is representing.

3. A Civil Record Book dealing with all civil matters other than land cases shall be kept by the Customary Court wherein the daily proceedings of the court shall be recorded.

4. At the close of each day's sitting the members including the president shall sign at the last line of the day's proceeding their names and the date.

5. All cases shall be called up for mention or other proceeding on the day for which the hearing of such cases is fixed. If, owing to lack of time or for any other good reason, the court is unable to proceed with the hearing of a particular action or matter, the same may be adjourned and a fresh hearing date given to the parties before the adjournment. A minute of the adjournment and the fresh hearing date shall be recorded immediately in the Record Book and signed by the president and the members.

6. At the sitting of the Customary Court not less than two members of the bench shall form a quorum. No proceeding of the court shall take place unless there is a quorum and a proceeding that takes place in the absence of a quorum shall be void.

7. At the Opening of each day's sitting, the president shall record at the top of the page in which the proceedings are to be recorded, his name as well as the name of each other member of the bench, and shall record on the next line immediately after, the names of the parties to the action, the claim or charge, and then the plea

ORDER 4— TRIAL

CIVIL MATTERS

1. On the date endorsed on the summons for an appearance, both parties shall be present at the court at the time specified.

2. (1) Where the plaintiff fails to appear, the court may, after calling aloud his name three times, strike out the action from the list and may award costs to the defendant. Where a satisfactory explanation of the plaintiff's absence is received by the court, the court may adjourn the action with or without costs.

(2) If the action is struck out, it may- be re-listed, on the application of the plaintiff, on such terms as the Customary Court deems fit,

3. Where after the defendant's name has been called aloud three times, the court find that he is absent, it may order the plaintiff to prove his case, and thereafter judgment may be entered for the plaintiff if he has proved his case. Where the defendant sends satisfactory explanation of his non-appearance the court may adjourn the action with or without costs.

4. Where both parties are absent from the court and no explanation of their absence is received by the court, it may strike out the action but a plaintiff whose action is struck out under this rule may, after paying the necessary fees, have his case re-listed for hearing

5.(1) Where both parties appear, the Registrar shall read out the claim to the defendant who may plead that—

(a) he admits the claim: or

(b) he does not admit the claim; or

(c) there is a previous judgment on the same claim and between the same parties or their privies by a court of competent jurisdiction.

(2) The existence of any judgment by a competent court is relevant to determining whether the Customary Court shall proceed with the action or strike it out with costs.

6. Where the defendant admits the claim, shall proceed to give judgment for the plaintiff with or without costs.

7. Where the defendant does not admit the claim then—

(a) he shall give a brief explanation as to the ground upon which he disputes the claim;

(b) the plaintiff shall be called upon to state his case.

8. Before the plaintiff opens his case, the president shall order witnesses on both sides who have not yet given their evidence to be kept out of the court and out of hearing during the entire proceedings. This provision does not extend to the plaintiff and defendant

PLAINTIFF'S CASE

9.(1) The plaintiff shall commence to prove his case by first being administered with an oath or making an affirmation; and shall give his name, his address and his occupation. Thereafter he shall state his case after which the defendant may cross-examine him. The court may cross-examine the plaintiff.

(2) After the plaintiff has been cross-examined, he may call his witnesses, if any, in turn, and the defendant or the court may cross-examine each of the witnesses in turn.

(3) The plaintiff may re-examine his witnesses on any point that arises from cross-examination

(4) After the plaintiff and his witnesses have concluded their evidence, the plaintiff shall then close his case.

10.(1) Where upon the conclusion of the evidence of the plaintiff and of his witnesses. (if any) the court is not satisfied that the plaintiff has made out a case for the defendant to answer, it shall make an order of non suit and may or may not, in its discretion, award costs to the defendant.

(2) Where the court is satisfied that the plaintiff has made out a case, it shall call upon the defendant to state his defence.

11. The defendant shall, if he so desires, go to the witness-box and shall be administered with an oath or make an affirmation; and shall thereafter give his name, address and occupation and proceed to state his defence. At the conclusion of the evidence of the defendant, the plaintiff may cross-examine him and the court may also cross-examine him.

12.(1) The defendant may call any witnesses he may have who in turn may go to the witness-box and shall be administered with an oath or shall make an affirmation. Each witness shall give his name, address and occupation and shall then state what he knows about the action. The plaintiff and the court may thereafter cross-examine him.

(2) the defendant may re-examine any of his witnesses on any point that arises from the cross-examination

(3)After the re-examination, if any, of the last witness for the defendant, the defendant shall thereupon close his defence.

13.The court shall not in the cross-examination of a witness allow any question which it regards as indecent, scandalous or incriminating; or which is intended to annoy or insult the witness.

JUDGMENT

14.(1) At the close of the defendant's case the court may—

(a)after due deliberations give judgment

(b)reserve judgment until a further date on which the court may deliver its judgment.

(2)A judgment shall be signed by all the members who delivered it and shall be read by the president or any other member acting for the president in that behalf.

(3) The opinion of the minority of the members shall in every case be recorded.

15.(1) The judgment of the court shall be—

(a)that the defendant is liable; or

(b) that the defendant is not liable.

(2) In either case, reasonable costs incurred by the party who is successful may be awarded to him,

LAND CASES

16.A special book to be known as Land Record Book in which shall be recorded the proceedings in a land action or matter, shall be kept by the court.

17.(1) The procedure adopted in hearing a land case shall be the same as in other civil actions but the plaintiff in a land case, if the court considers it necessary, shall produce and tender as an exhibit the plan of the land to dispute, and such plan shall be duly endorsed by a licensed surveyor.

(2) Where the plaintiff fails, at the close of his case to tender a plan of the land duly endorsed by a licensed surveyor as ordered by the court, the court shall non suit him with or without costs to the defendant.

(3) Where the defendant disputes the correctness of the plan so produced and tendered by the plaintiff he shall be free to produce and tender a plan similarly endorsed by a licensed surveyor.

ORDER 5—CRIMINAL MATTERS.

1.(1) A criminal cause or matter shall be commenced by a summons or warrant of arrest.

(2) Application for a summons shall be made to the Registrar by swearing to a complaint made out in the appropriate form for a complaint

(3) The Registrar shall record all the particulars of the complaint necessary for the completion of the proper summons in a book kept for the purpose and known as the Criminal Cause Book.

(4) An entry in the Criminal Cause Book shall be known as a charge and shall be numbered serially.

(5) The president shall then issue a summons directed to the accused person requiring him to appear before the court at a certain time and at a certain place to answer to the charge

(6)(a) A warrant of arrest shall be issued by the president and shall be directed to a person against whom a complaint is made —

(i) upon a complaint of any of the offences mentioned in sub-paragraph (b) of this paragraph being made by a person on oath before the president or the Registrar of the Customary Court having jurisdiction in the place where the offence was committed, or

(ii) where the president or the Registrar of such a court has reasonable grounds to suspect that a person against whom a complaint is made, is likely to abscond

(b) The offences are -

(i) failure to pay tax;

(ii) failure to appear in court after service of summons in a criminal cause or matter:

(iii) being caught while doing anything which is declared by any law for the time being in force in the State to be an offence;

(iv) failure of an accused person to appear before the court as and when required to do so, after he had been released on bail;

(v) failure to appear in court after service of a judgment summons;

(vi) failure to appear in court after service of a summons to enforce an order made by the court;

(vii) failure of a witness to appear before the court after such witness had been served with witness summons

Provided that a sum reasonably sufficient to cover the transport expenses of the witness has been paid to him.

(7) Where a person is arrested with a warrant, the Registrar shall at the earliest opportunity deliver to that person a certified copy of the charge made against him.

(8) A person arrested without a warrant shall be brought before the court at the first opportunity and, in any case, not later than two days from the date of his arrest.

2.(1) At the commencement of the hearing the accused person shall stand in the dock and the court shall state or cause to be stated to the accused the substance of the complaint and shall ask him whether he is guilty or not guilty.

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

(3) If the accused says that he is not guilty the court shall direct that all witnesses shall leave the court:

Provided that—

(a) the court may in its discretion permit professional and technical witnesses to remain in court

(b) the failure to comply with this subsection shall not invalidate the proceedings.

3.(1) Where the accused pleads guilty and the court is satisfied that he understands the substance of the charge, the court shall proceed to find him guilty and pass judgment accordingly by—

(a) sentencing him to a term of imprisonment:

(b) in the case of a juvenile offender, ordering him to be whipped;

(c) cautioning and discharging him, or binding over the accused or offender to be of good behaviour for a period not exceeding twelve months in any amount limited to court jurisdiction;

(d) imposing a fine or in default, an imprisonment.

(2) Any person against whom a charge is filed may plead—

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

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

(3) If either of such pleas is pleaded in any case and denied to be true in fact, the court shall try whether such plea is true in fact or not

(4) If the court holds that the facts alleged by the accused do not prove the plea, or if it finds that it is false in fact, the accused shall be required to plead to the charge

(5) A plea under sub-paragraph (2) is proved when the accused tenders before the court a certified true copy of the relevant proceeding and judgment.

4.(1) Where an accused person pleads that he is not guilty, the prosecution shall open its case by calling witnesses, one after the other, to prove its case. Each shall swear to an oath or make affirmation in the witness box, and shall give his name, address and occupation

(2) Each witness for the prosecution shall then state what he knows about the case, possibly by being examined in-chief by the prosecutor, and at the conclusion of the examination in chief may be cross-examined by the accused person and if necessary, by the court.

(3) The prosecutor may after the cross-examination, re-examine the witness on any point which arises out of the cross-examination

5.(1) After the prosecution witnesses have given evidence and have been cross-examined and, where appropriate, re-examined, the prosecution shall close its case.

(2) At the close of the evidence in support of the charge if it appears to the court that the prosecution has failed to make out a *prima facie* case against the accused the court shall discharge him but if it appears to the court that a *prima facie* case is made out against the accused sufficiently to require him to make a defence the court shall call upon him for his defence and -

(a) the court shall inform the accused he has three alternatives open to him, namely—

(i) he may 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 may 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 witness to examine or other evidence to adduce in his defence and the court shall then hear the accused and his witnesses and other evidence, if any; and

(b) the court shall call upon the accused to proceed with the defence

6.(1) Where the accused person decides to give evidence in his defence, he shall go to the witness-box and there upon oath or affirmation, shall give his name, address and occupation: and shall then state his case.

(2) After the accused person has stated his case, he may be cross-examined by the prosecution and the court.

(3) Where the accused person wishes to call witnesses in support of his defence, he may call such witnesses one after the other. Each such witness shall be led in evidence by the accused person and may thereafter be cross-examined by the prosecution and the court.

(4) The accused may re-examine his witness on any point that arises from the cross-examination of such witness.

(5) The president shall record all questions to and answers by all the witnesses whether for the prosecution or for the offence including all such questions and answers by the accused person.

(6) After the accused person and his witnesses have given evidence and have been cross-examined and, where necessary re-examined, the accused person closes his defence

(7) If the accused States that he has witnesses to call but that they are not present, the court may take steps to compel their attendance by issuing a warrant for the apprehension of such persons.

7.(1) The court shall consider the totality of evidence adduced before it in the case, and shall record and pronounce its judgment which shall be read out by the president, or any other member acting for the president in that behalf

(2) Where there is a minority decision, the same shall be recorded and pronounced by the dissenting member, but it should be clearly explained to the accused person that the majority judgment of the court.

(3) The judgment of the court shall be signed by all the members present who took part in the whole proceedings but a dissenting member shall not sign the majority judgment but shall only sign his minority decision

8.(1) The judgment of the court may be that the accused person is guilty on all or any of the charges against him or that the accused person is not guilty

(2) Where an accused person is adjudged not guilty, the court shall at the same time discharge and acquit him

(3) Where an accused person is adjudged guilty, the court may —

(a) caution and discharge him:

(b) impose a fine, or in default of payment of such fine, then impose an imprisonment for a term not exceeding the jurisdiction of the court: or

(c) impose on him a sentence of imprisonment for a term not exceeding the jurisdiction of the court, or in the case of a juvenile offender, order him to be whipped,

ORDER 6.—ORDERS OF COURT

1. Where a member of a Customary Court is a party to an action or matter before a Customary Court, or where on the ground of personal interest or any other sufficient reason it would be inappropriate for a member to take part in the adjudication of any action or matter, the court or the president or the Registrar of the court shall inform the Customary Courts Adviser of that position at the earliest opportunity for appropriate directive.

2.(1) Where a party to an action or matter which was determined by a court of competent jurisdiction applies to the Customary Court to carry into execution any judgment, decree or other order made by that court of competent jurisdiction, the party shall file with the Registrar of the Customary Court a certified copy of the judgment, decree or other order.

(2) Notice of an application under paragraph (1) shall be served on the person against whom the judgment, decree or that other order has been made and on a date fixed for the hearing of the application, the Customary Court may make such order as it deems necessary.

(3) A Customary Court may on its own motion or on the application of a party to the suit make any order which, subject to its power and jurisdiction under the law. it considers the justice of the case demands.

(4) In making an order the court may fix the time within which the order shall be carried out and may also direct that any sum of money ordered to be paid may be paid by instalments.

(5) Where a court requires a person to do or abstain from doing an act or thing under any law or under these rules and the mode of enforcing the requirement is not provided by the law or these rules, the court may subject to its powers under the law, by order direct the manner in which the act or thing may be carried out.

(6) Paragraph (5) shall not apply where a person is required to pay or refrain from payment of money.

(7) If after seven days from the date specified in an order of the court made pursuant to paragraph (5) of this rule for doing or for abstaining from doing an act or thing, a person on whom the order is made fails to comply with the order, then upon the application of any party, the court may issue a summons calling, upon the person in default to show cause why he should not be punished for failure to comply with an order of the court

(8) If, upon hearing the summons, the court is not satisfied with the reasons given by the person who has defaulted in complying with the order, the court may order him—

(a) to pay into court a sum not exceeding five naira for each day during which he had so defaulted; or

(b) to be imprisoned for a period not exceeding six months.

(9) Where the court orders a person to be imprisoned under this rule, it shall—

(a) review its order at each interval not exceeding three months:

(b) discharge its order as soon as it has been complied with.

(10) A sum ordered to be paid to any person under this rule is recoverable summarily by that person as a judgment debt.

(11) At the close of each day's sitting, the president and all the members of the Customary Court shall sign their names and the date at the last line of the proceedings for that day,

ORDER 7. —DUTIES OF REGISTRAR

1. The duties of the Registrar shall be -

(a) to attend at all sittings of the Customary court as the court or the president may direct:

(b) to prepare warrants, summonses, orders, convictions, recognizances, writs of execution and other documents, and submit the same for the signature of the president.

(c) to make or cause to be made copies of proceedings, and to record the orders of the court;

(d) to receive or cause to be received all fees, fines, penalties and all other money paid or deposited in respect of proceedings in the court and to keep or cause to be kept accounts of such fees, penalties and other moneys;

(e) to perform or cause to be performed such other duties connected with the court as may be assigned to him by the court or the president

2. Every Customary Court shall keep —

(a) a cash-book.

(b) a record book, and

(c) a receipt book from which receipts shall be issued for all sums paid to or deposited in the court.

ORDER 8 — ENFORCEMENT OF JUDGMENTS

IN CIVIL ACTIONS

1.(1) Any money payable under a judgment of a Customary Court or any other court of competent jurisdiction may, in case of default or failure in the payment thereof, be recovered forthwith or else at the time and in the manner directed by the court.

(2) Such money may be recovered by execution against the goods and other chattels of the judgment debtor.

2. The Registrar, on the application of the judgment creditor after paying the prescribed fee, shall cause to be issued a writ of attachment and sale whereby the bailiff shall be empowered to levy or cause to be levied by distress and sale of goods and other chattels of the judgment debtor wherever they may be found within the State, the money payable under the judgment and the cost of the execution

3. The precise time of the making of an application to the Registrar for the issue of a writ of attachment and sale shall be entered by him in the book prescribed for the purpose and on the writ; and when more than one such writ is issued they shall be executed in the order of the times at which they are respectively entered.

4. Where a court has made an order for payment of any money by instalment, no writ of execution for the enforcement of the judgment shall be issued until after there is a default in the payment of at least one instalment according to the order.

5. In or upon every writ of execution against the property of any person, the Registrar shall cause to be inserted or endorsed, the sum of money and cost adjudged, and the fees for the execution of the writ.

6. If before the actual sale of the property, the judgment debtor pays or causes to be paid to the Registrar of the court from which the writ issued, or to the bailiff of the court holding the writ, the sum of money and costs endorsed as aforesaid, or such part thereof as the judgment creditor agrees to accept in full satisfaction, together with the fees inserted as aforesaid, the execution shall be superseded and the property of the judgment debtor shall be discharged and returned to him.

7. Any court bailiff executing a writ of execution issued from the court against the goods or other chattels of any person may seize any goods or chattels of that person except—

- (a) the wearing apparel and bedding of that person;
- (b) the wearing apparel and bedding of the members of the household of that person, and
- (c) the tools and implements of trade of that person

8. Any goods or other chattels seized in execution under the process of a court shall until they are sold—

- (a) be deposited by the court bailiff in a suitable place;
- (b) remain in the custody of a person approved by the president or the court from which the writ was issued.

9. No property seized in execution under the process of a court shall be sold until the expiration of a period of at least ten days next following the day on which the property has been seized unless it is of a perishable nature

10. (1) Any property seized under a writ of execution shall be displayed or set out for sale by the bailiff in the premises of the court that issued the writ or in such other places as the court or the president may direct but no property shall be displayed or set out for sale on a Saturday, Sunday or public holiday

(2) The bailiff shall prior to any sale under these rules give to the judgment debtor a written notice of the date, place and time of the proposed sale.

11. (1) If a claim is made to or in respect of, any property attached in execution by the bailiff, the Registrar shall upon the direction of the court or the president after the claimant has paid the prescribed fee issue a summons requiring the appearance before the court of the party at whose instance the process was issued as well as the appearance of the party making the claim

(2) On the hearing of the summons, the court shall decide upon the claim and make such order including an order as to the cost of the proceedings in the claim as it thinks fit

12. The Registrar shall supply every bailiff with a receipt book, which shall be furnished with counter foils with consecutive numbers printed thereon, and when a bailiff by virtue of his office, receives any money, he shall give to the person paying the same a receipt on one of the printed forms contained in such book, and shall note on the corresponding counterfoil, the name and date of the process, the title of the proceedings in which it was issued and the amount for which receipt is given

13. When property is attached by the bailiff and removed, the bailiff shall give to the judgment debtor a sufficient inventory thereof, immediately after the removal.

14. Every bailiff shall pay over to the Registrar at the close of his work each day, all money for the time being in his possession or custody

15. At the end of every month the Registrar shall---

- (a) make a full return to the Customary Courts Adviser of all writs, orders, and warrants which had not been fully executed by the bailiff at the end of the preceding month, and of all writs.

Orders, and warrants as time been entrusted to the bailiff for execution during the preceding month and shall in respect of each process, forward a statement as to what has been done thereunder:

(b) make a return of all moneys received by him during the preceding month to the Chief Registrar.

16.No money realized under any process shall be paid by the bailiff to the judgment creditor or to his agents

17. The Registrar shall on the order of the court or the instruction of the president pay out the money obtained by the bailiff from the sale of the goods to the judgment creditor or to his agent.

JUDGMENT SUMMONS

18.Where a judgment debtor makes default in the payment of any sum recoverable against him or ,any instalment thereof under a judgment, the judgment creditor may apply to any Customary Court for the issue of a summons called judgment summons, requiring the judgment debtor to appear and to be examined on oath as to his means. Unless the Registrar sees a good reason to the contrary, he shall issue a summons accordingly. All such applications shall be directed to the Registrar.

19. On the appearance of both parties before a court upon a judgment summons, the judgment debtor may be examined on oath by the judgment creditor and if necessary, by the Customary Court respecting his ability to pay the money directed by the court to be paid to the judgment creditor.

20. If the court is satisfied that the judgment debtor has or had since the date of the judgment or order the means to pay the judgment debt, then the court may commit the judgment debtor to prison for not more than three months but may order his discharge from the prison as soon as the debt is paid.

21.No imprisonment shall operate as a satisfaction or execution of any debt, demand or cause of action, or deprive any person of his right to recover the judgment debt by taking out execution against the goods or other chattels of the person imprisoned.

ORDER 9 ---APPEALS

1.A person appealing from the judgment of a Customary Court by virtue of the provision of section 49 of the Law may give verbal notice of appeal at the time of the pronouncement of the judgment stating, where possible, his grounds of appeal or his objections to the judgment against which he is appealing.

2.(1) Without prejudice to the provisions of rule 1, an appellant may give notice of appeal to the Registrar of the court either verbally or in writing stating his grounds of appeal or his objections to the judgment against which he is appealing

(2) Where an appellant gives verbal notice of appeal whether by virtue of rule 1 or by virtue of paragraph (1)of this rule, the Registrar shall forthwith reduce the same in writing which shall then be signed or thumb-impressed by the appellant.

(3) A notice of appeal against the judgment of a Customary Court shall be given not later than thirty days after the pronouncement of the court.

(4) An appeal under this section shall not operate as a stay of execution but the Customary Court may order a stay of execution if it deems it proper.

3. Where a notice of appeal whether verbal or written has been given, the appellant shall deposit such amount as the court considers adequate to cover the cost of the requisite number of certified copies of the proceedings and the judgment.

4. On the appellant giving notice of appeal and also depositing such amount as is deemed adequate under rule 34 and upon further paying the prescribed fee, the Registrar shall in the case of a criminal appeal, cause the appellant to enter into a recognizance to prosecute the appeal and thereupon the appellant shall be released on bail, but where the appeal is against an order of acquittal or discharge, the appellant shall not be required to enter into recognizance to prosecute the appeal.

STAY OF EXECUTION

5. (1) In a civil cause or matter, the court may, upon application by the appellant after he has paid the prescribed fee and the requisite deposit, order a stay of execution on such terms as it thinks fit.

(2) Where the court, for any reason, disallows or refuses application for a stay of execution, the respondent may apply to the court after thirty days of such refusal, for enforcement of the judgment.

6. Where an appellant has complied with or satisfied the conditions of appeal, the Registrar of the lower court shall within thirty days after such compliance-

(a) in the case of a criminal appeal, transmit to the Registrar of the appellate court a copy of the proceedings and judgment in the action or matter duly certified under the hand of the Registrar and the president of the Customary Court, and all documents and exhibits connected with the case; and

(b) in the case of a criminal appeal, transmit to the Registrar of the appellate court a copy of the complaint or charge and of the plea, the notes of evidence taken in the case, the notice of appeal, the recognizance and of any other documents connected with the case together with any exhibits that are of perishable nature.

7. Where an appellant fails to deposit any amount deemed adequate under rule 3 the Registrar shall, after thirty days from the date of the judgment of the lower court inform the appellate court of the default and the appellate court shall, unless it extends the time within which to appeal, strike out the appeal.

8. Every criminal appeal, other than an appeal from a sentence of fine, shall abate on the death of the appellant

9. The lower court shall enforce any decision or order of an appellate court in respect of any cause or matter that is the subject-matter of such appeal.

ORDER 10. —MISCELLANEOUS

BAIL

1. The amount of bail to be taken in any case shall be in the discretion of the court but shall not be excessive.

2.(1) Where an accused person who has been released on bail fails to appear before the court as and when required to do so, the court or the president may issue a warrant directing that such person together with his surety or sureties be arrested and brought before the court.

(2) On the appearance of an accused person together with his surety or sureties pursuant to the warrant issued under paragraph (1) or on their voluntary surrender, the court shall call upon all or any of the sureties to show cause why any amount representing the recognizance or bail bond entered into by them on behalf of the accused person or any part thereof shall not be paid to the court by any such surety or sureties

(3) The court may after hearing the accused person and his surety or sureties—

(a) order the accused person to be committed to prison until his trial;

(b) admit the accused person to bail upon further recognizance or bail bond entered into by the sureties on behalf of the accused person: or

(c) order that the amount due under the recognizance or bail bond entered into by the sureties on behalf of the accused person be paid, or

(d) discharge the surety or sureties from the recognizance or bail bond.

(4) Where an amount ordered to be paid under sub-paragraph (c) of paragraph 3 of this rule is not paid, it shall be recoverable from any person so liable as a judgment debt: and for this purpose, the provisions of order 8 of these rules shall apply.

(5) Where the money realized from a sale under order 8 is insufficient to liquidate the amount ordered to be paid by the court or where there is no property to attach and sell, the court may order the issue of a warrant to imprison any person liable whether its principal or surety under the recognizance for a period not exceeding three months or until such person pays the outstanding amount whichever first happens.

EVIDENCE OF CHILD

3.(1) The evidence of a child who, in the opinion of the court, does not understand the nature of an oath but understands the duty of speaking the truth, may be received by the court, although such evidence is not given on oath.

(2) In this rule "child" means any person who has not attained the age of fourteen years.

MAINTENANCE OF CHILD

4. Whenever it appears to a court that an order for the maintenance of a child should be made, the court may make an order directing the putative father or the natural father of such a child, as the case may be, to pay to—

(a) the mother of the child, or

(b) where the mother of the child is dead or is for any reason unable to take care of the child, then the father, mother, brother, or sister of the mother of the child or any other person who

acts in the place of the parent of that child, a regular monthly allowance which the court outsiders reasonable for the maintenance of that child until he attains the age of sixteen years

ORDER 11. —TRANSFER OF CAUSES OR MATTERS

1. An application under section 45 of the Law for the transfer of a cause or matter shall be made to the Chief Judge or a Judge in charge of the Judicial Division within which is situated the Customary Court in which the cause or matter is pending:

Provided that where the application requests a transfer of the cause or matter to a court in another judicial division of the High Court, the application shall be made to the Chief Judge only.

2. The application shall be made in writing and state the grounds on which it is based. The application shall be addressed to the Chief Judge as the case may be and a copy filed in the Customary Court in which the cause or matter is pending.

3.(1) The hearing of the cause or matter affected by the application shall not be proceeded with until the decision of the appropriate Judge or the Chief Judge has been communicated to the applicant and the Customary Court in which the cause or matter is pending.

(2) The court shall inform the parties concerned of the Judge's or the Chief Judge's decision on the application.

SCHEDULE OF PRECEDENTS AND FORMS

EXAMPLES OF INDORSEMENTS

Commence the indorsement with the plaintiffs claim and proceed according to the nature of the claim, thus -

1. for the sum of ₦..... being the price of goods sold by the plaintiff to the defendant atwithin the territorial limit

(place)

of the court which sum the defendant has not paid (or has paid

₦.....leaving or remaining unpaid

₦.....K

2. for the return of ₦.....being money entrusted to the defendant at.....within the territorial limit of the

(place)

court on the..... day of.....20.....to keep for the plaintiff.

3. for the sum of.....being money lent by the plaintiff to the defendant as a friendly loan without interest at.....

(place)

Without the territorial limit of the court on the.....day of.....20.....

4. for the return of N.....being money obtained by the defendant from the plaintiff by fraud (deceit or trick) in or about the year, 20.....at within the..... territorial limit of the court

(place)

5. for the sum of N.....being money agreed by the defendant to be paid to the plaintiff, together with goods of the defendant delivered by the defendant in exchange of the plaintiff at..... within the territorial

(place)

limit of the court on.....day of.....20.....

6. for the return of N.....being money ever paid to the defendant for the carriage of goods by bicycle (lorry, truck or on head) on theday of.....at..... within the territorial limits of the courts

(place)

7. for the sum of N.....being money paid by mistake to the defendant at.....within the territorial limit

(place)

of the court the.....day of.....20.....

8. for the sum of N.....being money paid by the plaintiff the.....day of.....20.....at.....within the territorial limit of the court for and on behalf of defendant as his surety.

(place)

9. for the sum of N.....being money paid to the defendant (for work to be done, or left undone) at.....

(place)

Within the territorial limit of the court on or about the.....day of.....20.....

10. for the sum of N.....being money received by the defendant for and on behalf of the plaintiff at.....

(place)

Within the territorial limit of the court on the.....day.....20.....

11. for the sum of N.....being arrears of rent for the period due from the defendant to the plaintiff in respect of the plaintiff at.....within the territorial limits of the court;

(place)

12. for the sum of N.....being arrears of salary for the periodto.....which the defendant as the employer of the plaintiff has not paid the plaintiff who is his clerk

13. for the sum of N.....for the maintenance by the plaintiff of
defendant's wife child for the period.....to.....

14. for the sum of N.....for the rent of a market stall
at.....within the territorial limits of the court for

(place)

15. for the sum ~~N~~.....for the use by the defendant of the rooms with
furniture and other goods therein belonging to the plaintiff during the
period.....to.....

16. for the sum of ~~N~~.....being the value of the use and occupation by the
defendant of plaintiff's house at.....

(place)

within the territorial limit of the court for the
period.....to.....

17. for the sum of ~~N~~..... being the value of work done by the plaintiff for the
defendant at.....within the territorial limit of the court
at.....within the

(place)

territorial limit of the court the.....day of.....20(or from
the.....day of.....20.....);

18. for the sum of N..... being damages suffered by plaintiff for the
injury by defendant
on.....at.....within the territorial limit
of the court

(Place)

19. for the sum of.....being damages suffered by plaintiff for
wrongful dismissal of the plaintiff from defendant's employment
on..... (date of dismissal)

20. for the sum of.....being damages for the assault (or for false imprisonment) of the
Plaintiff on.....at.....within the territorial
limit of the court;

(date) (place)

21. for the return of household furniture, or the sum of N.....being the value of
the said household furniture and for damages for detaining same
from.....to.....

(date) (date)

at.....within the territorial limit of the court;

(place)

22. for the sum of N.....being damages for injury by the defendant 's goal
on the plaintiff or on the plaintiffs farm (crops, yams or cassava)on
the.....within the territorial limit of the court;

23. for the sum of N.....being damages for breach by the defendant
of contract to accept and pay for goods delivered to him by the plaintiff
at.....within the territorial limits of the court;

(place)

24. for the sum of N.....being damages for non-delivery (or defective
delivery) by the defendant of goods to the plaintiff on the.....day
of.....20..... at.....within the territorial limit
of the court

(place)

25. For the sum of N.....being damages for wrongful entry by the defendant
on the plaintiff s land at.....

(place)

within the territorial limit of the court on the.....day of.....20.....and
drawing water for the plaintiff well (or cutting grass, or pulling down the plaintiff fences or
removing the plaintiffs gate, or depositing sand on the said plaintiffs land):

(Place)

26. for the sum of N.....being damages for breach by the defendant
of contract to build a come for the plaintiff or to repair the plaintiffs house
at.....within

(Place)

the territorial limits of the court in.....20.....

(Month or any other material time)

27. For injunction to prevent the defendant, his agents, and servants from using the plaintiffs
field (or the damaging of further plaintiffs fence)

28. for declaration that the plaintiff has (or is entitled to)a customary right of occupancy over
a piece of land called *lyi Uzo* situated at.....within the territorial
limit of the court

(Place)

INDEX OF FORMS

Form

1. Civil Cause Book
2. Plaintiff Note (Civil)

3. Summon (Civil)
4. Representative capacity summons.
5. Registrars Process Book.
6. Civil Record Books
7. General Court Receipt
8. Form of receipt
9. Writ of Attachment and sale against defendants' goods
- 9A Interpleader summons to claimant claiming goods under execution
10. Judgment summons
11. Order of commitment on a judgment order
12. Certificate of discharge of judgment debtor on payment of debt.
13. Writ of execution.
14. Court Cash Payment Receipt
15. Return of process in possession of bailiff
16. Return of cash receipt by Registrar
17. Criminal Cause Book.
18. Form for Complaint (Criminal)
19. Summons to defendant (Criminal),
20. Summons to witness.
21. Warrant of arrest
22. Product warrant
23. Conviction (Imprisonment).
24. Form of Bail Bond
25. Commitment on remand
- 26 Recognizance of appeals

FORM 1

Customary Courts Law

CIVIL CASE BOOK

(Order rule 1)

-----Customary court

The above action or matter was entered this day and will be heard on the ----- day
of ----- 20 ----- at the hour ----- in the -----
-----noun

Dated this day of 20

Registrar

FORM 4

Customary Courts Law

Representative Capacity Summons

(Order 3 Rule 2)

*(This form is for use where the plaintiff sues. Or the defendant is sued, or both sue or are
sued, in a representative capacity.*

TITTLE AS IN FORM OF SUMMMONS

BETWEEN

(For himself and on behalf the people of -----

(Town or Community

Plaintiff.

AND

(For himself and on behalf of the people of -----

(Town or Community

-----Defendant,

1.- Declaration of tittle to a customary right of occupancy of the land called
at

2. Injunction to prevent the defendant from further use (entry)

Dated at ----- this -----day of ----- 20 -----

Hearing date -----

President

Registrar

Service -----

Mileage -----

Dated this -----day of -----20 -----

Registrar

FORM 6

Customary Courts Law
CIVIL RECORD BOOK
(Order 2 Rule 7)

In the Customary Court of

Holden at

.....

Suit No

.....

This day of 19

Before

1. XY President

2. MX Member

3. TC Member

BETWEEN

..... Plaintiff

AND

..... Defendant

The plaintiff's claim is

PLEA

PLAINTIFF'S CASE

Plaintiff- Sworn on gun Address- Occupation -Statement

Cross-examination by Defendant

Question

Answer

XD by Court

Q

A Plaintiff's
Witness

VC-Sworn on Bible -Address-occupation-Statement

XD by Defendant

Q

A

XD by Court

Q

A

XD by Plaintiff

Q

A

Case for Plaintiff

FORM 7

Customary Court Law

GENERAL COURT RECEIPT

(Order 7 Rule 1(2) (C))

In the Customary Court of

.....

Holden at

.....

No

.....

Date

.....

Received this day of 20

.....

From the sum of

Naira andkobo, being (description of payment
.....)

.....

.....

FORM 8
Customary Courts Law
FORM OF RECEIPT
Order 8 Rule 12)

In the Customary Court of

.....

Holden at 19

.....

No

.....

Received from under writ dated

.....

In suit No Between

.....Plaintiff

And Defendant, the sum of
naira

..... kobo.

FORM 9
Customary Courts Law
WRIT OF ATTACHMENT AND SALE AGAINST DEFENDANTS GOODS
(Order 8 Rule 2)

In the Customary Court of

.....

Holden at

.....

Suit No

.....

BETWEEN

.....

Plaintiff

AND

.....

Defendant

WHEREAS on the day of 20the
plaintiff obtained judgment (or Order) in this court against the defendant for the sum of N
..... for debt (or damage) and costs and it was ordered that the defendant
should pay the sum forthwith (or on the day of
.....20) (or by installments of N
for every)

AND WHEREAS default has been made in payment according to the said judgment (or
order),

THESE ARE THEREFORE to require and order you forthwith to make and levy the amount
due to the plaintiff under the said judgment (or order)together with the costs of this writ and
costs of executing the same, by distress and sale of the goods and chattels of the defendant
wheresoever they may be found within the Local Government area(except the wearing
apparel and bedding of his or his family and the tools and implements of his trade)and also by
seizing any money belonging to the defendant which may be there be found or such part or so
much thereof as may be sufficient to satisfy this execution and to bring what you shall so
levied into court and to make return of what you shall have done under this writ immediately
upon execution thereof

DATED this day of, 19
.....

President

Registrar

FORM 9A

Customary Court Law

INTERPLEADER SUMMOS TO CLAIMANT CLAIMING

GOODS UNDER EXECUTION

(Order 8 Rule 11)

In the Customary Court of

.....

Holden at

.....

Suit No

.....

BETWEEN

.....

Plaintiff

AND

.....
Defendant

You are hereby summoned to appear at the court to be holden at
..... on

Theday of20 at the hour of
..... in the noon, to support a claim made by you to certain goods taken in
execution under process issuing out of this court at the instance of the judgment creditor and
in default of you then establishing such claim the said goods will then be sold and the
proceeds thereof paid over according to exigency of the said process.

Dated at this day of20
..... To ----- Claimant.

.....
Registrar

FORM10

Customary Courts Law

Judgements Summons

(Order 8 Rule 10)

In the customary court of

.....

Holden at

.....

Suit No

.....

No of judgements Summons

.....

BETWEEN

.....
Plaintiff

AND

.....
Defendant

WHEREAS the plaintiff obtained a judgement (or order) against defendant in this court (or as
the case may be) on the day
of

Nfor debt (or damages) and
costs, forthwith (or on the day of 20)(Or by installments of

₦ for every)and subsequent costs have been incurred and allowed by the court amounting to N

AND WHEREAS default has been made in payment of the sum of ₦ payable in pursuance of the said judgement or order) and the plaintiff has required thru judgment summons to be issued against you the defendant (name)

YOU ARE THEREFORE hereby summoned to appear personally in this court, at On the day of 19at the hour of in the forenoon to be examined an oath touching the means you have or have had since the date of the said judgment (or order), to -satisfy the sum payable in pursuance of the said judgment (or Order), and also to show cause why you should not be committed to prison for such default

DATED this day of 19

.....
President

FORM 11

Customary Courts Law

ORDER OF COMMITMENT ON A JUDGEMENT OR ORDER

(Order 8 Rule 20)

In the Customary Court of

Holden at

Suit No

BETWEEN

.....
Plaintiff

AND

..... Defendant. To the bailiff (or court messenger) of the court and to the officer in-charge of the prison at

WHEREAS the plaintiff obtained a judgment (or order) against the defendant on the day of 20 for the payment of ₦ for debt (or damages) and costs on the

..... day of 20
..... or by installments of ₦ for every
.....).Subsequent costs have been in pursuance hereof amounting
to ₦ and whereas the defendant has made default in
payment of ₦ payable in pursuance of the said judgment (or order).

AND WHEREAS on the hearing this day of a judgment summons issued against the
said defendant1 has been proved to the satisfaction of the court that the said defendant has (or
has had since their date of the judgment (or order) the means to pay the said sum and has
shown no cause why he should not be committed to prison.

It is order that for such default as aforesaid the said defendant shall be committed to prison
for days unless he shall sooner pay the sum (or balance)
of ₦ as that upon which he is to be discharged.

These are, therefore to require you the said bailiff (or court messenger) to take the said
defendant and deliver him to the officer in charge of prison at and
you the said officer to receive the said defendant, and safely keep him in the said prison for
..... days from the arrest under this order, or until he shall be sooner
discharged.

DATED this (insert date upon which order was made in court)
..... day of 20
.....

.....
President

(Order issued the day of 20
.....)

Note-A Separate order must be issued against every defendant.

FORM 12

Customary Court Law

CERTIFICATE OF DISCHARGE OF JUDGMENT DEBTOR

ON PAYMENT OF DEBT

(Order 8 Rule 20)

In the Customary Court of
.....

Holden at
.....

Suit No
.....

BETWEEN

.....
Plaintiff

AND

.....
Defendant

To the officer in charge of the
prison

I hereby certify that the defendant, who was committed to your custody by virtue of an ORDER of Commitment made by court bearing date the day of 20 has paid and satisfied the sum of money for the non-payment whereof he was so committed, together with all costs due and payable by him in respect thereof: and that the defendant may in respect of such order, be forthwith discharged out of your custody.

DATED this day of 20
.....

.....
President

FORM 13

Customary Courts Law

PRAECIPE FOR WRIT EXECUTION

(Order 8 Rule 18)

In the Customary Court of
.....

Holden at
.....

Suit No
.....

BETWEEN

.....A
ND

Plaintiff's name in full
.....

Plaintiff's residence anticipation

.....

Full names and address (or other sufficient identification, occupations, if known).

I apply for the issue of a writ of execution against the abuse named if there are more defendant than one and plaintiff desires to proceed against some or one-only, name them or him in respect of a judgment (or an order) of the Court.

.....

Judgment Creditor

(To be filled up by Registrar where: payment into court has been ordered)

(Strike out what is not applicable)

Folio in Ledger

.....

Date of judgement (or Order)

.....

Order

.....

Date and time of application for writ The..... day of

..... 20 at h

..... m

N K

Sum payment of which defendant has made default

Amount for which writ to issue of leave of the court

Fees on issue of writ

President

Registrar

FORM 14

Customary Courts Law

COURT CASH PAYMENT RECEIPT

(Order 7 Rule 1 (2)(a))

In the Customary Court of

.....

Holden at

.....

NO:

.....

Date

.....

Received this day of 20
from the Registrar Court the sum of naira and
..... kobo.

FORM 15

Customary Court LAW

RETURN OF PROCESS IN POSSESSION OF BAILIFF

(Order 8 Rule 15)

Return of all Writs. Order and warrants in possession Bailiff

.....

(Name of Bailiff)

during the month ending..... 20

No of suit	Name of plaintiff	Name of defendant	When process revealed	Name of process	Form court received	Amount of process	Statement as to what has been done under process

I certify that I have examined the return

Bailiff (Court)

Date 19

Registrar (Court)

FORM 16

Customary Court Law

(Order 8 rule 15 (b))

RETURN OF CASH RECEIVED BY REGISTRAR DURING THE MONTH OF -----
--- 20 -----

FORM FOR COMPLAINT (CRIMINAL)

(Order 5 Rule 1 (2))

In the Customary Court of

.....

Holden at

.....

The complaint of AB (address and description) who upon oath states that XY of address and description) on the day of 20 at did steal his yams valued about and his palm-nuts valued about

.....

.....

Complainant

The above was interpreted by me from English Language into Igbo to the complainant who seemed perfectly to have understood the same and affixed his right thumb impression after adopting it as correct.

.....

Registrar

Date 20

FORM 19

Customary Courts Law

SUMMONS TO DEFENDANT (CRIMINAL)

(Order Rule 1 (1))

In the Customary

.....

Holden at

.....

To XY of

.....

Complaint has been made this day this day by AB of

.....

that you on the day of at did steal his yams and palm-nuts valued about

.....

You are therefore hereby summoned to appear before the above court on day of 20 at the hour of in the noon to answer to the said complaint.

Dated this day of 20

President

Registrar

FORM 20

Customary Courts Law

SUMMONS TO WITNESS

(Order 5 Rule 6(7))

In the Customary Court of

.....

Holden at

.....

Charge

No

.....

To EF of

.....

XY has been charged by Ab of that he on the
.....day of 20 at in the
..... did steal his yams and palm nuts valued and it appearing to me by
the oath of that you are likely to give material evidence therein on behalf of the information
(or complainant or defendant or accused}, and will NOT voluntarily appear for the purpose.

You are therefore hereby summoned to appear before the above court sitting at
..... on the day of 20
..... at the hour of noon, to testify what you know in such matter.

DATED this day of 20

President

FORM 21

Customary Courts Law,

WARRANT OF ARRESTS

(Order 5 Rule (6))

In the Customary Court of

.....

Holden at

.....

To the Bailiff of

.....

court

Whereas of is accused of the
offence of (state offence, place, date)

.....

.....

.....

.....

You are hereby commanded to arrest the said and bring
him before the court to answer the charge.

Dated this day of 20

.....

President

FORM 22

Customary Courts Law

WARRANT OF PRODUCTION

ORDER 7 Rule (6)

In the Customary Court of

.....

Holden at

.....

Suit No

.....

Between
Plaintiff

And

.....Defendant

To the Sheriff and officer in charge of

.....prison

These are to require you the officer in charge of prison at

.....

..... to bring the
accused/defendant

..... now in your

custody to the Sherriff and you the said Sherriff to bring the accused /Defendant before this court on the day of 20..... at hour of in the of law, and to have then the order (or warrant) under which the said accused/Defendant was imprisoned.

Dated this day of 20

.....

.....

President

FORM 23

Customary Courts Law

CONVICTION (IMPRISONMEN!)

(Order 5 Rule 8)

In the Customary Court-----

Holden at-----

Charge No-----

The-----day of-----20-----

hereinafter called the defendant, is this day convicted for that on the-----
day -----20----- at ----- did steal yams and
palm-nuts valued about ----- . And it is adjusted that the defendant, for
his said offences, be hard labour (without hard labour) for the period of -----

President

FORM 24

Customary Courts Law

FORM OF BAIL
(Order 10 Rule 1)

In the Customary Court of -----

Holden

at -----

Charge

No -----

WHEREAS XY has been arrested on a charge of charge of stealing yams and palm-nuts
Valued-----and whereas I, WKZ of -----am
prepared to take him/her on bail. I the following-

- (a) to be responsible for safe custody of the said defendant(or accused)
- (b) to produce him/her before this court on-----and any subsequent
date of hearing which may be fixed by the President:
- (c) to pay without question, demur or delay the sum of #-----

Should I fail in any of the above obligations, otherwise, I shall serve a term of imprisonment
not exceeding-----months

Witness to marks

Additional surety required by Court

(If marks-then insert jurat thus:

The above was interpreted to the surety by me from English Language into Igbo, and he
appeared perfectly to have understood the same before he affixed his thumb impression after
adopting the contents as corrected)

Registrar

Dated-----20-----

President

FORM 25

Customary Courts Law

COMMITMENT ON REMAND

(Order 10 Rule 2 (3) (a))

In the Customary Court of-----

Holden at-----

Charge No-----

To the Bailiff called (or court messenger) of the court and to the Superintendent (or officer in charge of -----prison

XY hereinafter called the defendant being brought before the above court sitting -----
----charged with having stolen yams and palm-nuts valued-----the
property of AB.

The hearing of the case being adjourned:

You the said Bailiff (or court messenger)are hereby commanded to convey the defendant to the said prison, and there to deliver him to the Superintendent (or officer in charge)of the said prison together with this warrant and you the Superintendent(or officer in charge) of the said prison, to receive him into your custody, and keep him until the -----day of -----19

-----and on that day convey him before the above court at the hour of -----
-in the -----noon to be further dealt with according to law,

Dated this-----of -----19-----

President

Form 26

Customary Court Law

RECOGNIZANCE OF APPEALS

(Order 7 Rule 1 (6))

In the Customary Court of-----Customary
Court

Holden at-----

Charge/Suit No

-----WHEREAS-----
-----of-----
-----do hereby guarantee and stand surety for the payment to this court of the sum of ---
-----being cost of making up and transmission of the record of appeal to the Appeal
Court.

Signature or Mark of Surety

N.K- If mark, Insert jurat:

The above was interpreted to the surety by me from English Language into Igbo, and he
appeared perfectly to have understood the same before he affixed his thumb impression after
adopting the contents as corrected)

Registrar

Dated-----20-----

President

CUSTOMARY COURTS
PRESCRIBED FEES
(RULE 3, 36(2), 48, 57, ETC)
PART 9 CIVIL MATTERS

		Fees
		₦
1	On issue of summons, where the calim does not exceed ₦ 20	3.00
2	On issue of summons, where the calim exceed ₦ 20 but does not exceed ₦ 50	5.00
3	On issue of summons, where the calim exceed ₦ 50 but does not exceed ₦ 100	7.00
4	On issue of summons, where the calim exceed ₦ 100 but does not exceed ₦ 150	10.00
5	On issue of summons, where the calim exceed ₦ 150 but does not exceed ₦ 200	15.00
6	On issue of summons, where the calim exceed ₦ 200 for each 100 or part thereof in excess on the first ₦ 200.00	5.00 subject to a

		maximum of #100
7	On issue of summons, where the claim is not for recovery of money or goods but for other relief or assistance	10.00
8	On issue of summons, for declaration of title to a customary right of occupying to-	
(i)	Communal land-----	50.00
(ii)	Non-communal land-----	30.00
(iii)	Filing of petition-----	15.00
(iv)	Filing of plan-----	10.00

Where an application for summons or petition is made more than five years after the claim has arisen the fees in the case of each of the above items shall be double the fee specified in the item

	Fees
	N
Service fees	1.00
On the issue of an interpleader summons	5.00
On the issue of a judgement summons	5.00
Court order to attach property	5.00
Court order to imprison judgment debtor(Case)	10.00
Land inspection fees	25.00

CIVIL AND CRIMINAL MATTERS

On issue of summons for witness	5.00
On adjournment of hearing is at the instance of a party	5.00
Rehearing fee, where rehearing is at the instance of a party but for whose fault rehearing would have been unnecessary	The original fee for the Summons
On having a case relisted for hearing after being struck out for non-attendance of both parties	3/5 of original fee for the Summons
Inspection of records of proceedings for 100 of both parties	5.00
Fee for every of proceedings for 100 words or part thereof	1.00

APPEAL FEES IN CIVIL AND CRIMINAL CASES

From a Customary Court to the Magistrate Court or High Court-

(a) if within time-----	15.00
-------------------------	-------

(b) if out of time-----	25.00
-------------------------	-------

--

(c) service of any document -----	0.50
-----------------------------------	------

Making up of the record of appeal and transmission thereof-

Fee for the making up of the record of appeal for every 100 words or part thereof	1.00
---	------