

FEDERAL CAPITAL TERRITORY CUSTOMARY COURT ACT, 2007

ARRANGEMENT OF SECTIONS

SECTION

PART I.-ESTABLISHMENT AND COMPOSITION OF CUSTOMARY COURT

1. Establishment of Customary Court.
2. Composition of Customary Court and quorum.
3. Proceedings of the Court.
4. Qualification for Appointment and Disqualification from Appointment.
5. Appointment, Tenure of Office and Conditions of Service.
6. Removal from Office.
7. Oath of Office.
8. Immunity from Legal suits Against Members.

PART II.-OFFICERS OF CUSTOMARY COURTS

9. Officers of Court.
10. Registrars to be Commissioners of Oaths
11. Bailiffs
12. Immunity from Liability
13. Liability from Wilful Neglect

PART III.- JURISDICTION OF CUSTOMARY COURT

14. Persons subject to Court's Jurisdiction Civil Jurisdiction.
15. Court to Promote Reconciliation.

PART IV .-LAW TO BE ADMINISTERED

16. Law to be Administered.
17. Appropriate Customary Law.
18. Binding Customary Law and Guardianship of Children .
19. Evidence.

PART V.-PRACTICE AND PROCEDURE IN CUSTOMARY COURT

20. Practice and Procedure.
21. Right of Audience.
22. Representation Before Customary Court.
23. Right of an Accused Person.
24. Proceedings to be in Open Court.
25. Adjournment.
26. Session.
27. Judgment.
28. Transfer of Causes and Matters.
29. Order of Transfer

PART VI.-ANCILLARY POWERS OF CUSTOMARY COURT

30. Place of Imprisonment.
31. Recovery of Fines.
32. Compensation to Aggrieved Persons.
33. Power to Summon Witnesses.
34. Person present may be required to give Evidence.
35. Execution of Judgment.
36. Power to Grant Interim Injunction or Impound Property.
37. Power to Appoint Receiver and Manager.
38. Search Warrant and Effect Thereof.
39. Power of Court to Order Inspection.
40. Power to Grant Bail.
41. Execution and Order of Other Courts.

PART VII -SUPERVISION AND CONTROL OF CUSTOMARY COURTS

42. Supervisory Authority.
43. Duties of Inspectors.
44. Returns and Report on Cases to be Submitted.
45. President, Inspectors not to Impede the independence of Court.

PART VIII- TRANSFER OF CASES

46. Power of Transfer.
47. Fee for Transfer.

PART IX.-APPEALS

48. Right of Appeal;
Condition of Appeal;
Appeals out of Time;
49. Power of Appellate Court in Civil Appeal.
50. Court may Inspect Records.

PART X.- OFFENCES

51. Adjudication Without Authority.
52. Penalty for Obstructing Persons Executing Court Order.
53. Exaction of Fees or Fines in excess of those Authorized.
54. Refusal to Produce Documents, etc.
55. Failure to obey summons.
56. Refusal to give Evidence and Giving False Evidence.
57. Perversion of Course of Justice.
58. Rendering False Returns.
59. Falsification of Records.

PART XL-FINANCIAL PROVISIONS

60. Collection and Custody of Revenue.

PART XII.-RULES OF COURT

61. Power to Make Rules of Court.

PART XIII.- TRANSITIONAL AND MISCELLANEOUS PROVISIONS

62. Transitional Provisions.

63. Savings.

64. Repeal of Certain Sections of Area Court Act.

65. Applicability of Certain Provisions of Evidence Act.

PART XIV.-I NTERPRETATION AND CITATION

66. Interpretation.

67. Short Title.

SCHEDULE

FEDERAL CAPITAL TERRITORY CUSTOMARY COURT ACT, 2007
2007 ACT, No. 8

AN ACT FOR AN ACT TO ESTABLISH A CUSTOMARY COURT FOR THE FEDERAL CAPITAL TERRITORY ABUJA AND TO PRESCRIBE THE MODE OF ITS OPERATION AND SUPERVISION

[28th Day of May, 2007] Commence-

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria-

PART I.-ESTABLISHMENT AND COMPOSITION OF CUSTOMARY COURT

1.-(1) There is established Grades of Customary Court for the Federal Capital Territory, Abuja, as specified in the Schedule to this Act.

Establishment
of Customary
Court
Schedule.

(2) The President may in consultation with the Chief Judge designate to each Customary Court established under this section such name as he may deem fit and shall issue a warrant under his hand in respect of every such Customary Court.

(3) Every warrant establishing a Customary Court shall be operative and take effect from the date specified therein.

(4) The President may at any time after consultation with the Chief Judge suspend, vary or cancel any warrant issued pursuant to this section.

(5) The Judicial Service Committee shall cause to be published in the Federal Government *Gazette*-

(a) any warrant issued in respect of every Customary Court; and

(b) any order of suspension, variation or cancellation of a warrant in respect of such Customary Court.

2.-(1) A Customary Court shall consist of a Chairman and two other members who shall be referred to as customary court members, all of whom shall be appointed by the Judicial Service Committee.

Composition
of Customary
Court and
Quorum.

(2) For the purpose of hearing any cause or matter, three members shall constitute a quorum.

(3) A member who did not take part in the entire hearing of a cause or matter shall not participate in the judgment of the court.

3.-(1) In all causes and matters before the Court, the opinion of the majority shall in the event of dissent, be deemed and taken to be the decision of the Court.

Proceedings of
the Court.

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

Qualification for appointment and disqualification from appointment

4.-(1) Subject to other provisions of this Act, a person shall not be qualified to be appointed as-

(a) a chairman of a Customary Court unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than five years;

(b) a member of a Customary Court unless:

(i) he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than two years; or

(ii) he is literate in English and any other Nigerian language and has wide knowledge of customary law.

(2) Without prejudice to the provisions of sub-section 1 (a) and (b) above, no person shall be appointed a member of a Customary Court unless-

(a) he is a person of good character; .

(b) he is not less than twenty five years and not more than sixty years of age ;

(c) he is not in any full time employment;

(d) he has not been convicted by a Court in Nigeria or elsewhere of an offence involving fraud or dishonesty ;

(e) he is of a sound mind and has not been adjudged to be a lunatic under any law or

(t) he has not been declared bankrupt.

Appointment, Tenure of office and Conditions of Service.

5.-(1) The power to appoint, dismiss, suspend or otherwise exercise any disciplinary control over any member of a Customary Court shall vest in the Judicial Service Committee.

(2) The Judicial Service Committee shall make rules or regulations providing

(a) the salaries and allowances; and

(b) the terms and conditions of service of members of the Customary Court.

Removal from office

6.-(1) The Judicial Service Committee may remove from office a member of the Customary Court who-

(a) is unable to perform the functions of his office due to physical or mental disability or for any other cause.

(b) appears to the Committee to have been involved in any corrupt practice or to have otherwise abused his power or office ; or

(c) appears to the Committee to be unworthy of being a member of the Customary court for any other cause considered sufficient by the Judicial Service Committee.

(2) Notwithstanding any other provision of this Act, a member of a Customary Court shall cease to be a member thereof if any circumstances arise or become known which disqualify him from being a member of the Court by virtue of the provision of Section 6 of this Act.

7.-(1) No person who has been appointed as a Chairman or a member of a Customary Court shall sit or in any way act in that capacity until he has taken and subscribed to the oath of office prescribed by Section 290 of the Constitution of the Federal Republic of Nigeria, 1999.

Oath of Office.

(2) The President of the Customary Court of Appeal shall administer the oath of the Chairman and members of the Court.

8. No member of a Customary Court shall be liable to be sued or prosecuted in any Court of law for anything done or purported or ordered to be done by him in exercise of jurisdiction or power conferred by this Act, if he at the time of doing the act or thing, believed in good faith that he had the jurisdiction or power to do or order to be done the act or thing in question.

Immunity from legal suits against members.

PART II.-OFFICERS OF CUSTOMARY COURTS

9.-(1) Subject to the provisions of this Act, the Judicial Service Committee shall from time to time appoint in respect of each Customary Court an officer to be designated as the registrar who shall perform such duties in the execution of such powers and authorities of the Court as may be assigned to him under this Act or by rules of Court or by any special order of the Court and in particular, the registrar shall in relation to the Customary Court to which he is deployed -

Officers of Court.

(a) prepare for issue, all warrants and writs;

(b) file or cause to be filed summonses, convictions, recognizances, rulings or execution and other documents and submit same for the signature of the Chairman of the Court ;

(c) register all orders and judgments of the Court ;

(d) make or cause to be made, copies of the proceedings that are required to be made by any member of the Court and record the judgments, convictions and orders of the Court;

(e) receive or cause to be received all fees, fines, penalties and all other monies paid or deposited in respect of the proceedings in the Court and keep or cause to be kept an account of the same;

(f) attend at such sittings of the Court as the Chairman of the Court may direct;

(g) maintain an account showing all monies received or paid by the court ;

(h) supervise the staff under him as well as the clerks and other staff of the court under the territorial jurisdiction of the Court; and

(i) perform or cause to be performed such other duties as shall be connected with the court or as may be assigned to him by the Chairman of the Court.

(2) The registrar shall be assisted in the discharge of his functions by such other support staff employed in the Customary Court of Appeal.

10.-(1) Every registrar shall be a Commissioner for Oaths with power to administer Oaths in accordance with the Oaths and Affirmations Act and to take affidavits and declarations, to receive documents produced for the purpose of any

Registrars to be Commissioners of Oath

cause or matter, to examine and interrogate witnesses and to receive other evidence in respect of any proceeding before the court.

(2) Any order of the Court for the attendance and examination of a witness or production of any document before any such Commissioner for Oaths within the jurisdiction of the court shall be enforced in the same manner as an order on a witness to attend and be examined or to produce any document before the court.

(3) Every act performed or order made by a Commissioner for oaths in want or excess of his powers shall be liable to be reversed, altered, amended or set aside by the court on application by an aggrieved party.

Bailiffs.

11.-(1) The Customary Court of Appeal shall appoint such number of fit and proper persons as bailiffs.

(2) It shall be the duty of any person appointed under the provisions of sub-section (1) of this Section-

(a) to effect the service and execution of all writs and other processes which he may receive from the court to which he is deployed;

(b) to perform such other related duties as may from time to time be assigned to him by the registrar.

(3) A Customary Court may authorise a member of the Nigeria Police to perform all or any of the duties mentioned in sub-section (2) of this section in so far as they relate to the criminal jurisdiction of the court and any member of the Nigeria Police who shall be in possession of any process issued by the court shall be presumed to be authorised to execute such process unless the contrary is proved.

(4) Subject to the provision of sub-section (3) of this section, no person other than a duly appointed bailiff shall carry out or attempt to carry out any of the duties mentioned in sub-section (2) of this section.

Immunity from liability.

12. No officer of any Customary Court or other person bound to execute lawful warrants-or orders issued or made in exercise of any jurisdiction conferred by this Act shall be personally liable on account of anything done by him in good faith in the execution of any warrant or order of the court if the person issuing same acted in exercise of lawful authority.

Liability from wilful neglect.

13. If any officer of the court employed to execute an order wilfully or by neglect or omission loses the opportunity of executing it, then on complaint of the person aggrieved and proof of the fact alleged, the Customary Court may, if it deems fit, order the officer to pay the damages sustained by the person complaining or part thereof and the order shall be enforced as an order of the Customary Court, directing payment of the money.

PART III-JURISDICTION OF CUSTOMARY COURT

14.-(1) A Customary Court shall have and exercise jurisdiction over all persons within the territorial limits of the Federal Capital Territory, Abuja, who submit to the jurisdiction of the Court.

Persons subject to Court's jurisdiction and Civil Jurisdiction. Schedule.

(2) A Customary Court shall have and exercise jurisdiction over causes and matters set out in the Schedule to this Act.

15.-(1) A Customary Court shall have power to issue prerogative orders of mandamus, certiorari and prohibition in causes or matters relating to customary law.

Court to promote reconciliation.

(2) In civil causes or matters, a customary court may promote reconciliation among the parties thereto and encourage and facilitate amicable settlement thereof.

PART IV.-LAWS TO BE ADMINISTERED

16. Subject to the provisions of section 6 (4) (a) and (5) (j) of the Constitution of the Federal Republic of Nigeria 1999 and the provisions of this Act, a customary court shall administer-

Laws to be administered.

(a) the appropriate customary law specified in section 18 of this Act in so far as it is not repugnant to natural justice, equity and good conscience nor 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 may be authorized to enforce by an order made pursuant to the provisions of this Act;

(c) the provisions of any enactment in respect of which jurisdiction is conferred on the court by that enactment ;

(d) the provisions of all bye-laws and rules made by the appropriate Area council or having effect as if so made under the provisions of any enactment in force in the Federal capital Territory ;

(e) the provisions of any rule made or deemed made by a statutory corporation having authority in the Federal Capital Territory ;

Appropriate Land Law.

17.-(1) In causes and matters arising from inheritance, the appropriate customary law shall be the customary law that governed the deceased.

(2) Subject to the provisions of Sub-section (1) of this section-

(a) in civil causes or matters where:

(i) both parties are not natives of the area of jurisdiction of the court; or

(ii) the transaction, the subject of the cause or matter was not entered into in the area of jurisdiction of the court, or

(iii) one of the parties is not a native of the area of jurisdiction of the court and the parties agreed or may be presumed to have agreed that their obligations shall be regulated wholly or partly by the customary law applicable to that

party, the appropriate customary law shall be the customary law binding between the parties which appeared to have regulated the subject matter in dispute;

(b) in all other civil causes and matters the appropriate customary law to be administered shall be the customary law prevailing in the area of jurisdiction of the court.

Binding Customary Law and Guardianship of Children.

18.-(1) A customary law shall be deemed to be binding upon a person where that person-

(a) is an indigene 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 claim under a customary law of inheritance, makes a claim in respect of the property or estate of a deceased person and the deceased person was an indigene of the place in which the customary law was in force;

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

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

(3) Whenever it appears to a customary court that an interim order made by such court in the interest of a child, be reviewed, the court may, of its own motion or upon the application of any interested person, vary or discharge such order.

(4) Where there is a contravention of any customary law, a customary Court may subject to the provisions of this Act impose a penalty authorised by or consistent with the customary law:

PROVIDED that no such penalty shall involve mutilation, torture or other personal violence or be inhuman or repugnant to natural justice.

Establishment of Customary Law.

19.-(1) Evidence of a customary law shall be adduced in a customary court in all such cases as may be provided in the rules made under this Act.

(2) No proceedings in a customary court and no summons, warrant, process, order or decree issued or made thereby shall be varied or declared void upon appeal solely by reason of any defect in procedure or want of form, but every court exercising powers of appeal under this Act shall decide all matters according to substantial justice without undue regard to technicalities.

PART V-PRACTICE AND PROCEDURE IN CUSTOMARY COURT

Practice and Procedure.

20. Subject to the provisions of this Act and to such other rules as may be made under this Act, the practice and procedure of the customary court shall be regulated in accordance with customary law.

Right of audience.

21. A Legal Practitioner shall have the right of audience in a customary court.

Representation before Customary Court.

22.-(1) In any cause brought by or against an Area council, the council may be represented before a Customary Court at any stage of the proceedings by an employee of the Council.

(2) A Customary Court may permit-

(a) the husband, wife, guardian, servant, master or inmate of the household of any party, who shall give satisfactory proof that he or she has authority in that behalf; or

(b) a relative of a person administering an estate subject to the jurisdiction of the court, to appear for any party in a civil cause or matter before the customary court.

23.-(1) An accused in a criminal cause or matter shall appear and may conduct his defence in person or by a legal practitioner of his choice on his behalf.

Right of an accused person.

(2) In any civil cause or matter pending in a customary court, any party to a cause or matter may conduct his own case or may be represented by a legal practitioner of his choice on his behalf; the court may however permit a person who has custody of any animal or chattel in respect of which the cause or matter is brought to court to appear and defend the cause or matter in court.

(3) (a) In any proceedings where a Government Ministry, Department, or Parastatal or an Area Council is a party, such Ministry, Department, Parastatal or Area Council, may be represented at any stage of the proceedings by a law officer in the Ministry of Justice.

(b) In any proceedings where a Government Ministry, Department, Parastatal, Area Council, body corporate or a body whose existence is registered under any written law is a party, such party may be represented by an officer or member thereof who satisfies the court that he is duly authorised to do so.

24.-(1) The room or place in which a customary court sits to hear and determine any cause or matter shall be an open court to which members of the public shall have access subject to their good behaviour and convenience of the court.

Proceedings to be in open Court.

(2) Provision shall be made by the rules of court for the exclusion of the public from any customary court proceedings-

(a) in which persons under the age of seventeen years are involved; or

(b) where the administration of justice would be rendered impracticable by the presence of the public.

Adjournment

25.-(1) A customary court may adjourn its sitting from day to day or to any convenient date.

(2) If the members of a customary court are not present at the place appointed for any sitting of the court, or if a quorum is not formed, any member present or an officer of the customary court or any other person authorised in that behalf by the Chairman of the court may adjourn the sitting until such time and to such place as may be announced to be convenient and all persons bound to be present at the sitting so adjourned shall be equally bound to be present at such time and place.

(3) In the absence of any announcement to the contrary, all such persons shall be bound to be present at the next succeeding day appointed for the sitting in the same place.

- Session. **26.**-(1) A customary court shall sit and hold sessions at such places and times as may be necessary for the convenient and speedy despatch of the business of the Court.
- (2) The permanent places of sitting and places of session of each customary court shall be indicated in the warrant establishing the court.
- (3) The President of the Customary Court of Appeal may, for convenience and dispatch of business, direct the holding of sessions at such other places as he may determine provided that the general public shall be notified of such decisions fourteen days before the commencement of sitting or same may have been *gazetted* before commencement of sitting.
- Judgement. **27.**-(1) A customary court shall record the reasons for its decisions in every cause or matter.
- (2) Evidence tendered in proceedings before a customary court shall as far as practicable be recorded in writing by the Chairman of the Court.
- Transfer
cause or of
matter. **28.**-(1) A customary court may at any time and at any stage before judgment, of its own motion, or on the application of any party, transfer any cause or matter pending before it to any Area Court or customary court if it is of the view that on grounds of convenience and having regard to all the circumstances of the case it is desirable or expedient that the cause or matter be so transferred.
- (2) A customary court shall have the power at any time and at any stage before judgment of its own motion or on the application of any party, to transfer any cause or matter pending before it to any Area Court or Magistrate Court within the Federal Capital Territory, if it is of the view that on grounds of jurisdiction, it is proper for the cause or matter to be so transferred.
- (3) The President of the Customary Court of Appeal may at any time and at any stage before judgment, of his own motion or on the application of any party, transfer any cause or matter pending before a Customary Court to another customary court if he is of the view that on grounds of convenience and having regard to all the circumstances of the case, it is desirable that the cause or matter be so transferred.
- (4) Where a cause or matter is transferred pursuant to sub-sections (1), (2) or (3) of this section, or the court to which it is transferred, shall commence the cause or matter *de novo* as if it has been instituted originally before the court.
- (5) The power of transfer conferred by sub-sections (1), (2) and (3) of this Section, shall be exercised by means of an order under the hand of the President of the Customary Court of Appeal, or the chairman of the Customary Court or a member acting on his behalf as the case may be and may apply to a pending cause or matter either entirely or in respect of any part thereof.
- (6) The supervising authority or the chairman or member of the customary court as the case may be, may at any time cancel, alter, add to or amend any order made under sub-section (5) of this section.

29. Every order of transfer under this part shall operate as a stay of proceedings in the court to which it may be addressed in any cause or matter to which the order extends or is applicable, and the process or proceedings in any such cause or matter, and attested copy of all entries in the books of the court relative thereto shall be transmitted to the court to which the matter is transferred and thenceforth all proceedings in the cause or matter shall be taken in such court as if the cause or matter had been commenced therein.

Order of transfer.

PART VI.-ANCILLARY POWERS OF CUSTOMARY COURTS

30. Every person sentenced by a customary court to imprisonment or taken in execution of the process of such court may be detained in a Nigerian Prison in the Federal Capital Territory or in the State nearest to the area of jurisdiction or sitting of the court.

Place of imprisonment.

31.-(1) A customary court may order that any fine which it may impose shall be paid at such time or times by such instalments as it may think fit.

Recovery of fines.

(2) Where there is default in the payment of any fine or of any instalment of the same when due the court may-

(a) order that the amount of fine or of the instalment, as the case may be, shall be levied by the sale of any movable property of the person in default which is situated within the Federal Capital Territory; or

(b) order such person to be imprisoned.

(3) A sentence of imprisonment passed upon a person in default of payment of a fine or the total of any sentences passed in default of the payment of instalments of a fine, as the case may be, shall not exceed in the aggregate the maximum sentence of imprisonment which the court is empowered to impose.

(4) Where a term of imprisonment is imposed together with a fine, such term together with either the sentence of imprisonment passed in default of the payment of the fine or the total of the sentences passed in default of the payment of instalments thereof, as the case may be, shall not exceed in the aggregate, the maximum sentence of imprisonment which the court is empowered to impose.

(5) Where any person has been committed to prison by a customary court for non-payment of a fine and such person thereafter pays the whole or a 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 was committed as the sum paid bears to the amount of the fine for which such person is liable.

Compensation of aggrieved persons.

32. In every case in which a person is convicted of an offence a customary court shall have power to award to the person injured or aggrieved, reasonable compensation by the accused on condition that such injured person, if he shall accept the same shall not thereafter have or maintain any suit for the recovery of damages for the loss or injury sustained by him by reason of the act or omission in question.

Power to
summon
witnesses.

33. Subject to the provisions of any rules made under this Act, every customary court shall have power to summon before it for the purpose of giving evidence any person within the area of jurisdiction of the court or any person outside such area but within Nigeria.

Person
present may
be required to
give
evidence.

34. Any person present at a customary court, whose evidence may be helpful to the court, whether a party or not to any cause or matter before the 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:

Provided that a person charged with an offence before a customary court shall not be compelled by the court to give evidence in the proceedings relating to that offence.

Execution of
judgement.

35. Subject to the provisions of any rules made under this Act, any judgment or order given or made by a customary court in a civil case or matter may be enforced by seizure and sale of the movable property of the defendant, or by such other methods of enforcing judgments and orders as may be prescribed by the rules.

Power to
grant Interim
Injunction or
impound
property.

36. In any cause before a customary court in which, pending final determinations thereof, it shall be shown to the satisfaction of the customary court that any property which is 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 commanding him to refrain from doing the particular act complained of or, alternatively, may take and keep such property in custody pending the determination of such cause.

Power to
appoint
Receiver and
Manager.

37.-(1) A customary court may, whenever it shall deem it necessary so to do for the preservation, proper custody or management of any property in dispute in a cause, appoint any person as a receiver or manager to receive and to take charge of the property and to deal with it in such manner as may be directed by the customary court.

(2) Any person or persons appointed as a receiver or manager under sub-section (1) of this section shall be responsible to the customary court for all things done as receiver or manager, and shall account for or pay to the customary court all money received in respect of any property referred to in sub-section (1) of this section.

(3) A customary court may make such order as it shall deem fit but subject to the rules of court or the direction of the President of the Customary Court of Appeal, as regards the remuneration of any person appointed as receiver and manager and shall pay to the party entitled thereto all moneys in its custody.

Search
Warrant and
effect
thereof.

38.-(1) The Chairman of a Customary Court may by warrant under his hand authorise-

(a) any premises to be searched for any property alleged to be stolen or wrongfully obtained; and

(b) the seizure of any such property by the Police or authorised court officers.

(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 shall be taken before the court to be dealt with according to law.

(4) A person residing in or being in charge of a premises ordered to be searched shall allow the person authorized to execute the warrant free entry thereto and shall afford all reasonable facilities for a search therein, and where entry cannot be so obtained, it shall be lawful for the person holding the warrant to enter into such premises and in order to effect such entrance to break open any outer or inner door or window of such premises if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

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

(a) to make such order as the court may think fit for the inspection by the court of the parties or any witness, or any immovable or movable 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 may think fit in regard to such inspection.

40. A customary court may grant bail to any person charged with an offence which is triable by it on such terms and conditions as the court may think fit.

41. A Customary Court shall carry into execution any decrees or orders of any Court of law in Nigeria which may be lawfully directed to it and shall execute all warrants and serve all processes issued by such court and directed to it for execution or service, and shall generally give such assistance to any court of law in Nigeria as may be required.

PART VII .-SUPERVISION AND CONTROL OF CUSTOMARY COURTS

42.-(1) There is hereby established an Inspectorate Division of the Customary Courts which shall consist of-

(a) a Chief Inspector of Customary Courts who shall be a Legal Practitioner with not less than seven years post-call experience; and

(b) five or more other Inspectors of Customary Courts as the needs of the Court demand who shall be Legal Practitioners with not less than two years post-call experience.

(2) The appointment of the Inspectors of Customary Courts shall be made by Judicial Service Committee on the recommendation of the Chief Registrar.

43.-(1) The functions of the Inspectorate Division of the Customary Courts shall be-

(a) to monitor the activities of members of Customary Court;

(b) to inspect the records of Customary Courts including revenue;

(c) to report any irregularities or excesses of members of Customary Courts to the President of the Customary Court of Appeal;

(d) to receive and look into any complaints brought by any party to any proceedings before a Customary Court.

Power of Court to order inspection. Power to grant bail. Execution and Order of other Courts. Supervisory authority. Duties of Inspectors.

(2) Where in the exercise of its powers above, the Inspectorate Division is of the opinion that any complaint received by it lacks merits, it shall regard the matter as closed and inform the parties accordingly.

(3) Where the Inspectorate Division finds that a complaint made to it has merit, it shall report same to the President of the Customary Court of Appeal.

(4) The President of the Customary Court of Appeal on receipt of a report from the Inspectorate Division may-

(a) cause further investigations to be carried out; or

(b) take any action he may deem appropriate in the circumstances; or

(c) if satisfied that no useful purpose would be served by further investigations, discontinue the matter or

(d) file his report to the Judicial Service Committee for their appropriate action.

Returns and Report on cases to be submitted.

44. At such times and in such forms as may be prescribed by the President of the Customary Court of Appeal, every Customary Court shall submit to the President-

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

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

President, Inspectors not to impede the independence of Court.

45. The duties of the Inspectorate Division and of the President of the Customary Court of Appeal pursuant to sections 42-44 of this Act shall be of the nature of general administrative control and supervision in accordance with this Act:

PROVIDED that no such supervision or control shall interfere with the judicial independence of the customary court concerned.

PART VIII - TRANSFER OF CASES

Power of Transfer.

46.-(1) On application by any party to a cause or matter, the President of the Customary Court of Appeal may at any stage of the proceedings before final judgment, by order, stay the hearing of the cause or matter on such terms as he may consider just, and upon such order being made-

(i) if the cause or matter appears to be within the jurisdiction of any other court, by the same or another order direct that the cause or matter be inquired into or tried or determined by such court as shall appear to have jurisdiction over same; or

(ii) direct in like manner that same shall be inquired into, tried or determined by another Customary Court or court notwithstanding that the court transferring same had jurisdiction over the cause or matter.

(2) The Customary Court to which the case is transferred shall be informed in writing of the reason for making the order of transfer and that court shall adjudicate and determine the cause or matter.

No Fee for Transfer.

47.-(1) Notwithstanding the provisions of any written law or rule of court, no fee shall be payable in respect of any transfer made under the provisions of this Act.

(2) A Customary Court and the Customary Court of Appeal shall have power to award costs in all civil proceedings before the court and subject to the provisions of any other law and to rules of court, it shall be in the discretion of the court to determine by whom and to what extent the costs shall be paid.

PART IX.-APPEALS

48.-(1) Any party, who is aggrieved by the decision or order of a Customary Court, may within thirty days from the date of such decision or order appeal to the Customary Court of Appeal.

Right of appeal;
Condition of appeal and Appeals out of time.

(2) The right of appeal to the Customary Court of Appeal shall be subject to the conditions and in accordance with the provisions of any law or rules of court, if any, for the time being in force regulating the practice and procedure of that court with respect to appeals.

(3) Leave to appeal out of time may, upon reasonable cause being shown, be granted by the appellate court upon such terms as it shall consider just.

49. The Customary Court of Appeal in exercise of its appellate jurisdiction in civil matters under this Act may-

Power of Appellate Court in Civil Appeals.

(a) whether after hearing the whole case or not, reverse, vary or confirm the decision of the lower court and may make any such order as the court of first instance could have made in such cause or matter or as it considers that the justice of the case requires;

(b) quash the proceedings and thereupon, where it is considered desirable, order any such cause or matter to be re-tried before the court of first instance or any other court.

50. Where an appeal lies from an order or decision of a Customary Court, the Customary Court of Appeal shall have power to inspect the records or books of such Customary Court relating to the appeal.

Court may inspect records.

PART X.-OFFENCES

51.-(1) Any person who-

(a) exercises or attempts to exercise judicial powers vested in a Customary Court, except in accordance with the provisions of any enactment or this Act; or

(b) sits as a member of such court without due authority, shall be liable on conviction before a Magistrate Court to a fine of five thousand naira or imprisonment for twelve months or to both.

Adjudication without authority.

(2) Any person other than a member of a Customary Court adjudicating as an arbitrator upon any civil matter in dispute (other than a petition for divorce) where the parties thereto have agreed to submit the dispute to his decision shall not be regarded as exercising judicial powers for the purposes of paragraph (a) of sub-section (1) of this section.

Penalty for obstructing persons executing Court Order.

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

52.---(1) 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 duties under the provisions of this Act; shall be guilty of an offence and shall be liable on conviction to a fine of one thousand naira or to imprisonment for six months or to both

Exaction of fees and fines in excess of those authorised.

53.-(1) No fees or fines in excess of those authorised by or pursuant to this Act 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 the provisions of Subsection (1) of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand naira or to imprisonment for six months or to both.

(3) The Court may order any amount exacted in excess to be refunded to the person entitled thereto.

(4) If default shall be made by any person against whom an order to refund has been made under Subsection (3) of this section, the amount ordered to be refunded may be levied by distress and, in default of sufficient distress, the person defaulting may be committed to prison for any term not exceeding six months in addition to any sentence imposed under the provisions of Subsection (2) of this section.

Refusal to produce documents.

54. Any person who-

(a) refuses to produce or deliver up a document on the lawful order of a Customary Court; or

(b) refuses to answer any question lawfully asked by a Customary Court; or

(c) intentionally interrupts the proceedings of a Customary Court at any stage shall be liable on conviction to a fine of five thousand naira or to imprisonment for two months.

Failure to obey summons.

55. Any person who, without reasonable cause or excuse, fails to obey any valid summons issued under the provisions of this Act or any other law shall be arrested and brought before the Customary Court issuing such summons or before such other Court as may have jurisdiction over such person and shall be liable on conviction to a fine of one thousand naira or in default of payment of such fine to imprisonment for seven days.

Refusal to give evidence ; Giving false evidence.

56.---(1) Any compellable witness who without reasonable cause or excuse refuses to give evidence on being required so to do by a Customary Court under the provisions of this Act or any other law commits an offence and shall be liable to a fine of one thousand naira or imprisonment for fourteen days.

(2) Any person who in any proceedings before a Customary Court gives evidence, whether on oath or otherwise, which he knows to be false or believes to be false or does not believe to be true commits an offence and shall be liable on conviction to a fine of five thousand naira or to imprisonment for a period of two years or to both such fine and imprisonment.

57. Any person who, with intent to defeat, obstruct or pervert the course of justice in any cause or matter in a Customary Court-

Perversion of course of justice.

(a) causes any person to delay in giving or to refrain from giving evidence before the court; or

(b) attempts wrongfully to interfere with or influence a witness whether before or after that witness has given evidence in connection with such evidence; or

(c) prevents any person from giving evidence before the court; shall be guilty of an offence and shall be liable on conviction to a fine of two thousand naira or to imprisonment for six months or to both.

58. Any clerk or member of a Customary Court who knowingly renders a false return of the cases tried or the penalties imposed by such shall be guilty of an offence and shall be liable on conviction to a fine of two-thousand naira or to imprisonment of six months or to both.

Rendering false returns.

59. Any person being charged in accordance with this Act or rules made under this Act with the duty of recording the proceedings of a Customary Court, who knowingly makes a false record of the proceedings of the court shall be guilty of an offence and shall be liable on conviction to a fine of two thousand naira or to imprisonment for six months or to both.

Falsification of records.

PART XI.- FINANCIAL PROVISIONS

60.(1) All monies paid to and received by a Customary Court in the course of discharging its functions under this Act shall be paid into and form part of the Consolidated Revenue Fund of the Federal Government of Nigeria.

Collection and custody of revenue.

(2) The premises inclusive of buildings, properties and other structures used by a Customary Court shall be provided and maintained by and shall be the property of the Federal Government of Nigeria.

(3) In all matters of revenue collection and disbursement, the Customary Court shall be guided by the provisions of the Financial Regulations and any similar enactments for the time being in force.

PART XII.-RULES OF COURT

61. Subject to the provisions of this Act, the President of the Customary Court of Appeal shall make rules providing for any or all of the following matters-

Power to make Rules of the Court.

(a) the regulation of the practice and procedure of the Customary Court ;

(b) the recording of the proceedings of Customary Courts;

(c) the powers of Customary Courts to issue process for the institution of causes and matters and to compel the attendance of defendant before the courts;

(d) the exclusion of the public from a Customary Court in accordance with the provisions of this Act or any other law;

(e) the regulation of the issue of summons to witnesses;

(f) the carrying into execution of the orders or decrees of Customary Courts, whether such Customary Courts are established under this Act or under any other written law;

(g) the execution of the decrees, orders, warrants or other processes of Customary Courts and the service of the processes of such courts where such decrees or orders are made or such warrants or processes are issued in respect of persons or property not within the area of jurisdiction of the Customary Court making or issuing same;

(h) the courts or authority by which the decrees, orders, warrants or processes mentioned in paragraphs (f) and (g) of this subsection shall be carried into execution, executed or served ;

(i) regulation of any matters relating to the costs of proceedings in Customary Courts;

(j) the maximum fees which may be charged-

(i) in Customary Courts;

(ii) for appeals from Customary Courts to the Customary Court of Appeal.

(k) the reduction of prescribed maximum fees in respect of all or any Customary Courts or proceedings; the application of such maximum or reduced fees to such Customary Courts or proceedings and manner in which and the persons by whom such reduction and application may be made;

(l) the 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;

(m) the definition of duties of any officers of the Customary Court ;

(n) the time within which any act, matter or thing shall be carried out or performed for the purposes of this Act; and

(o) generally for the carrying into effect of the provisions of this Act.

PART XIII.- TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Transitional
Provisions.

62. Where immediately before the commencement of this Act any proceeding has been instituted in any court other than in a Customary Court in respect of any cause or matter over which a Customary Court is conferred with jurisdiction under this Act, such proceeding shall, except in cases where judgment only is to be delivered, be transferred to and be commenced *de novo* by the Customary Court exercising jurisdiction in the cause or matter.

Savings

63. Nothing in this Act shall preclude any Magistrate or Judge of an Area Court from proceeding with or concluding any issues, causes or matters which, upon the coming into force of this Act are pending in his court, whether or not, jurisdiction to

adjudicate on such causes or matters has been transferred to the Customary Court by this Act.

64. Sections 20 and 21 of the Area Courts Act Cap. 477, Laws of the Federation of Nigeria (Abuja) 1990 are hereby repealed.

Repeal of certain sections of Area Court Act.

65. The Customary Court and Customary Court of Appeal FCT Abuja shall in Judicial Proceedings be bound by the provisions of sections 14, 15, 59, 76, 77, 78, 92, 93, 135, 136, 155, 177 and 227 of the Evidence Act.

Applicability of certain provisions of Evidence Act.

PART XIV-INTERPRETATION AND CITATION

66. In this Act-

Interpretation.

"action" means civil proceedings instituted in a Customary Court in accordance with this Act or Rules made thereunder.

"Area Court" means a court established for the FCT by Decree No. 12 of 1984.

"cause" includes any action, suit or other original proceedings between a plaintiff and defendant, and any criminal proceeding.

"Chief Judge" means the Chief Judge of the Federal Capital Territory.

"Chief Registrar" means the Chief Registrar of the Customary Court of Appeal appropriate and applicable to any particular cause, matter, dispute, issue or question.

"Decision" means a judicial determination after consideration of the facts and the law and includes a ruling, order or judgment pronounced by the court when considering or disposing a case.

"Defendant" includes every person served with any writ of summons or process or with notice of, or entitled to attend any proceedings in a civil cause;

"Execution creditor" includes every person having Title to enforce a judgment or order of court by process of execution.

"High Court" means the High Court of the Federal Capital Territory, Abuja.

"Judge" includes the Chief Judge of the Federal Capital Territory, Abuja, the President of the Customary Court of Appeal Abuja or the Grand Khadi of the Sharia Court of Appeal, Abuja or a Judge of the High Court or of the Customary Court of Appeal Abuja.

"Judgment" includes a decree or order or ruling of the Court ;

"Judgment debtor" includes every person ordered by a judgment or order in a civil cause or matter to pay money or to do or abstain from doing any act.

"Judicial Service Committee", (see Committee)

"Legal Practitioner" or *'Lawyer'* means a person admitted and enrolled to practise as a Barrister or Solicitor in the Supreme Court of Nigeria pursuant to the Legal Practitioners Act 1975 ;

"*Matter*" includes any proceeding in a Court.

"*Member*" means a member of the Customary Court and includes the Chairman;

"*Native*" in relation to the area of jurisdiction of the customary court means a person who is a member of a community and resident in an area indigenous to any part of Nigeria including the Federal Capital Territory.

"*Oath*" includes solemn affirmation and statutory declaration;

"*Order*" means a written direction or command delivered by the court or judge.

"*Party*" includes any person served with notice of or attending any proceeding although not named on the records;

"*Plaintiff*" includes every person seeking any relief (otherwise than by way of counterclaim as a defendant) against any persons by any form or proceeding by action, suit, petition, motion, summons or otherwise;

"*Pleading*" includes any petition, summons, writ and also the statements in writing of the claim or demand of the plaintiff and of the defence of any defendant thereto, and of the reply of the plaintiff to any counterclaim of the defendant;

"*President*" means the President of the Customary Court of Appeal, Abuja ;

"*Public service*" means the public service of the Federal Republic of Nigeria ;

"*Rules of court*" means rules of practice and procedure made pursuant to this Act and includes court forms;

"*Supervising authority*" in relation to a Customary Court means the person empowered in accordance with this Act or any other law to supervise that Court ;

"*Territory*" means the Federal Capital Territory, Abuja.

Citation

67. This Act may be cited as the Federal Capital Territory Customary Court Act, 2007.

SCHEDULE

Sections 1 and 14

PART I.-CIVIL CAUSES LIMIT OF JURISDICTION AND POWER

| <i>Types a/Causes</i> | Grade A | Grade B | Grade C |
|--|-----------|-------------|-------------|
| 1. Matrimonial causes and matters between persons married under customary law or arising from or connected with a union contracted under customary Law other than those arising from or connected with a Christian marriage or marriage under Islamic Law as defined in section I of the Criminal Code Act. | Unlimited | Unlimited | Unlimited |
| 2. Suits relating to the custody of children and guardianship of children under customary law. | Unlimited | Unlimited | Unlimited |
| 3. Civil causes and matters including bye-laws where the debt, demand including dowry, bride price or damages do not exceed the amounts specified in the respective columns hereof. | Unlimited | ₦200,000.00 | ₦100,000.00 |
| 4. Causes and matters relating to succession to property and administration of estate under customary law where the value of the property does not exceed the amounts specified in the respective columns hereof ... | Unlimited | Unlimited | ₦100,000.00 |
| 5. Civil causes and matters under any law (other than customary law) including bye-laws where the amount of debt, demand or damages does not exceed the amount indicated in the column hereof. | Unlimited | Unlimited | ₦100,000.00 |

PART II.--CRIMINAL CAUSES

Type of offences

1. Contempt of court committed in the face of the Court.
2. Cases where criminal jurisdiction is conferred on the Court by this Act.
3. Statutory offences as may be provided in any other law or bye-law, where jurisdiction is specifically conferred on the Court.

I certify, in accordance with Section 2 (1) of the Acts authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
25th Day of May, 2007.

EXPLANATORY MEMORANDUM

This Act provides for the establishment of Customary Court for the Federal Capital Territory, Abuja and prescribes the mode of its operation and supervision.

SCHEDULE TO FEDERAL CAPITAL TERRITORY CUSTOMARY COURT BILL, 2007

| (1) <i>Short Title of the Bill</i> | (2) <i>Long Title of the Bill</i> | (3) <i>Summary of the contents of the Bill</i> | (4) <i>Date passed by Senate</i> | (5) <i>Date passed by House of Representatives</i> |
|---|--|--|-------------------------------------|---|
| Federal Capital Territory Customary Court Bill, 2007, | An Act to establish a Customary Court for the Federal Capital Territory, Abuja and to prescribe the mode of its operation and supervision, | This Bill provides for the establishment of the Customary Court for the Federal Capital Territory, Abuja and prescribes the mode of its operation and supervision, | 30th January, 2007, | 30th January, 2007, |

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap, 4, Laws of the Federation of Nigeria, 1990.

I ASSENT,



NASIRU IBRAHIMARAB
Clerk to the National Assembly
25th Day of May, 2007,

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
28th Day of May, 2007,