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CHAPTER MI

MAGISTRATES' COURT LAW

**A Law to establish Magistrate Courts in the State and to make provisions for matters incidental thereto.**

(Editorial Note: The phrase "Area Court" has been replaced with "Shari'ah Court" wherever it appears in this Law, by Law No. 14 of 2012.)

[Amended by Law No. 14 of 2012.]

[Date of commencement: 12th February, 1998]

PART I

*Preliminary*

**1. Citation**

This Law may be cited as the Magistrates' Court Law.

**2. Interpretation**

In this Law, unless the context otherwise requires—

“**action**” means a civil proceeding commenced by, plaintiff or in such other manner as may be prescribed by rules of Court; but does not include criminal proceedings;

“**Attorney-General**” means the Attorney-General of the State;

**“cause or matter”** includes any action suit, or other original proceeding between a plaintiff and a defendant, and any criminal proceeding;

**“Chief Judge”** means the Chief Judge of the State;

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

**“Constitution”** means the Constitution of the Federal Republic of Nigeria as amended, varied or altered;

**“criminal”** includes quasi-criminal and with reference to matters of Jurisdiction, comprehends all proceedings which are not civil proceedings;

**“defendant”** includes every person served with any summons or process, or served with notice of, or entitled to attend any civil proceedings and also every person charged under any process of the Court with any crime or offence;

**“Gazette”** means the Jigawa State of Nigeria *Gazette*;

**“Governor”** means the Governor of the State;

[Definition of “Governor” amended by Law No. 14 of 2012.]

**“High Court”** means the High Court of the State;

**“Judge”** means a Judge of the High Court and includes the Chief Judge of the State;

**“Judicial Service Commission”** means the Judicial Service Commission of the State;

[Definition of “Judicial Service Commission” amended by Law No. 14 of 2012.]

**“Justice of the Peace”** means a justice of the peace appointed under the provisions of this Law;

**“law officer”** means the Attorney-General, or his representatives;

**“local government”** means a local government council in the State;

**“part-heard”** means a civil cause or matter pending in court in which at least one witness has given evidence;

**“plaintiff”** includes every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form or proceeding, whether summons, petition or otherwise;

**“registrar”** means a registrar appointed under the provisions of this Law;

**“residential premises”** means a house or building or any part thereof which is let out wholly or in part as a residential accommodation and includes the grounds and appurtenances let together with or forming part of such house or building;

**“Shari’ah Court”** means Shari’ah Court established under the Shari’ah Courts Law;

[“Shari’ah Court” (previously “Area Courts Law”) amended by Law No. 14 of 2012.]

**“State”** means the Jigawa State of Nigeria.



## PART II

*Establishment of a Magistrates' Court***3. Establishment**

(1) There is hereby established in and for the State, a court to be called the Magistrates' Court which shall be an inferior court.

(2) The Chief Judge may for the purposes of this Law—

- (a) divide the State or any part thereof into districts for the purpose of constituting the Court;
- (b) constitute any part of the State into a district for purposes of such a court;
- (c) distinguish such districts by such names or numbers as he may think proper; and
- (d) vary the limits of any such districts.

**4. Appointment**

(1) The Judicial Service Committee shall appoint such number of persons as it may consider appropriate to be magistrates and may designate any of such persons as—

- (a) Chief Magistrate Grade I;
- (b) Chief Magistrate Grade II;
- (c) Senior Magistrate Grade I;
- (d) Senior Magistrate Grade II;
- (e) Magistrate Grade I;
- (f) Magistrate Grade II; and
- (g) Magistrate Grade III.

(2) A magistrate appointed under subsection (1) shall, subject to such directions as may be contained in his instrument of appointment or given to him by the Judicial Service Committee perform the functions of any other magistrate whether or not of the same, higher or lower grade.

**5. General jurisdiction**

Every magistrate shall have jurisdiction throughout the State unless his appointment is expressly limited to the area of any district or districts, but may be assigned to any other district or transferred from one district to another by the Chief Judge.

**6. Special jurisdiction**

Where any cause or matter arises over which a magistrate has jurisdiction in any aircraft, such cause or matter may be heard or determined either by the magistrate exercising jurisdiction over the place where the aircraft was at the time when the cause or matter arose or by the magistrate exercising jurisdiction over the place at which the aircraft calls after the cause or matter has arisen.

**7. Justice of the Peace**

Every magistrate is an *ex officio* justice of the peace for the Justice of the State.

**8. Duties of a Chief Magistrate**

(1) A Chief Magistrate Grade I, may be assigned by the Chief Judge to any one district in addition to other districts of which the one forms part.

(2) In addition to any other duty conferred by this Law, it shall be the duty of a Chief Magistrate Grade I to ensure as far as practicable the even distribution of work among the magistrates of his district and the expeditious disposal of any cause or matter pending in the district, and to take such steps as may be necessary to relieve congestion in the courts within his district.

**9. Procedure when Magistrate is personally interested in a case before him**

Where a magistrate is a party to any cause or matter or is unable from personal or for any other sufficient reason to adjudicate on any cause or matter, the Chief Judge shall direct some other magistrate to act instead of such magistrate for the purpose of hearing and determining that cause or matter.

**10. . . . .**

[Section 10 repealed by Law No. 14 of 2012.]

**11. Powers and functions of Justice of the Peace**

Subject to the provision of this Law and any other enactment, every justice of the peace shall, subject to any exceptions which may be contained in the notice of his appointment, have—

- (a) power to preserve the peace, to suppress riots and affrays, and to disperse all disorderly and tumultuous assemblies and for any of those purposes, to call in aid and assistance, any police officer or any person, who shall be bound to obey any or all lawful directions of the Justice of the Peace;
- (b) all the powers, rights and duties of a magistrate under this Law and any other law to—
  - (i) issue summons and warrants for the purposes of compelling the attendance of accused persons and witnesses before the court;
  - (ii) issue summons and other process in civil causes and matters;
  - (iii) remand in custody, persons who are accused but not convicted of crime or admit such persons to bail;
  - (iv) issue search warrants.

**12. Duties of a registrar**

The duties of a registrar shall be—

- (a) to attend sittings of the court as the magistrate shall direct;

- (b) to prepare or cause to be prepared summons, warrants, orders, convictions, recognisance, writs of execution and such other documents as the magistrate may direct and submit the same for the signature of the magistrate;
- (c) 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;
- (d) to receive all fees, fines and penalties and all other money paid or deposited in respect of any proceedings in the court, and to keep or cause to be kept accounts relating to such monies; and
- (e) to perform or cause to be performed such other duties connected with the court as may be assigned to him by the magistrate.

## PART III

*Jurisdiction and Law***13. Civil jurisdiction of Magistrates**

Subject to the provisions of the Constitution, this Law and any other enactment, a Chief Magistrate Grade I shall have and exercise jurisdiction in any civil cause or matter—

- (a) in all personal actions, whether arising from contract, or from tort, or from both where the demand or damage claimed, whether as balance of account or otherwise is not more than one million naira;
- (b) in all actions between landlord and tenant for recovery of rent or possession of land or premises other than residential premises claimed under an agreement or refused to be delivered up, where the annual value or rent does not exceed one million naira;
- (c) in all actions for the recovery of any penalty, rates, expenses, contribution or other like demand which is recoverable by virtue of any law for the time being in force if—
  - (i) is not expressly provided by that or any other law, that the demand shall be recoverable only in some other court; and
  - (ii) the amount claimed in the action does not exceed one million naira;

Provided that for the purpose of this paragraph, the expression “**penalty**” shall not include a fine to which any person is liable on conviction for a criminal offence;

- (d) in any civil proceedings in respect of which jurisdiction has been conferred upon the court by any other enactment may be instituted in the court where the amount claimed or the value of the subject matter of the proceedings as the case may be, does not exceed one million naira;

[Paragraph (d) (previously paragraph (e)) renumbered by Law No. 14 of 2012.]



- (e) to appoint guardians *ad-litem* and to make orders and issue and give directions relating thereto;

[Paragraph (e) (previously paragraph (f)) renumbered by Law No. 14 of 2012.]

- (f) to grant, in any action instituted in the Court, injunctions or orders, to stay waste or alienation or for the detention and preservation of any property, the subject matter of such action or to restrain breaches of contract or torts.

[Paragraph (f) (previously paragraph (g)) renumbered by Law No. 14 of 2012.]

[Section 13 amended by Law No. 14 of 2012.]

#### 14. Restriction of jurisdiction on land and other matters

(1) Subject to the provisions of this Law and any other law, a Chief Magistrate Grade I shall not exercise jurisdiction in any cause or matter which—

- (a) raises any issue as to title to land, or to interest in land;
- (b) raises any issue as to the validity of any devise, bequest or limitation under any will or settlement; or
- (c) is subject to the jurisdiction of Shari'ah Courts relating to marriage, family status, guardianship to children, inheritance or disposition of property on death.

(2) The provisions of subsection (1), shall not have effect—

- (a) in so far as the Governor may by order otherwise direct;
- (b) in any suit transferred to the court of any magistrate under the provisions of the Shari'ah Courts Law.

(3) A Chief Magistrate Grade II, Senior Magistrate Grade I and II and Magistrate Grade I, II and III shall have jurisdiction in civil causes or matters similar in all respect set out in section 13, but subject to the exceptions contained in subsection (1) of this section, save that section 13 shall have effect as if for any reference therein to one million naira there is thereby substituted—

- (a) in relation to Chief Magistrate Grade II, seven hundred thousand naira;  
[Paragraph (a) amended by Law No. 14 of 2012.]
- (b) in relation to Senior Magistrate Grade I, five hundred thousand naira;  
[Paragraph (b) amended by Law No. 14 of 2012.]
- (c) in relation to Senior Magistrate Grade II, four hundred thousand naira;  
[Paragraph (c) amended by Law No. 14 of 2012.]
- (d) in relation to a Magistrate Grade I, three hundred thousand naira;  
[Paragraph (d) amended by Law No. 14 of 2012.]
- (e) in relation to Magistrate Grade II, two hundred thousand naira; and  
[Paragraph (e) amended by Law No. 14 of 2012.]
- (f) in relation to Magistrate Grade III, two hundred thousand naira.  
[Subsection (3) and Paragraph (f) amended by Law No. 14 of 2012.]

**15. Jurisdiction in special cases**

A magistrate shall have jurisdiction to hear and determine any action where the debt or demand claimed in the action, is, after the plaintiff's own admission of the defendant's counter-claim or set off against him, nor more than an amount with respect to which the magistrate has jurisdiction.

**16. Criminal jurisdiction of Magistrate**

(1) Subject to the provisions of the Criminal Procedure Code, any offence under the Penal Code may be tried by any magistrate by whom the offence is shown in the sixth column of Appendix A of the Criminal Procedure Code, to trial or by any magistrate having superior jurisdiction.

(2) Subject to the provisions of the Criminal Procedure Code, any offence under any law other than the Penal Code may be tried by any magistrate given jurisdiction in that behalf by the law:

Provided that a magistrate may notwithstanding any provisions in the Criminal Procedure Code limiting his jurisdiction but subject to any other law, try any offence save an offence punishable with imprisonment for a term, which may not exceed—

- (a) in the case of a Chief Magistrate Grade I, fourteen years or with a fine which may not exceed two hundred and fifty thousand naira;  
[Paragraph (a) amended by Law No. 14 of 2012.]
- (b) in the case of a Chief Magistrate II, twelve years or with a fine which may not exceed two hundred thousand naira;  
[Paragraph (b) amended by Law No. 14 of 2012.]
- (c) in the case of Senior Magistrate Grade I, ten years or with a fine which may not exceed one hundred and fifty thousand naira;  
[Paragraph (c) amended by Law No. 14 of 2012.]
- (d) in the case of a Senior Magistrate Grade II, seven years or with a fine which may not exceed one hundred and twenty thousand naira;  
[Paragraph (d) amended by Law No. 14 of 2012.]
- (e) in the case of a Magistrate Grade I, five years or with a fine which may not exceed one hundred thousand naira;  
[Paragraph (e) amended by Law No. 14 of 2012.]
- (f) in the case of a Magistrate Grade II, three years or with a fine which may not exceed eighty thousand naira; and  
[Paragraph (f) amended by Law No. 14 of 2012.]
- (g) in the case of a Magistrate of the third Grade, eighteen months or with a fine which may not exceed sixty thousand naira.  
[Paragraph (g) amended by Law No. 14 of 2012.]

**17. Inquiries into offences**

The jurisdiction of every magistrate to receive and to inquire into all offences and to make orders in respect thereof, shall be governed by the provisions of the Criminal Procedure Code.

**18. Additional jurisdiction in civil and criminal matters**

(1) The Governor may on the recommendation of the Chief Judge, by order published in the *Gazette* authorise the exercise by any magistrate of such further or additional jurisdiction in any Civil causes or matter as the Governor may specify.

(2) Subject to any other law the Governor may, on the recommendation of the Chief Judge, by order published in the *Gazette*, authorise the exercise by any magistrate of such further additional jurisdiction in any criminal cause or matter as the Governor may specify.

(3) An order made by the Governor under this section—

- (a) may be revoked by the Governor by notice published in the *Gazette*;
- (b) shall, in relation to civil jurisdiction specify the limit of such jurisdiction and in particular, the maximum sum of any claim or demand that may be brought or entertained within the jurisdiction; and
- (c) shall, in relation to criminal jurisdiction authorise such increased jurisdiction in respect of—
  - (i) offences under a named law or any other enactment;
  - (ii) offences specifically referred to under a named law or any other enactment; or
  - (iii) a particular offence for which a person is then charged or a particular offence of which a Court has taken cognisance.

**19. General powers of Magistrate**

Every magistrate may administer oaths and take solemn affirmations and declarations, accept production of books and documents and make such decrees and orders and exercise such powers, judicial and administrative, in relation to the administration of justice as shall from time to time be prescribed by any enactment subject thereto, as may be prescribed by any special order of the Chief Judge.

**20. Magistrate to have process of High Court executed**

Every magistrate shall, when so 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 such writ, or order for his appearance in the High Court and shall, in default of security being given or when the High Court so orders, send the person to the place named in the writ.

**21. Actions by or against officer of the Court**

Subject to section 8, any civil proceedings by or against any magistrate or other officer of the court with respect to any cause or matter within the jurisdiction of the magistrate shall be commenced in the court of any magistrate of competent jurisdiction other than the court of magistrate or officer commencing the action or against whom the action is commenced.



**22. Oaths**

(1) A person appointed as a magistrate shall not perform the functions of his office until he has taken and subscribed a judicial oath.

(2) A magistrate or justice of the peace may administer any oath which is requested to be taken before him in the exercise of any of the jurisdictions and powers conferred upon him by this Law or any other law:

Provided that an oath shall only be administered to a muslim by a muslim.

**23. Application of English Law**

Subject to the provisions of any other law and this Law—

- (a) the common law; and
- (b) the doctrine of equity,

may in so far as they relate to any matter with respect to which the State is for the time being competent to make laws, apply to any case coming before the courts constituted by this Law.

**24. Application of law and equity**

(1) In every civil cause or matter in the court, law and equity shall be administered concurrently.

(2) A magistrate in exercise of the jurisdiction vested in him by this Law, may in any cause or matter, grant either absolutely or on such terms and conditions as shall seem fit, all such remedies and relief that the parties may be entitled to in respect of any legal or equitable claim properly brought forward by them in the cause or matter, so that as far as possible, all matters in controversy between the parties may be completely and finally determined, and all multiplicity of legal proceeding concerning any such cause or matter may be avoided.

(3) In any cause or matter in which there is conflict between the rules of equity and the rules of the common law with reference to any issue, the rules of equity shall prevail.

**25. Application of Customary Law**

(1) A magistrate shall observe and enforce the application of every customary law which is not repugnant to natural justice, equity and good conscience, and is not incompatible either directly, or by implication with any enactment for the time being in force, and nothing in this Law shall be construed to deprive any person of the benefit of such customary law.

(2) Customary Law shall apply in any cause or matter where—

- (a) the parties are Nigerians;
- (b) one of the parties is a Nigerian; and
- (c) it appears to the court that substantial injustice would be done to either party by strict adherence to any other rule or law which would otherwise be applicable.



(3) No party shall be entitled to claim the benefit of any customary law if, it appears either from express contract or the nature of the transaction out of which the suit or question arose that, the parties to the contract or transaction intended their rights and obligations thereunder to be governed by some other law than customary law.

(4) In any case where no express rule is applicable to any matter in controversy, the court shall be governed by the principles of natural justice, equity and good conscience.

#### *Reconciliation*

#### **26. Promoting reconciliation**

In any cause or matter the magistrate shall, as far as practicable, promote reconciliation between the parties to the dispute who are subject to his jurisdiction and may encourage and facilitate the settlement in an amicable manner of all matters in controversy between them.

#### **27. Settlement in criminal matters**

In any criminal cause or matter, the magistrate may invoke the provision of section 339 of the Criminal Procedure Code, to facilitate the settlement in an amicable manner of proceedings relating to any offence which is compoundable under the provisions of the Criminal Procedure Code.

### PART IV

#### *Sitting and Distribution of Business*

#### **28. Places for sittings**

The Chief Judge, may by notice in the *Gazette*, appoint the places where any magistrate shall sit for the despatch of the business of the court, and may in like manner change such places or any of them.

#### **29. Time of sittings**

(1) The court shall be open throughout the year except on Saturdays, Sundays and public holidays for the transaction of business, and shall sit at such times as may be determined by the magistrate subject to any direction of the Chief Judge.

(2) When any day appointed for the sitting or adjourned sitting of the court falls on a Saturday, Sunday or public holiday, the magistrate may if practicable attend and transact the business appointed to be heard at such sitting on the day next after the Saturday, Sunday or public holiday.

#### **30. Business at any sittings**

At any sitting of the court, the magistrate may hear and determine any civil or criminal cause or matter or both.

#### **31. Adjournment**

(1) A magistrate may adjourn any sitting of the court from day to day to any convenient day.

(2) If the magistrate is not present at the time and place appointed for a sitting of the court, an officer of the court or any other person authorised in that behalf by the magistrate may, by public notice written or oral, adjourn the sitting until such time and to such place as may have been communicated to him by the magistrate and in the absence of any such communication, until such time and to such place may be convenient and all persons bound to be present at the sitting so adjourned shall equally be bound to be present at the time and place appointed by such notice.

(3) Where the court adjourns any sitting without appointing any new day or place for its next sitting, any person bound to attend the court shall be deemed to have been present at court if he is present at the place where the court last adjourned and on the next succeeding business day.

(4) A magistrate may summon the parties to appear in court notwithstanding that the period for which the case was adjourned has not expired.

#### *Power to Transfer*

### **32. Transfer between Magistrates**

A magistrate may at any stage of the proceedings and before final judgment transfer any cause or matter before him to any other magistrate having jurisdiction to try the case with the consent of that other magistrate and such cause or matter shall be continued or commenced *de novo*, or inquired into or tried and disposed of by that other magistrate as if the case had originally been commenced before him. Provided that no cause or matter which has been specifically transferred by the High Court for inquiry or trial to a magistrate, shall again be transferred from the magistrate without leave of the Chief Judge.

### **33. Cases subject to transfer**

(1) A magistrate may, of his own motion, or on application of any person concerned, report to the Chief Judge any civil or criminal cause or matter, pending before him which in his opinion ought for any reason to be transferred to another magistrate or to the High Court.

(2) The Chief Judge shall with respect to any cause or matter reported to him under subsection (1), give directions as to the manner, place and by whom the cause or matter shall be heard and determined.

### **34. Transfer to Shari'ah Courts**

(1) Subject to subsection (2), a magistrate may, at any stage of any proceeding and before final judgment, by order direct that any cause or matter pending before him be transferred to an Shari'ah Court having jurisdiction to try that cause or matter and the magistrate shall inform the Shari'ah Court in writing of reason for making the order.

(2) Notwithstanding subsection (1), a magistrate shall not—

- (a) transfer to an Shari'ah Court any matrimonial cause arising out of or in connection with a monogamous marriage; or
- (b) transfer to an Shari'ah Court a cause or matter which has been transferred to his court by the High Court; and

- (c) save by leave of a Judge of the High Court, re-transfer to an Shari'ah Court a cause or matter which has been transferred to the court in accordance with the provisions of the Shari'ah Courts Law.

**35. Transfer of cases by the Chief Judge**

(1) The Chief Judge may, at any time before final judgment and in the interest of justice, transfer any cause or matter before any magistrate to another magistrate or to the High Court.

(2) The power to transfer under this section shall be exercised by means of an order under the hand of the Chief Judge and the seal of the High Court may apply—

- (a) to any particular cause or matter—
- (i) in its entirety;
  - (ii) in respect of any part thereof; or
  - (iii) in respect of any proceeding to be taken therein; and
- (b) generally to all such causes or matters as may be described in such order whether future or pending at the date of the order.

(3) The Chief Judge may, at any time cancel, alter, add to or amend any such order.

**36. Effect of order of transfer**

Every order for the transfer of a cause or matter shall operate as a stay of proceedings before the magistrate from whom the proceedings are ordered to be transferred, and the process and proceeding in every such cause or matter and an attested copy of all entries in the books of the court relative thereto, shall be transmitted to the High Court or to the court specified in the order, as the case may be, and all further proceedings in the cause or matter shall be taken in that other court as if the cause or matter had been commenced in that other court.

**37. No appeal from order of transfer**

No order made under the provisions of sections 33, 34 and 35 shall be subject to appeal.

*Venue***38. Where to sue**

(1) Subject to the provisions of this Law and of any other enactment, civil proceedings shall be commenced in the court of a magistrate having jurisdiction in the district in which—

- (a) the defendant or any of the defendants resides or carries on his business;
- (b) the cause of action or claim arose, wholly or in part; or
- (c) the subject matter of the action is located.

(2) In any other case where under the provisions of sections 33, 34 and 35 an order has been made for the transfer of any case from one court to another court, the other court shall notwithstanding anything contained in subsection (1), have jurisdiction to hear and determine the case or matter.



## PART V

*Practice and Procedure***39. Practice and procedure**

Subject to the provisions of this Law any other enactment and the practice and procedure of the court shall in its civil jurisdiction be regulated by rules of court, and its criminal jurisdiction be regulated by the provisions of the Criminal Procedure Code.

**40. Proceedings to be disposed of by single Magistrate**

Subject to the provisions of this Law, a Magistrate shall be the sole judge in all proceedings brought in the court, and shall determine all questions of fact and law.

**41. Completion of process**

Where a magistrate has issued any summons or warrant, or otherwise taken or commenced any proceedings or matter, whether civil or criminal, under any authority however conferred, and subsequently ceases to have or to exercise jurisdiction in respect of such proceedings or matter, it shall be lawful for the persons in whose hands the summons or warrant may be to execute or serve the summons or warrant in the same manner as if the magistrate who issued the summons or warrant had not ceased to have or to exercise such jurisdiction and any person who is the successor of or is acting for such magistrate may hear, determine, execute, enforce or carry to completion any proceedings or matter so commenced as aforesaid, save that such person shall commence the trial of the proceedings or matter *de novo*.

**42. Judgment of Superior Courts**

(1) A judgment of the Supreme Court, the Court of Appeal, the Federal High Court, the State High Court, the Shari'ah Court of Appeal or any other superior court of any State of Nigeria, in favour of any party to any cause or matter may in respect of the same cause or matter and between the same parties or their privies, be pleaded as defence in any action commenced in the court.

(2) Nothing in this section shall be construed to prevent any judgment other than a judgment referred to in subsection (1), being pleaded as a defence in any magistrate court established under any law immediately before the commencement of this Law.

*Recording of Proceedings***43. Recording of proceedings**

- (1) At the hearing of any proceedings, the magistrate shall record in writing—
- (a) any question of law or equity raised at the hearing; and
  - (b) any legal submission made together with any authorities cited in support of the same; and
  - (c) all oral and documentary evidence given before the court; and
  - (d) his decision thereon and the reason for the decision, and sign the record at the conclusion of each days proceedings.



(2) A copy of the record of proceedings compiled in accordance with subsection (1), and signed by the magistrate or certified by the registrar as true copy of the original shall on application by any party to the proceedings, whether or not notice of appeal has been given and after payment by that party of such fees as may be prescribed, be furnished to the applicant.

(3) A signed or certified true copy of the record of proceedings in accordance with subsection (2), may be admitted in any court as evidence of such proceedings and of the statements made by the witnesses.

#### **44. Summons to witnesses**

A party to any cause or matter may apply to the registrar of the court for a summons to issue directed to any witness with or without a statement requiring the production by the witness of books, documents or other materials of evidential value in his possession or control, to appear in court and give evidence on behalf of the party issuing the summons, and such summons shall be served in accordance with the rules of the court made under this Law.

#### **45. Service of process**

Every summons, warrant order, judgment, writ of execution or other process or proceedings, whether civil or criminal issued or taken by or upon the authority of any magistrate with respect to any cause or matter may be served or executed anywhere within the State by a bailiff of the court or by a member of the police force to whom the same may be directed and in the absence of any such direction by any other member of the Police force.

#### **46. Issue of process**

Every summons, warrants order, conviction, recognizance and other process in any criminal proceedings shall subject to section 11, be signed by a magistrate or such other officer as may be prescribed by the Criminal Procedure Code.

#### **47. Disobeying witness summons**

(1) Subject to the provisions of the Evidence Law, any person summoned as a witness in court who—

- (a) refuses or neglects, without sufficient cause, to appear or to produce any document required by the summons to be produced; or
- (b) refuses to be sworn or make an affirmation or give evidence shall forfeit such sum not exceeding five thousand naira as the magistrate may direct.

[Paragraph (b) amended by Law No. 14 of 2012.]

(2) Notwithstanding subsection (1), no person summoned to testify in a civil cause or matter shall suffer any penalty unless there has been paid or tendered to him at the time of the service of the summons such amount in respect of his expenses as may be prescribed for the purposes of this section.

(3) Any person present in court who is required to give evidence and refuses without sufficient cause to be sworn, to make an affirmation or give evidence shall forfeit such sum not exceeding one thousand naira as the magistrate may order.

(4) The magistrate may in his order direct that the whole or any part of the sum forfeited after making allowances for such costs as he may think appropriate, be paid to the party injured by the refusal or neglect of the witness to testify.

#### 48. Inspection

In any cause or matter a magistrate may on the application of either party, or of his own motion make such order for the inspection by the court, the parties or witnesses, of any movable and immovable property, the inspection of which is in his opinion, is material to the proper determination of the question in dispute, and may give such direction regarding such inspection, as he may think fit.

#### 49. Duty of police

Every police officer shall obey the warrant and carry out the directions of any magistrate in the exercise of his criminal and where the law requires, civil jurisdiction.

#### 50. Reference to arbitration

(1) A magistrate may, with the consent of the parties to any civil proceedings and subject to such terms and conditions as the magistrate may consider just, order such proceedings to be settled by the person by arbitration together with any other matter in dispute between the parties and within the jurisdiction of the court.

(2) A matter referred to an arbitrator for settlement under subsection (1), shall not be revocable by any party except with the consent of the magistrate.

(3) Any award made by an arbitrator or umpire pursuant to an order made under subsection (1), shall be entered as the judgment in the proceedings and shall be binding and effectual to all intents and for all purposes as it were a judgment of the magistrate:

Provided that the magistrate may in the interest of justice revoke the award—

- (a) on the application by any party not later than seven days after the making of the award alleging misconduct on the part of the arbitrator;
- (b) if both parties require the arbitration to be set aside; or
- (c) if in his opinion another order for settlement by arbitration ought to be made.

(4) In this section, the expression "award" includes an interim award.

#### 51. Reference to a referee

(1) A magistrate may refer to a referee for inquiry and report—

- (a) any question in dispute between the parties relating to—
  - (i) prolonged examination of documents;
  - (ii) scientific investigation; or
  - (iii) investigation of any matter relating to any locality, which cannot in the opinion of the magistrate be conveniently disposed of by or before him;
- (b) any civil proceedings where the question consists wholly or in part of accounts;

- (c) any other matter arising out of any civil proceedings where the parties give their consent and he is satisfied on grounds to be recorded by him, that it is a proper case to refer.

(2) Where in any proceedings any question is referred to a referee in accordance with subsection (1), the magistrate may—

- (a) give direction as to the manner of conducting the investigation or the form the report shall be made;
- (b) may refer back to any such report for further inquiry and report; and
- (c) give such judgment or make such order in the proceedings as may be just.

(3) Where the question in dispute between the parties relate to subsection (1) (b), the dispute may be referred to the registrar for inquiry and his report with respect to the matter may be received in evidence against or in favour of any party to the proceedings.

(4) Subject to any direction which the court may give with respect to an inquiry under this section, in every such inquiry—

- (a) evidence shall be taken before the referee or the registrar; and
- (b) *Reference to a Referee.*—the inquiry shall be conducted in the same manner as nearly as circumstances admit as trials before the court:

Provided that the tribunal of the referee or the registrar shall not be conducted in such a manner as if it were a public court of justice.

(5) For the purposes of an inquiry under this section, the referee or registrar shall have power—

- (a) to issue summons to enforce the attendance of any witness;
- (b) to compel the production of any document; and
- (c) to report to the magistrate the disobedience of any summons by any witness or the refusal of any witness to answer any questions or give evidence.

(6) A magistrate may, in respect of any witness reported under subsection (5) (c), make such order as he may consider necessary and as he would have made if the witness had appeared before him.

## **52. Evidence of prisoners**

(1) In any proceedings pending before the court, a magistrate may, if he thinks fit, upon application either orally or in writing by any party, issue a warrant or order under his hand for the bringing up before the court of any person (herein in this section referred to as a prisoner) confined in any place under sentence or under commitment for trial or otherwise, to be examined as a witness in the proceedings.

(2) The prisoner mentioned in any such warrant or order shall be brought before the court under the same custody, and shall be dealt with in the same manner, in respect, as a prisoner required by warrant to be brought before the High Court and examined therein as a witness:

Provided that in civil proceedings the person having the custody of the prisoner shall not be bound to obey the warrant or order unless it is tendered to him a reasonable sum for conveyance and maintenance of a proper officer or officers and of the prisoner in going to, remaining at and returning from the court.



*Absconding Defendant***53. Arrest of absconding defendant**

(1) Where the plaintiff in any action proves, at any time before final judgment by evidence on oath or by affidavit to the satisfaction of the magistrates—

- (a) that he has a good cause of action within the limits of the jurisdiction of such magistrate against the defendant to an amount of not less than one thousand naira;
- (b) that there is probable cause for believing that the defendant is about to quit the State unless he is apprehended; and
- (c) that the absence of the defendant from the State will materially prejudice the plaintiff in the prosecution of his action,

the magistrate may in the manner prescribed by rules of court order the arrest of the defendant.

(2) The defendant (herein referred to as absconding defendant) shall, upon his arrest, be brought as soon as practicable before the magistrate and the action shall there and then be heard and determined and all proceedings consequently thereon shall be immediately taken; or the magistrate may if he thinks fit adjourn the hearing for a reasonable time, after releasing the absconding defendant on bail in any of the following cases, that is to say—

- (a) if the absconding defendant deposits at the court, by way of security, a sum equivalent to the sum claimed, and the costs of the action or otherwise; or
- (b) if the absconding defendant gives security to the plaintiff by bond with one surety, to be approved by the magistrate, double the sum claimed and costs, conditioned upon the bond remaining in the custody of the registrar.

(3) Where an adjournment is made and the absconding defendant fails to make the depositor to give the security in accordance with subsection (2), the magistrate may commit him to prison custody until his action is fully heard and determined:

Provided that—

- (a) no such commitment shall be for a term exceeding seven days but without prejudice to the power of the magistrate to remand the defendant from time to time, save that no such imprisonment shall continue for more than one month; and
- (b) upon the final adjudication of the action, the magistrate shall order the release of the defendant if he is then in custody.

(4) If judgment is given for the plaintiff at the hearing, the magistrate may make an order for the payment to the plaintiff out of the sum, if any, deposited as security by the defendant, for the amount of the debt and costs and shall repay the balance, if any, to the defendant.

(5) If the absconding defendant gives a bond in accordance with this section and subsequently fails to appear at the hearing, if judgment is given for the plaintiff, execution may be levied on the bond to recover the amount of the judgment, and costs awarded by the magistrate, but, if the defendant appears at the hearing, the magistrate shall in such case, when judgment has been given, cancel the bond and deliver it up to the defendant.



**54. Release by any other Magistrate**

(1) If the absconding defendant is arrested outside the jurisdiction of the magistrate who issue the warrant of arrest, he shall on application be brought as soon as practicable before the nearest magistrate who may order the release of the defendant, subject to the defendant's compliance with section 53 (2).

(2) The magistrate by whom the defendant is released shall cause the deposit made or the bond entered into by the defendant to be sent with all convenient despatch to the magistrate court having jurisdiction to hear and determine the cause.

*Interim Attachment of Property***55. Interim attachment of property**

In any suit, the court may on the application of the plaintiff make at any stage before final judgment and in such circumstances as may be specified in rules of the court made under this Law, order the defendant to furnish sufficient security to satisfy any judgment that may be given against him in the suit or direct that any property movable or immovable belonging to the defendant shall be attached until the further order of the court.

*Addresses***56. Addresses**

(1) In any civil proceedings, the party on whom the burden of proof lies shall be entitled to address the court at the commencement of the case.

(2) When the party who began has closed his case, his opponent shall, provided there is any case to answer, announce whether he intends to adduce evidence or not, and if he announces that he does not intend to call evidence the party beginning shall be entitled to address the court for the second time for the purpose of summing up his evidence, and his opponent shall have a right of reply.

(3) Where the party beginning has concluded his case, his opponent shall if he intends to call witnesses in the case, be at liberty in his turn to open his case, call his witnesses and sum up and comment not only on his own evidence but also on the whole case.

(4) If the party opposed, the party beginning calls any witness in the case, the party beginning shall be entitled to the last reply generally on the whole case.

*Judgments***57. Judgment on conclusion of hearing**

On the conclusion of the hearing of any cause or matter the magistrate shall—

- (a) either at the same or at a subsequent sitting of the court and in any case not later than 30 days thereafter deliver judgment in the cause and formal judgment shall be entered in the appropriate form;
- (b) if so required by the plaintiff or defendant and on payment of the prescribed fee, cause to be delivered to the plaintiff or defendant as the case may be, a certified copy of the judgment so delivered.

**58. Judgment in action for recovery of chattel**

If the plaintiff in an action for the recovery of any chattel or thing establishes his claim, the magistrate may give judgment either for the delivery of the chattel or thing or for payment of the value thereof as provided at the hearing, and in either case the court may award in addition such damages as the justice of the case may require.

**59. Orders that may be made**

Subject to the provisions of this Law, any other law and the rules of the court, a magistrate may in any cause or matter make any order which he considers necessary for doing justice in the case whether or not such order has been expressly asked for by the person entitled to the benefit thereof.

**60. Decree to be obeyed**

A person directed to pay money or do any act is bound to obey the order without any demand for payment or performance, and if no time is therein expressed he is bound to do so within two days after the order has been made, except as to costs where the amount thereof is required to be ascertained by taxation and unless the court enlarges the time by the same or other subsequent order.

**61. Payment and suspension of judgments and orders**

(1) When a judgment is given or an order made by the court under which a sum of money of any amount is payable, whether by way of satisfaction of the claim or counterclaim in the proceedings or by way of costs or otherwise the court may, as it thinks fit, order the money to be paid either—

- (a) in one sum, whether forthwith or within such period as the court may fix; or
- (b) by such instalments payable at such times as the court may fix.

(2) If at any time it appears to a magistrate that a party to any proceedings is unable from any cause to pay the sum recoverable against him or any instalment thereof whether by way of satisfaction of the claim or counterclaim in the proceedings or by way of costs or otherwise, the magistrate may in his discretion and for the purpose of doing justice to all parties concerned, suspend or stay the judgment or order given or made in the proceedings for such time and on such terms as the magistrate thinks fit, and so from time to time until it appears that the cause of the inability has ceased.

**62. Execution**

The issue of any execution in any proceedings shall be in accordance with the provisions of the Sheriffs and Civil Process Law.

**63. Finality of judgment**

Every judgment and order of the court shall, except as provided by this Law or any other law, be final and conclusive between the parties:

Provided that a magistrate shall have power to non-suit the plaintiff in every case in which satisfactory proof shall not be given entitling either the plaintiff or defendant to judgment.

**64. Setting aside default judgment**

A magistrate may, on application and upon sufficient grounds being shown by the applicant at any sitting of the court set aside any judgment or order given or made against any party in default of his appearance before the court together with any order made consequent upon the judgment or order, and may grant a new trial or hearing upon such terms as he may think fits just.

**65. Relistment of case struck out**

Any cause struck out, may by leave of the court, be restored on the cause list on such terms as the court may deem fit.

**66. Costs in the discretion of court**

(1) All the fees and costs of any action or proceedings in the court, including any arbitration, not hearing otherwise provided for shall be paid by or apportioned between the parties in such manner as the court may in its discretion order, and in default of any such order shall abide the event of the action or proceedings.

(2) Execution may issue for the recovery of any such fees and costs in like manner as if they were judgment obtained in the said court.

(3) Costs shall be at the discretion of the court and accordingly the court may in exercise of that discretion award or refuse to award any or such costs to any party as it may think fit.

**67. Unclaimed money in court**

(1) A registrar shall in the month of December in each year make out a correct list of all sums of money belonging to all parties to any cause or matter in the court which shall have been paid into court and which shall have remained unclaimed for five years before the first day of January then last, specifying the names of the parties for whom or on whose account the same were so paid into court.

(2) A copy of such list shall be pasted in a conspicuous position and remain so pasted during court hours at each place at which the court is appointed to sit.

(3) All sums of money which shall have been paid into court to the use of any person whether a party to a cause or not and which shall have remained unclaimed for a period of six years or more on the first day of January next after the pasting of the list in accordance with subsection (2) shall be—

- (a) accounted for by the Registrar to the Accountant-General of the State; and
- (b) transferred by the Accountant-General of the State to the credit of the Consolidated Revenue Fund.



**68. Evidence of record of proceedings**

Any book required to be kept by this Law or by rules or court relating to the proceedings of the court, or a copy of any entry therein purporting to be signed and certified as true copy by a registrar, shall at all times without further proof be received in any court as evidence of the entries in such book or the so copied (as the case may be) and of the proceedings referred to and of the regularity of the proceedings.

**69. Several causes of action**

A plaintiff may be the same plaintiff in the court suing in respect of more than one cause of action.

**70. Partial abandonment to give jurisdiction**

(1) Where the plaintiff claims to have a cause of action against any defendant for an amount exceeding ten thousand naira, he may, if he desires to bring the action within the jurisdiction of the Chief Magistrate Grade I claim in his action only the amount not exceeding one hundred thousand naira, and the Chief Magistrate Grade I shall in the determination of the action give judgment for only the amount claimed in the action.

(2) A judgment obtained in accordance with subsection (1), shall operate to fully discharge the defendant against any further claim or demand in respect of that cause of action and judgment to that effect shall be entered accordingly.

**71. Executor may sue and be sued**

An 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 in the like manner as would have been given or issued in this High Court.

**72. Procedure where persons jointly liable**

(1) Where a plaintiff has a claim recoverable under this Law against two or more persons jointly, it shall be sufficient to serve any one or more of those persons with the process, and judgment may be obtained and execution issued against any of them so served, notwithstanding that others jointly liable may not be within the jurisdiction of the court.

(2) Where judgment obtained against any person under subsection (1) is satisfied by that person, he shall be entitled to recover contribution from any other jointly liable with him.

**PART VI***Appeals***73. Right of appeal in criminal cases**

(1) Any person aggrieved by the judgment or order of a magistrate in a criminal cause or matter in respect of any charge, may appeal to the High Court from such judgment or order.

(2) An appeal from the court to the High Court in any criminal cause or matter, and the procedure in respect of that cause or matter shall be in accordance with the Constitution, the High Court Law and the Criminal Procedure Code.



**74. Right to appeal against sentence**

A person convicted of any offence and sentenced may, save where the sentence imposed is one fixed under the provisions of any law, appeal to the High Court against such sentence.

**75. Appeal by prosecutor**

(1) Where an accused person has been acquitted or an order of discharge has been made in respect of him by a magistrate, the prosecutor may appeal to the High Court from such acquittal or discharge on the ground that the acquittal or discharge is erroneous in law or that the proceedings or any part thereof were in excess of the jurisdiction of the magistrate.

(2) Where a person has been convicted by a magistrate of an offence in respect of which the magistrate is required by any statutory provision to impose the minimum sentence or make such other order as the statute prescribes, the prosecutor may if the magistrate fails to comply with the statutory provisions appeal to the High Court on the ground that the magistrate has failed to impose such sentence or make such order.

**76. Right of appeal in civil cases**

(1) Subject to subsection (2) of this section, an appeal shall lie as of right to the High Court from any decision, judgment or order of any magistrate in any civil matter.

(2) Except with leave of the high Court, no appeal shall lie to the High Court from any decision, judgment or order of a magistrate in any civil cause or matter—

- (a) where the sum claimed is less than five hundred naira; or
- (b) where the value of the subject matter or right claimed or determined is less than five hundred naira.

**77. Civil appeal procedure**

Subject to the provisions of this Law, the procedure, practice and manner of appeal from the decision, judgment or order of the court in any civil cause or matter shall be in accordance with the rules made under this Law, the High Court Law and any other enactment empowering the making of such rules.

**78. Ex parte order**

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 the order and an appeal shall lie from the decision on such application in like manner as if it were an appeal under section 76 (2) of this Law.

**79. Additional evidence**

(1) Where on the direction of the High Court under section 55 of the High Court Law, additional evidence is to be taken by a magistrate and specific findings of fact made the magistrate taking the evidence or making the finding shall certify such evidence or findings of the High Court.

(2) Unless the High Court otherwise directs, the appellant or the legal practitioner representing the appellant shall be given the opportunity of being present when the additional evidence is taken under subsection (1) of this section.

(3) Evidence taken in pursuance of a direction referred to in subsection (1), shall be taken as if it were evidence at a trial before the magistrate court.

#### **80. Enforcement of judgment**

Upon receipt of a certificate of judgment or order of the High Court upon an appeal and subject to the provisions of this section, a magistrate shall have the same jurisdiction and power to enforce and shall enforce, any decision which is affirmed, amended, substituted or pronounced by the High Court in the same manner and in all respects as if such decision or judgment had been pronounced by himself.

#### **81. Appeal not to operate as stay of execution**

Subject to the provisions of this or any other Law, an appeal shall not operate as a stay of execution but a magistrate or the High Court may order a stay of execution either unconditionally or upon the performance of such conditions as may be imposed in accordance with rules of court.

#### **82. Abatement of appeals**

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

#### **83. Case stated**

At any time during the hearing of a criminal case and before the decision of the magistrate has been pronounced the magistrate may, and when so required by the Attorney-General shall, state a case on a point of law for the opinion of the High Court.

#### **84. Attorney-General may require a case to be stated**

Where, in any criminal cause or matter the Attorney-General is of the opinion that the decision of a magistrate is erroneous in law, he may, at any time within six months from the date of the decision, appeal to the High Court.

#### **85. Particulars of case to be stated**

A case stated by a magistrate shall set out—

- (a) the charge, summons, information or complaint;
- (b) the facts found by the magistrate to be admitted or proved;
- (c) any submission of law made by or on behalf of the accused during the trial or inquiry;
- (d) the finding of, and in case of conviction, the sentence imposed by, the magistrate; and
- (e) any question of law which the magistrate desires to be submitted for the opinion of the High Court.

**86. Question of law for opinion of High Court**

In addition to and without prejudice to the right of appeal conferred by this Law or any other law, a magistrate may reserve for consideration by the High Court on a case to be stated by him any question of law which may arise in any cause or matter before him and may give any judgment or decision subject to the opinion of the High Court.

**PART VII***Miscellaneous Provisions***87. Fees and costs**

(1) The fees and costs set forth in the rules of court made under this Law, may be demanded and received by the registrar or other officers of the court appointed to receive such fees and costs for and in respect of the several matters therein mentioned.

(2) In the absence of the registrar or in the event of there being no registrar or other officers appointed to receive such fees and costs, such fees and costs may be demanded and received by the magistrate.

**88. By whom payable**

(1) All fees or 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 fees are payable.

(2) Notwithstanding subsection (1), a case instituted by a public officer when acting in his official capacity or in any case in which the magistrate endorsed on the plaint his authority for the remission of fees on account of the poverty of the party or for any other sufficient reason, and in every such case, the fees or costs shall, in the discretion of the magistrate be recoverable from the other party if the decision is given against him.

**89. Fees affected**

Sections 87 and 88 shall apply to all monies received by the registrar or other officers of the court under the provisions of this law or any other law, whether the same be fees, costs, forfeitures or money paid into court for any purposes, or received or recovered under or by virtue of any process of execution or distress.

**90. Magistrate refusing to act**

In all cases where a magistrate or justice of the peace refuses to do any act relating to the duties of his office, it shall be lawful for the party requiring the act to be done to apply to the High Court for an order and no action or proceedings whatsoever shall be commenced or prosecuted against the magistrate or justice of the peace for obeying the order.

**91. Protection of judicial officers**

(1) No magistrate or justice of the peace shall be liable for any act done by him or ordered by him to be done in the discharge of his judicial duty, whether or not the act was within the limits of his jurisdiction, provided that he, at that time and in good faith, believed himself to have jurisdiction to do or ordered to be done the act in question.

(2) No person required or bound to execute any warrants or order issued by a magistrate or justice of the peace in excess of his jurisdiction shall be liable in any action for damage in respect of the execution of such warrant or order.



**92. Right of appearance of legal practitioners**

Subject to the provisions of this Law or any other law, a person for the time being entitled to practice as a legal practitioner in the Supreme Court shall have the right to practice as such in the magistrate's court unless he is suspended or prohibited from so practising by or under the provisions of any law.

**93. Representation of the State and government department**

(1) In the case of prosecution by or on behalf of the State or by any public officer in his official capacity, the State or that officer may be represented by a law officer, State Counsel or by any legal practitioner or other person duly authorised in that behalf by or on behalf of the Attorney-General.

(2) Subject to the provisions of the Land Use Act, in any civil cause or matter to which the State or any public officer in his official capacity is a party or in any civil cause the State or that officer may be represented by a law officer or State Counsel or by any legal practitioner or other person duly authorised in that behalf or on behalf of the Attorney-General.

**94. Costs against public officers**

In any cause or matter in which a public officer in his official capacity is a party and is represented by a law officer, State Counsel, legal practitioner or other person duly authorised in that behalf by or on behalf of the Attorney-General, the magistrate may award cost either—

- (a) to or against such public officer personally; or
- (b) to or against the Government representative by the public officer.

**95. Representation of Local Government Council**

In any cause, matter or appeal to which a local government council is a party, such local government council may be represented at any stage of the proceedings by a legal practitioner or by any member or officer of the local government council who shall satisfy the magistrate that he is duly authorised in that behalf.

**PART VIII***Rules and Regulations***96. Regulations**

(1) The Chief Judge, with the approval of the Governor, may make regulation for carrying this Law into effect, and in particular may make rules of court for—

- (a) regulating the practice and procedure of the court in civil or criminal proceedings in respect of which no specific provision is made in this or any other Law including all matters concerned with the books and forms to be used;

- (b) regulating the practice and procedure in civil appeals and in criminal appeals from the court where no provision is made by the High Court Law or by rules of court made thereunder;
- (c) the reference of civil proceedings to arbitration and all matters connected with or incidental thereto, including the remuneration and fees for arbitrators and referees;
- (d) the recording and keeping in such manner and form as he may think fit of any civil or arbitration proceeding;
- (e) the maintenance, preservation, destruction of records or civil and criminal proceedings;
- (f) the books and forms of account to be used in the court and the keeping of the same;
- (g) prescribing the forms of and the times of forwarding returns of criminal cases decided in the court to the Chief Judge or a Judge;
- (h) prescribing the fees, costs and other amounts which may lawfully be demanded and received in respect of any proceeding in court and the service of process;
- (i) the acceptance, retention and disposal of fees, whether in civil or criminal proceedings;
- (j) the waiving and remission of fees payable by poor persons and the admission of persons to sue in *forma pauperis*;
- (k) the receipt of money paid into court and monies received or recovered under or by virtue of any process, execution or distress;
- (l) the payment out of court of monies of persons entitled to receive the same;
- (m) the fees payable in respect of the inspection and copying of records of civil proceedings and documents and other matters relating to such record;
- (n) the fixing of scales of fees and costs recoverable in respect of the appearances and services of legal practitioners in civil proceedings and the taxation of the same;
- (o) regulating the arrest of absconding defendants and the giving of security for their release;
- (p) the imposition of penalties on any person who fails to take any action required by any rule of court or who disobeys any such rules;
- (q) the service and execution of any writ or summons, warrant, order or other process issuing out of or transmitted by an Shari'ah Court to the court;
- (r) the conditions precedent to such service or execution either in respect of such process, generally or in respect of any specified class of process, the procedure to be followed after the service or execution of such process, and the payment of allowance to persons effecting such service or execution; and
- (s) carrying into effect the provisions, objects and intentions of this Law.

(2) Any rules of court made under this section shall apply to all parties in any proceedings before the court.

**97. Rules during transitional period**

Until rules are made for any purpose on the matter specified in section 96 (2)—

- (a) the rules of court made under any enactment relating to such purpose or matter in force immediately before the coming into operation of this Law; and
- (b) the provisions of any enactments to the extent that they relate to such purpose or matter and could be comprised in rules of court made under section 96, shall, in so far as such rules of court and such provisions do not conflict with the provisions of this Law or High Court Law remain in full force and effect, with such modifications as may be necessary to make them applicable to the provisions of this Law.

**PART IX***Transitional Provisions and Repeals***98. Saving of existing appointment**

Nothing in this Law shall be construed—

- (a) to effect the appointment, tenure of office, powers or status of any magistrate or any justice of the peace holding office on the coming into force of this Law;
- (b) to affect the appointment, tenure of office or powers of any registrar or other officer who on the coming into operation of this Law, is performing duties in connection with a court having jurisdiction within the State constituted under the District Courts Law and every such magistrate, justice of the peace, registrar or other officer shall be deemed to have been appointed under this Law and to be subject to the provisions thereof.

**99. Saving of pending proceedings**

(1) All civil proceedings instituted, commenced or taken in accordance with the rules or practice of a District Court established under the provisions of the District Court Law, in respect of a cause or matter pending at the date of coming into force of this Law, shall be valid and effectual as though the proceedings had been instituted, commenced or taken in accordance with the provisions of this Law.

(2) Any criminal cause or matter before any magistrate court established and constituted under the provisions of section 5 to 10 of the Criminal Procedure Code which was pending immediately before the coming into operation of this Law, shall be deemed to be a magistrate court established and constituted under the provisions of this Law.

**100. Saving as to causes transferred from Shari'ah Courts**

Any civil cause or matter which has been transferred from Shari'ah Court to a District Court established under the provisions of the District Courts Law and which has not been part-heard on the day of the coming into operation of this Law, shall be heard and determined by a magistrate as though such order of transfer has been made to the court established under the provisions of this Law.



**101. Saving as to part-heard causes**

A district Judge before whom any cause or matter is part-heard at the date of the coming into force of this Law, shall be deemed to be a magistrate appointed under the provisions of this Law for the purposes of completing any such part-heard case or matter subject to the provisions of this Law.

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