



Anambra State Nigeria



# MAGISTRATES' COURT LAW



## ANAMBRA STATE OF NIGERIA

2021, NO. ANHA/LAW/2021/05

*L. of E.N. 1963 Cap. 82 E.C.S 1 and 23 of 1971, AS.16 of 1977 and 12 of 1986.*

*A Law for the establishment of Magistrates' Courts for Anambra State of Nigeria and for the appointment of Magistrates, Justices of the Peace and other Officers of Court and for other purposes relating to the Administration of Justice.*

The House of Assembly of Anambra State ENACTS as follows:

## CHAPTER 1: PRELIMINARY PROVISIONS

**Citation and Commencement**

1. This Law may be cited as the Magistrates' Courts Law, 2021, and shall come into force on the **4th day of October, 2021.**

**Interpretation**

2. In this Law:
  - "**administrative officer**" means an administrative officer in the Civil Service of Anambra State;
  - "**attorney-general**" means the Attorney-General of Anambra State;
  - "**cause**" includes any action, suits or other originating proceeding between a claimant and a defendant and any criminal proceeding;
  - "**chief judge**" means Chief Judge of Anambra State of Nigeria;
  - "**commission**" means the Judicial Service Commission of Anambra State;
  - "**committed for trial**" includes every case of a person ordered to be tried on information, whether imprisoned or admitted to bail;
  - "**constitution**" means the Constitution of the Federal Republic of Nigeria, 1999 and any amendments thereto;
  - "**court**" includes the High Court, Magistrates' Court, Customary Court, and such other Courts as may be created by a Law of the State;
  - "**customary law**" means the customary law prevailing in the area of jurisdiction of a Magistrate and the expressions "cause", "matter", "suit", "action", "proceedings" and

"application" shall include a cause, matter, suit, action, proceeding and application, under customary law.

"defendant" includes every person served with any writ of summons, or process, or served with notice of, or entitled to attend, as a defendant, in any proceeding in a civil cause, and also every person charged under any process of the Court with any crime or offence;

"district" means a Magisterial District constituted under the provisions of this Law;

"high court" means High Court of Anambra State of Nigeria;

"interpreter" includes but not limited to an interpreter of languages, braille or of sign language;

"judge" means a Judge of the High Court and includes the Chief Judge;

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

"justice of the peace" means a Justice of the Peace appointed under the provisions of this Law;

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

"local custom" includes a rule which in a particular area or among the members of a tribe or clan or class of persons, has, from long usage, obtained the force of law, and also local customary law;

"magistrate" means a Chief Magistrate Grade 1 and 2, Senior Magistrate Grade 1 and 2 and Magistrate Grade 1 and 2;

"magistrates' court" means Magistrates' Court established under the provisions of this Law;

"matter" includes every proceeding in a court or in a cause;

"claimant" includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the proceeding is by action, suit, petition, motion, summons or otherwise;

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

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

“application” shall include a cause, matter, suit, action, proceeding and application, under customary law.

“defendant” includes every person served with any writ of summons, or process, or served with notice of, or entitled to attend, as a defendant, in any proceeding in a civil cause, and also every person charged under any process of the Court with any crime or offence;

“district” means a Magisterial District constituted under the provisions of this Law;

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“local custom” includes a rule which in a particular area or among the members of a tribe or clan or class of persons, has, from long usage, obtained the force of law, and also local customary law;

“magistrate” means a Chief Magistrate Grade 1 and 2, Senior Magistrate Grade 1 and 2 and Magistrate Grade 1 and 2;

“magistrates’ court” means Magistrates’ Court established under the provisions of this Law;

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“public holiday” includes Saturdays and Sundays and days officially declared by the Federal Government of Nigeria or the State Government to be a public holiday;

“registrar” includes the Chief Registrar and a registrar of the High Court, Magistrates’ Court and any other Court;

**“rules of court”** means the Magistrates' Court (Civil Procedure) Rules made under this Law;

**“seal of the magistrates' court”** means an official seal approved by the Judicial Service Commission with the inscription “The Magistrates' Court of Anambra State”;

**“state”** means Anambra State of Nigeria;

**“suit”** includes action, and means a civil proceeding commenced by writ of summons, or such other manner as may be prescribed by rules of court;

**“summary conviction offence”** means any offence punishable on summary conviction by a court, and includes any cause or matter in respect of which a court has power to make an order in the exercise of its summary jurisdiction;

**“supreme court”** means the Supreme Court established by the Constitution of the Federal Republic of Nigeria.

## CHAPTER 2: ESTABLISHMENT OF MAGISTRATES' COURTS

- Establishment of Magistrates' Court** 3. There shall be a court to be called the Magistrates' Court.
- Power to divide Anambra State into Magisterial Districts** 4. The Chief Judge may:
- (a) divide Anambra State or any portion thereof, into Magisterial Districts for the purpose of this Law;
  - (b) constitute any part of Anambra State of Nigeria a Magisterial District for the purpose of this Law;
  - (c) distinguish such district by such names or numbers as he may think proper; and
  - (d) vary the limits of such districts.
- Presiding Magistrate** 5.
- (1) Subject to the provisions of this Law any Magistrate assigned to a district shall be the presiding Magistrate of the Court of such district wherein he shall have and exercise all the jurisdiction and powers conferred upon him by his appointment.
  - (2) Where the Chief Judge posts two or more Magistrates to any district, each of the Magistrates shall be a presiding Magistrate of the Court of such district and each sitting separately shall have and exercise all the jurisdiction and powers conferred upon him by his appointment.

- Seal of the Magistrates' Court*
6. (1) A Magistrate shall have and may use an official seal bearing the device and impression approved by the Judicial Service Commission with the inscription "The Magistrates' Court of Anambra State"
- (2) The Seal shall be kept under the control of the Administrative Magistrate by the Registrar in charge of a Magisterial District.
- (3) A document sealed with a seal of the Court will, in the absence of evidence to the contrary, be taken to have been duly issued under the authority of the Court.
- (4) The seal referred to in this section shall be the seal of the Magistrates' Court for all purposes for which it may be required under the provisions of this or any other Law.

### CHAPTER 3: OFFICERS OF THE COURT

- Appointment and qualification of Magistrates.*
7. (1) The Judicial Service Commission shall from time to time by notice in the State Gazette, appoint such number of Magistrates in Anambra State who shall be styled:
- (a) Chief Magistrates Grade 1;
  - (b) Chief Magistrates Grade 2;
  - (c) Senior Magistrates Grade 1;
  - (d) Senior Magistrates Grade 2;
  - (e) Magistrates Grade 1;
  - (f) Magistrates Grade 2.
- (2) Any legal practitioner of not less than five years post call with relevant experience shall be eligible for appointment as Magistrate by the Commission.
- (3) A Magistrate upon appointment shall before proceeding to discharge the functions of his office.

take an oath or affirmation of office to be administered by the Chief Judge of the State and shall take precedence in the order in which he took the oath or affirmation of office.

- (4) All Magistrates appointed under this Law shall serve as judicial officers to the exclusion of any other function except as may be provided for under this Law.
- (5) There shall be no direct appointment to the Chief Magistrate Cadre.
- (6) The Judicial Service Commission may at any time, in its discretion, transfer or redeploy a Chief Registrar or Deputy Chief Registrar or Executive Secretary of the Judicial Service Commission to the Magistrate Court as Magistrate.
  - (a) The Judicial Service Commission shall in transferring or redeploying the person state in the letter of transfer or redeployment the cadre of Magistracy he shall assume office;
  - (b) Where the person was not a Magistrate before his assumption of office as Chief Registrar or Deputy Registrar or Executive Secretary of the Judicial Service Commission, he shall before proceeding to discharge the functions of his office as Magistrate take the judicial oath to be administered by the Chief Judge;
  - (c) The transfer or redeployment of a person to the Magistracy shall be without prejudice to his salaries and emoluments.

- (7) The Chief Judge shall organize an induction course for magistrates upon appointment.

**General jurisdiction 8.  
of Magistrates**

- (1) Every Magistrate shall have jurisdiction throughout the State but may be assigned to any specific district or transferred from one district to another by the Chief Judge.
- (2) The Chief Judge may assign an Administrative Magistrate to a specified District.

- (3) A Magistrate serving in a Magisterial District may be transferred to another District after four years, and shall become due for transfer after five years in a District:

Provided the Chief Judge may at any time transfer any Magistrate from one Magisterial District to another notwithstanding that such Magistrate has not spent four years in the District or permit a Magistrate to be in a District for more than four years.

- (4) The Chief Judge shall periodically organize a mandatory training/workshop on capacity and efficient service delivery for Magistrates in the State.

**Magistrates as  
Justice of the Peace**

9. Every Magistrate shall be ex officio a Justice of the Peace for the State.

**Duties of an  
Administrative  
Magistrate**

10. (1) In addition to any other duty conferred by this Law it shall be the duty of an Administrative Magistrate who is assigned to a District, to ensure as far as is practicable the even distribution of work and the expeditious disposal of all legal business pending in the Districts and to take such steps as may be necessary to relieve congestion in any court within such District.
- (2) The Administrative Magistrate shall in the assignment of cases to the Magistrates in his District take into cognizance their rank and experience in the Magistracy.

**Cessation of Office  
of Magistrates**

11. A Magistrate shall cease to act as a Magistrate where:
- (a) he attains the age of sixty years;
  - (b) in the opinion of the Commission, the Magistrate is mentally impaired or otherwise unable or unfit to discharge the functions of a Magistrate; and
  - (c) for reason of indiscipline and misconduct, the Commission determines that the Magistrate be removed from office.

*Appointment  
and removal of  
Justice of the Peace*

12. (1) The Attorney-General may appoint any person to be a Justice of the Peace in the State or such part of the State as he may specify, and may remove any person so appointed from the office of Justice of the Peace.
- (2) Every administrative officer shall be ex officio a Justice of the Peace for the area of the State to which he is for the time being appointed as such officer.

*Powers and  
functions of  
Justice of the Peace*

13. (1) Subject to the provisions of this Law or to any other written law, every Justice of the Peace shall, subject to any exceptions which may be contained in his appointment within the area in and for which he holds such office, have:
- (a) power to preserve the peace, to suppress riots and affrays and to disperse all disorderly and tumultuous assemblages, and for any of these purposes to call in the aid and assistance of police officers and others who shall severally be bound to obey all such lawful commands;
  - (b) powers, rights and duties under this Law or any other written law to:
    - (i) issue summonses and warrants for the purpose of compelling the attendance of defendants or persons as witnesses before a court;
    - (ii) take solemn affirmations and statutory declarations, and
    - (iii) administer any oath which may be required to be taken before him in the exercise of any jurisdiction and power conferred upon him by law.
- (2) The Attorney-General of the State shall periodically organize a training programme on the powers, functions and efficient service delivery for Justices of the Peace.

*Appointment and  
control of Registrar*

14. (1) The Judicial Service Commission may appoint a fit and proper person to be a Registrar of a court.

- (2) A Registrar appointed to a court under the provisions of this section shall, subject to the general supervision and control of the Chief Judge, be under the immediate direction of the Magistrate presiding in the court to which he is appointed.
- (3) No person in permanent employment as an officer of the court shall, or, may, directly or indirectly or by intervention of a trustee or otherwise, purchase any such property sold at an execution, and in the event of any such person purchasing or being interested in the purchase of any property at an execution sale, such purchase shall be entirely void.

***Transfer of officers from one court to another***

15. The Chief Judge may at any time transfer a Registrar or any other officer of any Magistrates' Court from that court to any other court.

***Duties of the Registrar***

16. The duties of the Registrar shall be:
  - (a) to attend at such sittings of the court as the Magistrate shall direct;
  - (b) to fill up or cause to be filled up summonses, warrants, orders, convictions, bonds, writs of execution and other documents, and submit the same for the signature of the Magistrate;
  - (c) to perform or cause to be performed such other duties connected with the court as may be assigned to him by the Magistrate.
  - (d) to make or cause to be made copies of proceedings when required to do so by the Magistrate, and to record the judgments, convictions and orders of the Court; and
  - (e) to receive or cause to be received all fees, fines and penalties and all other moneys, paid or deposited in respect of proceedings in the Court, and to keep or cause to be kept accounts of the same.

**CHAPTER 4: JURISDICTION**

***Jurisdiction of Magistrates***

17. (1) Subject to the provisions of this Law and to any other written law, a Chief Magistrate shall have and exercise jurisdiction in civil causes or matters:
  - (a) in all personal actions, whether arising from contract or tort or both, where the debt or damages claimed whether as balance claimed or otherwise, is not more than ten million naira;

- (b) in all suits between landlord and tenant for possession of any land or house claimed under agreement or refused to be delivered up, where the annual value of rent does not exceed ten million naira irrespective of the amount of arrears of rent, mesne profits or damages claimed:
- (c) in all actions for the recovery of any penalty, rates, expenses, contributions or other like demand which is recoverable by virtue of any written law for the time being in force, if:
  - (i) it is not expressly provided by that or any other written law that the demand shall be recoverable only in some other court, and
  - (ii) the amount claimed in the action does not exceed ten million naira:Provided that for the purposes of this paragraph the expression "penalty" shall not include a fine to which any person is liable on conviction:
- (d) to appoint guardian *ad litem* and to make order for custody of infants as may be permitted under any enactment and give directions relating thereto:
- (e) to grant in any suit instituted in the court, injunctions or orders to stay waste or alienation or for the detention or preservation of any property the subject of such suit, or to restrain breaches of contracts or torts:
- (f) in an appeal from a decision of an Assessment Committee constituted under a written law relating to Local Government in the State:
- (g) inquests in accordance with any written law:
- (h) cases of contravention of any bye-laws of a Local Government in the State including the power to impose any punishment specified by such bye-laws for contravention thereof:
- (i) cases relating to traffic offences on the highway including the power to impose any punishment specified by law for such offences but the power to hear such cases

and impose such punishment shall not extend to cases of reckless, negligent or dangerous driving on a highway which act causes the death of a person:

- (j) cases relating to environmental sanitation offences including power to impose any punishment specified by law. however, the jurisdiction shall not extend to environmental offences emanating from activities within the exclusive legislative list of the Constitution.
- (2) A Chief Magistrate or Senior Magistrate shall have and exercise jurisdiction in suits relating to trespass to land or for the recovery of lands (including any building or part thereof) irrespective of its value, where no tenancy relationship had at any time existed between any of the parties to the suit in respect of the land or any part of the land (including any building or part thereof):  
Provided that if in the course of the proceedings a party properly raises an issue of title to or interest in the land, or the import of evidence shows that title to or interest in the land is in issue, the Chief Magistrate or Senior Magistrate as the case may be, shall stop further proceedings in the case and, either of his own motion or on the application of a party to the proceedings, make a written report of the pendency of the suit to the Administrative Judge of the division of the Magistrates' Court giving the reason for stopping the proceedings.
- (3) Upon receiving the report in subsection (2) the Administrative Judge, shall make such order transferring the suit to a High Court having jurisdiction in the matter.
- (4) In any suit under subsection (2), if the Chief Magistrate or Senior Magistrate, as the case may be, fails or neglects, to make the written report as provided and proceeds to hear and enter judgment in the case, such judgment shall be liable to be declared null and void on appeal.

- (5) A Senior Magistrate shall have and exercise jurisdiction in civil causes or matters similar in all respects to that set out in subsection (1) of this section, save that such jurisdiction, in causes or matters where the subject-matter in dispute is capable of estimation of a money value, shall be limited to causes or matters in which such subject-matter does not exceed seven million naira in amount or value.
- (6) A Magistrate shall have and exercise jurisdiction in civil causes or matters similar in all respects to that set out in subsection (1) of this section save that such jurisdiction, in causes or matters where the subject-matter in dispute is capable of estimation of a money value, shall be limited to causes or matters in which such subject-matter does not exceed five million naira in amount or value.

***Jurisdiction of  
Magistrates where  
there is set-off***

18. Where in any action the debt or demand consists of balance not exceeding ten million naira or seven million naira, or five million naira, as the case may be, after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the claimant, a Chief Magistrate, Senior Magistrate, or a Magistrate as the case may be, shall have jurisdiction and power to hear and determine such action within the limits of his jurisdiction and power.

***Jurisdiction of  
Chief Magistrates  
in criminal causes  
and matters***

19. Subject to the provisions of this Law or any other written law, a Chief Magistrate shall have jurisdiction in criminal causes for the summary trial and determination of criminal cases as follows:
- (a) where a defendant is charged with committing an offence or with doing any act or with omitting to do any act required by law, the commission or omission of which is in any case punishable either by fine not exceeding one million naira or by imprisonment not exceeding fourteen years or by both and power to impose the punishment specified by law;
- (b) where a defendant is charged with committing an offence or with doing any act or omitting to do any act required by law, the commission or omission of which is stated by the enactment declaring such to

be an offence and to be one punishable or triable or liable to be both dealt with on summary conviction or summarily or in a summary manner and power to award the maximum sentence of imprisonment and to order the payment by such enactment or both such imprisonment and such fine or penalty or forfeiture where by law both may be imposed;

- (c) where any enactment provides that an order for the payment of money may be made on summary conviction or summarily or in a summary manner in respect of any act or omission and power to order the payment of the sum which may be ordered according to the provisions of the enactment providing for the making of the order.

***Jurisdiction of  
Senior Magistrates  
and Magistrates in  
criminal causes and  
matters***

20. Subject to the provisions of this Law or any other written law, a Senior Magistrate, or a Magistrate within the extent of his powers shall have full jurisdiction in criminal causes for the summary trial and determination of criminal cases as follows:

- (a) where a defendant is charged with committing an offence or with doing any act or with omitting to do any act required by law, the commission or omission of which is in any case punishable either by fine not exceeding five hundred thousand naira or by imprisonment not exceeding seven years, or by both and power to impose the punishment specified by law;
- (b) (i) where a defendant is charged with committing an offence or with doing any act or omitting to do any act required by the enactment declaring such to be both an offence and to be one punishable or triable or liable to be dealt with on summary conviction or summarily or in a summary manner and power to award the maximum sentence of imprisonment and to order the payment of the maximum fine or penalty or forfeiture provided by such enactment or both such imprisonment and such fine or penalty or forfeiture where by law both may be imposed;
- (ii) where any enactment provides that an order for the payment of money may be made on summary conviction or summarily or in a

similar manner in respect of any act or omission and power to order the payment of the sum which may be ordered according to the provisions of the enactment providing for the making of the order.

**Timeline for hearing of criminal cases** 21. In the exercise of the criminal jurisdiction conferred under section 19 and 20 above, a Magistrate shall be guided by the time line for the hearing and determination of criminal cases as stipulated under the Administration of Criminal Justice Law.

**Criminal jurisdiction of court in certain cases** 22. Where an offence is committed or any cause or matter arises, over which a Chief Magistrate, Senior Magistrate or Magistrate has jurisdiction, in any ship, boat or canoe, such offence may be prosecuted and such cause or matter heard and determined either in the court of the district in which the ship, boat or canoe may be at the time the offence was committed or the cause or matter arose, or in the court of the district where the ship, boat or canoe may call after the commission of the offence or the arising of the cause or matter.

**Civil jurisdiction of court in certain cases** 23. (1) Subject to any limit imposed upon his jurisdiction by this Chapter, a Chief Magistrate, Senior Magistrate or Magistrate shall have jurisdiction to hear and determine any suit for specific performance or any suit founded upon contract if the contract was made within the jurisdiction of the court though the breach occurred elsewhere or if the breach occurred within the jurisdiction though the contract was made elsewhere, or if the contract ought to have been performed within the jurisdiction or if the defendant or one of the defendants resides within the jurisdiction.

(2) A Chief Magistrate, Senior Magistrate or Magistrate shall have jurisdiction to hear and determine civil cause or matter other than one referred to in subsection (1) in which:  
(a) the defendant or one of the defendants resides or carries on business within the jurisdiction; or

- (b) where the cause of action arose wholly or in part within the jurisdiction of the court; or
- (c) where the subject of the action is within the jurisdiction of the court.

***Judgment of superior courts may be pleaded***

24. A judgment of the Supreme Court, or the Court of Appeal or the High Court or Customary Court of Appeal or other superior courts of any State of Nigeria or a Magistrates' Court, Customary Court or Native Court, which is or may be established within any other State in Nigeria, in favour of either a claimant or a defendant in any cause or matter before a court may in respect of the same subject-matter be pleaded as a defence to any proceedings commenced in Anambra State by the unsuccessful party.

***Criminal jurisdiction of Magistrate where offence only partially committed within jurisdiction***

25. Subject to any limitations imposed upon his jurisdiction by his appointment or by this Chapter, a Magistrate shall have jurisdiction to hear and determine any criminal cause notwithstanding:
- (a) that it is uncertain whether an offence committed in Nigeria was committed within the jurisdiction of the court or not; or
  - (b) that an offence is committed in Nigeria partly within the jurisdiction of the court and partly outside such jurisdiction; or
  - (c) that an offence committed in Nigeria is a continuing one and continues to be committed partly within the jurisdiction of the court and partly outside such jurisdiction; or
  - (d) that an offence committed in Nigeria consists of several acts some of which are committed within the jurisdiction of the court and some of which are committed outside such jurisdiction.

***Power of the Governor to increase jurisdiction of Magistrates***

26. (1) The Governor may by order on the recommendation of the Chief Judge authorize an increased jurisdiction in civil or criminal matters, or in both, to be exercised by any Magistrate to such an extent as the Governor may on such recommendation specify and such authority may be revoked by the Governor by order at any time.

- (2) Any order by the Governor made under subsection (1) of this section authorizing an increased jurisdiction in civil matters shall specify the maximum amount which is to replace the amount mentioned in sections 17 and 18.
- (3) An order by the Governor under subsection (1) of this section authorizing an increased jurisdiction in criminal matters shall specify the maximum fine and maximum period of imprisonment which is to replace the maximum sums and periods mentioned in sections 19 and 20 and may authorize such increased jurisdiction in respect of a particular offence for which a person is or persons are then charged, or of specified offences under a particular Act or Law, or of offences under a specifically named Act or Law.
- (4) Upon an order being made under this section the jurisdiction of the Magistrate under Sections 17, 18, 19 or 20 as the case may be shall be deemed to be increased by the substitution of the maximum amount or the maximum fine and period of imprisonment so specified at each of the places where a particular amount, fine or period of imprisonment is mentioned in the said sections.

***Appellate  
jurisdiction***

27. Subject to the provisions of this Law, a Magistrate shall within the limits of his jurisdiction, hear and determine appeals from the decision of an Assessment Committee constituted under the provisions of the Local Government Law.

***General Powers  
of Magistrates***

28. Every Magistrate shall have power to administer oaths and solemn affirmations and declarations, to receive production of books and documents, and to make such decrees and orders and issue such process and exercise such powers, judicial and administrative, in relation to the administration of justice as shall from time to time be prescribed by rules of court or, subject thereto, by any order of the Chief Judge.

- Acts of a Magistrate 29.**  
**not affected by error**  
**as to venue**
- (1) No act done by or under the authority of any Magistrate shall be void or impeachable by reason that such act was done or that any act, offence or matter in respect of or in relation to which such act was done, occurred or was situated beyond the limits of the district of the jurisdiction of such Magistrates' Court.
- (2) If the defendant in any civil or criminal cause or matter where such objection might have been made but for this section, shall, at or before but not after the time he is required to state his answer or to plead in the cause or matter, specifically make such objection, the Magistrate shall consider the objection and if there is a prima facie proof that the objection can be sustained, the Magistrate shall report the cause or matter to a Judge of the High Court who shall make an order directing where the cause or matter shall be heard and determined, and such order shall not be subject to appeal.
- Case stated during 30.**  
**hearing of case**
- (1) At any time during the hearing of a criminal case in a Magistrates' Court and before the final decision of the Court is pronounced, a party to the proceedings before the court who is aggrieved by an order, decision or other proceeding of the court or the presiding Magistrate, of his own motion, or when so required by the Attorney General may question the proceedings on the ground that it is:
- a. wrong in law; or
  - b. in excess of jurisdiction by applying to the court to state a special case for the opinion of the High Court on the question of law or jurisdiction involved.
- (2) In any criminal case in which no public officer is a party, where the Attorney General is of the opinion that any decision of a Magistrate during the hearing is erroneous in law, he may, at any time within six months from the date of that decision, require the Magistrate to state a case on it for the opinion of the High Court.

- (3) A case stated shall set out:
    - a. the charge, summons, information or complaint;
    - b. the facts found by the Magistrates' Court to be admitted or proved;
    - c. any submission of law made by or on behalf of the complainant during the trial or inquiry;
    - d. any submission of law made by or on behalf of the defendant during the trial or inquiry;
    - e. the finding and, in the case of conviction, the sentence of the Magistrates' Court;
    - f. any question of law which the presiding Magistrate desires to be submitted for the opinion of the High Court; and
    - g. any question of law which the Attorney General requires to be submitted for the opinion of the High Court.
  - (4) Subject to subsection (5), if the court is of the opinion that an application under this section is frivolous, it may refuse to state a case and, if the applicant so requires, shall give him a certificate stating that the application was refused.
  - (5) The court shall not refuse to state a case if the application is made by or under the direction of the Attorney General.
  - (6) Where the court refuses to state a case, the High Court may, on the application of the party who applied for the case to be stated, make an order of mandamus requiring the court to state a case.
- 31.** (1) A claimant may not split or divide any cause of action for the purpose of bringing two or more actions in any court if the parties and the issues in all such actions would be the same.
- (2) Causes or matters pending in the same court may be consolidated by order of a Magistrate of his own motion or on the application of any party on notice

whether or not such Magistrate be the Magistrate who finally adjudicates thereon:

Provided that causes or matters may not be consolidated if the effect of such consolidation is to bring the total of the consolidated actions or matters above the jurisdiction of the Magistrate adjudicating.

- (3) Where several actions or matters by different claimants against the same defendant are pending in the same court, in respect of causes or matters arising out of the same breach of contract, wrong or other circumstances, the defendant shall:
- (a) file an undertaking to be bound by the decision in one of the actions or matters as may be selected by the court;
  - (b) apply to the court for an order to stay the actions or matters other than the one selected, until judgment is given in the settled action or matter; and
  - (c) make application under this subsection on notice to the claimants who would be affected by any order made on it.

***Abandonment of part of claim to give jurisdiction***

32. (1) Subject to the provisions of this Law, where a claimant has a cause of action exceeding the jurisdiction of the Magistrate adjudicating, he may abandon the excess to enable the court have jurisdiction to hear and determine the action, so, however, that he shall not recover in the action an amount exceeding the jurisdiction of the Magistrate.
- (2) Where a court has jurisdiction to hear and determine an action by virtue of this section, the judgment of the court in the action shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment shall be made accordingly.

***Executor may sue and be sued***

33. Any executor or administrator may sue and be sued in the court in like manner as if he were a party in his own right, and judgment and execution shall be such as would, in similar cases, be given or issued in the High Court.

*Action by a  
child for wages*

34. Any person under the age of eighteen years may bring an action in the court for any sum of money, which may be due to him for wages or piece of work or for work as a domestic servant, in the same manner and in all respects as if he were of full age.

*Procedure where  
defendants are  
jointly liable*

35. (1) Where a claimant has a demand recoverable under this Law against two or more defendants jointly liable, it shall be sufficient to serve any of them with process, and judgment may be obtained and execution issued against any defendant so served, notwithstanding that others jointly liable may not have been served or sued or may not be within the jurisdiction of the court.

(2) Where judgement is obtained against any defendant and is satisfied by him, he shall be entitled to recover in a court contribution from any other defendant jointly liable with him.

(3) The provisions of this section shall not be deemed to affect the civil rights or liabilities between joint tortfeasors.

*Suits by a child  
and person of  
unsound mind*

36. Subject to the provisions of section 34 of this Law a child may sue by his next friend and may defend by his guardian ad litem and a person of unsound mind, if so found by inquisition, may sue and defend by his committee, and if not so found, may sue by his next friend and may defend by his guardian ad litem on such terms as the liability for costs as to the court shall deem just.

#### **CHAPTER 5: LAW TO BE ADMINISTERED**

*Law and Equity  
concurrently applied*

37. Subject to the provisions of this Law or of any other written law in every civil cause or matter which shall be commenced in any court established by this Law, law and equity shall be administered concurrently.

*All reliefs may  
be granted*

38. The court, in the exercise of the jurisdiction vested in it by this Law, shall have power to grant and shall grant, either absolutely or on such reasonable terms and conditions as shall seem just, all such remedies or reliefs whatsoever.

interlocutory or final, as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim or defence properly brought by them respectively, or which shall appear in such cause or matter, so that, as far as possible, all matters in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided.

*Equity prevails  
over law*

39. In all matters in which there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail.

*Application of  
local custom*

40. (1) In causes and matters not arising under customary law, a Magistrate shall observe and enforce the observance of every local custom and shall not deprive any person of the benefit of such local custom.
- (2) Such local custom shall be deemed applicable in any civil cause or matter where the parties thereto are Nigerians or persons of Nigerian descent, and also in any civil cause or matter between Nigerians or persons of Nigerian descent and persons who are not Nigerians or of Nigerian descent where it appears to the court that substantial injustice would be done to either party by a strict adherence to the rules of any law or laws other than local custom.
- (3) No party shall be entitled to claim the benefit of any local custom if it appears either from express contract or from the nature of the transaction out of which any civil cause, matter or question may have arisen, that such party agreed or must be taken to have agreed that his obligations in connection with any such transaction should be regulated exclusively by some law or laws other than local custom, or that such transaction is one which is unknown to local custom.
- (4) Nothing in this section shall be construed to authorize the application by a Magistrate of any law or custom or part thereof which is repugnant to

natural justice, equity and good conscience or incompatible either directly or by necessary implication with any written law in force.

*Reconciliation  
in civil causes  
or matters*

41. In civil causes or matters, a Magistrate may promote reconciliation among the parties and encourage and facilitate the amicable settlement.

*Reconciliation in  
criminal causes*

42. In criminal causes a Magistrate, subject to the provisions of the Administration of Criminal Justice Law, may promote reconciliation, and encourage and facilitate the settlement in an amicable way, of the proceedings on terms of payment or compensation or other terms approved by the court, and may order the proceedings to be struck out.

#### CHAPTER 6: SITTINGS AND DISTRIBUTION OF BUSINESS

*Venue in civil  
proceedings*

43. Subject to the provisions of Section 45 and Section 48 of this Law, all civil proceedings in any court established by this Law shall be instituted and commenced in the court of a Magistrate having jurisdictions in the District within which:
- (a) the defendant, or any one of the defendants, resides or carries on his trade or profession at the time of commencing the action; or
  - (b) the cause of action or claim arose, wholly or in part; or
  - (c) the subject-matter of the action arose.

*Re-assignment  
of cases*

44. Any Magistrate may at any stage of the proceedings before final judgment, for a good cause, remit any cause or matter before him to the Administrative Magistrate of the District who may re-assign same to any other Magistrate in the District and such cause or matter shall be commenced de novo, inquired into, tried and disposed of by the Magistrate to whom it has been re-assigned as if it has been instituted before him:

Provided that no cause or matter which has been specifically transferred by a Judge of the High Court for inquiry or trial by a particular Magistrate shall be so transferred without leave of the Administrative Judge in charge of the Magisterial District.



Court, and may be so exercised in respect of any particular cause or matter or in respect of all such causes or matters generally as may be specified in the order and, in the latter case, may extend to future causes or matters as may be before the court at the making of the order:

Provided that an application for transfer shall not operate as a stay of proceedings in the court to which it may be addressed in any cause or matter until it is determined.

- (3) The Chief Judge or Administrative Judge may at any time vary, add to or amend such order.

***Effect of order of transfer***

49. Every order of transfer made under the provisions of section 47 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 and proceedings in every such cause or matter, and an attested copy of all entries in the books of the court relative to it, shall be transmitted to the court to which the same shall be transferred and all proceedings in the cause or matter shall be taken in the court as if the cause or matter had been commenced in it.

***No appeal from an order of transfer***

50. No order made under the provisions of section 44, 45, 46 or 48 of this Law shall be subject to appeal.

***Judgment***

51. (1) A Magistrate shall deliver judgment in every action or matter not later than thirty working days after the close of trial and address.
- (2) In any case where judgment has been prepared by a Magistrate and such Magistrate is unavailable for any reason to deliver it, another Magistrate may deliver the judgment.
- (3) Subject to the provisions of this Law or any other law relating to judgments and orders, every judgment and order of the Court shall be final and conclusive between the parties:  
Provided that the Magistrate shall have the power to non-suit the claimant in every case in which satisfactory proof is not given to entitle the claimant or defendant to judgment.

- (4) The decision of a Magistrate shall not be set aside or treated as a nullity solely on the ground of non-compliance with the provisions of subsection (1) of this section unless the High Court is satisfied that the party complaining has suffered a miscarriage of justice by reason thereof.
- (5) As soon as possible after hearing and deciding any case in which it has been determined or observed that there was non-compliance with the provisions of subsection (1) or (2) of this section, the Magistrate shall send a report on the case to the Chief Judge.

#### CHAPTER 7: APPEALS

**Right of appeal in  
civil cause or matter**

52.

- (1) Subject to section 51 and any other provisions of this Chapter, where in any cause or matter a final decision, judgment or order of a Magistrate is given, any party aggrieved by it may appeal as of right to the High Court within thirty days from the date of the decision, judgment or order.
- (2) An appeal from the interlocutory decision of a Magistrate shall lie to the High Court with the leave of the Magistrate Court or the High Court within fourteen days of the delivery of that decision.
- (3) An appeal to the High Court from an interlocutory or final decision of a Magistrate shall be exercisable by a party to the civil cause or matter in which the decision was given or, with the leave of the Court or the High Court, by any other person who has an interest in the civil cause or matter.
- (4) An application for leave to appeal by a person who has an interest in a civil cause or matter shall be filed in the registry of the Court within thirty days from the date of that decision.
- (5) A similar application for leave to appeal by a person who has an interest in the civil cause or matter may be brought to the High Court within seven clear days from the date the application for leave to appeal was refused by the Magistrates' Court.

- (6) An appeal under this section shall not operate as a stay of execution or a stay of proceedings, but the Court or the High Court may order a stay either unconditionally or on the performance of such conditions as may be imposed by the Court.
- Appeal from ex-parte orders**      53. An appeal shall not lie directly from an order made ex parte but any person aggrieved by such order may apply to the court to vary or discharge it and an appeal will lie from the decision on such application in like manner as an appeal from any other civil cause or matter.
- Application for stay of execution or proceedings**      54. (1) A party who has filed a notice of appeal or an application for leave to appeal against an interlocutory or final decision of a Magistrate, may apply to the Court by a motion on notice for stay of execution of the decision appealed against or stay of further proceedings.
- (2) An application for leave to appeal may be accompanied with a motion on notice for stay of execution or proceedings.
- (3) An order of stay of execution or proceedings shall not be granted where the applicant has not entered the appeal within sixty days of the judgment, decision or order appealed against.
- (4) An order of stay of execution or proceedings pending appeal shall be discharged or deemed to be discharged if the party on whom the order is made fails to fulfil all the conditions of appeal and the appeal entered within thirty days of the making of the order of stay of execution or proceedings.
- Practice and procedure in civil appeals**      55. Subject to the provisions of this Law, the practice and procedure in civil appeals from Magistrates' Courts shall be in accordance with rules of court made under the provisions of the High Court Law.
- Right of appeal in criminal cases**      56. (1) Appeal lies as of right to the High Court by a party aggrieved by any decision of a Magistrate in a criminal proceeding.

- (2) Where a convict is sentenced to imprisonment or other remedial detention, the Magistrate shall have the discretion to grant bail to him upon his entering into a bond, with or without sureties, and in such reasonable sum as the Magistrate thinks fit, or with the court's consent, another form of security for his appearance:

Provided that in the case of refusal by the Magistrate to grant bail to a convict, he may apply to the High Court for bail by motion on notice.

**Persons that can  
appeal against decisions  
of a Magistrate**

57.

- (1) Any right of appeal from decisions of a Magistrate to the High Court conferred by this Law shall be exercisable:
- (a) in the case of civil proceedings at the instance of a party or with the leave of the High Court, at the instance of any other person having an interest in the matter;
  - (b) in the case of criminal proceedings at the instance of the defendant or of the Attorney-General or of the prosecutor as the case may be;
  - (c) at the instance of other persons or authorities as may be prescribed by any written law in force in the State; and
  - (d) in accordance with any laws and rules of court regulating the powers, practice and procedure of the High Court.

- (2) "decision" means for the purposes of this section, any determination of a Magistrate and includes (without prejudice to the generality of the foregoing) a judgment, ruling, decree, order, conviction, sentence or recommendation.

**Supervisory  
jurisdiction of  
High Court over  
Magistrates' Courts**

58.

- (1) The High Court may call for and examine the record or any certified copy of any criminal proceedings before any Magistrate Court which is within the area of jurisdiction of the High Court for the purpose of satisfying itself of the correctness, legality or propriety of any finding, sentence or order recorded or passed, and of the regularity of any proceedings of the Magistrates' Court.

- (2) On calling for the record of any criminal proceedings or any time subsequently, the High Court may, in its discretion, order the release of any convicted person on bail pending the final decision of the High Court:

Provided that if the final decision of the High Court is that the convict shall undergo the sentence of imprisonment imposed by the Magistrates' Court or any part of it, the time spent on bail shall be excluded in computing the balance of that sentence.

- (3) On receipt of the record or a certified copy, the High Court may:
- (a) subject to any enactment fixing a minimum penalty, reduce a sentence or modify an order in such form as it thinks fit; or
  - (b) set aside a conviction and order the release of the convict if he is in custody or in the case of a fine which has been paid, order the fine to be refunded or if security has been required and given, order that the person concerned be freed from such security; or
  - (c) set aside the conviction and convict the defendant of any other offence of which he might have been convicted on the evidence, and sentence him accordingly; or
  - (d) set aside the conviction and substitute a special finding to the effect that the defendant was guilty of the act or omission charged, but was of unsound mind and was not responsible for his action at the time he did the act or made the omission, and order the defendant to be confined in an asylum, or correctional centre, or other place of safe custody and shall report the case for the order of the Attorney-General; or
  - (e) set aside the conviction and order that the convict be retried by a court of competent jurisdiction; or
  - (f) order further evidence to be taken either generally or on some particular point by the court which passed the sentence or by any other court, and order in the meantime any

convict imprisoned to be liberated on bail or on his own bond; or

(g) where the Magistrate Court has failed to impose the minimum penalty required by the provisions of any law, or has failed to make an order which under the provisions of any law it was the duty of such Court to make, order the Magistrates' Court to impose the minimum penalty or to make the necessary order, or may itself impose the minimum penalty or make the necessary order; and

(h) make any order as the justice of the case may require, and give all necessary and consequential directions:

Provided that when a convict has appealed against the conviction, or when the Magistrate has reserved any point of law for the consideration of the High Court and stated a case, the High Court shall not exercise the power conferred under this section until after the conclusion of the appeal or case stated:

Provided further that the powers conferred upon the High Court by subsections (1) and (3) shall not be exercised after the expiration of six months from the termination of the criminal proceedings in the Magistrates' Court.

(4) No party shall have any right to be heard either personally or by legal practitioner before the High Court when exercising its powers under subsection (3), but the High Court may, if it thinks fit, hear any party either personally or by a legal practitioner:

Provided that no order shall be made to the prejudice of any convict unless he has had the opportunity of being heard either personally or by a legal practitioner.

(5) Where an appeal lies, or has lain, from any finding, conviction or order and no application has been brought, no motion or proceeding requesting the exercise of the powers of the High Court under this section by the party who has the right to appeal, or who has had that right, shall be entertained by the High Court.

- (6) Nothing in this section shall be deemed to authorize the High Court to convert a finding of acquittal to one of conviction.
- (7) All the powers conferred by this section upon the High Court may be exercised by a single Judge.
- (8) Where the High court has exercised any of the powers conferred by subsection (3), it shall certify its decisions or order to the Magistrate Court concerned and the Magistrate Court shall make such orders as are conformable to the decision so certified, and, if necessary amend its record accordingly.

#### CHAPTER 8: GENERAL PROVISIONS OF TRIAL PROCEDURE

*Times and places  
of court sessions*

- 59.
- (1) The Chief Judge may by order appoint the places within any District and the times at which a Magistrate shall sit for the trial of criminal and civil causes and matters and the disposal of any pending business.
  - (2) The Chief Judge may by order, designate any electronic platform as a place at which a Magistrate shall sit under the provisions of this section, if he considers the electronic platform to be freely accessible to the public.
  - (3) Where criminal proceedings are to be conducted on any electronic platform under subsection (2) of this section, the defendant must be provided with all necessary equipment and systems to enable him attend and participate in the proceedings and where a defendant attends proceedings conducted on the electronic platform designated by the Chief Judge, the requirement of any law for the presence of the defendant in court during his trial, is satisfied.
  - (4) All criminal causes shall as far as practicable and subject to the provision of any written law be tried and determined in priority to any other business of the court.

- Courts shall be open at all times except on public holidays** 60. Subject to the provisions of section 61 all Magistrates' Courts shall be open for the business of the court throughout the year except on public holidays.
- Adjournment of court proceedings** 61. (1) A Magistrate may adjourn the court proceedings from day to day or any convenient day.
- (2) Where on any adjourned date the Magistrate does not sit, or the adjourned date falls on a public holiday, the case shall stand adjourned to the next working day of the court.
- (3) Where the Magistrate for any reason will not sit on the next working day of the court, an officer of the court or any person authorized in that behalf by the Magistrate, may adjourn the sitting until such time, not exceeding thirty days as may have been communicated to him by the Magistrate.
- Practice and procedure** 62. (1) In any proceedings before it, the Magistrate Court shall proceed without undue formality and must endeavour to ensure that the proceedings are not protracted.
- (2) Subject to the provisions of this Law and any other law, the practice and procedure of the court shall in its civil jurisdiction be regulated by Rules of Court, and in its criminal jurisdiction, by the provisions of the Administration of Criminal Justice Law.
- Completion of process begun by another Magistrate** 63. Where a Magistrate has issued any summons or warrants or otherwise taken or commenced any proceeding, cause or matter whether civil or criminal, under any authority however conferred, and subsequently ceases to be a Magistrate, it shall be lawful for the person in whose hands such summons or warrant may be, to execute or serve the same in the same manner as if the Magistrate who issued them had not ceased to be a Magistrate and his successor may hear, determine, execute, enforce and carry to completion any proceeding, cause or matter so commenced save that the succeeding Magistrate shall commence the trial de novo.

*Processes issued  
and served are valid*

64. (1) All summonses, warrants, orders, judgments, writs of execution, or other process or proceedings, whether civil or criminal issued or taken by the authority of any Magistrate with respect to any cause or matter within his jurisdiction, shall have full force and effect, and may be served or executed anywhere within the State by a bailiff of the court or by the member of the Police Force to whom the same is directed or by any other member of the Police Force, or through a courier company.
- (2) The Chief Judge may approve or designate the use of any reputable registered courier company for the service of court processes and any service by such courier company shall be deemed good and proper service.
- (3) The Chief Judge shall by an order under his hand, publish the names of the registered courier companies.

*Signing of court  
processes in civil  
and criminal matters*

65. (1) All summonses, warrants, orders, convictions, bonds and other process in criminal proceedings shall, subject to the provisions of this Law, be signed by a Magistrate.
- (2) Every summons or other process in a civil proceeding shall subject to the provisions of this Law, be signed either by a Magistrate or by the Registrar of the Magistrates' Court.

*Magistrate may  
issue a warrant for  
a witness in custody*

66. A Magistrate may issue a warrant under his hand for bringing up a defendant confined in any correctional centre under any sentence or order of confinement for trial, or under civil proceedings to be examined as a witness in any cause pending or to be inquired into by the court:
- Provided that such warrant shall not be issued unless the Magistrate has reasonable grounds for believing that the evidence of the defendant or witness is likely to prove material.

*Administration of  
oaths in proceedings*

67. Every Magistrate is hereby authorized to administer all oaths which is required to be taken before him, in the exercise of the jurisdiction and powers conferred on him by this Law or any written other law.

**Order for inspection** 68. In any cause or matter, a court may on the application of either party, or of its own motion, make such order for the inspection by the court, the party or witnesses, of any movable or immovable property, the inspection of which may be material to the proper determination of the question in dispute, and give such direction respecting such inspection as the court may seem fit.

**Magistrate shall execute High Court processes** 69. Every Magistrate shall, when required by the High Court, cause to be executed any writ or order or process issuing from the High Court, and shall take security from any person named in a writ or order for his appearance in the High Court, and shall, in default of security being given or where the High Court so orders, send the person to the place named in such writ.

**Procedure where Magistrate has personal interest in a matter before it** 70. (1) Where a Magistrate is unable, from personal interest or for any other sufficient reason, to adjudicate on any cause or matter, the Magistrate shall remit the cause or matter to the Administrative Magistrate stating such reason whereupon the Administrative Magistrate shall re-assign the cause or matter to another Magistrate for hearing and determination.

(2) Where the Magistrate in subsection (1) is the Administrative Magistrate, he shall transfer the cause or matter to any other Magistrate in that district and in the event that there is no other Magistrate in that district, the Administrative Magistrate shall refer the cause or matter to the Administrative Judge of the Judicial Division for assignment to a Magistrate in another district.

Subject to the provisions of any written law, all police officers and other law enforcement officers shall obey the warrants, orders and directions of a Magistrate in the exercise of his criminal jurisdiction, and, in so far as such obedience may be authorized and required by any written law in that behalf, in the exercise of his civil jurisdiction.

*Duty on law  
enforcement officers  
to obey court orders*

71. Subject to the provisions of any written law, all police officers and other law enforcement officers shall obey the warrants, orders and directions of a Magistrate in the exercise of his criminal jurisdiction, and, in so far as such obedience may be authorised and required by any written law in that behalf, in the exercise of his civil jurisdiction.

*Fees and costs*

72. The fees and costs set forth in the rules of court made under this Law may be demanded and received by the Registrars or other persons appointed to receive such fees and costs for and in respect of the several matters therein mentioned.

*Payment of fees  
and costs for processes*

73. All fees and costs payable under or by virtue of this Law, shall, in the first instance be paid by the party applying for the summons, warrant or other process or document in respect of which the same is payable:

Provided that no fees or costs shall be payable in any case instituted by a public officer when acting in his official capacity or in any case where a Magistrate endorses on the document that no such fees or costs should be paid on account of the poverty of the party or for other sufficient reason: and in every such case the fees and costs may, in the direction of the Magistrate, be recoverable from the party against whom the decision is given.

*Provisions relating  
to money received  
by the court*

74. The provisions of sections 72 and 73 shall apply to all moneys received by the Registrar or other officer of the court, under this Law or any other written law whether the same be fees, costs, fines, forfeitures, penalties, or money paid into court for any purpose or received or recovered under or by virtue of any process of execution or distress.

*Protection of  
judicial officers and  
persons executing  
warrants*

75. (1) No Magistrate shall be liable for any act done or thing said by him in the course of any proceedings before him, provided that at the time he, in good faith, believed himself to have jurisdiction in such proceedings.

(2) No person required or bound to execute any warrant or order issued by a Magistrate or Justice of the Peace shall be liable in any action for damages in respect of the execution of such warrant or order unless it is proved that he executed any of them in an unlawful manner.

**CHAPTER 9: REPRESENTATION OF THE STATE**

*Representation for  
the State, public  
officer and Local  
Government Councils*

76. (1) Subject to this section, in the case of a prosecution:
- (a) by or on behalf of the State; or
  - (b) by a public officer in his official capacity: the State or that public officer may be represented by:
    - (i) a law officer,
    - (ii) a police officer who is a legal practitioner, or
    - (iii) a legal practitioner duly authorized in that behalf by the Attorney General, or in revenue cases authorized by the Head of the Department concerned.
- (2) In a civil cause or matter in which:
- (a) the State; or
  - (b) a public officer in his official capacity is a party, or in a civil cause or matter affecting the revenues of the State, the State or that public officer may be represented by:
    - (i) a law officer, or
    - (ii) a legal practitioner duly authorized in that behalf by the Attorney General or the Head of the Department concerned.
- (3) In the case of:
- (a) a prosecution or on behalf of a local government council; or
  - (b) a suit brought by or against that council: the council may be represented in court, at any stage of the proceeding, by
    - i. a legal practitioner, or
    - ii. an officer or employee of the council who shall satisfy the Magistrate that he has the authority to represent the council.
- (4) Where the State is concerned in right of the Government of the Federal Republic the reference in this section to:
- (a) the Attorney-General; and

- (b) a law officer.  
shall be construed, as the case may be, as a reference to:
  - i. the Attorney- General of the Federal Republic; and
  - ii. a Federal law officer.

#### CHAPTER 10: TRANSITIONAL POWERS

*Reference to Magistrates' Courts under this Law*

77. Where in any law or any document, reference is made to a Magistrates' Court established under the provisions of this Law and where in any such law or document reference is made to any Magistrate, Registrar or other officer of a Magistrates' Court, such reference shall be read, in so far as the context permits, to mean a Magistrate, Registrar or officer of a Magistrates' Court, established under the provisions of this Law.

#### CHAPTER 11: RULES OF COURT

*Establishment of the Rules Committee*

78. (1) There shall be established for the purposes of this Law, a committee hereinafter called "the Magistrates' Court Rules Committee" consisting of:
- (a) the Chief Judge;
  - (b) a High Court Judge appointed by the Chief Judge;
  - (c) two Magistrates appointed by the Chief Judge;
  - (d) a Law Officer nominated by the Attorney-General and appointed by the Chief Judge; and
  - (e) two legal practitioners appointed by the Chief Judge.
- (2) The term of office of any person who is a member of the Magistrates' Court Rules Committee by virtue of appointment shall be such as may be specified in the appointment.
- (3) No rule shall be valid except it has been made by the Chief Judge and not less than four other members of the Magistrates' Courts Rules Committee.

**Power of the  
Rules Committee**

79. (1) The Magistrates' Court Rules Committee may make rules for all or any of the following purposes:
- (a) regulating practice and procedure in Magistrates' Courts in civil causes and matters including the division and consolidation of causes and matters and the abandonment of part of a claim to give the court jurisdiction;
  - (b) regulating the forms to be used, and all matters connected with them, in civil proceedings and civil appeals and the fees payable in respect of such proceedings and appeals;
  - (c) the reference of civil proceedings in Magistrates' Courts to arbitration and all matters relating and incidental to it, including the remuneration and fees of arbitrators and referees;
  - (d) the form in which civil proceedings in Magistrates' Courts and arbitrations arising out of such proceedings are to be recorded electronically or in writing;
  - (e) the preservation of records of civil proceedings and the destruction of such records;
  - (f) the forms and books of account to be used in Magistrates' Courts and the keeping of the same;
  - (g) the form of and the times of forwarding returns of civil and criminal cases decided in Magistrates' Court to the Chief Judge or to a Judge of the High Court;
  - (h) the costs, fees and amounts which may lawfully be demanded and received in respect of service of process relating to civil proceedings in Magistrates' Courts;
  - (i) the acceptance, retention and disposal of fees and costs, whether in civil or criminal proceedings, in Magistrates' Courts;
  - (j) the receipt of moneys paid into Magistrates' Courts, and moneys received or recovered under or by virtue of any process, execution or distress;

- (k) the payment out of Magistrates' Courts of all moneys to persons entitled to receive the same;
  - (l) the fees payable in respect of the inspection and copying of records of civil proceedings and documents and other matters relating to such records;
  - (m) the fixing of scales of fees and costs recoverable in respect of the appearance and services of legal practitioners in civil proceedings in Magistrates' Courts and the taxation of the same;
  - (n) the waiving and remission of fees payable by poor persons and the admission of persons to sue *in forma pauperis*;
  - (o) the imposition of penalties on any person who fails to take any action required by a rule of court or who disobeys any rule of court; and
  - (p) generally, for the better carrying into effect of the purposes of this Law.
- (2) Rules of Court made under this section shall apply to all proceedings by or against the State.

**Repeals and Savings 80.**

- (1) The Magistrates' Courts Law Cap. 88 Revised Laws of Anambra State 1991 and its subsidiary legislation are hereby repealed.
- (2) The repeal of the enactments specified in subsection (1) of this section shall not affect anything done or purported to be done under or pursuant to the said enactments.

**FIRST SCHEDULE**  
(Section 3)

This printed impression has been carefully compared by me with the Bill which has been passed by the House of Assembly and found by me to be a true and correctly printed copy of the said Bill.



-----  
**PIUS O. UDOH**  
Clerk of the Legislature

**SECOND SCHEDULE**  
(Section 4 (1))

I assent/~~do not assent~~



-----  
**CHIEF WILLIE OBIANO**  
Governor

Dated the 3rd day of November, 2021.

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