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Supplement to the Sierra Leone Gazette Vol. CXLVI, No. 35
dated 30th July, 2015

THE CRIMINAL PROCEDURE ACT, 2015

ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE

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FIFTH SCHEDULE

No.

2015



Sierra Leone

A BILL ENTITLED

The Criminal Procedure Act, 2015.

Short title.

**Being an Act to consolidate and amend the law relating to
criminal procedure.**

[] Date of com-
mencement.

ENACTED by the President and Members of Parliament in this
present Parliament assembled.

PART I—PRELIMINARY

Commence- 1. This Act shall come into operation on such date as the
ment. President shall fix by order in a statutory instrument.

Interpretation. 2. In this Act, unless the context otherwise requires—

“charge “ includes complaint;

“child” means a person under the age of eighteen years;

“committed for trial” used in relation to any person, means a person committed to take his trial in the High Court by a committing Magistrate or Coroner;

“corporation” includes a statutory corporation established under any law (not being a law establishing local authorities), a company incorporated and registered under the Companies Act, 2009 and a company registered under Part XVIII of the Companies Act, 2009;

Act No. 5 of 2009. “Courts Act” means the Courts Act, 1965;

Act No. 31 of 1965 “Court” means any court of criminal jurisdiction established by law in Sierra Leone other than a Local Court established by or under the Local Courts Act, 2011;

Act No. 1 of 2011.

“defendant” means a person charged with a criminal offence;

“indictment” means a document containing the charge against the defendant signed by a Law Officer or the Anti-Corruption Commissioner;

“information” means a document containing the charge or charges against the defendant signed by the prosecutor and includes an indictment;

Cap. 9 “inquiry” includes committal proceedings and an inquest or enquiry made pursuant to the Coroners Act;

“Judge” means a judge of the High Court or a justice of the Court of Appeal or of the Supreme Court assigned by the Chief Justice to sit in the High Court;

“Law Officer” means the Attorney-General and Minister of Justice, the Solicitor-General, the Director of Public Prosecutions, the First Parliamentary Counsel, the Head of the Civil and Commercial Divisions, and every other State Counsel, Parliamentary Counsel and the Anti Corruption Commissioner;

“Minister” means the Minister responsible for social welfare;

“Police officer” means any member of the Sierra Leone Police Force;

“prosecutor” means a person who gives information or causes information to be given on his behalf against the defendant and includes the Attorney-General and Minister of Justice and any other Law Officer or the Anti-Corruption Commissioner or any person duly authorized to prosecute a criminal offence;

“Registrar” means any person appointed to perform the duties of a Registrar in any Court.

PART II – GENERAL PROVISIONS ON PROCEDURE

3. Without prejudice to the provisions of any other enactment, all criminal offences shall be enquired into, tried and otherwise dealt with in accordance with the provisions of this Act. Procedure for offences.

Arrest generally

Mode of arrest.

4. (1) In making an arrest, the Police Officer or other person making the arrest shall actually touch or confine the person to be arrested, unless there is a submission to the custody by word or action.

(2) If the person forcibly resists the endeavour to arrest him or attempts to evade the arrest, the Police Officer or other person may use sufficient force to effect the arrest but no more.

(3) If the true name and address of the person is not ascertained within twenty-four hours from the time of arrest, or if he fails to execute the recognisance or if so required, to furnish sufficient sureties, he shall forthwith be taken before the nearest Magistrate having jurisdiction.

(4) If a Police Officer is assaulted or obstructed when making an arrest, it shall be the duty of any private person, on whom he may call for aid, to go to his assistance.

Search of place for person sought to be arrested.

5. If any person acting under a warrant of arrest, or any Police Officer having authority to arrest, has reason to believe that the person to be arrested has entered into or is within any place, the person residing in or being in charge of the place shall, on demand of the person so acting or the Police Officer, allow him free entry into the place and afford all reasonable facilities for a search of the place.

Procedure where entry not obtainable.

6. If entry to a place cannot be effected under section 5, it shall be lawful for the person acting under a warrant of arrest or for the Police Officer having authority to arrest, to enter that place, by force if necessary, and search it and in order to effect entrance into that place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

7. A Police Officer or other person authorised to make an arrest may break out of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained in it

Power to break open doors for purposes of liberation.

8. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

No unnecessary restraint.

9. (1) The Police Officer or other person making an arrest may take from the person arrested any offensive weapons which he has about his person, or anything found in his possession likely to afford material evidence for the prosecution in respect of the offence for which the offender has been arrested, and anything so taken from an arrested person shall be produced before the Court.

Power to take offensive weapons or property of evidentiary value.

(2) The Police Officer or other person who arrests a person on a charge of an offence against the person of another may cause the person arrested by him to be examined by a medical practitioner.

(3) Where such medical examination involves the taking of dental impressions, or the extraction of body samples or requires the use of swabs, such examination shall have to be authorised by a Police Officer not below the rank of Assistant Superintendent of Police and shall only be authorised if the officer considers that such impression or sample and swab will tend to confirm or disprove the suspect's involvement in the crime under investigation but -

(a) the examination shall only be done by a qualified medical practitioner; and

(b) the examination shall be done with the consent of the suspect.

(4) Before any person is asked to provide an intimate sample, he shall be warned that a refusal to provide the sample may be treated in any proceedings against him, as corroboration.

(5) Body orifices may be searched and a strip search ordered by a Police Officer not below the rank of Assistant Superintendent of Police where he has reasonable grounds to believe that—

- (a) an article which could cause physical injury to a detained person or others at the police station has been concealed;
- (b) a person has concealed an illegal or harmful substance;

and that in either case, an intimate search is the only practicable means of removing the article or substance.

(6) An intimate search shall be carried out in accordance with subsection (4) of section 35.

(7) A written record shall be kept of any search carried out, the persons present during the search and the reasons for the search and any person so examined shall have the right to require that the examination be made in the presence of his own medical practitioner or of some other person selected by him.

All arrested persons to be brought before a court without delay.

10. All arrested persons shall be brought before the court within ten days from the date of arrest in the case of offences carrying life imprisonment and economic offences; and seventy-two hours of arrest in the case of other offences.

Arrest without warrant

Private person may arrest without warrant.

11. A private person may arrest without a warrant—

- (a) other person who in his presence commits a felony or any offence punishable by a maximum sentence of life imprisonment;

- (b) other person whom he suspects of having committed a felony or any offence punishable by a maximum sentence of life imprisonment if the felony had actually been committed and the private person has reasonable grounds to believe that the person arrested has committed that felony;
- (c) other person offering to sell, pawn or deliver any property which the private person has reasonable grounds to believe to be stolen property;
- (d) other person about to commit an act which would manifestly endanger another person's life;
- (e) any person detaining or suspected of detaining any other person with the intent to kidnap or unlawfully remove him from Sierra Leone.

12. When a private person arrests any other person under section 11 he shall deliver the person arrested, and the property, if any, taken into possession by him, as soon as may be to a Police Officer.

Person arrested to be handed over to Police Officer.

13. (1) A Police Officer may without a warrant arrest —

When Police Officer may arrest without warrant.

- (a) any person who commits any offence involving violence or dishonesty in his presence;
- (b) any person whom any other person positively accuses of having committed any felony or any offence punishable by a maximum sentence of life imprisonment, larceny or receiving stolen property, embezzlement, false pretence or any offence relating to the theft of property;

- (c) any person whom any other person suspects of having committed any felony or any offence punishable by a maximum sentence of life imprisonment or any misdemeanour mentioned in paragraph (b), if the suspicion of such other person appears to the Police Officer to be well founded; and he shall declare his name and place of residence to the Police Officer and accompany the Police Officer to the nearest police station or lock up, if required to do so;
- (d) any person whom he has reasonable cause to suspect of having committed or being about to commit any felony or any offence punishable by a maximum sentence of life imprisonment;
- (e) any person whom he finds between the hours of eight in the evening and five in the morning lying or loitering in any street, highway, yard, compound or other place, and not giving a satisfactory account of himself;
- (f) any loose, idle or disorderly person whom he finds in any way disturbing the peace, whether in a public or private place, or causing annoyance to any person;
- (g) any person who obstructs a Police Officer while in the execution of his duty, or who has escaped or attempts to escape from lawful custody.

(2) Nothing in this section shall in any way affect or derogate from any other powers conferred on Police Officers by this Act or any other enactment.

14. (1) Where any person, other than a person liable to be arrested without a warrant, who has been accused of committing an offence refuses on demand of a Police Officer to give his name and place of residence, or gives a name or place of residence which the Police Officer has reason to believe to be false, he may be arrested by the Police Officer in order that his name and place of residence may be ascertained.

Refusal to give name and residence.

(2) When the true name and place of residence have been ascertained he shall be released after executing a bond, with or without sureties, to appear before a court if so required.

(3) If the true name and place of residence of that person is not ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be brought before the nearest Court having jurisdiction in respect of the offence for which he is accused.

15. Except where the person arrested is in the actual course of the commission of a crime or is pursued immediately after escape from lawful custody, the Police Officer or other person making the arrest shall inform the person arrested of the cause of the arrest, and if the Police Officer or other person is acting under the authority of a warrant, shall notify the substance of the warrant to the person to be arrested, and if so required shall show him the warrant.

Prisoner to be informed of cause of arrest.

16. (1) Subject to this section, in every case the Court may proceed either by way of summons to the defendant or by warrant for the arrest of the defendant in the first instance, according to the nature and circumstances of the case.

Summons or warrant.

(2) Criminal proceedings in the Magistrate's Court may be instituted in any of the following ways:-

- (a) by a Police Officer bringing a person arrested with or without a warrant before a Magistrate or Justice of the Peace upon the charge upon which he has been arrested;

- (b) by a Police Officer laying an information before a Magistrate for the issue of a warrant or a summons;
- (c) by any person or legal practitioner, making a complaint or laying an information before a Magistrate for the issue of a warrant or summons in respect of the complaint or information-
 - (i) the Attorney General and Minister of Justice and the Director of Public Prosecution shall be notified; and
 - (ii) the complaint shall be in writing and on the oath of the person making the complaint or a witness of the offence.

(3) On receipt of the information so laid or the complaint so made the Magistrate or Justice of the Peace shall issue the warrant or summons as of course.

(4) If the defendant is imprisoned, a warrant to bring him before the Court may be directed to the keeper of any correctional centre within which the defendant is confined.

Form of charge for summons.

17. For the issuing of a summons the complaint need not be put in writing or be sworn to unless the Court so directs.

Warrant.

18. A warrant shall not be issued in the first instance, unless the complaint is in writing and on the oath of the person making the complaint or of some witness in that behalf, upon an information in writing and upon oath, the Magistrate may, if of the opinion that a case for so doing is made out, issue a warrant for the apprehension of the defendant if the issue of the summons will be inappropriate in such circumstances.

19. (1) The Police Officer or an officer of the Court to whom a summons is delivered for service shall serve it upon the person to whom it is directed by delivering it to him personally or by leaving it with some other person for him at his last known or usual place of residence.

Service of summons.

(2) If service in the manner provided in subsection (1) cannot by the exercise of due diligence be effected, the serving Police Officer or other person shall affix the service to some conspicuous part of the last known or usual place of residence of the person summoned and then the summons shall be deemed to have been duly served.

20. When a Magistrate desires that a summons issued by him shall be served at any place outside the local limits of his jurisdiction, he shall send the summons to the Magistrate having jurisdiction in that place, and the Magistrate shall cause the summons to be served and shall send an affidavit of service to the issuing Court, which affidavit shall be evidence of service; and the person effecting service shall not ordinarily be required to attend and give evidence as to service.

Proof of service outside local limits of jurisdiction.

21. (1) Whenever a Magistrate Court issues a summons in respect of any offence other than a felony or any offence punishable by a maximum sentence of life imprisonment, it may if it sees reason to do so, and shall when the offence with which the defendant is charged is punishable only by a fine or by imprisonment not exceeding one year, whether with or without a fine dispense with the personal attendance of the defendant, provided that he pleads guilty in writing or is represented by a legal practitioner.

Power to dispense with personal attendance of defendant.

(2) The Magistrate Court enquiring into or trying any case may in its discretion at any subsequent stage of the proceedings, direct the personal attendance of the defendant, and, if necessary, enforce the attendance in the manner provided in this Act.

(3) If a Magistrate Court imposes a fine on a defendant whose personal attendance has been dispensed with under this section and the fine is not paid within the time prescribed, the Court may forthwith issue a summons calling upon the defendant to show cause why he should not be committed to prison; and if the defendant does not attend upon the return, the Court may forthwith issue a warrant and commit him to prison for a term not exceeding one year, as the court may determine.

(4) If in any case in which the attendance of the defendant is dispensed with under this section, previous convictions are alleged against him and are not admitted in writing, the Court may adjourn the proceedings and direct the personal attendance of the defendant and, if necessary, enforce the attendance in the manner provided in this Act.

Warrant when issued. 22. Notwithstanding the issuing of a summons, a warrant may be issued at any time before or after the time appointed in the summons for the appearance of the defendant.

Where summons not obeyed. 23. If the person issued with a summons does not appear at the time and place appointed in and by the summons and his personal attendance has not been dispensed with under section 21, the Court may issue a warrant to arrest him and cause him to be brought before the Court.

Form, content and duration of warrant. 24. (1) Every warrant of arrest shall be under the hand of the Judge, Magistrate or Justice of the Peace issuing it.

(2) Every warrant of arrest shall state briefly the offence with which the person against whom it is issued is charged and shall name or otherwise describe the person; and it shall order the person or persons to whom it is directed to apprehend the person against whom it is issued and bring him before the Court issuing the warrant or before some other court having jurisdiction in the case or any other Magistrate' Court to answer to the charge mentioned in the warrant and to be further dealt with according to law.

25. (1) A warrant shall remain in force until cancelled or executed. Time for execution.

(2) The cancellation of a warrant may be effected by the Court issuing it, or by a Court to which the issuing Court is subordinate.

26. When a warrant of arrest is directed to more officers or persons than one it may be executed by all or by any one or more of them. By whom warrant to be executed.

27. A warrant may be executed by the arrest of the defendant at any place in Sierra Leone. Execution of warrant.

28. When a warrant of arrest is executed outside the local limits of the jurisdiction of the Court issuing the warrant, the person arrested shall, unless the Court which issued the warrant is within twenty miles of the place of arrest or is nearer than the Court within whose jurisdiction the arrest was made, be taken before the last-mentioned Court which shall deal with him in the same way as if brought before it under section 37. Removal and bail.

29. (1) Any Court issuing a warrant for the arrest of any person in respect of an offence other than murder, treason or rape and all offences punishable by life imprisonment shall, unless the complainant or the prosecutor proffers good and sufficient reasons why bail should not be granted, direct by endorsement on the warrant that, if the person enters into a recognisance with sufficient sureties for his attendance before the Court at a specified time and after that until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release the person from custody. Court may direct security to be taken.

(2) The endorsement shall include –

(a) the number of sureties (if any);

- (b) the amount to which they and the person for whose arrest the warrant is issued are to be respectively bound;
- (c) the Court before which the person arrested is to attend; and
- (d) the time at which he is to attend before the Court including an undertaking to appear at such subsequent times as may be directed by the Court.

(3) Where such an endorsement is made, the officer in charge of any police station to which on arrest the person named in the warrant is brought, shall release him upon his entering into such recognisance with or without sureties approved by that officer in accordance with endorsement conditioned for his appearance before the Court and at the time and place named in the recognisance.

(4) Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the recognisance to the Court.

Issuance of search warrant and proceedings under warrant.

30. (1) Any Judge, Magistrate or Justice of the Peace who is satisfied by information on oath that there is reasonable ground for believing that there is in any building, vessel, vehicle, receptacle or place –

- (a) anything upon or in respect of which an offence has been committed or is suspected to have been committed;
- (b) anything which there is reasonable ground for believing will afford evidence as to the commission of any offence,

may at any time issue a warrant under his hand authorising any Police Officer or other person named in the warrant to enter the building, vessel, vehicle, receptacle or place (which shall be named in the warrant) if necessary by force and to search it and every person found in it and if anything searched for is found, to seize it and arrest the occupier or owner of the building, vessel, vehicle, receptacle or place if the Magistrate or Justice of the Peace thinks fit so to direct.

(2) Whenever any building, vessel, vehicle, receptacle or other place is closed, any person residing in or being in charge of the building, vessel, vehicle, receptacle or place shall on demand of the Police Officer or other person executing the search warrant, allow him free entry into it and afford all reasonable facilities for a search in it.

(3) If entry into the building, vessel, vehicle, receptacle or place cannot be so obtained, the Police Officer or other person executing the search warrant may, if the warrant empowers him to do so, enter forcibly, or break-open the building, vessel, vehicle, receptacle or other place.

(4) The search warrant shall be executed by the Police Officer or other person who shall have charge thereof; and he may be accompanied by any other persons necessary to assist him.

(5) A search warrant shall ordinarily be executed between the hours of five o'clock in the morning and ten o'clock at night, but the Judge, Magistrate or Justice of the Peace issuing it may by an order endorsed on it, give authority for its execution at any other time.

Search without warrant in cases where articles are being conveyed, etc.

31. In addition to and independently of the facilities provided by section 30, it shall be lawful for any Police Officer to detain any person carrying or conveying along any square, street, highway, quay or avenue or other public place any animal, matter or thing which the Police Officer suspects of having been stolen or otherwise unlawfully obtained, or in respect of which he suspects that any criminal offence has been, is being or is about to be committed, and to examine any box, parcel, basket, bundle, or any other package carried or conveyed by that person which he may reasonably suspect to contain any animal, matter or thing; and if that person does not give a satisfactory account of himself and of any animal, matter or thing the examination may discover, to arrest that person and cause him to be taken before a Court as soon as practicable to be dealt with according to law.

Judge may authorise search in postal and telecommunications establishments.

32. Nothing in sections 30 and 31 shall authorise any person, other than a Judge to grant a warrant to search for a document in the custody of any postal or telecommunications body or entity.

Power to search for strangers in Diamond Protection Area.

33. (1) A Police Officer may, without warrant, enter by force, if necessary, any premises within a Diamond Protection Area for the purpose of searching for any person whom he has reasonable grounds to believe is a stranger but the authority given by this section does not entitle him to search for any person or thing unless he is lawfully so entitled apart from this section.

(2) Every Police Officer acting under this section shall before entering any premises by virtue of subsection (1), deliver or offer to deliver to the owner or occupier a statement in writing signed by him to the effect that he is entering the premises because he has reasonable grounds to believe that there is a stranger on the premises.

Cap. 199 (3) For the purposes of this section, the expressions "Diamond Protection Area" and "stranger" shall bear the meanings assigned to them in section 2 of the Diamond Industry Protection Act.

34. (1) When a search warrant has been executed, the person who executed it shall return the warrant, together with everything seized under it to the High Court, a Judge, a Magistrate or Justices of the Peace sitting in court. Return of search warrant.

(2) Upon receipt of the search warrant and of all the things seized under it the High Court, a Judge, Magistrate or Justices of the Peace sitting in court may make an order as to the immediate custody of the things seized and, at any time thereafter, may make an order as to their disposal as may seem proper.

(3) Subject to subsection (1), the Court shall, if of the opinion that property or any portion thereof can be returned to the person identified as the owner, without prejudice to the interests of justice, order that the property or any portion of the property be returned to the owner or to any other person as the Court may direct.

(4) Where any property has been taken from a person under this section, and the person is not charged before any court but is released on the ground that there is no sufficient reason to believe that he has committed any offence, any property so taken from him shall be restored to him.

35. (1) A search warrant issued by a Court, Judge, Magistrate or Justice of the Peace in the Western Area, or in any district in the Provinces, for the discovery of any property stolen or otherwise unlawfully obtained may be executed in any part of the Western Area, or in any district of the Provinces, although such part or district is outside the jurisdiction of the Court, Judge, Magistrate or Justice of the Peace issuing the warrant. Search warrants may be executed outside jurisdiction of issuing Court.

(2) In every case in which any property alleged to have been stolen or otherwise unlawfully obtained is seized in pursuance of this section, it shall be lawful for the Police Officer or other person to whom the search warrant was directed, without any special authority in that behalf, to arrest the person on whose premises the property was at the time of seizure, or the person from whom it was taken, if other than the person on whose premises it was, and take him before

the Court within whose jurisdiction the seizure was made, to account for the possession of the property; and in every such case the Court before whom the person is brought shall have jurisdiction to hear and determine the matter notwithstanding that the alleged offence was committed outside the jurisdiction of that Court.

(3) Where any property has been taken under this section from a person charged before a court with any offence, a report shall be made by the police to the court of the fact of the property having been taken from the person charged and of the particulars of such property and the Court shall, if it is of the opinion that the property or any portion can be returned consistent with the interest of justice, direct the property or any portion be returned to the person charged or to such other person as the Court may deem proper.

(4) All searches shall be made with strict decency and may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.

(5) The right to search an arrested person does not include the right to examine his private person.

General Authority of the Courts

General
authority of
Courts to
bring
defendants
before them.

36. (1) Every Court has authority to cause to be brought before it—

- (a) any person who is within the local limits of its jurisdiction and is charged with an offence committed within Sierra Leone, or which according to law may be dealt with as if it had been committed within Sierra Leone and
- (b) and any person within such limits against whom a complaint is made in respect of which the Court has power to make an order for the payment of money or otherwise, and to deal with all such persons according to its jurisdiction.

(2) The High Court has, in addition, authority to cause to be brought before it any person who is within Sierra Leone if the person is charged with an offence over which the High Court has jurisdiction.

37. (1) A Court in this section and section 38 referred to as the Remitting Court before which any person who is within the local limits of its jurisdiction and is charged with having committed any summary offence within the local limits of the jurisdiction of another Court is brought, shall unless authorised to proceed in the case, send him in custody to the Court within the local limits of whose jurisdiction the offence was committed, or require him to give security for his surrender to such last-mentioned Court, to answer the charge and to be dealt with according to law.

Defendant to
be remitted or
brought in
certain cases
to another
court.

(2) The Remitting Court shall send to the Court to which the person charged is remitted for trial an authenticated copy of the information, summons, warrant and any other process or documents in its possession relative to that person.

38. Where any person is to be sent in custody in pursuance of section 37, a warrant shall be issued by the Remitting Court and that warrant shall be sufficient authority to any person to whom it is directed to receive and detain the person named in it, and to carry him and deliver him up to the Court to which the person charged is remitted for trial.

Removal
under warrant.

Place of enquiry and trial

39. Subject to the provisions of the Courts Act, 1965, and to the powers of transfer conferred by section 45, the place for the investigation and trial of offences by Courts other than the High Court shall be determined according to the following rules:—

Investigation
and trial of
cases by
Courts other
than the High
Court.

- (a) an offence shall be tried in the Judicial District in which it was committed;

- (b) when a person is accused of the commission of any offence by reason of anything which has been done or of anything which has been omitted to be done, and of any consequence which has ensued, the offence may be tried in any district in which the thing has been done or omitted to be done or any consequence that has ensued;
- (c) when an act is an offence by reason of its relation to another act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first mentioned offence may be enquired into or tried in the District in which either act was done;
- (d) in any of the following cases, that is to say:-
 - (i) when it is uncertain in which of several Districts an offence was committed; or
 - (ii) when an offence is committed partly in one District and partly in another; or
 - (iii) when an offence is a continuing one, and continues to be committed in more Districts than one; or
 - (iv) when it consists of several acts done in different Districts,

the offence may be tried in any one of those Districts.

Offences committed on a journey. 40. An offence committed whilst the offender is in the course of performing a journey or voyage may be enquired into or tried in a District through or into which the offender, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

41. When a person is accused of the commission of an offence at sea or elsewhere out of Sierra Leone, which according to law may be dealt with in Sierra Leone, the offence may, subject to section 55, be enquired into and tried at any place in Sierra Leone to which the defendant is first brought or to which he may be taken thereafter. Offences committed at sea or elsewhere in Sierra Leone.

42. (1) Notwithstanding sections 40 and 41 or any other enactment to the contrary and unless there has been obtained an order at the High Court that the offence may be enquired into by another Court specified in that order, an offence may be enquired into in any part of Sierra Leone. Offences may be tried in any part of Sierra Leone.

(2) An order referred to in subsection (1) may be obtained if the applicant by summons satisfies a Judge either—

- (a) that it would tend to the general convenience of the parties or witnesses; or
- (b) that it would be expedient for the ends of justice,

if the offence were tried by a Court other than that before which it was brought.

43. A public officer or a person holding an office in respect of which the salary is provided from the Consolidated Fund or directly out of moneys provided by Parliament who commits outside Sierra Leone, when acting or purporting to act in the course of his duties, any act, which if committed in Sierra Leone would be an offence commits an offence of the same nature, and subject to the same punishment, as if the act had been committed in Sierra Leone. Offences by public officers abroad.

44. (1) A person who commits an offence on any aircraft or any act which if committed in Sierra Leone would be an offence commits an offence of the same nature, and shall be subject to the same punishment, as if the act had been committed in Sierra Leone. Offences committed on an aircraft.

(2) A person may be proceeded against, tried and punished for an offence under this section in any part of Sierra Leone in which he is apprehended or is in custody as if the offence had been committed in that part of Sierra Leone and the offence shall for all purposes incidental to or consequential on the trial or punishment be deemed to have been committed in that part of Sierra Leone.

Power of Judge to transfer cases.

45. Whenever it is made to appear to a Judge, by summons—

- (a) that some question of law is likely to arise, which it is desirable should be decided by the High Court;
- (b) that an order under this section will tend to the general convenience of the parties or witnesses; or
- (c) that such an order is otherwise expedient for the ends of Justice,

the Judge may order —

- (i) that an offence be tried by the High Court or any subordinate court not empowered by sections 39 and 40 but in other respects competent to try such offence;
- (ii) that a defendant be committed to the High Court for trial;
- (iii) that a defendant committed to the High Court for trial instead of being tried at the place where he would but for the order have been tried, be tried by the High Court at such other place as may be specified in the order.

(2) The Judge may act on the application of any party interested after due notice to all other interested parties.

(3) When a defendant makes an application under this section, the Judge may before granting the application direct him to enter into a recognisance, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecution.

(4) If, in any criminal case, before any evidence is taken, a Law Officer, the Anti-Corruption Commissioner, the defendant, or any person having the conduct of the prosecution or the defence, notifies to the Court before which the case is pending, his intention to make an application under this section in respect of the cause, the Court shall adjourn the case to such a date as will afford a reasonable time for the application being made, and an order being obtained thereon before the defendant is called upon for his defence.

46. In committal proceedings and in a summary trial, if the prosecutor is a private person, his name shall appear in the title of the proceedings or trial as the case may be, as the prosecutor, and if the prosecutor is a Police Officer, it shall be sufficient if in the title of the proceedings, the prosecutor is described as the Inspector-General of Police.

Title of proceedings for committal and summary proceedings.

Control of the Attorney General and Minister of Justice and the Director of Public Prosecutions over criminal proceedings

47. (1) In the exercise of the powers conferred upon him by subsection (4) of section 66 of the Constitution, the Director of Public Prosecutions shall subject to section 64 of the Constitution of Sierra Leone, 1991, have power in any case he considers it desirable—

Powers of Director of Public Prosecutions. Act No. 6 of 1991.

- (a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against the laws of Sierra Leone except any offence involving corruption under the Anti-Corruption Act, 2008;

Act No.12 of 2008

- (b) to take over and continue any criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered, the criminal proceedings instituted or undertaken by himself or by any other person.

(2) Where any other person or authority has instituted criminal proceedings nothing in subsection (1) shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been brought before the court.

(3) For the purposes of this section, an appeal from a determination in any criminal proceedings before any court, or any case stated or question of law reserved, for the purposes of the proceedings, to any other court shall be deemed part of those proceedings.

Control of Public Prosecutions over criminal proceedings.

48. (1) The Attorney General and Minister of Justice or the Director of Public Prosecutions may enter a *nolle prosequi* either by stating in court or by informing the court in writing that the State intends that the proceedings shall not continue and thereupon the defendant shall be at once discharged in respect of the charge for which the *nolle prosequi* is entered; and if he has been committed to correctional centre shall be released or if on bail his recognisances shall be discharged; but such discharge of the defendant shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

(2) If the defendant is not before the Court when the *nolle prosequi* is entered, the Court shall forthwith cause notice in writing of the entry of the *nolle prosequi* to be given to the keeper of the correctional centre in which the defendant may be detained, and also shall forthwith cause a similar notice in writing to be given to any witnesses bound over to prosecute and to their sureties (if any),

and also to the defendant and his sureties in case he shall have been admitted to bail.

Previous acquittal or conviction

49. A person, who has been once tried for an offence and convicted or acquitted of such offence, shall not be liable to be tried again on the same facts for the same offence or any other offence of which he could have been lawfully convicted at the first trial, unless a retrial is ordered by a court having power to do so. Persons convicted or acquitted.

50. A person convicted or acquitted of any act causing consequences, which together with such act constitute a different offence from that for which such person was convicted or acquitted, may afterwards be tried for the last-mentioned offence, if the consequences had not happened at the time when he was acquitted or convicted. Consequences supervening or not known at time of former trial.

51. In any information or indictment against any person in which evidence of the previous conviction or acquittal of such person for any offence is relevant to the issue, a certificate containing the substance and effect only (omitting the formal part) of the information or indictment and conviction or acquittal for such offence, purporting to be signed by the officer having the custody of the records of the Court where the offender was convicted or acquitted, or by his deputy, shall, upon proof of the identity of the person convicted or acquitted be sufficient evidence of the conviction or acquittal without proof of the signature or official character of the person appearing to have signed it. Proof of previous conviction.

Rules as to information and indictments

52. The rules contained in the First Schedule with respect to information and indictments may be added to, varied, revoked, or replaced by further rules made by the Rules of Court Committee by statutory instrument. Rules as to information and charges.

General provisions as to informations and charges.

53. (1) Every information or indictment shall contain, and shall be sufficient if it contains, a statement of the specific offence or offences with which the accused is charged, together with such particulars as may be necessary for giving reasonable information as to the nature of the charge.

(2) Notwithstanding any rule of law or practice, an information or indictment shall, subject to the provisions of this Act, not be open to objection in respect of its form or content if it is framed in accordance with rules made under this Act.

Joinder of charges and defendants

Joinder of charges and defendants.

54. (1) Subject to the rules contained in the First Schedule, charges for more than one felony or any offence punishable by a maximum sentence of life imprisonment or for more than one misdemeanour, and charges for both felonies and misdemeanours may, if those charges are founded on the same facts or form part of a series of offences of the same or a similar character, be joined in the same complaint, information or indictment and tried at the same time; but where under the provisions of this section a felony is tried together with a misdemeanour in the High Court, then if the trial is with a jury, the jury shall be sworn and the person accused shall have the same right of challenging jurors as if all the offences charged in the indictment were felonies.

(2) The following persons shall be charged and tried together, namely-

- (a) persons accused of the same offence committed in the course of the same transaction;
- (b) persons accused of an offence and persons accused of aiding and abetting or being an accessory to or of attempting to commit such offence or participating in the commission of such offence;

(c) persons accused of different offences where all the offences are founded on the same facts or form or are part of a series of offences of the same or a similar character;

(d) persons accused of different offences committed in the course of the same transactions.

Offences by non-citizens within the territorial sea

55. (1) Subject to subsection (2), proceedings for the trial of any person, who is not a citizen of Sierra Leone for an offence committed within the territorial sea of Sierra Leone, shall not be instituted in any court except with the consent of the Attorney-General and Minister of Justice and upon his certificate that it is expedient that such proceedings should be instituted.

Conditions precedent to trial of non-citizens for offences committed in territorial sea.

(2) Proceedings before a Magistrate previous to the committal of an offender for trial or to the determination of the Magistrate that the offender is to be put on trial, shall not be deemed proceedings for the trial of the offence committed by such offender for the purposes of the consent and certificate under this section.

(3) It shall not be necessary to aver in any information or indictment that the certificate of the Attorney-General and Minister of Justice required by this section has been given; and the fact of the consent having been given shall be presumed unless disputed by the defendant at the trial and the production of a document purporting to be signed by the Attorney-General and Minister of Justice and containing such consent and certificate shall be sufficient evidence of the consent and certificate required by this section.

(4) This section shall not prejudice or affect the trial of any act of piracy as defined by the law of nations.

Compensation and costs

Compensation may be ordered.

56. (1) When a person is convicted of an offence and the facts constituting the offence amount also to a tort against the person or property of the complainant, the Court before which that person is convicted may, on application of the prosecutor and after taking such further evidence as it thinks necessary, order the person convicted to pay the prosecutor such sum as appears to the Court to be reasonable compensation (not exceeding in the case of a summary conviction, the maximum fine a Magistrate is empowered to impose) in addition to or in lieu of any other punishment.

(2) Where a person is convicted of an offence and in the opinion of the Court the offence has resulted in financial loss to the Government or to loss of Government property, the Court shall order the person so convicted to make good the loss occasioned by the offence on such terms as the Court shall think fit in addition to any other punishment.

(3) Where any compensation has been paid or any loss to the Government has been made good in accordance with subsections (1) and (2), the convicted person shall be released from all further or other proceedings by the prosecutor whether civil or criminal for the same cause.

Costs payable by party convicted.

57. The Court may order any person convicted before it to pay all or any specified part of the expenses of his prosecution provided that such sum shall not exceed the maximum fine the court is empowered to impose.

Costs to be paid by complainant in certain cases.

58. Where it appears to the Court that a charge is malicious, frivolous or vexatious, the Court may order the complainant to pay all or any specified part of the expenses of the prosecution or of the defence but such sum shall not exceed the maximum fine the Court is empowered to impose.

59. When exercising the powers conferred upon it by section 57 or 58, the Court may order that the whole, or such portions as the Court thinks fit, of the expenses so paid be paid over to the prosecutor or to the defendant, as the case may be. Payments to parties.

60. (1) Any compensation or expenses awarded under sections 57 to 59 or paragraph (b) of subsection (1) of section 62 shall not be regarded as a penalty, but shall be recoverable as a judgment debt in the Court by which the order for payment is made. Recovery of damages, etc. as a judgment debt.

(2) Nothing in this section shall in any way affect or limit the powers conferred upon the Court by sections 62 and 63.

Restitution of property

61. (1) Where upon the arrest of a person charged with an offence any property is taken from him, the Court before which he is charged may order that the property or a part thereof be restored to the person who appears to the Court to be entitled to it. Return of property found on person arrested.

(2) Where property is retained in court pending an appeal, on application by summons, the Court to which an appeal has been made or in which notice of leave to appeal has been filed, may, if it considers that the property is not necessary for the determination of the questions raised in the appeal, order the property or any part of the property to be returned to the person who appears to it to be entitled to it.

62. (1) Where any person is convicted of having stolen or otherwise obtained any property dishonestly by means of any felony or misdemeanour, or is convicted of being involved in or facilitating the commission of any offence, the Court convicting him may- Restitution of property stolen or its value.

- (a) order that the property or part be restored to the person who appears to it to be the owner either on payment or without payment by the owner to the person in whose possession such property or a part thereof then is, of any sum named in the order;

- (b) make an assessment as to the value of the property at the time it was so stolen or otherwise obtained and order that the sum so assessed be paid by the person who appears to it to be the owner of the property.

(2) Where a person is convicted of an offence and the court by or before which he is convicted is satisfied that any property has been lawfully seized from him, or which was in his possession or under his control at the time when he was apprehended for the offence, or has been used for the purpose of committing or facilitating the commission of any offence or was intended by him to be used for that purpose, the Court may make such order as it thinks fit under this section in respect of that property.

(3) This section shall not apply to-

- (a) any valuable security which has been *bona fide* paid or discharged by any person liable to pay or discharge the security; or
- (b) any negotiable instrument or money which shall have been *bona fide* received by transfer or delivery by any person for a just and valuable consideration without notice, or without any reasonable cause to suspect, that it had been stolen or otherwise dishonestly obtained; or
- (c) any offence against sections 20, 21 and 22 of the Larceny Act, 1916.

(4) On the restitution of any stolen property if it appears to the Court by the evidence that the person convicted has sold the stolen property to any person, and that the person has had no knowledge that the property was stolen, and that any moneys have been taken from the person convicted on his apprehension and not returned to him under section 61, the Court may, on the application of the purchaser, order that out of such moneys a sum not exceeding the amount of the proceeds of the sale be delivered to the purchaser.

Preservation of testimony in certain cases

63. Whenever it appears to a Court that any person dangerously ill or hurt, and not likely to recover, is able and willing to give material information relating to any offence, and it shall not be practicable to take the depositions of the person so ill or hurt in accordance with Part IV in relation to committal proceedings, the Court may take in writing the statement on oath or affirmation of such person, subscribe the statement and certify that it contains accurately the whole of the statement made by such person, add a statement of the reason for taking the oath and of the date and place when and where it was taken, and shall preserve such statement and file it for record.

Power to take depositions of persons dangerously ill.

64. If the statement taken in writing under section 63 relates or is expected to relate to an offence for which any person is under a charge or committal for trial, reasonable notice of the intention to take the statement shall be served on the prosecutor and defendant, and if the defendant is in custody, he shall be brought by the person in whose charge he is, under an order in writing of the Court, to take place where the statement is to be taken.

Notices to be given in certain cases.

65. Where a statement relates to an offence for which any person is then or subsequently committed for trial, it shall be transmitted to the Court in which the person is to be tried, and a copy thereof shall be transmitted to the Attorney-General and Minister of Justice.

Transmission of statement.

66. (1) A statement so taken may afterwards be used in evidence on the trial of any person accused of an offence to which the statement relates, if the person who made the statement is dead, or the court is satisfied that for any sufficient cause his attendance cannot be procured; and if reasonable notice of the intention to take such statement was served upon the person against whom it is to be read in evidence and he had or might have had, if he had chosen to be present, full opportunity of cross-examining the person making the statement.

When statement may be used in evidence.

(2) The signature and attestation of the Judge or Magistrate by whom a statement was taken shall be sufficient *prima facie* proof of any statement, and that the statement was taken in all respects according to law, and such attestation and signature shall be admitted without proof unless the Court sees reason to doubt the genuineness of the attestation and signature.

Written statements and depositions

Written statements and depositions.

67. (1) Where any person has been committed for trial for any offence, the written statements obtained pursuant to section 116 or the deposition of any person taken before the committing Magistrate may, if the conditions set out in this Act are satisfied, without further proof be read as evidence on the trial of that person, whether for that offence or for any other offence arising out of the same transaction, or set of circumstances, as that offence.

(2) The conditions referred to in subsection (1) are the following:—

- (a) the written statement or the deposition shall be the statement or deposition of a witness whose attendance at the trial is stated to be unnecessary or of a witness who cannot be found, or whose attendance cannot be procured without an amount of delay, expense or inconvenience which in the circumstances of the case, the court considers unreasonable, or who proved at the trial by the oath or affirmation of a credible witness to be dead or insane, or so ill as not to be able to travel, or to be kept out of the way by means of the procurement of the defendant or on his behalf;
- (b) if the document about to be tendered is a deposition, it must be proved at the trial either by a certificate purporting to be signed by

the Magistrate before whom the deposition is purported to have been taken or by the clerk to such Magistrate, that the deposition was taken in the presence of the defendant and that the defendant or his advocate had full opportunity of cross-examining the witness.

68. (1) The written statement or deposition of a medical practitioner or other medical witness, taken and attested to by a Magistrate in the presence of the defendant, may be read as evidence, although the witness or the deponent is not called as a witness.

Written statement or deposition of medical practitioner may be read as evidence.

(2) The Court may, if it thinks fit, and on the application of either party, summon and examine the deponent as to the subject matter of his deposition.

(3) The provisions of this section shall be in addition to and not in derogation of any other provisions of this Act.

69. Any statement made by the defendant at the committal proceedings may be given in evidence if admissible according to the rules of evidence.

Statement of defendant on examination.

70. The signature or attestation of the Magistrate holding the committal proceedings shall be sufficient *prima facie* proof of any written statement or deposition and that it was taken in all respects according to law, and the attestation and signature shall be admitted without proof, unless the court sees reason to doubt the genuineness of the statement or deposition.

Signature and attestation of Magistrate.

71. (1) In a trial on indictment for murder or manslaughter, the declaration of a deceased person, whether it be made in the presence of the defendant or not, may be given in evidence if the deceased person at the time of making the declaration believed himself in danger of imminent death and entertained at the time of making it no hope of recovery.

Dying declaration.

(2) In a trial otherwise than upon indictment for murder or manslaughter where the cause of death of a deceased person comes into question, the declaration of the deceased whether it be made in the presence of the defendant or not, may, at the discretion of the Court be given in evidence if the deceased at the time of making the declaration believed himself to be in danger of approaching death although he may have entertained at the time of making it, hopes of recovery.

Certain scientific reports to be evidence.

72. (1) Any document purporting to be an original report under the hand of a medical practitioner, dental surgeon or pharmacist duly registered with his appropriate statutory and regulatory body or any forensic scientist or expert—

- (a) relating to any body, body part or body fluid submitted to him for examination or analysis and report; or
- (b) relating to the extent of injuries of any person certified to have been examined by the medical practitioner, chemist, forensic scientist or expert, as the case may be,

may, if it is directed to the Court or is produced by any Police Officer to whom it is directed or to someone acting on his behalf, be used as evidence of the facts stated in it in any committal proceedings, trial or other proceeding under this Act.

(2) Any document purporting to be an original report under the hand of a pharmacist, chemist, analyst, geoscientist, scientist or laboratory technician relating to any substance or thing submitted to him for examination or analysis and report, may, if it is directed to the court or produced by any person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in it in any committal proceedings, trial or other proceeding under this Act.

(3) Any document purporting to be an original report under the hand of an engineer, architect, examining officer or quantity surveyor—

- (a) relating to any civil works, building, electrical installation, equipment, appliance, plant or machinery; or
- (b) relating to the condition or operations of any motor vehicle, vessel, aircraft or conveyance,

may, if it is directed to the court or produced by any person to whom it is directed or someone acting on his behalf, be used as evidence of the facts stated in it any committal proceedings, trial or other proceeding under this Act.

(4) The Court may presume that the signature to that document is genuine, and that the person signing it held the office which he professed to hold or was recognized as such at the time when he signed it.

(5) Upon receiving the report in evidence the Court shall, if it thinks such a course proper for the ends of justice, summon and examine any of the persons referred to in subsections (1), (2) and (3) as a witness or cause the person's evidence to be taken on commission, as the case shall require.

(6) For the purposes of this section, "vessel" includes an ocean going ship, locally constructed boat and any other vessel plying the coastal or inland waterways of Sierra Leone.

Defence of unsoundness of mind

73. (1) When in the course of a trial or a committal proceeding (but not an inquest) the Court has reason to believe that the defendant is of unsound mind and consequently unable to make his defence, it shall order the defendant to be confined in a mental hospital for a period of thirty days for observation.

Inquiry by Court.

(2) Before or immediately upon the conclusion of the period of observation, the Chief Medical Officer shall cause a report on the condition of the defendant signed by two registered medical practitioners (which reports may if it indicates that the practitioners who signed them, hold different opinions as to the defendant's mental state) to be sent to the Court, which shall forthwith, after considering the report and taking such further evidence as it considers necessary, make a finding upon the state of mind of the defendant.

(3) If the Court finds that the defendant is of unsound mind and consequently incapable of making his defence, it shall postpone further proceedings on the case.

(4) If the case is one in which bail may not be taken, the Court shall release the defendant on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any person or property, and for his appearance before the Court or such officer as the Court may appoint in that behalf.

(5) If the case is one in which bail may not be taken, or if sufficient security is not given, the Court shall report to the Minister who may order the defendant to be confined in a mental hospital, prison or other suitable place of safe custody, and the Court shall issue a warrant in accordance with such order.

Defence of
unsoundness
of mind at
committal
proceedings.

74. Where the defendant appears to be of sound mind at the time of the committal proceedings, the Court, notwithstanding that it is alleged that at the time when the act was committed in respect of which the defendant is charged he was, by reason of unsoundness of mind incapable of knowing the nature of the act, or that it was wrong or contrary to law, shall proceed with the case, and if the defendant ought to be committed for trial, the Court shall so commit him.

75. (1) When an act is charged against any person as an offence, and it is given in evidence on the trial of that person for that offence that he was insane so as not to be responsible for his action at the time when the act was done, then if it appears to the Court before whom the person is tried that he did the act but was insane at the time when he did it, the Court shall make a special finding to the effect that the defendant is not guilty by reason of insanity.

Defence of
unsoundness
of mind at
trial.

(2) When such special finding is made the Court shall order the defendant to be kept in custody as a criminal lunatic in the place and in the manner as the Court shall direct, and shall report the case for the order of the Minister

(3) The Minister may order the person to be confined in a mental hospital, prison, or other suitable place of safe custody during the Minister's pleasure.

(4) When any act is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was temporarily insane so as not to be responsible for his action at the material time when the act was done then if it appears to the Court before whom the person is tried that he did the act but was temporarily insane, the defendant may have a defence of temporary insanity or diminished responsibility if the Court is so satisfied that at the material time the act was committed, the defendant was temporarily insane.

76. (1) The superintendent of a mental hospital, correctional centre or other place in which any person (hereinafter referred to as a criminal lunatic) is detained by virtue of an order made under section 75, shall make a report to the Minister which shall be accompanied by a report by a medical practitioner at such times (not being less than once a year) and containing such particulars as the Minister may require, of the conditions and circumstances of every criminal lunatic in the correctional centre, mental hospital, or place; and the Minister shall, at least once in every three years during which a criminal lunatic is detained in any mental hospital, correctional centre or other place, consider the condition, history and circumstances of such criminal lunatic and determine whether he ought to be discharged absolutely or conditionally or otherwise dealt with.

Periodical
report on
defendants of
unsound mind.

(2) Where a criminal lunatic is conditionally discharged in pursuance of this Act, a report of his condition shall be made to the Minister by such person, at such times and containing such particulars as may be required by the order of discharge.

(3) In this section the expression “superintendent” includes the Medical Superintendent of a mental hospital.

Transfer and discharge of defendants of unsound mind.

77. (1) The Minister may from time to time by order direct the transfer to a mental hospital, prison or other suitable place of safe custody of any criminal lunatic detained in any other mental hospital, prison or other suitable place of safe custody and the criminal lunatic shall accordingly be received and detained in the mental hospital, prison or other place of safe custody, to which he is so transferred.

(2) The Minister may by order absolutely discharge any criminal lunatic and may also discharge any criminal lunatic conditionally, that is to say, on such conditions as to the duration of the discharge or otherwise as the Minister may think fit.

(3) Where in pursuance of this section a criminal lunatic has been discharged conditionally, if any of the conditions of such discharge appear to the Minister to be broken or the conditional discharge is revoked, the Minister may by order direct him to be taken into custody and to be conveyed to some mental hospital, prison or other place of safe custody named in the order, and he may thereupon be taken in like manner as if he had escaped from the mental hospital, prison or other place of such custody, and shall be received and detained therein as if he had been removed thereto in pursuance of this Act.

Resumption of trial or investigation.

78. Whenever any committal proceeding or trial is postponed under section 73 or 147, the Court may at any time resume the committal proceeding or trial and require the defendant to appear or be brought before such Court, when, if the Court considers him capable of making his defence, the committal proceeding or trial shall proceed, but if the Court considers the accused to be still incapable of making his defence, the defendant shall be dealt with as though the committal proceeding or trial had not been resumed.

79. If a person is confined in a mental hospital under the provisions of section 73 and the medical superintendent of such hospital certifies that, in his opinion, the defendant is capable of making his defence, the defendant shall be taken before the Court at such time as the Court appoints, to be dealt with according to law, and the certificate of the medical superintendent shall be receivable in evidence.

Certificate of superintendent of Hospital to be evidence.

80. (1) Notwithstanding anything contained in sections 78 and 79 where it is certified by the superintendent of a mental hospital or other medical practitioner appointed for that purpose by the Chief Medical Officer, that the mental balance of the defendant would be jeopardized by the strain of a trial, the proceedings against the defendant shall not be continued unless the Director of Public Prosecutions informs the Court that he considers it essential in the public interest for the trial to proceed.

Trial not to be continued in certain cases.

(2) Where the proceedings are discontinued in accordance with the provisions of subsection (1), the Court shall discharge the defendant and thereafter he shall be subject to the provisions of the Lunacy Act or any Act amending or replacing it (so far as the Act may be applicable to his case) in the same circumstances and to the same extent as a mental patient against whom no proceedings have been brought.

Admission to bail

81. (1) A person charged with murder, treason or any other offence for which the maximum penalty is life imprisonment shall not be admitted to bail except by a Judge.

When bail can be granted.

(2) When a person is charged with any felony other than murder, treason or any other offence for which the maximum penalty is life imprisonment the Court may, if it thinks fit, admit him to bail.

(3) When a person is charged with any offence other than those referred to in subsections (1) and (2), the Court shall admit him to bail, unless the prosecutor proffers good and sufficient reasons why bail should not be granted.

(4) A person may be admitted to bail at any time, and thereupon shall be discharged from custody or prison if he is not detained for any other cause.

(5) A Judge may, if he thinks fit admit any person to bail although the Court before whom the charge is pending has not thought it fit to do so.

(6) The defendant who is to be admitted to bail shall procure such surety or sureties as in the opinion of the Court will be sufficient to ensure his appearance as and when required, and shall with him or them enter into a recognisance accordingly.

(7) The Court may dispense with sureties if, in its opinion, its so dispensing will not tend to defeat the ends of justice and may order one or more of the following:-

- (a) that the defendant surrenders his travelling documents to the Court pending the trial;
- (b) that the defendant reports at such place and at such times as the Court may determine;
- (c) that the defendant gives a definite place of abode or residence;
- (d) that the defendant be subject to curfew on such terms as the Court may determine.

(8) When the defendant is required to procure a surety or sureties, the recognisance of the sureties may be taken separately and either before or after the recognisance of the defendant.

Power of
police to
admit to bail.

82. (1) Notwithstanding anything contained in section 81, a Police Officer in charge of a police station may take bail by recognisance conditioned for the appearance of a defendant before the Magistrate Court or the police officer, on a day and at a place to be mentioned in the recognisance, there and then to be dealt with according to law, in the following cases:-

- (a) when a defendant is arrested without warrant on a charge of having committed any offence other than murder, treason or any other offence for which the penalty is life imprisonment; or

- (b) when a defendant is arrested under a warrant endorsed for bail as provided by **section 29**.

(2) A recognisance so taken shall be of full and equal obligation on the parties entering into it, and liable to all its proceedings for the forfeiture and levy of recognisances provided by section 134.

(3) Such Police Officer shall enter in a book, kept for that purpose in every police station or lock-up, the name, residence and occupation of the person entering into recognisance, and of his surety or sureties, if any, with the condition of the recognisance, and the sums deposited or acknowledged.

(4) Such book shall be laid before the Magistrate present at the time when and place where the recognisor is required to appear, and such Magistrate may enlarge the recognisance to such further time as he may appoint.

Conviction for offences other than charged

83. (1) If on the trial of a person charged with an offence it appears upon the evidence that the defendant did not complete the offence charged, but was guilty of attempting to commit the offence or to cause such offence to be committed, such convicted defendant shall not be acquitted, but a verdict may be returned of not guilty of the offence charged, but guilty of an attempt to commit the offence, and thereupon the defendant shall be punished as if convicted on an information or indictment for attempting to commit such offence; and no person so tried shall be afterwards prosecuted for an attempt to commit the offence for which he was so tried.

Person
charged with
an offence
may be
convicted of
attempt.

(2) If a person is charged with an attempt to commit an offence and the evidence establishes the commission of the full offence, the defendant may not be convicted of the full offence but may nevertheless be convicted of the attempt.

Conviction of man-slaughter on charge of murder.

84. (1) When a person is charged with murder he may, if the evidence so warrants, be acquitted of murder and convicted of manslaughter although he was not charged with that offence.

(2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury, and where there is no jury the Court is of the opinion that at the time she, by any wilful act or omission, caused its death but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, she may be convicted of infanticide.

Conviction of assault with intent to rob on charge of robbery.

85. When a person is charged with robbery and it is proved that he committed an assault with intent to rob, he may be acquitted of robbery and convicted of an assault with intent to rob although he was not charged with that offence.

Persons charged with burglary, etc. may be convicted of kindred offence.

86. (1) If on any trial for any of the offences mentioned in sections 25, 26, 27 and 28 of the Larceny Act, 1916, the facts proved in evidence authorize the conviction for some other of these offences and not the offence wherewith the defendant is charged, he may be found guilty of the other offence and thereupon he shall be punished as if he had been convicted on information or an indictment charging him with such offence, except that no person shall be convicted under this subsection of an offence, the maximum punishment for which is greater than that prescribed for the offence charged.

(2) When a person charged with any offence against section 17 of the Larceny Act, 1916 (relating to embezzlement) and it is proved that he stole the property in question, he may be convicted

of stealing although he was not charged with that offence; and when a person is charged with stealing any chattel, money or valuable security he may, in like manner, be convicted of embezzlement, or of fraudulent application or disposition as the case may be.

(3) When a person is charged with stealing any chattel, money or valuable security, and it is proved that he received the thing knowing it to have been stolen, he may be convicted of receiving although he was not charged with that offence.

(4) When a person is charged with stealing and it is proved that he obtained the chattel, money or valuable security in question in such manner as would amount under the provisions of the Larceny Act, 1916, to obtaining it by false pretences with intent to defraud, he may be convicted of obtaining it by false pretences although he was not charged with that offence.

(5) When a person is charged with obtaining any chattel, money or valuable security by false pretences with intent to defraud and it is proved that he stole the property in question, he may be convicted of stealing it although he was not charged with that offence.

(6) When two or more persons are charged with jointly receiving any property, and it is proved that one or more of the persons separately received any part of the property, any of those persons as are proved to have received any part of the property may be convicted upon such charge.

(7) Where a defendant is charged with rape or unlawful carnal knowledge and the original charge is not proved, he may be convicted of the lesser offence of indecent assault although not charged with that offence.

87. If, on any trial for misdemeanour, the facts given in evidence amount to felony, the defendant shall not be therefore acquitted of such misdemeanour; and no person tried for such misdemeanour shall be liable afterwards to be prosecuted for felony on the same facts.

Persons charged with misdemeanour not to be acquitted if offence proved is a felony.

Evidence

Evidence of person married otherwise than by civil, religious or customary marriage.

88. Where a person charged with an offence is married to another person by a marriage other than a civil, religious or customary marriage, the last-named person shall be a competent and compellable witness on behalf of either the prosecution or the defence.

Competency of person charged and his spouse or cohabiting partner to give evidence.

89. (1) Every person charged with an offence, and the spouse or cohabiting partner, as the case may be, of the person so charged, shall be a competent witness for the defence at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person but—

- (a) a person so charged shall not be called as a witness in pursuance of this Act except upon his own application;
- (b) the failure of any person charged with an offence, or of the spouse or cohabiting partner, as the case may be, of the person so charged, to give evidence shall not be made the subject of any comment by the prosecution;
- (c) the spouse or cohabiting partner of the person charged shall not, except as mentioned in this Act, be called as a witness in pursuance of this Act except upon the application of the person so charged.

(2) Nothing in this Act shall make spouses compellable to disclose any communication made to each other during the marriage, or cohabiting partners compellable to disclose any communication made to each other during the relationship.

(3) A person charged and being a witness in pursuance of this Act may be asked any question in cross-examination, notwithstanding that it would tend to incriminate him as to the offence charged.

(4) A person charged and called as a witness in pursuance of this Act shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is then charged, or is of bad character, unless—

- (a) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged; or
- (b) he has personally or by his advocate asked questions of the witnesses for the prosecution with a view to establishing his own good character, or has given evidence of his good character, of the nature or conduct of the defence or the prosecutor or the witnesses for the prosecution; or
- (c) he has given evidence against any other person charged with the same offence.

(5) Every person called as a witness in pursuance of this Act shall, unless otherwise ordered by the Court, give his evidence from the witness box or other place from which the other witnesses gave their evidence.

(6) Nothing in this Act shall affect the provisions of section 18 of the Indictable Offences Act, 1848, or other right of the person charged to make a statement without being sworn

90. (1) At any time before, or during the course of the trial, the prosecution shall, at the request of the defendant, deliver to him a copy of a written statement taken by the police or any other prosecuting authority from any person whom it intends to call as a witness or who is actually called as a witness.

Prosecution to deliver to defendant copies of statements before trial.

(2) If a witness is cross-examined at the trial on behalf of the defendant on any part of the witness's written statement made to the police or any other prosecuting authority, the police or other prosecuting authority may furnish the Court with a copy of the written statement which shall become part of the record of the trial.

(3) The written statement shall not thereby become evidence of any facts alleged therein, but the judge and jury may take it into account in judging the credibility of the witness on his evidence as a whole and the prosecution and defence shall be entitled to refer to it in examining or cross-examining any witness and in addressing the Court.

Evidence of person charged.

91. When the only witness to the facts of the case called by the defence is the person charged, he shall be called as a witness immediately after the close of the evidence for the prosecution.

Right of reply.

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

Calling of spouse or co-habiting partner in certain cases.

93. (1) The spouse or cohabiting partner of a person charged with an offence under sections 48 to 55 of the Offences Against the Person Act, 1861 (relating to rape, abduction and defilement of females) or any other law relating to sexual offences for the time being in force, may be called as a witness either for the prosecution or defence and without the consent of the person charged.

(2) Nothing in this Act shall affect a case where the spouse or cohabiting partner of a person charged with an offence may at common law be called as a witness, without the consent of that person.

94. For the purposes of sections 88 to 93-

Interpretation.

“civil marriage” means a marriage which is recognized by the law of the place where it is contracted as the voluntary union for life of one man and one woman to the exclusion of all others;

“customary marriage” means a marriage celebrated and recognised as valid under any rules of customary law in force in Sierra Leone or a marriage registered under the Registration of Customary Marriages and Divorces Act, 2009;

“husband and wife” means a husband and wife of a civil marriage;

“religious marriage” means a marriage which is recognized by the law of the place where it is contracted and means a marriage entered into and subsisting between persons professing a recognized religion;

“spouse” means a husband or wife in a civil, customary or religious marriage.

95. (1) A party producing a witness shall not be allowed to impeach his credibility by general evidence of bad character, but he may, in case the witness, in the opinion of the Judge, proves adverse, contradict him by other evidence, or, by leave of the Judge, prove that he has made at other times a written statement inconsistent with his present testimony; but before such last-mentioned proof can be given the circumstances of the supposed written statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he has made such written statement.

Hostile witness and previous inconsistent statement.

(2) If a witness, upon cross-examination as to a former statement made by him relative to the subject-matter of the indictment or proceeding, and inconsistent with his present testimony, does not distinctly admit that he has made such statement, proof may be given that he did in fact make it; but before such proof can be given the circumstances of the supposed statement, sufficient to designate the particular occasion, shall be mentioned to the witness, and he shall be asked whether or not he has made such statement.

(3) A witness may be cross-examined as to previous statements made by him in writing or reduced into writing relative to the subject matter of the indictment or the proceedings, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention shall, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him: provided always, that it shall be competent for the judge, at any time during the trial, to order reproduction of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial, as he may think fit.

Circumstances where secondary evidence is admissible.

96. (1) A statement made in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence would be admissible if-

- (a) the person who made the statement is dead or by reason of his bodily or mental condition is unfit to attend as a witness;
- (b) the person who made the statement is out of the jurisdiction of Sierra Leone and it is not reasonably practicable to secure his attendance;
- (c) that all reasonable steps have been taken to find the person who made the statement, but he cannot be found;

- (d) that the person who made the statement does not wish to give evidence through fear, provided that the statement was made to a police officer or some other person charged with the duty of investigating offences or charging offenders

(2) For the purposes of the criminal law, "document" includes a map, photograph, film, tape or video recording, disc, or any form of computer input or output and any other material, whether produced or recorded mechanically, electronically, digitally, manually or otherwise.

97. (1) A statement in a document shall be admissible in criminal proceedings as evidence of any fact of which direct oral evidence would be admissible if the following conditions are satisfied- Admissibility of statements.

- (a) the document was created or received by a person in the course of a trade, business, profession or other occupation, or as the holder of a paid or unpaid office and;
- (b) the information contained in the document was supplied by a person whether the maker of the statement or any person who had or may reasonably be supposed to have had personal knowledge of the matters dealt with in the document.

(2) Subsection (1) applies whether the information contained in the document was supplied directly or indirectly but, if it was supplied indirectly, only if each person through whom it was supplied received it-

- (a) in the course of a trade, business, profession or other occupation or;
- (b) as the holder of a paid or unpaid office.

(3) With the exception of expert reports, a statement prepared for the purposes of—

- (a) pending or contemplated criminal proceedings; or
- (b) criminal investigations,

shall not be admissible by virtue of subsection (1) unless the requirements of that provision are satisfied or the person who made the statement cannot reasonably be expected (having regard to the time which has elapsed since he made the statement and to all other circumstances) to have any recollection of the matters dealt with in the statement.

Factors to be considered by Court when determining whether statement is not admissible.

98. (1) If having regard to all the circumstances, the court on a trial on indictment, or on appeal from the Magistrate Court or the Court of Appeal or the Magistrate Court on summary trial is of the opinion that in the interest of justice a statement which is admissible by virtue of section 97 nevertheless should not be admitted.

(2) Without prejudice to subsection (1), it shall be the duty of the court to have regard to—

- (a) the nature and source of the document containing the statement and to whether or not having regard to its nature and source and to any other circumstances that appear to the court to be relevant, it is likely that the document is authentic;
- (b) the extent to which the statement appears to be evidence which would otherwise not be readily available;

- (c) any risk, having regard in particular to whether it is likely to be possible to controvert the statement if any person making it does not attend to give evidence in the proceedings, that its admission or exclusion will result in the unfairness to the defendant or, if there is more than one, to any of them.

99. Where a statement which is admissible in criminal proceedings by virtue of section 98 appears to the court to have been prepared (except expert reports) for the purposes of—
determining—

Factors to be considered by Court when determining whether statement is not admissible.

- (a) a pending or contemplated criminal proceedings or;
- (b) a criminal investigation,

the statement shall not be given in evidence in any criminal proceedings without the leave of the court, and the Court shall not give leave unless it is of the opinion that the statement ought to be admitted in the interest of justice, and it shall be the duty of the Court to have regard to—

- (i) the content of the statement;
- (ii) any risk having regard in particular to whether it is likely to be possible to controvert the statement if the person making it does not attend to give evidence in the proceedings, that its admission or exclusion will result in unfairness to the defendant or if there is more than one defendant, to any of them;
- (iii) any circumstances that appear to the Court to be relevant.

Admissibility of statement in document produced by computer or other electronic device.

100. In any proceedings, a statement in a document produced by a computer or any electronic device shall not be admissible as evidence of any fact stated therein unless it is shown—

- (a) that there are no reasonable grounds for believing that the statement is inaccurate because of improper use of the computer or electronic device; or
- (b) that at all material times the computer or electronic device was operating properly, or if not, that any respect in which it was not operating properly or was out of operation was not such as to affect the production of the document or the accuracy of its contents.

Admissibility of evidence on tape, video recording or film.

101. (1) In any criminal proceedings where a tape or video recording or any other material, whether produced or recorded mechanically, electronically, digitally, manually or otherwise, is relevant to an issue in dispute, it shall be open to either party to replay such tape or video recording, or other material to the court and the same shall be received in evidence.

(2) In any criminal proceedings where a map, photograph, film, disc or any form of computer input or output and any other material, whether produced or recorded mechanically, electronically, digitally, manually or otherwise is relevant to an issue in dispute, it shall be open to either party to produce such map, photograph, film, disc or computer input or output or other material to the court and the same shall be received in evidence.

PART III – SUMMARY TRIALS

Summary trial of offences.

102. Trials in the Magistrate Courts shall be conducted summarily in the manner and subject to the conditions laid down in this Part and in the Second Schedule.

103. (1) The room or place in which the Court sits to hear and determine the charge shall be an open and public court to which the public generally shall have access as far as it can conveniently contain them; but all trials relating to sexual offences shall be heard in camera. Publicity.

(2) The Court may make an order for proceedings to be conducted in camera if it is satisfied that it is in the interest of justice to do so.

104. When the defendant comes before the Court on summons or warrant, or otherwise, either originally or on adjournment, then if the prosecutor, having had notice of the time and place appointed for the hearing or adjourned hearing of the charge, does not appear, the Court shall dismiss the charge, unless for some reason it thinks fit to adjourn or further adjourn the hearing. Non-appearance of prosecutor.

105. If at the time and place appointed for the hearing of the case, both the defendant and the prosecutor appear before the Court, it shall proceed to hear and finally determine the charge. Appearance of both parties.

106. Where the defendant does not appear personally and pleads guilty in writing under section 21, the Court may proceed to determine the matter notwithstanding the absence of the Prosecutor. Where defendant pleads guilty in writing.

107. (1) All redacted and unredacted statements shall be served on the defence by the prosecution within eight days after the initial appearance of the defendant. Redacted and unredacted statements to be served on defence prior to hearing.

(2) If the defendant intends to raise the defence of alibi, he shall give notice of it to the prosecution within fourteen days after receipt of the unredacted statement referred to in subsection (1).

108. (1) The substance of the charge shall be stated to the defendant and he shall be asked if he admits or denies the truth of the charge. Defendant to be called upon to plead.

(2) The Court shall record the exact words of the answer to the charge made by the defendant and if the answer does not consist merely of the words “guilty” or “not guilty”, as the case may be, the Court shall record its interpretation of the answer and whether in the opinion of the Court it amounts to a plea of guilty or not guilty, as the case may be.

Procedure in
plea of guilty.

109. If the defendant admits the truth of the charge, the Court may convict him or refuse to accept a plea of guilty, as it thinks fit.

Hearing may
be adjourned.

110. (1) At any time during the hearing of the charge the Court may, if it thinks fit, adjourn the hearing for a period not exceeding eight days if the defendant is not on bail.

(2) An adjournment ordered for any reason shall be made to a certain time and place appointed and stated at the time of adjournment in the presence and hearing of the parties.

Custody of
defendant.

111. During an adjournment the Court may according to the nature and circumstances of each case and subject to section 110, release the defendant on bail or commit him by warrant to such correctional centre or other place of detention, or to such other place of safe custody as the Court thinks fit or may discharge him on his entering into a recognizance with or without a surety or sureties.

Non-
appearance of
defendant in
answer to
summons or
after adjourn-
ment.

112. (1) If at any time or place appointed by summons or on the adjournment of a hearing once begun, the defendant does not appear, and if, in the former case it is duly proved that the summons was served on the defendant within a reasonable time before the time for his appearance, the Court may, if it thinks fit and where the charge is not one of felony or any offence punishable by a term of imprisonment exceeding five years, proceed with the hearing, and may convict the defendant in his absence, or refrain from doing so until he shall be brought before it.

(2) The Court may set aside any conviction made in the absence of the defendant upon being satisfied that his absence was due to causes over which he had no control, and that he has a probable defence upon the merits.

(3) Any sentences of imprisonment passed under subsection (1) shall be deemed to commence from the date of arrest.

(4) If the defendant who had not appeared is charged with a felony or any offence punishable by a term of imprisonment exceeding five years or if the Court in its discretion refrains from convicting the defendant in his absence, the Court shall issue a warrant for the arrest of the defendant and cause him to be brought before it.

113. (1) If the defendant does not admit the truth of the charge or if the Court refuses to accept a plea of guilty, the Court shall proceed to hear the prosecutor and his witnesses and other evidence, if any.

Procedure on
plea of not
guilty.

(2) The defendant may put questions to each witness produced against him, and the answer of the witness to the questions shall be part of his case.

(3) If the defence does not employ a legal practitioner, the Court shall, at the close of the examination of each witness for the prosecution, ask the defendant whether he wishes to put any questions to that witness.

114. (1) If at the close of evidence in support of the charge, it appears to the Court that a case is not made out against the defendant sufficiently to require him to make a defence, the Court shall as to the particular charge, discharge the defendant.

Defence.

(2) At the close of the evidence in support of the charge the defendant or his counsel may make a no case submission, and if it appears to the Court that the case is made out against the defendant sufficiently to require him to make a defence, the Court shall as to the particular charge, discharge the defendant.

(3) At the close of evidence in support of the charge if it appears to the Court that the case is made against the defendant sufficiently to require him to make a defence, the Court shall ask him if he wishes to say anything in answer to the charge, or has any witnesses to examine or other evidence to adduce in his defence, and the Court shall then hear the defendant and his witnesses and other evidence, if any.

(4) If the defendant states that he has witnesses to call, but they are not present in Court, and the Court is satisfied that the absence of the witnesses is not due to any fault of the defendant, and that there is a likelihood that they could, if present, give material evidence on his behalf, the Court may adjourn the trial and issue process, or take other steps, to compel the attendance of such witnesses.

Evidence in reply.

115. If the defendant adduces in his defence any evidence other than evidence as to character, the prosecutor may adduce evidence in reply thereto; but, except with the leave of the Court, the prosecutor shall not in any case be allowed to make any observations by way of reply to the evidence adduced by the defendant nor, without such leave shall the defendant in any case be allowed to make any observations on evidence adduced by the prosecutor in reply.

Alteration of information.

116. (1) Where, before trial upon information or at any stage of the trial, it appears to the Court that—

- (a) the information is defective in a material particular;
or
- (b) the evidence discloses an offence other than the offence with which the defendant is charged,

the Court shall make such order for the alteration of the information as the Court thinks necessary to meet the circumstances of the case, unless having regard to the merits of the case, the required alterations cannot be made without injustice.

(2) An order for the alteration of the information may be by way of amendment of the information or by the substitution or addition of a new charge and on such terms as shall seem to the Court to be just.

(3) Where the information is amended the Court shall then call upon the defendant to plead to the altered information and at the request of the defendant recall any of the witnesses for the prosecution for further cross-examination by the defendant or his counsel.

(4) Variance between the information and the evidence adduced in support of it with respect to the time at which the alleged offence was committed is not material, if it is proved that the information was in fact made within the time, if any, limited by law for its making.

(5) Where an amendment of an information is made under subsection (1) or where there is a variation between the information and the evidence as described in subsection (4), the Court shall, if it is of the opinion that the defendant has been thereby deceived or embarrassed, allow any witness to be recalled and further questioned upon any matters relevant to the amended or varied charge and the Court may adjourn the trial for such period as may be reasonably necessary.

117. Where at any stage of a trial the Court is of the opinion that the defendant may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same information or that for any other reason it is desirable to direct that the defendant should be tried separately for any one or more offences charged in one information, the Court may order a separate trial of any offence or offences charged in the information. Orders for separate trial.

118. (1) The Court, having heard the witnesses and other evidence adduced, and what may be alleged by the parties themselves or their counsel, shall— Determination of charge.

- (a) consider the whole matter, and finally determine the case, and shall either convict the defendant and pass sentence or make;
- (b) an order against him according to law or acquit him as the case may be,

and shall cause a record to be made of the point or points for determination, the decision therein and the reason for the decision: but the Court may, at any time before the final determination upon being satisfied that there are sufficient grounds for doing so, allow the prosecutor to withdraw any charge against the defendant whereupon such charge shall be deemed to be dismissed.

(2) In the event of the Court convicting or making an order against the defendant in respect of which an appeal lies to the High Court, the Court shall inform the defendant of his right to appeal at the time of entering the conviction or making the order.

PART IV—COMMITTAL PROCEEDINGS

Procedure in committal proceedings. 119. Where a person is before a Magistrate charged with an offence which is triable exclusively by the High Court or in the opinion of the Magistrate ought to be tried by that Court, the Magistrate shall conduct committal proceedings into the charge or charges alleged, in accordance with the procedure laid down in this Part and in the Third Schedule.

Committal proceedings not to be held in public. 120. (1) The room or place in which the committal proceedings are held shall not be an open or public Court for that purpose, and the Court shall, if the charge is one of a sexual nature or if it thinks that the ends of justice will be served by so doing, order that no person shall have access to, or be or remain in the room or place where the committal proceedings are held without the express permission of the Court.

(2) Reporting or publication of committal proceedings is prohibited except to the following extent:—

- (a) the identity of the Court and the name of the Magistrate conducting the proceedings;
- (b) the names, addresses and occupation of the parties and witnesses and the ages of the defendant and witnesses; but where the offence charged is one of a sexual nature, the names and addresses of the parties shall be excluded;

- (c) the offence with which the defendant is charged or a summary thereof;
- (d) the names of Counsel and Solicitors engaged in the proceedings;
- (e) any decision of the Court to commit the defendant (or any of them) for trial or otherwise;
- (f) where the Court so commits the defendant for trial, the Court to which and the charge on which he is committed (or a summary of the charge);
- (g) in the event of an adjournment, the date and place to which the proceedings are adjourned; and
- (h) any decision as to bail.

121. (1) Upon the appearance of the defendant before the Court on summons, warrant or otherwise, the Court shall cause the substance of the charge or charges against the defendant to be read to him in an audible voice and in a language which he understands and he shall not be required to make a plea. Proceedings at initial appearance.

(2) The Court shall notify the prosecution and the defendant that the committal proceedings shall commence on a date not later than 21 days after the initial appearance.

(3) The Court shall also notify the prosecution and the defendant that the prosecution shall, not later than 14 days before the date fixed for the committal proceedings, file in the Court and serve on the defendant copies of all written statements of the witnesses whom the prosecution intends to call at the trial, including those obtained from the defendant and all documents together with a list of all physical and material evidence it intends to tender at the committal proceedings.

(4) The Court shall inform the defendant that if after service of the written statements, documents and list referred to in subsection (3), he wishes to object to the use of the written statements, documents and physical and material evidence, he shall do so on the date fixed for the committal proceedings.

(5) The Court shall inform the defendant that if he wishes to give evidence himself or to call witnesses in his defence at the committal proceedings, he shall, not later than 7 days before the date fixed for the committal proceedings, file in the Court and serve on the prosecution, the written statements made by himself and his witnesses.

(6) The defendant shall be released on bail or remanded in custody in accordance with section 81.

Statements to
be provided
at committal
proceedings.

122. (1) On the date fixed for the committal proceedings—

- (a) the prosecution shall make available and produce and tender in court, the written statements, documents and the physical and material evidence itemised in the list referred to in subsection (3) of section 121;
- (b) the defendant shall, if he has so elected to take the steps mentioned in subsection (5) of section 121, make available and produce and tender in court, the written statements made by himself and his witnesses.

(2) If the defendant does not wish to, or elects not to take any of the steps mentioned in subsections (4) and (5) of section 121, the committing Magistrate shall, if satisfied that the statements and other evidence as to the commission of the offence or any other indictable offence are sufficient to put the defendant on trial, proceed to commit him for trial.

(3) On the date fixed for the committal proceedings, if the defendant has indicated in the manner set out in subsection (4) of section 121 that he wishes to object to any of the prosecution's written statements, documentary, material or other physical evidence, the defendant shall state his objection or objections.

(4) The Magistrate shall take down the objection made under subsection (3) and shall not determine any of the issues raised in it but it shall form part of the record.

(5) If the Magistrate, after consideration of all the evidence tendered by the prosecution and the written statements tendered by the defendant in accordance with paragraph (b) of subsection (1), is of the view that it shall serve the interests of justice, he shall be entitled to summon to give evidence orally, the witness or witnesses whose testimony as recorded in the written statements, require further examination.

(6) If such witness or witnesses are called, the defendant or his counsel and the prosecution shall be entitled to cross-examine him or them and the evidence shall be recorded in the form of a deposition which shall be read over and explained to the witness in a language which he understands.

(7) The witness shall then sign the deposition if it is a true record of his evidence and it shall be attested to by the Magistrate.

(8) If the committing Magistrate is of the view that the evidence tendered by the prosecution sufficiently shows the commission of an offence other than that with which the defendant is charged, he shall so inform the defendant and record his finding in writing and commit the defendant for trial for that offence.

(9) Notwithstanding subsection (8) the defendant may, at the close of the prosecution's case submit to the Court that there is no case to answer.

(10) If the Court considers that the evidence against the defendant is not sufficient to put him on trial, the Court shall forthwith order him to be discharged as to the particular charge; but the discharge shall not be a bar to any subsequent charge in respect of the same facts.

Endorsement
on witness
statements.

123. Witness statements taken at the police station or by the prosecuting authority shall have the following endorsement at the top of the first page of the witness statement, which should read as follows:—

- (a) in the case of a literate witness—
“This statement consisting of.....pages signed by me is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything which I know to be false or do not believe to be true”

(This will be followed by the date, then the statement and the witness's signature or thumbprint and the signature of another person who witnessed the signing or the affixing of the thumbprint.)

- (b) in the case of an illiterate person—
“This statement consisting of.....pages signed by me was made by me inlanguage and interpreted by an interpreter in a language which I understood. It was read over to me inlanguage is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything which I know to be false or do not believe to be true”

(This will be followed by the date, then the statement and the witness' signature or thumbprint and the signature of another person who witnessed the signing or the affixing of the thumbprint.)

- (c) in the case of a literate witness who has no limbs—

“This statement consisting of.....pages bearing my mark or marked by me is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything which I know to be false or do not believe to be true”

(This will be followed by the date, then the statement and the witness' mark and the signature of another person who witnessed the affixing of the mark.)

- (d) in the case of an illiterate witness who has no limbs—

“This statement consisting of..... pages bearing my mark or marked by me was made by me inlanguage and interpreted by an interpreter in a language which I understood. It was read over to me inlanguage and is true to the best of my knowledge and belief, and I make it knowing that, if it is tendered in evidence I shall be liable to prosecution, if I have wilfully stated in it anything which I know to be false or do not believe to be true”

(This will be followed by the date, then the statement and the witness' mark and the signature of another person who witnessed the affixing of the mark.)

Committal of defendant.

124. (1) Where the committing Magistrate decides that there is sufficient evidence to put the defendant on trial, he shall say to the defendant: “having considered the evidence tendered by the prosecution, you are committed to the current (or next) session of the High Court sitting atto stand trial for the offence of Copies of written statements and depositions (if any), record of the committal proceedings and any other document and list of things tendered in evidence shall be served on you before trial and you will be entitled to give evidence and to call witnesses.”

(2) The committing Magistrate shall, if the circumstances of the case warrant the giving of an *alibi* warning to the defendant, say to him: “I must warn you that, if you intend to give evidence of an *alibi* or to call witnesses in support of an *alibi* at the trial in the High Court, you may give those particulars now to this Court or to the prosecution not later than seven days from the end of these committal proceedings.”

Ancillary proceedings.

125. (1) Where the defendant has been committed to a particular session of the High Court, he shall either be admitted to bail or remanded in custody.

(2) The warrant of the court shall be sufficient authority to the keeper of any prison appointed for the custody of prisoners committed for trial, although out of the jurisdiction of such Court.

(3) A warrant of committal shall name the day, time and place at which the defendant is to appear before the High Court in answer to the indictment preferred against him but the committal for trial shall not be invalidated by reason only of a failure to comply with this subsection.

(4) Where for any reason whatsoever the trial of the defendant cannot take place on the day named on the warrant, it shall be lawful for any Judge or Magistrate to extend by the endorsement on the warrant the time stated on the warrant.

(5) Any warrant so endorsed shall have the like effect as any warrant issued under subsection (1).

126. The provisions of section 116 shall apply in relation to the amendment of a charge brought against a defendant before a court holding committal proceedings.

Variance between charge and evidence.

127. (1) In the event that the committal proceedings are not concluded on the date fixed for the hearing or if the Court thinks it is necessary to adjourn the proceedings and the defendant has not been admitted to bail, the Court shall remand the defendant for a period not exceeding seven days at any one time.

Remand.

(2) A Court conducting committal proceedings shall determine the matter as soon as may be and in any case not later than 28 days from the date fixed for the commencement of committal proceedings.

128. Where the Magistrate who commenced or continued the committal proceeding is unable for any sufficient reason to continue it after an adjournment, it shall not be necessary for his successor to re-commence the proceedings unless it appears to him that the case is one upon which he should himself adjudicate under section 6 of the Courts Act, 1965 or any other law in force.

Re-opening of committal proceedings. Act. No. 31 of 1965

129. In any case where the Magistrate is compelled to interrupt the conduct of committal proceedings by sickness, absence or other sufficient cause, the Master and Registrar shall appoint another Magistrate to continue the proceedings and such other Magistrate shall have the same powers as the Magistrate who commenced the said proceedings.

Continuing Magistrate.

130. (1) In the event of a committal for trial, the written charge, written statements and depositions (if any), exhibits tendered, record of the committal proceedings, the statement of the defendant, the recognisances for bail (if any), and any other documents relating to those proceedings shall be transmitted in proper time to the High Court; and authenticated copies of the written charge, written statements and depositions (if any), list of exhibits tendered, record of the committal proceedings and any other document relating to those proceedings shall be transmitted to the Director of Public Prosecutions.

Returns to be made to trial Court and the Director of Public Prosecutions.

(2) A defendant who has been committed for trial shall be entitled at any time before trial, to have authenticated copies of the written statements and depositions (if any), record of the committal proceedings, list of exhibits tendered and any other document relating to those proceedings, without payment.

Procedure where defendant consents to summary trial.

131. (1) If during the course of the committal proceedings the Court concludes that having regard to the circumstances of the case, the offence charged is one which if proved, can be suitably punished by a term of imprisonment not exceeding seven years or a fine not exceeding the maximum fine a Magistrate Court can impose, the Court shall ask the defendant whether he consents to the case being heard and determined summarily and shall explain to him the difference between the case being heard summarily and being committed to the High Court for trial.

(2) In the event of the defendant giving his consent to the case being dealt with summarily, the Court shall call upon him to plead to the information and the Court shall then fix a date for the commencement of the summary trial in accordance with Part III.

Binding Prosecutor and witnesses by recognisance

Prosecutor and witnesses may be required to enter into recognisance.

132. (1) The Court upon committing a defendant for trial may bind by recognisance, with or without a surety or sureties, as it may deem requisite, the prosecutor and every witness to appear at the trial to prosecute, or to prosecute and to give evidence, as the case may be.

(2) The Court shall require the prosecutor and witnesses to enter into recognisances specifying the date and place at which his or their personal appearance is required and the consequences of any failure to fulfil such obligation.

(3) The Magistrate shall fix a date not later than seven days after the date of committal of the defendant for the prosecutor and witnesses to enter into recognisances.

(4) The Court shall notify the prosecutor and witnesses in proper time, of the date at which his or their personal appearance is required.

133. If a person refuses to enter into such recognisance, the Court may commit him to prison, or into the custody of any officer of the Court, there to remain until after the trial, unless in the meantime he enters into a recognisance, but if afterwards, from want of sufficient evidence or other cause, the defendant is discharged, the Court shall order that the person imprisoned for so refusing, be also discharged.

Refusal to enter into recognisance.

Proceedings upon recognisances

134. (1) If the condition of any recognisance entered into by the defendant is not complied with, the Court in or before which such condition ought to be performed, may endorse thereon a certificate, addressed to the Sheriff or other officer of the Court, setting forth that such condition has not been performed, and thereupon, if the amount of the recognisance is not paid within thirty days after service of an order and notice to do so, the same shall be recoverable by distress and sale of the goods and chattels of the recognisors.

Forfeiture and levy of recognisance.

(2) In default of the amount being recovered by such distress and sale, the recognisors may be imprisoned for any period not exceeding sixty days, but the Court in or before which the condition of any recognisance ought to be performed may cancel or mitigate the forfeiture upon such terms and conditions (if any), as the Court may think just.

135. The Court shall maintain a Register of recognisances which shall include particulars of the names and addresses of prosecutors and recognisors, the date and place at which their appearance or personal appearance is required and the consequences of any failure to fulfil the obligation.

Register of recognisances.

PART V—INDICTMENTS AND TRIALS IN THE HIGH COURT

Preferment of indictment.

136. (1) An indictment shall be preferred in any of the following cases—

- (a) where there has been a committal consequent upon committal proceedings held in accordance with Part IV ;
- Cap. 9. (b) where there has been an inquiry or inquest in accordance with the Coroners Act;
- (c) where the direction and consent in writing of a Judge has been obtained for the preferment of an indictment;
- (d) where the Attorney-General and Minister of Justice issues and files an *ex-officio* information,

but where the defendant has been committed for trial, the indictment may include either in substitution for or in addition to counts charging the offence for which he was committed, any counts founded on facts or evidence disclosed in the written statements and depositions, being counts which may be lawfully joined in the same indictment.

(2) The procedure and manner in which applications may be made for preferment of an indictment shall be as set out in the Second Schedule.

Indictments

Conditions for filing of indictments.

137. Subject to section 136 an indictment charging any person with an offence triable before the High Court may be preferred by any person before a Court in which a person charged may be lawfully indicted for that offence, and where an indictment has been so preferred, a Law Officer shall, unless the defendant has been acquitted and discharged under section 147, sign the indictment and it shall thereupon be proceeded with accordingly but—

(a) a Judge may on the application of the Prosecutor, direct a Law Officer to sign the indictment and the indictment shall be signed accordingly;

(b) the provisions of this section shall not be construed so as to derogate from the powers conferred upon the Director of Public Prosecutions by section 48 or section 66 of the Constitution.

138. (1) Every indictment, when signed, shall be filed in the High Court.

Filing of indictment; its effects.

(2) The fact that the indictment has been so signed shall be equivalent to a statement that all conditions required by law to constitute the offence charged, and to give the Court jurisdiction, have been fulfilled in the particular case.

139. The Registrar or any other person directed by the Court shall indorse on, or annex to, every indictment and every copy of the indictment to be delivered to the Sheriff or Deputy Sheriff for service on the defendant, a notice of trial, which notice shall be in the following form, or as near thereto as may be—

Endorsement of indictment.

“A.B. TAKE NOTICE that you will be tried on the indictment, whereof this is a true copy, at the sessions of the High Court to be held at..... on the..... day of 20.....”.

140. The Registrar or other proper officer shall deliver or cause to be delivered to the Sheriff or Deputy Sheriff, a copy of the indictment with the notice of trial endorsed on it or annexed to it, and if there are more parties charged than one, as many copies as there are parties.

Copy of indictment and notice of trial to be delivered to Sheriff.

Time and mode of summoning parties on indictment.

141. The Sheriff or Deputy Sheriff shall, as soon as may be after having received a copy of the indictment and notice of trial, and at least seven days before the day specified in the indictment for trial or within such lesser time as the Court may for good cause order, by himself or other person authorized by him, deliver to the party charged a copy of the indictment and the notice and explain to him the nature and exigency thereof, and when the party is not in custody or shall have been admitted to bail and cannot readily be found, the Sheriff or other proper officer shall leave a copy of the indictment and notice of trial with some person of his household for him at his dwelling house and if none can be found, shall affix the copy and notice to the outer or principal door of the dwelling house of the party charged and—

- (a) in any case where an indictment is signed and filed without committal proceedings, the defendant shall be entitled to at least fourteen days notice;
- (b) nothing in this section shall prevent any person in custody or awaiting trial at the opening of or during any sessions, from being tried at the sessions, if he had been served with a copy of the indictment and notice of trial less than seven days or fourteen days, as the case may be, before the date on which he is to be tried;
- (c) the period of seven days or fourteen days may be reduced to a shorter period, if the person expresses his assent to it and no special objection is made on behalf of the State.

Return of service.

142. The officer serving the copy of the indictment and notice shall forthwith make to the Registrar or other proper officer a return of the mode of service of the indictment.

Arraignment

143. A person to be tried on any indictment shall be placed at the bar unfettered, unless the Court shall see cause otherwise to order, and the indictment or charge shall be read over to him by the Registrar or other officer of the Court, and explained if need be by the officer or the interpreter of the Court; and such person shall be required forthwith to plead to the indictment, unless where the person is entitled to service of a copy of the indictment, he shall object to the want of such service, and the Court shall find that he has not been duly served.

Pleading to indictment.

144. (1) Every person by pleading generally the plea of “not guilty”, shall be deemed to have put himself upon his trial, and in any plea of *autrefois convict* or *autrefois acquit*, it shall be sufficient for any person to state that he has been lawfully convicted or acquitted, as the case may be, of the offence charged in the indictment.

Effect of plea of not guilty.

(2) After a plea of not guilty it shall not be open to a defendant except with the leave of the Court to object that he is not properly upon his trial by reason of some defect, omission or irregularity relating to or arising out of the committal proceedings.

145. If any person stands mute or refuses, or by reason of infirmity is unable to answer directly to the indictment the Court shall, unless it has reason to believe that the person is of unsound mind and consequently incapable of making his defence, order the Registrar to enter a plea of not guilty on behalf of that person, and the plea so entered shall have the same force and effect as if that person had actually pleaded not guilty; but if the Court has reason to believe that the person is of unsound mind, it shall proceed in the manner prescribed in section 73.

Procedures if prisoner refuses to plead or unable to plead.

146. (1) All prosecutions on indictment in the High Court shall be conducted by a Law Officer or a legal practitioner.

Conduct and precedence of prosecutions.

(2) Indictments signed by a Law Officer, otherwise than at the instance of any other person, shall have priority of hearing, and shall be heard in the order they are presented by the Director of Public Prosecutions or a Law Officer acting on his behalf, and no jury or assessors shall be empanelled or selected for such case until it has been so presented.

Defendant to be released on bail or acquitted and discharged if not tried within a certain period of time.

147. (1) If a person committed for trial in the High Court other than on a charge of treason, murder or any other offence for which the maximum penalty is death shall not have been tried by the end of the next criminal sessions after the sessions to which he was originally committed he shall, if in prison, on his application by way of motion made on the last day of such first mentioned sessions or any day thereafter, be admitted to bail unless it is made to appear to the Court on oath that the prosecution witnesses or any of them could not have been brought before the Court before the end of that sessions.

(2) If a person committed for trial in the High Court shall not have been tried by the end of the next criminal sessions but one after the sessions to which he was originally committed he shall on his application by way of motion made on the last day of such first mentioned sessions, be acquitted and discharged unless the Court sees good reason to the contrary.

(3) For the purposes of this section the expression “sessions” does not include any sessions designated by the Chief Justice as special sessions.

Postponement of trial to next sessions.

148. It shall be lawful for the Court, upon the application of the prosecutor or the defence, if the Court considers that there is sufficient cause for the delay, to postpone the trial of any defendant to the next sessions of the Court to be held at the place where the Court is sitting at the time of such application being made, or to subsequent sessions, or to a sessions to be held at a time and place to be named at the time of granting such postponement; and to respite the recognisances of the prosecutor and witnesses, in which case the respited recognisances shall have the same force and effect as fresh recognisances to prosecute and give evidence at such subsequent sessions would have had.

Mode of trial

149. A person charged with a criminal offence at any sessions of the High Court shall –

- (a) be tried by the court with a jury consisting of eight persons; or
- (b) subject to this Act be tried by Judge alone or by a judge with the aid of assessors.

150. (1) A person charged with a criminal offence may, at the time of being committed or referred for trial or at any time thereafter, up to two clear days at least before the trial of such person, whether he had previously elected otherwise or not, elect to be tried by a Judge with the aid of assessors and if that person so elects, he shall be tried by a Judge with the aid of assessors, Defendant may elect trial by Judge with the aid of assessors or by Judge alone.

(2) A person charged with a criminal offence may, at the time of being committed or referred for trial by the High Court or at any time thereafter, up to two clear days at least before the trial of such person, elect to be tried by a Judge alone, and if that person so elects, he shall be tried by a judge alone and in every trial by a Judge alone, the Judge shall record in writing his decision and reasons therefore.

151. Notwithstanding anything contained in section 150, in any case where a person is charged at any sessions of the High Court with a criminal offence, the Attorney-General and Minister of Justice or the Director of Public Prosecutions or the Commissioner of the Anti-Corruption Commission may, if he is of the opinion that the general interest of justice would be served thereby, make an application to the Court for an order, which shall be made as of course that any person or persons shall be tried by the Court with the aid of assessors, or by a Judge alone. Order for trial Court with the aid of assessors or by a Judge alone.

152. (1) A defendant shall be entitled to change his election and if he had elected to be tried by a Judge alone or a Judge with the aid of assessors, he may, before the two clear days period has expired, elect to be tried by a Judge with a jury and this shall apply to persons who have been charged jointly. Change of election.

(2) In the case of persons who are charged jointly, if one or more (but not all) have elected in accordance with section 150, to be tried by a Judge alone or by a Judge with the aid of assessors, he or they may withdraw that election before the two clear days period has expired and elect to be tried by a Judge and jury.

(3) Where two or more persons are charged jointly, if they do not all duly elect to be tried by a Judge with the aid of assessors or by a Judge alone, they shall be tried by a Judge with a jury.

Limitations
of sections
148 to 152.

153. Nothing contained in sections 148 to 152 shall affect the Court's power to order separate trials of persons who are jointly charged.

Order for
amendment
of indict-
ment.

154. (1) Where, before trial upon indictment or at any stage of the trial, it appears to the Court that the indictment is defective, the Court shall make such order for the amendment of the indictment as the Court thinks necessary to meet the circumstances of the case, unless having regard to the merits of the case, the required amendments cannot be made without injustice.

(2) All the amendments shall be made upon the terms that the Court thinks just.

(3) The amendments shall include the addition or substitution of a count if the evidence so warrants.

(4) Where an indictment is so amended, a note of the amendment shall be endorsed on the indictment, and the indictment shall be treated for the purposes of all proceedings in connection with the indictment as having been filed in the amended form.

(5) Where the indictment is amended the Court shall then call on the defendant to plead to the altered indictment.

155. (1) Where before a trial upon indictment or at any stage of the trial the Court is of the opinion that the defendant may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment, or that for any other reason it is desirable to direct that the defendant should be tried separately for any one or more of the offences charged in the indictment, the Court may order a separate trial of any count or counts of the indictment.

Order for
separate trial.

(2) Where before a trial upon indictment in which more than one person has been charged or at any stage of the trial the Court is of the opinion that one or more of the defendants may be prejudiced or embarrassed in his defence by reason of being charged together with another person or other persons in one count or in the same indictment, or that for any other reason it is desirable to direct that one or more defendants should be tried separately for any one or more of the offences charged in the indictment, the Court may order the separate trial of that defendant or those defendants.

156. Where before a trial upon indictment or at any stage of the trial the Court is of the opinion that the postponement of the trial of the defendant is expedient as a consequence of the exercise of any power of the Court under this Act, the Court shall make such order as to the postponement of the trial as appears necessary.

Order for
postponement
of trial.

157. (1) Where an order of the Court is made under section 155 or 156 for a separate trial or for postponement of a trial—

Court may
order dis-
charge of jury
or assessors.

(a) if the order is made during a trial with a jury or during a trial with assessors, the Court may order that the jury or the assessors be discharged from giving a verdict or opinion, as the case may be, on the count or counts the trial of which is postponed, or on the indictment, as the case may be; and

(b) the procedure on the separate trial of a count shall be the same in all respects as if the count

had been contained in a separate indictment or as if the defendant had been charged in a separate indictment; and the procedure at the postponed trial shall be the same in all respects as if the trial had not commenced provided the jury or assessors (if any), in the original trial shall have been discharged;

- (c) the Court may make an order as to admitting the defendant to bail, and as to the enlargement of recognisances and otherwise as the Court thinks fit.

(2) Any power of the Court under sections 155, 156 and this section shall be in addition to and not in derogation of any other power of the Court for the same or similar purposes.

Motion in
arrest of
judgment.

158. (1) The defendant may, at any time before sentence, whether on his plea of guilty or otherwise, move in arrest of judgment on the ground that the indictment does not, after any amendment which the Court has made and had power to make, state any offence which the Court has power to try.

(2) The Court may, either hear and determine the matter during the same sitting, or adjourn the hearing to a future time to be fixed for that purpose.

(3) If the Court decides in favour of the defendant, he shall be discharged from the indictment, but the discharge shall not operate as a bar to any subsequent proceedings against him on the same facts.

Objections
cured by
verdict.

159. No Judgment shall be stayed or reversed on the ground of any objection, which if stated after the indictment was read to the defendant, or during the progress of the trial, might have been amended by the Court, nor because of any informality in swearing the witnesses or any of them.

Qualifications of jurors and preparation of jurors' list

Qualifications
of jurors.

160. (1) Subject to the exemption in subsection (2), any person between the ages of eighteen and sixty five years and not being a school going person, who is resident in Sierra Leone and is literate in English, shall be liable to serve.

(2) The following persons are exempted from serving on any jury—

- (i) Ministers and Members of Parliament;
- (ii) Judges and Magistrates;
- (iii) legal practitioners in actual practice and all Court Officers;
- (iv) medical practitioners and dental surgeons in actual practice and their dispensers and assistants;
- (v) registered pharmacists, druggists and nurses in actual practice;
- (vi) Priests and ministers of the various religions practised in Sierra Leone;
- (vii) the Mayor of Freetown, Paramount Chiefs and Chairmen of Local Councils and of other local authorities;
- (viii) Diplomatic and consular representatives and all salaried functionaries of Commonwealth and foreign Governments;
- (ix) teachers in public and private schools;

- (x) Masters of vessels;
- (xi) Pilots of ships and aircrafts in actual practice and licensed as such;
- (xii) Police officers and prisons officers;
- (xiii) Members of the Armed Forces;
- (xiv) the managers and cashiers of any Banks; but so that not more than four persons from any one branch of each bank shall be so exempted;
- (xv) clerks and other persons employed in the Judicial Service and the Law Officers' Department; and
- (xvi) holders of such other offices in the public service that the President may, from time to time require to be exempted.

(3) Any person convicted of treason or felony or any offence involving dishonesty (unless he has obtained a free pardon) shall be disqualified from serving as a juror.

Preparation
of jurors' list.

161. (1) The Magistrate of each Judicial District shall prepare and settle a jurors' list for his area for the year commencing on the first day of January in each year in accordance with the provisions of this Part.

(2) The Principal Immigration Officer shall during the first week of August in each year, furnish the Senior Magistrate in Freetown, with a list of names of non-citizens known to him to be resident in the Western Area.

(3) The District Officer shall during the first week of August in each year, submit to the Magistrate in each Judicial District a list of persons known to be resident in the district and literate in English.

(4) The Director of Human Resources in the Civil Service or the person responsible for appointments in the Civil Service shall, before the end of August of each year submit to the Principal Magistrate in Freetown, a list of all office holders who have been exempted under paragraph (xvi) of subsection (2) of section 160.

162. The Magistrate in charge of each Judicial District shall, between the 1st day of August and the 1st day of November in every year, make lists of the persons resident in each town or place within his district who are, in his opinion, qualified and fit to serve as jurors, setting out the name, occupation and place of residence and the nature of the qualification of each person and shall, within ten days after the 30th day of November in each year, cause true copies of such lists to be posted in some conspicuous part of his Court House and at selected places of worship in his district as he may decide, for the inspection of the public, where they shall be permitted to remain for a period of three weeks, to the end that any person may apply to him by notice in writing to have their names either added to or struck off such lists upon causes duly assigned in such notice.

Publication of
jurors' list.

163. A Magistrate may summon persons to give an oath or by affirmation, their full names, occupations, places of residence and true answer relating to their qualifications as jurors when required for the purposes of this Act, and to commit to prison any person refusing to take an oath or make an affirmation, or to give evidence and to order any person to be taken into custody who wilfully insults or interrupts the Magistrate, or otherwise misbehaves and to commit every offender to prison for a period not exceeding seven days.

Information
to be given to
Magistrate,
when required.

Settlement of lists by Magistrate. 164. (1) On the 1st day of December in every year, each Magistrate, together with such Justices of the Peace in his Judicial District as may be able to attend, shall hold a public sitting in the Court House of his district, for considering and disposing of all notices that he has received, and shall then revise and settle the lists by the addition to, or taking away of names, and by correcting any error as to the names, occupations or places of residence, and the nature of the qualifications of any persons included in the lists.

(2) The persons named in such notices, and any other persons as the Magistrate may require, shall be bound to attend the sitting.

Perjury. 165. Any person, who on any examination on oath or affirmation under any of the provisions of this Act wilfully and corruptly gives false evidence, shall be guilty of perjury.

Special jurors. 166. (1) The Magistrate in settling the lists shall mark off the names of such persons as he thinks suitable to serve as special jurors in each district.

(2) No person shall be exempted from serving as a common juror by reason of being marked as a special juror.

Copies of lists to be sent to Sheriff 167. (1) The Magistrate, upon the lists being so settled, shall send signed copies to the Sheriff or Deputy Sheriff for his district.

(2) Each list so prepared and delivered shall constitute the jurors' list for the district for which it has been prepared, and shall come into operation on the first day of January in the next following year.

(3) The Sheriff shall keep the lists among the records of his office and shall also, at every sitting of the High Court, have there

a fair copy of such lists for the then current year for the inspection of any person whose name appears on the lists, or by any public officer, or by any legal practitioner in actual practice.

168. Whenever in the exercise of any of the duties of a Magistrate under this Act, a Magistrate considers it expedient to do so, he may call to his aid any Justice of the Peace having jurisdiction within his district, and the Justice of the Peace shall unless they are prevented from attending by good and sufficient reasons, attend at the time and place named by the Magistrate, and aid and assist him in his duties.

169. In the case of the inability of the Magistrate from any cause to perform the duties and to exercise the powers and authority conferred by this Act, the Chief Justice may, from time to time, appoint in writing any other person to perform the duties and to exercise those powers and authority.

170. The President may at any time exempt and exclude by statutory instrument, any Judicial Districts from returning jurors.

Panel of Jurors

171. Whenever it becomes necessary to form a panel of jurors to serve at any sessions, the Sheriff in conjunction with an officer nominated by the Judge, shall cause the names of the jurors in the list, resident at or near the district, to be written on separate cards or pieces of paper of equal size and placed in ballot boxes to be kept for that purpose, and shall draw from the boxes such number of names as the Court may direct, of special jurors and common jurors to form a panel; and the cards or slips so drawn shall then be locked up in separate boxes until the whole of the names of the jurors, except those who may have served at the last preceding sessions, are returned to the ballot boxes and, when required the names shall be re-drawn in the manner provided for in this section.

Names to be passed over. 172. The names of jurors who are dead, disqualified or no longer resident in the district shall be passed over by the Sheriff in forming a panel.

Addition and removal of names of jurors 173. In the event of any person liable and suitable to serve as a juror being found at any district after the lists are settled for the year, it shall be lawful for the Magistrate to place the name of such person on the lists, either as a special or common juror, as the case may be, and that person shall be liable to serve as a juror until fresh lists are brought into force, and whenever any juror on the lists may have become disqualified, his name shall be expunged.

Sheriff to summon jurors. 174. (1) The Sheriff, before the sitting of any Court at which a jury shall be necessary shall, on receiving from the Court an order to that effect, issue summonses requiring the attendance in Court of the persons so drawn from the ballot box, and every summons shall be personally served upon or left at the usual or last known place of residence of the person so summoned, two clear days, or such other time as the Court may direct, before the day appointed for the sitting of the Court.

(2) If any of the persons cannot be found, the Sheriff shall obtain so many additional names drawn in the manner specified in subsection (1) as may be necessary to make up the jurors to the proper number, and shall issue summonses to those persons in like manner.

Delivery of panel to Registrar. 175. The Sheriff shall cause to be delivered to the Registrar of the Court, a panel containing the names, occupations and places of residence of the persons so summoned, a copy of which shall be affixed by the Registrar in the Court Hall.

176. If a Session shall be held at any place for which a jurors' list may not have been prepared under this Act, the Sheriff may prepare a temporary jurors' list for the purposes of the sessions, and all the provisions of this Act shall, as far as applicable, shall apply in the case of the persons whose names are entered, whether as common jurors or as special jurors upon the temporary list. Sessions at place for which there is no jurors' list.

177. Any person summoned to attend the Court as a juror who shall not without reasonable excuse (burden of proof whereof shall rest on such juror) duly attend and be present at the Court and at all times appointed by the Court for adjournments, and any person present in Court, who being called to serve as a juror, shall without reasonable excuse refuse to serve till discharged by the Court, shall be guilty of contempt of Court, and be liable to a fine not exceeding two million leones. Penalty on jurors not attending or refusing to serve.

178. (1) A punishment under section 177 may be inflicted summarily on an order to that effect by the Court, and any fine imposed shall be recoverable by distress and sale of the moveable and immoveable property of the person fined, by warrant of distress to be signed by the Registrar of the Court, which warrant shall be issued by the Sheriff without further order of the Court, if the fine is not paid within six days of its having come to his knowledge by notice or otherwise that the fine has been imposed, if imposed in his absence. Enforcement of penalty.

(2) In default of the recovery of the fine by such distress and sale, the person fined may be imprisoned for a period not exceeding two weeks.

179. In cases where any person is fined in his absence, the Registrar of the Court shall forthwith send him a written notice of the fact, requiring him to pay the fine or to show cause before the Court within four days, for not paying the fine. Notice to persons fined in absence.

Exemption of jurors. 180. (1) Nothing in this section shall prevent the Court from exempting any person from serving as a juror at any sessions or any trial for reasonable cause.

(2) A certificate bearing the signature of a medical practitioner setting out that any person required to attend as a juror is unable from the state of his health to do so, may, on the Court being satisfied of the signature to such certificate, be received as *prima facie* evidence of reasonable cause.

(3) A medical practitioner shall, on any juror producing his summons to serve, at any hospital between the hours of eight and ten in the forenoon, and complaining of ill-health and inability to attend the sessions, grant him gratuitously such certificate should he be found unfit.

(4) Jurors resident more than five miles from the place where the sessions are being held shall be excused by the Court from serving on the ground of ill-health upon the testimony of two jurors.

Jurors at coroner's inquests. 181. All persons qualified as jurors under this Act shall be liable to serve as such, not only at any sessions of the High Court within the district for which they shall have been appointed, but also upon any Coroner's jury, when summoned to attend thereon.

Trial with a jury

Selection of jury. 182. (1) At the sitting of the Court, the names of all the jurors summoned, special or common, shall be written on separate pieces of card or paper of equal size and put into boxes, and whenever a jury is required, the Registrar of the Court shall in open Court draw from the proper box by lot until the required number of jurors appear, who, after all just causes of challenge allowed, shall remain as fair and indifferent.

(2) This procedure shall be repeated whenever it becomes necessary to form a new jury but if a case is brought on for trial during the time that a jury in any other case may be deliberating, a new jury may be drawn from the residue of the cards in the boxes.

183. Whenever there is a deficiency or when the number of trials before the Court renders the attendance of jurors for the whole of any sessions oppressive, it shall be lawful for the Court to issue fresh orders, if necessary, and, subject to all rights of challenge, to put upon the jury as common or special jurors so many of the bystanders as shall be sufficient to make up the full number and it shall not be an objection to any bystander that his name is not upon any jurors' list.

184. When the jurors are ready to be sworn or to make their affirmation, the Registrar or other officer of the Court shall address the defendant as follows:—

Address by Registrar to defendant before jurors are sworn.

“ The jurors who are to try you are now about to be sworn or make their affirmation; if you object to any of them, you must do so as they come to be sworn or to make their affirmation and before they are sworn or before they make their affirmation, and you shall be heard”.

185. There shall be no challenge to the empanelling of the jury and no defendant shall be permitted any peremptory challenge above the number of three jurors.

Challenge to the array; peremptory challenges.

186. Challenge for cause shall be allowed on any of the following grounds:—

Challenges for cause.

- (a) presumed or actual partiality or prejudice in the juror as standing in the relation of husband and wife, cohabiting partners,

employer and employee, landlord or tenant to the person accused or to the person supposed to have been injured or affected by the act complained of, or to the person on whose complaint the prosecution was instituted; being in the employment of either of such persons; being plaintiff or defendant against either of such persons in any civil suit; or having complained against or having been accused by either of such persons in any criminal prosecution, or entertaining prejudiced views on the case to be tried;

- (b) some personal cause such as infancy, old age, deafness, blindness, infirmity or ill-health ;
- (c) that the juror has been convicted of perjury or other offence, disqualifying him from acting as a juror;
- (d) that the juror does not understand the English language.

Trial of challenges for cause.

187. Every challenge for cause, if objected to by the opposite party, shall be tried and determined by the Court without a jury, and the person challenged shall be examined on oath or by affirmation and shall be required to answer on oath or by affirmation, all lawful questions relating to the trial of the challenge.

When jury to be kept together.

188. (1) It shall not be necessary in any case to keep the jury together during any adjournment previous to the close of the Judge's summing up; but it shall be lawful for the Court, if it appears to it to be advisable in the interest of justice at any trial to require the jury to be kept together during any adjournment or until the conclusion of the trial.

(2) The Court may from time to time adjourn the trial if necessary and the jurors will be required to attend at the adjourned date and at every subsequent sitting until the conclusion of the trial.

189. (1) Where, in the course of any criminal trial for any death or offence, any member of the jury dies or is discharged by the Court as being through illness incapable of continuing to act or for other reason, the jury shall nevertheless, subject to assent being given in writing by or on behalf of both the prosecutor and the defendant and so long as the number of its members is not reduced below six, be considered as remaining for all the purposes of that trial properly constituted and the trial shall proceed and a verdict may be given accordingly.

Incapacity of juror.

(2) If either the prosecutor or defendant refuses to give his assent, the Court may direct that a juror shall be added and the jury re-sworn, or that the jury be discharged and a new jury empanelled and in either of these cases the trial shall commence anew.

Trial with assessors

190. (1) If the trial is to be held with the aid of assessors, the Judge shall select from the persons summoned to act as special jurors or from such persons who are expert in a discipline relevant to the matter before the Court, such number not being ordinarily less than three, as he shall think fit to assist him in such trial.

Selection of assessors.

(2) The persons charged may object to any assessor so appointed and the Court shall refuse to allow any such assessor to sit if the grounds for such objection are substantial and reasonable.

191. Upon every trial with the aid of assessors the decision of the Judge, with the aid of assessors, as to all matters arising from the trial which in the case of a trial by jury would be left to the decision of the jurors shall have the same force and effect as the finding or verdict of a jury.

Decision of Court and assessors to have same effect as finding of jury.

Trial to proceed despite the inability of assessors to attend proceedings.

192. (1) If in the course of a trial with the aid of assessors, at any time prior to the finding any assessor for any sufficient cause is prevented from attending throughout the trial, the trial shall proceed with the aid of the remaining assessors.

(2) If two or more of the assessors are prevented from attending or absent themselves, the proceedings shall be stayed and a new trial shall be held with the aid of fresh assessors.

Adjournment.

193. (1) The Court may from time to time adjourn a trial, if necessary.

(2) In the event of adjournment, the assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial.

Case for the prosecution

Opening of case for prosecution.

194. (1) When in the case of a trial before a judge with assessors the defendant has pleaded to the indictment or, in the case of a trial by jury, the defendant has been given in charge of the jury, counsel for the prosecution shall open the case against the defendant and shall call witnesses and adduce evidence in support of the charge.

(2) In the case of a trial by a Judge alone, it shall not be mandatory for the prosecution to open its case and the prosecution shall be allowed to proceed to the calling of witnesses without such opening.

Additional witnesses for prosecution.

195. (1) If the prosecutor is of the opinion that there is in any criminal trial any material or necessary witness other than those mentioned on the back of the indictment, the prosecutor may call the witness before the trial Court upon giving to the Registrar of the Court and the defendant, notice of his intention to do so together with the written statement of the witness.

(2) The notice of intention and the written statement of the witness shall be served on the defence not later than 48 hours before the date the additional witness is to give evidence.

196. The witness called for the prosecution shall be subject to cross-examination by or on behalf of the defendant and to re-examination on behalf of the prosecution. Cross-examination of witness for prosecution.

197. (1) The committal warrant duly signed by the committing Magistrate, including the statement made by the defendant before the Magistrate, shall be tendered in evidence by the prosecution before the close of the prosecution's case. Proof of statement of defendant in lower court.

(2) In the case of a trial commenced without committal proceedings, the order of the Judge giving his consent for the preferment of the indictment and his order fixing the date of the trial shall be tendered as part of the prosecution's case.

Submission of no case

198. (1) The Judge may consider at the conclusion of the case for the prosecution, whether there is any case for submission to the jury; but if the Judge is of the opinion that there is not sufficient evidence that the defendant has committed any offence of which he could be lawfully convicted on the indictment upon which he is being tried, the judge shall forthwith direct the jury to enter a verdict of not guilty and shall acquit the defendant. Submission of no case.

(2) Notwithstanding subsection (1), the trial Judge shall at all times have a discretion to direct the jury to return a verdict of not guilty in respect of a count or counts in the indictment or the whole of the indictment.

(3) Where at the conclusion of a trial by Judge alone, the Judge is of the opinion that the prosecution's evidence is such that a reasonable jury properly directed could not properly convict upon it, he shall acquit the defendant.

(4) Where a defendant or his counsel makes a no case submission, he shall first make his submissions and thereafter prosecuting counsel shall reply and the defendant or his counsel shall not be entitled to say anything further.

Case for the defence

Judge to inform undefended defendant of his rights at close of prosecution's case.

199. (1) At the close of the evidence for the prosecution, the Court shall in all cases inform the defendant of the following:—

- (a) his right or his counsel on his behalf to address the Court;
- (b) his right to give evidence on oath or by affirmation on his own behalf;
- (c) his right to make a statement without being sworn or without affirming;
- (d) his right to inform the Court that he has nothing more to say or that he relies on the statement or statements he has made to the police or prosecuting authority.

(2) The Judge shall inform the defendant that irrespective of whichever of the options in subsection (1) he chooses, he has a right to call witnesses.

(3) The Judge shall record the option chosen by the defendant and shall proceed in the manner set out in section 198.

200. (1) Where the defendant does not intend to call witnesses but intends to give evidence himself, he or his counsel shall be called upon to open his case and he shall proceed to give his evidence. Evidence of defendant.

(2) Where the defendant has stated that he intends to call witnesses and to give evidence, he shall give evidence before proceeding to call his witnesses.

(3) Where the defendant intends to call witnesses but does not wish to give evidence himself, he shall proceed to call his witnesses.

(4) Any witnesses called by the defendant may be witnesses as to fact or as to character.

201. (1) Where the defendant gives evidence but does not call witnesses, the prosecution shall address the Court first and the defendant or his counsel shall be called upon thereafter to address the Court or the Court and the jury, as the case may be. Addresses by defence and prosecution.

(2) Where the defendant calls witnesses and gives evidence, counsel for the defendant or the defendant shall address the Court first and counsel for the prosecution shall thereafter address the Court or the Court and the jury, as the case may be.

202. Where two or more defendants are tried jointly, the order of speeches shall be the same as where a particular defendant calls witnesses. Addresses by co-defendants.

203. (1) The defendant shall be entitled to apply for the issue of process to compel the attendance of any witness. Additional witnesses for defence.

(2) No defendant shall be entitled to any adjournment to secure the attendance of any witness unless he shows that he could not by reasonable diligence have taken earlier steps to obtain the presence of the witness.

Rebutting evidence.

204. (1) At the close of the evidence for the defence, or where it is sought to rebut evidence of good character, after evidence of good character has been given, the Court may, in its discretion, grant the prosecutor leave to call rebutting evidence where something has arisen *ex improviso*, in the course of the defence.

(2) Where evidence in rebuttal is given, counsel for the defence shall be entitled to comment on the evidence in the case.

Close of hearing in trials by jury

Summing up by Judge.

205. When, in a trial by jury, the case on both sides is closed, the Judge shall sum up the law and evidence in the case to the jury and the the law and evidence shall be recorded.

Jury to consider their verdict.

206. (1) After the summing up, the jury shall consider their verdict, and for that purpose may retire.

(2) Except with the leave of the Court, no person other than a juror shall speak to or hold any communication with any member of the jury while the jury are considering their verdict.

Delivery of verdict.

207. When the jury have considered their verdict, the foreman shall inform the Judge what their verdict is, or that they are not unanimous.

Procedure where jury differ.

208. (1) If the jury are not unanimous, the Judge may require them to retire for further consideration.

(2) After such period as the Judge considers reasonable, the jury may deliver their verdict or state that they are not unanimous.

(3) Where the jurors are not unanimous in their findings, the Judge shall, after the lapse of such time as he thinks reasonable, discharge the jury.

(4) Whenever the jury is discharged, the defendant shall be detained in custody, and shall be tried by another jury.

209. (1) Unless otherwise ordered by the Court, the jury shall return a verdict on all charges on which the accused is tried, and the Judge may ask them such questions as are necessary to ascertain what their verdict is. ^{Verdict on each charge.}

(2) Such questions and the answers to them shall be recorded.

210. When by accident or mistake a wrong verdict is delivered the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended. ^{Amending verdict.}

211. (1) When the verdict of the jury is unanimous, the Judge shall give judgment in accordance with that verdict. ^{Acting on verdict.}

(2) If the defendant is found not guilty, the Judge shall record a judgment of acquittal.

(3) If the defendant is found guilty, the Judge shall pass sentence on him according to law.

Close of hearing in cases tried with assessors

Delivery of opinion by assessors.

212. (1) When, in a case tried with assessors, the case on both sides is closed, the Judge may sum up the evidence for the prosecution and defence, and shall then require each of the assessors to state his opinion orally, and shall record their opinion but the decision shall be vested exclusively in the Judge.

(2) The Judge shall then give judgment, and in so doing shall not be bound to conform with the opinions of the assessors, but he shall record his judgment in writing and in every case the judgment shall contain the point or points for determination, the decision thereon and the reasons for the decision, and shall be dated and signed by the Judge at the time of pronouncing it.

(3) If the defendant is convicted, the Judge shall pass sentence on him according to law.

(4) If the defendant is not found guilty, the judge shall record a judgement of acquittal.

Close of hearing in cases tried by Judge alone

Judgment of Judge.

213. Where the trial is by Judge alone, the trial judge shall proceed to deliver his written judgment and if the defendant is convicted the judge shall pass sentence on him but if the defendant is found not guilty, the Judge shall record his judgment and acquit and discharge him.

Evidence after conviction

Evidence for arriving at proper sentence.

214. A Court may, before passing sentence, receive such evidence as it thinks fit, in order to inform itself as to the sentence proper to be passed.

Allocutus

215. If the jury find the defendant guilty or if the Judge sitting with assessors convicts the defendant, or if the Judge sitting alone convicts the defendant, or if the defendant pleads guilty, it shall be the duty of the Registrar or other officer of the Court to ask him whether he has anything to say why sentence should not be passed upon him according to law, but omission so to ask him shall have no effect on the validity of the proceedings. Allocutus.

PART VI—SPECIAL TRIALS

Trial of Corporations

216. (1) In this Part, the expression “representative” in relation to a corporation means a person duly appointed by the corporation to represent it for the purpose of doing any act or thing by which the representative of a corporation is by this Part authorized to do; but a person so appointed shall not by virtue only of being so appointed, be qualified to act on behalf of the corporation before any Court for any other purpose. Representation of Corporations.

(2) A representative for the purposes of this Part need not be appointed under the seal of the corporation, and a statement in writing purporting to be signed by a managing director of the corporation, or by any person (by whatever name called) having, or being one of the persons having the management of the affairs of the corporation, to the effect that the person named in the statement has been appointed as the representative of the corporation for the purposes of this Part shall be admissible, without further proof, as *prima facie* evidence that that person has been so appointed.

Proceedings
against
corporations.

217. (1) A corporation may be charged either alone or jointly with another person with an offence triable on indictment or triable summarily before a Magistrate Court.

(2) A representative may be charged either alone or jointly with another person with an offence triable on indictment or triable summarily before a Magistrate Court.

(3) Where a representative appears, any requirement of this Act that anything shall be done in the presence of the defendant, or shall be read or said to the defendant shall be construed as a requirement that the thing shall be done in the presence of the representative or read or said to the representative.

(4) Where a representative does not appear, the requirement, and any requirement that the consent of the defendant shall be obtained for summary trial, shall not apply.

(5) Where any person is charged jointly with a corporation with an offence triable on indictment and either that person or the corporation by its representative does not consent that the offence should be dealt with summarily in pursuance of section 6 of the Courts Act, 1965, the Court shall not have power to deal summarily with the offence in the case of the other offender.

(6) Where a corporation is charged with an offence triable on indictment or triable summarily, the corporation may, on arraignment before the High Court or on being asked to plead by the Magistrate, as the case may be, enter in writing by its representative a plea of guilty or not guilty, and if either the corporation does not appear by a representative or, though it does so appear fails to enter any plea, the Court shall order a plea of not guilty to be entered and the trial shall proceed as though the corporation had duly entered a plea of not guilty.

218. (1) A corporation that is convicted of an offence is liable, in lieu of any imprisonment that is prescribed as the punishment for that offence, or where no fine is prescribed, to be fined in an amount that is in the discretion of the Court where the offence is triable either summarily or on indictment. Fines on corporations.

(2) Where a fine imposed under subsection (1) is not paid forthwith the prosecutor may, by filing the conviction, enter as a judgment the amount of the fine and costs (if any) in the High Court; and that judgment shall be enforceable against the corporation in the same manner as if it were a judgment entered against the corporation in the High Court in civil proceedings.

219. Where a corporation is charged with an offence triable on indictment or summarily, any indictment, summons or other document requiring to be served on the corporation in connection with the proceedings shall be served by leaving it at or sending it by registered post to the registered office of the corporation, or if there is no such office in Sierra Leone, by leaving it at or sending it by post to the corporation at any place at which it trades or conducts its business in Sierra Leone. Service of documents.

Trial of children

220. Any child accused of a criminal offence shall be apprehended and tried in accordance with the provisions of the Children and Young Persons Act or any other enactment for the time being in force. Trial of children.
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PART VII—EXECUTION OF SENTENCES

Fine in lieu of imprisonment.

221. Where a person is convicted of any felony or misdemeanour or of any offence punishable by imprisonment (other than an offence for which the sentence is fixed by law), the Court may, in its discretion, sentence him to a fine in addition to or in lieu of any other punishment to which he is liable or may suspend the sentence of imprisonment or order some other form of punishment prescribed under this Act.

Imprisonment

Authority for carrying out sentences.

222. (1) A warrant under the hand of the Judge or Magistrate by whom any person shall have been sentenced, ordering that the sentence shall be carried out in any prison within Sierra Leone, shall be sufficient authority to the keeper of such prison and to all other persons for carrying into effect the sentence described in such warrant.

(2) Except where express provision is made to the contrary, every sentence shall be deemed to commence from, and to include the whole of the day of the date on which it was pronounced.

(3) The length of any term of imprisonment imposed by the sentence of any Court shall be treated as reduced by any period during which the offender was in custody before sentence.

Other Sentences

Suspended sentences.

223. (1) Subject to subsection (2), a court which passes a sentence of imprisonment for a term of not more than two years for an offence may order that the sentence shall not take effect unless, during a period specified in the order being not less than one year or more than two years from the date of the order, the offender commits in Sierra Leone another offence punishable with imprisonment.

(2) A court having power to do so, shall order that the sentence shall take effect as of a date to be specified in that order.

(3) A court shall not deal with an offender by means of a suspended sentence unless it is of the opinion that the case is one in which a sentence of imprisonment would have been appropriate even without the power to suspend the sentence.

(4) On passing a suspended sentence, the court shall explain to the offender in ordinary language his liability that if during the operational period he commits an offence punishable with imprisonment, he shall be liable to serve the original term of imprisonment if found guilty at the subsequent trial.

(5) A person whose term of imprisonment has been suspended shall be deemed to be sentenced to a term of imprisonment for the purpose of any other law.

224. (1) Subject to this section, the Court may defer passing sentence on a convicted person for the purpose of enabling it to have regard in dealing with him to—

- (a) his conduct after conviction (including, where appropriate, the making by him of reparation for his offence); or
- (b) any change in his circumstances.

(2) The power conferred by subsection (1) shall be exercisable only if—

- (a) the convicted person consents; and
- (b) the Court is satisfied, having regard to the nature of the offence and the character and circumstances of the convicted person, that it would be in the interest of justice to exercise the power.

(3) Any deferment under this section shall be until a date specified by the Court which is not more than six months after the date on which the deferment is announced by the Court; and subject to subsection (7) of section 225, where the passing of sentence has been deferred under this section it shall not be further so deferred.

(4) Notwithstanding any enactment to the contrary, a Court which under this section defers passing sentence on a convicted person shall not on the same occasion remand him.

(5) Where the passing of sentence on a convicted person has been deferred by a Court, the Court's power to deal with the offender at the end of the period of deferment includes—

- (a) power to deal with him, in respect of the offence for which passing of sentence has been deferred, in anyway in which it could have dealt with him if it had not deferred passing sentence; and
- (b) without prejudice to the generality of paragraph (a), in the case of a Magistrate Court, the power conferred to commit him to the High Court for sentence.

(6) Nothing in this section or section 227 shall affect—

- (a) the power of the High Court to bind over a convicted person to come up for judgment when called upon; or
- (b) the power of any court to defer passing sentence for any purpose for which it may lawfully do so apart from this section.

Further powers of courts where sentence is under section 243.

225. (1) A court which under section 224 has deferred passing sentence on a convicted person may deal with him before the end of the period of deferment if during that period he is convicted in Sierra Leone of any other offence.

(2) Subsection (3) shall apply where a court has under subsection (1), deferred passing sentence on a convicted person in respect of one or more offences and during the period of deferment the offender is convicted in Sierra Leone of any offence.

(3) Where subsection (2) applies, then (without prejudice to subsection (1) and whether or not the offender is sentenced for the later offence during the period of deferment), the Court which passes sentence on him for the later offence may also, if this has not already been done, deal with him for the offence or offences for which passing of sentence has been deferred, except that—

- (a) the power conferred by this subsection shall not be exercised by a Magistrate Court if the court which deferred passing sentence was the High Court; and
- (b) the High Court, in exercising that power in a case in which the court which deferred passing sentence was a Magistrate Court, shall not pass any sentence which could not have been passed by a Magistrate Court in exercising that power.

(4) Where—

- (a) a court which under section 224 has deferred passing sentence on a convicted person proposes to deal with him, whether on the date originally specified by the Court or by virtue of subsection (1) before that date; or
- (b) the convicted person does not appear on the date so specified,

the Court may issue a summons requiring him to appear before the Court, or may issue a warrant for his arrest.

(5) In deferring the passing of sentence under section 224, a Magistrates Court shall be regarded as exercising its powers of adjourning proceedings and accordingly its powers in relation to non-appearance of defendants and witnesses shall apply.

(6) Any power of a Court under this section to deal with an offender in a case where the passing of sentence has been deferred includes –

- (a) power to deal with him, in respect of the offence for which passing of sentence has been deferred, in anyway in which the Court which deferred passing sentence could have dealt with him; and
- (b) without prejudice to the generality of paragraph (a), in the case of a Magistrate Court includes the power to commit him to the High Court for sentence.

(7) Where–

- (a) the passing of sentence on a convicted person in respect of one or more offences has been deferred under subsection (1), and
- (b) a Magistrate Court deals with him in respect of the offence or any of the offences by committing him to the High Court,

the power of the High Court to deal with him includes the same power to defer passing sentence on him as if he had just been convicted of the offence or offences on indictment before the court.

Absolute and
conditional
discharge

226. (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law), is of the opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment, the Court may make an order either–

- (a) discharging him absolutely; or
- (b) if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding three years from the date of the order, as may be specified in the order.

(2) An order discharging a person subject to such a condition as is mentioned in paragraph (b) of subsection (1) shall in this Act be referred to as an “order for conditional discharge”; and the period specified in an order shall in this Act be referred to as “the period of conditional discharge”.

(3) Before making an order for conditional discharge, the Court shall explain to the convicted person in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.

(4) If by virtue of section 226 a person conditionally discharged is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

(5) On making an order for conditional discharge, the Court may, if it thinks it expedient for the purpose of the convicted person’s reformation, allow any person who consents to do so to give security for the good behaviour of the convicted person.

(6) Nothing in this section shall be construed as preventing a court, on discharging a convicted person absolutely or conditionally in respect of any offence, from making an order for costs against that person or imposing any disqualification on him or from making in respect of the offence an order for compensation or restitution.

227. (1) If it appears to the High Court, where that Court has further jurisdiction in accordance with subsection (2) or to a Magistrate having jurisdiction in accordance with that subsection, that a person in respect of whom an order for conditional discharge has been made–

Commission
of offence
after
conditional
discharge.

- (a) has been convicted by a court in Sierra Leone of an offence committed during the period of conditional discharge; and
- (b) has been dealt with in respect of that offence,

that Court or justice may, subject to subsection (3), issue a summons requiring that person to appear at the place and time specified in it or a warrant for his arrest.

(2) Jurisdiction for the purposes of subsection (1) maybe exercised—

- (a) if the order for conditional discharge was made by the High Court, by that Court;
- (b) if the order was made by a Magistrate Court, by a Magistrate having jurisdiction for the Judicial District in which the conditional discharge order was made.

(3) A Magistrate shall not issue a summons under this section except on information and shall not issue a warrant under this section except on information in writing and on oath.

(4) A summons or warrant issued under this section shall direct the person to whom it relates to appear or to be brought before the court by which the order for conditional discharge was made.

(5) If a person in respect of whom an order for conditional discharge has been made by the High Court is convicted by a Magistrate Court of an offence committed during the period of conditional discharge, the Magistrate Court—

- (a) may commit him to custody or release him on bail until he can be brought or appear before the High Court; and
- (b) if it does so, shall send to the High Court a copy of the minute or memorandum of the conviction entered in the register, signed by the Registrar or other officer by whom the register is kept.

(6) Where it is proved to the satisfaction of the Court by which an order for conditional discharge was made that the person in whose case the order was made has been convicted of an offence committed during the period of conditional discharge, the Court may deal with him, for the offence for which the order was made, in anyway in which it could deal with him if he had just been convicted by or before that Court of that offence.

(7) If a person in respect of whom an order for conditional discharge has been made by a Magistrate Court—

- (a) is convicted before the High Court of an offence committed during the period of conditional discharge; or
- (b) is dealt with by the High Court for such offence in respect of which he was committed for sentence to the High Court,

the High Court may deal with him, for the offence for which the order was made, in anyway in which the Magistrate Court could deal with him if it had just convicted him of that offence.

(8) If a person in respect of whom an order for conditional discharge has been made by a Magistrate Court is convicted by another Magistrate Court of any offence committed during the period of conditional discharge, that other Court may, with the consent of the Court which made the order, deal with him, for the offence for which the order was made, in anyway in which the Court could deal with him if it had just convicted him of that offence.

(9) Where an order for conditional discharge has been made by a Magistrate Court in the case of a person below 18 years of age in respect of an offence triable only on indictment in the case of an adult, any powers exercisable under subsection (6), (7) or (8) by that or any other Court in respect of that person after he attains the age of 18 shall be powers to do either or both of the following:—

- (a) to impose a fine not exceeding Le3,000,000 for the offence in respect of which the order was made;
- (b) to deal with the offender for that offence in anyway in which a Magistrate Court could deal with him if it had just convicted him of an offence punishable with imprisonment for a term not exceeding six months.

(10) The reference in subsection (6) to a person's having been convicted of an offence committed during the period of conditional discharge is a reference to his having been so convicted by a court in Sierra Leone.

Effect of
discharge.

228. (1) Subject to subsection (2), a conviction of an offence for which an order is made under section 226 discharging the offender absolutely or conditionally shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under this Act.

(2) Where the offender was aged 18 or over at the time of his conviction of the offence in question and is subsequently sentenced for that offence, subsection (1) shall cease to apply to the conviction.

(3) Without prejudice to subsections (1) and (2), the conviction of a defendant who is discharged absolutely or conditionally under section 226 shall in any event be disregarded for the purposes of any enactment which-

- (a) imposes any disqualification or disability upon convicted persons; or
- (b) authorises or requires the imposition of such disqualification or disability.

(4) Subsections (1) to (3) shall not affect-

- (a) any right of an offender discharged absolutely or conditionally under subsection (1) to rely on his conviction in bar of any subsequent proceedings for the same offence; or
- (b) the restoration of any property in consequence of the conviction of any such person;

229. (1) Subject to this section, where a person is convicted of an offence punishable with imprisonment, not exceeding one year the court by or before which he is convicted may make an order requiring him to perform unpaid work in such manner and for such period as the Court may think fit. Community service orders.

(2) An order under subsection (1) shall be referred to as a Community Punishment order.

(3) The number of days which a person may be required to work under a Community Punishment Order shall be specified in the order and shall in the aggregate not exceed 60 days.

(4) A Court shall not make a Community Punishment Order in respect of a convicted person unless, after hearing (if the Court thinks it necessary) an appropriate person, the Court is satisfied that the convicted person is a suitable person to perform work under such an Order.

(5) A Court shall not make a Community Punishment Order in respect of a convicted person unless it is satisfied that the appropriate authority has adequate provision for that person to perform work under such Order.

(6) Where a Court makes Community Punishment Orders in respect of two or more offences of which the defendant has been convicted by or before the Court, the Court may direct that the days of work specified in any of those orders shall be concurrent with or additional to those specified in any other of those orders, but such that the aggregate number of days which are concurrent shall not exceed the maximum specified in subsection (3).

(7) Before making a Community Punishment Order, the Court shall explain to the convicted person in ordinary language—

- (a) the purpose and effect of the order (including the requirements of the Order).
- (b) the consequences which may follow if he fails to comply with any of the requirements of the order; and
- (c) that the Court has power to review the order on the application either of the convicted person or the appropriate authority or appropriate officer.

(8) Upon the making of a Community Punishment Order, the Court shall forthwith give copies of the order to the person convicted and to the appropriate officer or appropriate authority.

Obligations of person subject to a community punishment order.

230. (1) A person in respect of whom a Community Punishment Order is in force shall—

- (a) keep in touch with the appropriate officer in accordance with such instructions as he may from time to time be given by that officer and notify him of any change of address; and
- (b) perform for the number of days specified in the order such work at such times as he may be instructed by the appropriate officer.

(2) The instructions given by an appropriate officer shall, as far as practicable be such as to avoid—

- (a) any conflict with the requirements of any other Community Punishment Order to which the convicted person may be subject; and

- (b) any interference with the times, if any, at which he normally works or attends school or any other educational or vocational training establishment,

(3) Subject to this Act, the work required to be performed under a Community Punishment Order shall be performed during a period of 12 months beginning with the date of the order; but unless otherwise revoked, the order shall remain in force until the convicted person has worked under it for the number of days specified in it.

231. Where the Court orders money to be paid as fine or penalty by a person convicted of an offence, and— Notice of fines to persons liable.

- (a) the Court allows time for payment; or
- (b) the offender is not present on the occasion of the conviction,

the clerk of the Court shall as soon as may be thereafter deliver to that person, or send by post addressed to him at his last or usual place of residence, a notice in writing stating the amount of the penalty, the date on or before which payment is required, and the place or places and times at which payment may be made, and if payment by instalments is directed, particulars of the instalments.

232. (1) When the Court orders money to be paid by a convicted person— Order for payment of money.

- (a) for a fine, penalty or the expenses of his prosecution; or
- (b) by way of compensation or otherwise under section 56 or 62,

the Court may either order immediate payment, or allow time for payment, or direct payment to be made by instalments.

(2) If the money is directed to be paid by instalments and default is made in the payment of any one instalment, all instalments then remaining unpaid shall become immediately due.

(3) In every such case any sum of money due may be levied on the goods and chattels of the person ordered to pay the money by distress and sale under warrant; and in all cases in which a warrant of distress is issued by the Court under this section the Court may either allow the person to go free or verbally, or by warrant in that behalf, order him to be kept in custody until return is made to the warrant of distress.

(3) Such person may pay or tender to the officer having the execution of the warrant the sum mentioned in the warrant together with the amount of the expenses of the distress up to the time of payment or tender, and thereupon the officer shall cease to execute the warrant.

Commitment
for want of
distress.

233. If the officer having the execution of the warrant reports that he could find no goods and chattels on which to levy the money mentioned in the warrant with expenses, the Court may by the same or a subsequent warrant commit the person ordered to pay, to a correctional centre for a period specified in the warrant, unless the money and all expenses of the distress, commitment, and conveyance to prison, to be specified in the warrant, are sooner paid.

Commitment
in lieu of
distress

234. Where it appears to the Court that –

- (a) distress and sale of his goods and chattels would be ruinous to the person convicted or
- (b) the person has no goods whereon a distress may be levied, or
- (c) any other sufficient reasons,

the Court, if it thinks fit, instead of or after issuing a warrant of distress may commit him to prison for a period specified in the warrant, unless the money and all expenses of the commitment and conveyance to prison, to be specified in the warrant, are sooner paid.

Fines,
detention in
lieu of im-
prisonment.

235. (1) The Court may, in any circumstances in which it has power upon conviction to issue a warrant of commitment to a correctional centre in respect of the non-payment of a fine or penalty, in lieu of issuing such warrant, issue a warrant of detention in a police station

(2) Unless the sum mentioned in the warrant, with the amount of expenses authorised in it (if any), is sooner paid to the constable holding the warrant, the warrant shall authorise any police officer to convey the person named in it to any convenient police station and for that purpose to arrest him.

(3) The warrant shall authorise the officer in charge of any police station to detain him there till the hour of eight in the morning on the day following that on which he is arrested under the warrant or, if he is so arrested between mid-night and eight in the morning, on that day.

(4) Subject to this section, the officer in charge of the police station in which a person is detained under this section may discharge him at any time within two hours before the hour of eight in the morning if the officer thinks it expedient to do so in order to enable him to go to his employment or for any other reason appearing to the officer to be sufficient.

236. A statement in writing to the effect that wages of any amount have been paid to a person during any period, purporting to be signed by or on behalf of his employer, shall be *prima facie* evidence of the facts stated in the statement in any proceedings taken before the Court for the enforcement of the payment by the person, to whom the wages are stated to have been paid, of a fine or penalty upon summary conviction.

Statements as
to wages to be
evidence.

237. Any person committed for non-payment may pay the sum mentioned in the warrant, with the amount of expenses therein authorized (if any), to the person in whose custody he is, and that person shall thereupon discharge him if he is in custody for no other matter.

Payment in
full after
commit-
ment.

238. (1) If any person committed to correctional centre for non-payment has paid or shall pay any sum in part satisfaction of the sum adjudged to be paid, the period of his imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which such person is committed, as the sum so paid bears to the sum for which he is liable.

Part payment
after commit-
ment.

(2) The keeper of a correctional centre in which a person is confined who is desirous of taking advantage of the provisions of subsection (1) shall, on application being made to him by the imates, at once take him before a Court, and the Court shall certify the amount by which the period of imprisonment originally awarded is reduced by such payment in part in satisfaction, and shall make such order as is required in the circumstances.

(3) Rules for carrying out the provisions of subsection (1) shall be made by the Rules of Court Committee.

Limitation of imprisonment. 239. No commitment for non-payment shall be for a longer period than six months, except where the law under which the conviction has taken place enjoins or allows a longer period.

Direct imprisonment. 240. Where a sentence or conviction does not order the payment of money, but orders that the offender be imprisoned, the Court shall issue a warrant of commitment accordingly.

How warrants addressed, and by whom executed. 241. (1) All warrants to enforce the payment of money due in respect of fines, penalties and forfeited recognizances shall be sufficiently addressed for execution by being directed in the Western Area to the Sheriff, and in the Provinces to the Sheriff of the Province or the Deputy Sheriff of a district.

(2) A warrant may be delivered to police officers for execution.

Enforcement of warrants outside jurisdiction. 242. (1) All warrants issued under section 241 shall be valid and effectual throughout Sierra Leone, wherever the person against whom the warrant is issued, or any goods and chattels of such person may be found.

(2) Warrants issued under subsection (1) by a Magistrate Court shall be enforced by the Magistrate of the district in which the person against whom the warrants or any goods and chattels of that person, may be found.

243. Warrants to be enforced outside the jurisdiction of the Court by which they were issued shall be forwarded to the authority prescribed in section 242, and be enforced and returned in like manner as if they had been issued out of the Court having jurisdiction within the district where the warrant is to be endorsed, and the proceeds of the enforcement shall be forwarded to the Court out of which the warrant was originally issued.

Procedure with regard to warrants to be enforced outside jurisdiction.

Defects in orders and warrants

244. The Court may at any time amend any defect in substance or in form in any order or warrant, and no omission or error as to time and place, and no defect in form in any order or warrant given under this Act, shall be held to render void or unlawful any act done or intended to be done by virtue of such order or warrant; provided that it is therein mentioned, or may be inferred therefrom, that is founded on an information, conviction or judgment sufficient to sustain the same.

Error or omission not to affect legality or execution of order or warrant.

PART VIII – MISCELLANEOUS

245. (1) The forms set out in the Fourth Schedule may be used in all proceedings to which they are applicable with such variations as circumstances require, and shall be valid and effectual for all purposes.

Forms.

(2) In proceedings to which no such forms are applicable the Rules of Court Committee may, from time to time frame the forms required and such forms shall be published as statutory instruments.

Sealing of orders, warrants, etc. not generally necessary.

246. The sealing of any order, summons or warrant shall not be necessary in addition to the signature of the Judge or Magistrate or Justice of the Peace by whom it shall be signed, except in cases where sealing is expressly directed by this or any other enactment.

Fingerprints, etc.

247. (1) Whenever any person prosecuted and charged before any Court with an offence involving fraud, dishonesty or violence, then, and in every case, whether the offence is to be tried summarily or on indictment, or whether the person has or has not been admitted to bail, it shall be lawful for a police officer of or above the rank of Assistant Superintendent or the police officer for the time being in charge of a police station, if he is of the opinion that there are grounds for suspecting that the person has been previously convicted or has been engaged in crime, or that from any other cause his photographs, measurements, thumbprints, fingerprints or other scientific methods of identification are required for the purposes of justice, to cause to be taken for use and record such photographs, measurements, thumbprints, fingerprints or other scientific methods of identification of the person as such police officer or the police officer for the time being in charge of a police station, shall think fit.

(2) If no conviction of the person follows as a result of, or in connection with, the prosecution, then, and in every such case, the photographs of the person shall, together with the records of his measurements, thumbprints, fingerprints or other scientific methods of identification, be handed over to him or if this is not possible, be destroyed.

(2) A police officer of or above the rank of Assistant Superintendent or the police officer for the time being in charge of a police station is authorised to take all such necessary action and do all such things as the proper and efficient execution of the provisions of this section may reasonably require.

(3) Where a thumbprint or a fingerprint is likely to become an exhibit in a criminal case, any police officer may take for comparison the thumbprints or fingerprints of any person who is reasonably suspected of having made that thumbprint or fingerprint.

(4) Where a police officer of or above the rank of Assistant Superintendent or the police officer for the time being in charge of a police station, is of the opinion that the interests of justice so require, he shall cause the physiological or bodily fluid or substance of a defendant to be taken for scientific identification purposes.

(5) Any person who refuses to submit to the taking and recording of his photographs, measurements, thumbprints, fingerprints or other scientific methods of identification shall be taken before a Magistrate who, on being satisfied that the person-

- (a) has been prosecuted and charged before any Court with an offence involving fraud, dishonesty or violence; or
- (b) is reasonably suspected of having made a thumbprint or fingerprint likely to become an exhibit in a criminal case; or
- (c) has left on the scene of a crime or on any document or thing or any physiological or bodily fluid or substance relevant to a criminal case,

shall make such order as he thinks fit, authorising a police officer to take the measurements, photographs, thumbprints, fingerprints or other scientific methods of identification of the person.

248. (1) Whenever a Member of Parliament or a public officer is—

- (a) arrested or detained in custody upon the warrant or order of a Court or;
- (b) sentenced by a Court to a term of imprisonment; or
- (c) acquitted and discharged,

Arrest, etc. of Member of Parliament or public officer to be reported.

the Registrar or other proper officer of the Court shall as soon as may be practicable, inform—

- (i) in the case of a Member of Parliament, the Speaker;
- (ii) in the case of a public officer, the Director of Human resources or the person for the time being responsible for appointments to the Civil Service, and
- (iii) in the case of a privately employed person, the employer.

(2) For the purposes of this section the expression “Court” means any Court in Sierra Leone and includes the Superior Courts of Judicature, a Magistrate Court and any Local Court.

Abolition of death penalty.

249. (1) The death penalty is hereby abolished.

(2) On the commencement of this Act where the penalty for a contravention of the provision of any enactment is death the penalty shall be substituted with life imprisonment.

Repeal and savings.

Act No. 32 of 1965 250. (1) The Criminal Procedure Act 1965 is repealed.

(2) Notwithstanding subsection (1) any orders, regulations or other instruments made under the repealed Act shall remain in force and be deemed to have been made under the corresponding provisions of this Act until such time as the orders regulations or other instruments are amended, revoked, or replaced by orders, regulations or instruments made under this Act.

(3) All criminal trials in which a plea has been taken at the commencement of this Act shall be inquired into and dealt with in accordance with this Act.

(4) All preliminary investigations commenced under the repealed Act shall continue under the repealed Act.

FIRST SCHEDULE (Section 52)

1. These Rules may be cited as the Criminal Procedure Rules. Short title.

2. Figures and abbreviations may be used in an information or indictment for expressing anything which is commonly expressed thereby. Use of figures and abbreviations.

3. (1) A description of the offence charged in an information or indictment or where more than one offence is so charged, of each offence so charged, shall be set out in the information or indictment in a separate paragraph called a count. Mode in which offences are to be charged.

(2) A count of an information or indictment shall commence with a statement of the offence charged, called “the statement of offence”.

(3) The statement of offence shall describe the offence shortly in ordinary language, avoiding as far as possible the use of technical terms, and without necessarily stating all the essential elements of the offence, and if the offence charged is one created by enactment it shall contain a reference to the section of the enactment creating the offence.

(4) After the statement of the offence, particulars of the offence shall be set out in ordinary language, in which the use of technical terms shall not be necessary but—

- (a) where any rule of law or any enactment limits the particulars of an offence which are required to be given in an information or indictment, nothing in this rule shall require any more particulars to be given than those so required and;
- (b) it shall be sufficient if only the words of the section of the enactment creating the offence are set out in the particulars of the offence.

(5) The forms set out in the Appendix to these Rules, or forms conforming thereto as nearly as may be, shall be used in cases to which they are applicable; and in other cases forms to the like effect or conforming thereto as nearly as may be shall be used, the statement of offence and the particulars of offence being varied according to the circumstances in each case.

(6) Where an information or indictment contains more than one count, the counts shall be numbered consecutively.

Provision as to statutory offences.

4. (1) Where an enactment constituting an offence states the offence to be the doing or the omission to do any one of any different acts in the alternative, or the doing or the omission to do any act in any one of any different capacities, or with any one of any different intentions, or states any part of the offence in the alternative, the acts, omissions, capacities or intentions, or other matters stated in the alternative in the enactment may be stated in the alternative in the count charging the offence.

(2) It shall not be necessary, in any count charging an offence constituted by an enactment, to negative any exception or exemption from or qualification to the operation of the enactment creating the offence.

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

(2) Where property is vested in more than one person, and the owners of the property are referred to in an information or indictment, it shall be sufficient to describe the property as owned by one of these persons by name with others, and if the persons owning the property are a body of persons with a collective name, such as a joint-stock company or "Inhabitants," "Trustees," "Commissioners," or "Club" or other such name, it shall be sufficient to use the collective name without naming any individual.

(3) Property belonging to or provided for the use of any Government establishment, service or department, may be laid as the property of the State.

(4) Coins and bank notes may be described as money, and any averment as to money, so far as regards the description of property, shall be sustained by proof of any amount of coin or of any bank note, although the particular species of coin of which such amount was composed or the particular nature of the bank note shall not be proved; and in cases of embezzlement and obtaining money or bank notes by false pretences, by proof that the accused embezzled or obtained any coin or any bank note, or any portion of the value thereof, although such coin or banknote may have been delivered to him in order that some part of the value thereof should be returned to the party delivering the coin or note, or to any other person, and such part shall have been returned accordingly.

6. The description or designation in an information or indictment of the accused or of any other person to whom reference is made in an information, shall be such as is reasonably sufficient to identify him without necessarily stating his correct name, or his abode, style, degree or occupation; and if owing to the name of the person not being known, or for any other reason, it is impracticable to give such description or designation, such description or designation shall be given as is reasonably practicable in the circumstances or such person may be described as "a person unknown".

Description of persons.

7. Where it is necessary to refer to any document or instrument in an information or indictment, it shall be lawful to describe it by any name or designation by which it is usually known, or by the purport thereof, without setting out any copy of it.

Description of document.

8. Subject to these Rules, it shall be sufficient to describe any place, thing, matter, act or omission whatsoever to which it is necessary to refer in any information or indictment in ordinary language in such a manner as to indicate with reasonable clarity the place, time, thing, matter, act or omission referred to.

General rule as to description. 9. It shall not be necessary in stating any intent to defraud, deceive or injure any particular person, where the enactment creating the offence does not make an intent to defraud, deceive, or injure a particular person an essential ingredient of the offence.

Statement of intent. 10. Where a previous conviction of an offence is charged in an information or indictment it shall be charged at the end of the information or indictment by means of a statement that the accused has been previously convicted of that offence at a certain time and place without stating the particulars of the offence.

Charge of previous convictions. 11. Every indictment shall bear the date or the day when it is signed and, with such modifications as shall be necessary to adapt it to the circumstances of each case, may commence in the following form:—

Indictment. **IN THE HIGH COURT OF SIERRA LEONE**

The.....day of.....20
at the High Court holden at.....on the.....day
of.....20.... the Court is informed by the Attorney-General
and Minister of Justice at the instance of C.D., the Prosecutor that
A.B. is charged with the following offence (offences) –

APPENDIX TO RULES

FORMS OF INDICTMENT

1

STATEMENT OF OFFENCE

Murder.

PARTICULARS OF OFFENCE

A.B. on the.....day of.....20....

at.....in the Western Area of Sierra Leone

.....Province

.....Murdered.....LS.....day of

.....in the Western Area/the Province

2

Statement of Offence

Accessory after the fact to murder.

Particulars of Offence

A.B., well knowing that one H.C. on the.....day
of.....20....at.....in the Western Area of Sierra
Leone/Province murdered C.D. did on the.....day of
.....in the Western Area of Sierra
Leone/ Province and on other days after that received comfort, harbour, assistance
and maintenance from A. B.

3

Manslaughter. **Statement of Offence**
Accessory after the fact to murder.
Particulars of Offence

A.B., onday.....20....at.....in the
 Western Area of Sierra Leone/Province unlawfully killed J.S.

4

Rape. **Statement of Offence**
Particulars of Offence

A.B., on the.....day... ..20....at.....in the Western Area of Sierra Leone/
 Province had carnal knowledge of E.F. without her consent

5

Statement of Offence
First Count

Wounding with intent, contrary to section 18 of the Offences against the Person Act, 1861.

Particulars of Offence

A.B., on the.....day... ..20....at.....in the Western Area
 of Sierra Leone/Province wounded C.D. with intent to do him grievous bodily harm (or to maim, disfigure, or disable him) (or to resist the lawful apprehension of him the said A.B.)

Statement of Offence
Second Count

Wounding contrary to section 20 of the Offences against the Person Act, 1861.

Particulars of Offence

A.B., on the.....day... ..20....at.....in the Western Area
 of Sierra Leone/Province maliciously wounded C.D.

6

Statement of Offence
First Count

Larceny, contrary to section 17 (1) of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day... ..20....at.....in the Western Area
 of Sierra Leone/Province being clerk or servant to M.N. stole from the said M.N. ten yards of cloth.

Statement of Offence
Second Count

Receiving stolen goods, contrary to section 33 (1) of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day... ..20....at.....in the Western Area
 of Sierra Leone/Province did receive a bag, the property of C.D. knowing the property to have been stolen.

7

Statement of Offence

Robbery with violence contrary to section 23 (1) (b) of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area/Province of Sierra Leone, robbed C.D., of a watch, and at the time or immediately before or immediately after such robbery did use personal violence to C.D.

8

Statement of Offence

Burglary, contrary to section 25 (1) and larceny contrary to section 13 of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day.....20....at.....Province/ of Sierra Leone, did break and enter the dwelling house of C.D. with intent to steal therein, and stole therein one watch, the property of S.T., the watch being of the value of ten leones.

9

Statement of Offence

Obtaining goods by false pretences, contrary to section 32 (1) of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day.....of...20....at.....in the Western Area/Province of Sierra Leone, with intent to defraud, obtained from S.P. five yards of cloth by falsely pretending that he, A.B. was a servant to J.S. and that he, A.B. had then been sent by J.S. to S.P. for the cloth, and that he, A.B. was then authorized by J.S. to receive the cloth on behalf of J.S.

10

Statement of Offence

Conspiracy to defraud

Particulars of Offence

A.B., and C.D. on the.....day.....20....at.....in the Western Area/Province of Sierra Leone, conspired together with intent to defraud by means of an advertisement inserted by them, in H.S. newspaper, falsely representing that A.B. and C.D. were then carrying on a genuine business as jewelers at.....in the Western Area of Sierra Leone/Province and that they were then able to supply certain articles of jewellery to whomsoever would remit to them the sum ofLeones.

11

Statement of Offence**First Count****Particulars of Offence**

Arson, contrary to section 2 of the Malicious Damage Act, 1861.

A.B., and C.D. on the.....day.....20....at.....in the Western Area of Sierra Leone/Province maliciously set fire to a dwelling house, one F.G. being in the house.

Statement of Offence

Second Count

Arson, contrary to section 3 of the Malicious Damage Act, 1861.

Particulars of Offence

A.B., and C.D. on the.....day.....20....at.....in the Western Area of Sierra Leone/Province maliciously set fire to a house, with intent to injure or defraud.

12

Statement of Offence

A.B. Arson, contrary to section 3 of the Malicious Damage Act, 1861.

C.D., accessory before the fact to same offence.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province set on fire to a house with intent to injure or defraud

C.D. on the same day at.....20....at.....in the Western Area of Sierra Leone/Province did counsel, procure and command A.B. to commit the offence.

13

Statement of Offence

Damaging trees, contrary to section 22 of the Malicious Damage Act, 1861.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province maliciously damaged a mango tree growing there.

A.B. has been twice previously convicted of an offence under section 22 of the Malicious Damage Act, 1861, namely at.....on the.....day of.....and at.....on the.....day of.....

14

Statement of Offence

First Count

Forgery, contrary to section 2 (1) (a) of the Forgery Act, 1913.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province with intent to defraud, forged a certain Will purporting to be the Will of C.D.

Statement of Offence

Second Count

Uttering forged document, contrary to section 6 (1) (2) of the Forgery Act, 1913.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province uttered a certain forged Will purporting to be the Will of C.D. knowing the will to be forged and with intent to defraud.

15

Statement of Offence

Uttering counterfeit coin, contrary to section 6 of the Coinage Offences Act, 1965.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province uttered a counterfeit ten cent coin, knowing it to be counterfeit

16

Statement of Offence

Perjury, contrary to section 1 (1) of the Perjury Act, 1911.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province being a witness upon the trial of an action in the High Court of Sierra Leone in which one.....was plaintiff, and one.....was defendant, knowingly falsely swore that he saw one M.N. in the street called Pademba Road, Freetown, on the.....day of.....20.....

17

Libel. Statement of Offence

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province published a defamatory libel concerning E.F. in the form of a letter, book, pamphlet, picture, or as the case may be (Innuendo should be stated where necessary)

18

Statement of Offence
First Count

Publishing obscene libel.

Particulars of Offence

E.M., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province sold, uttered, and published and caused or procured to be sold, uttered, and published an obscene libel the particulars of which are deposited with this indictment (Particulars to specify pages and lines complained of where necessary as in a book).

Statement of Offence
Second Count

Procuring obscene libel (or thing) with intent to sell or publish.

Particulars of Offence

E.M., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province procured an obscene libel (thing) the particulars of which are deposited with this indictment with intent to sell, utter or publish such obscene libel (or thing).

19

Statement of Offence
First Count

Falsification of accounts contrary to section 1 of the Falsification of Accounts Act, 1875.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area of Sierra Leone/Province being clerk or servant to C.D. with intent to defraud, made or concurred in making a false entry in a cash book belonging to C.D., his employer, purporting to show that on that day Le..... had been paid to L.M.

Statement of Offence
Second Count

Same as first count

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area/Province of Sierra Leone, being clerk or servant to C.D., with intent to defraud, omitted or concurred in omitting from or in a cash book belonging to C.D., his employer, a material particular that is to say, the receipt on the said day of Le.....from H.S.

20
Statement of Offence
First Count

Fraudulent conversion of property contrary to section 20 (1) (iv) (a) of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area / Province of Sierra Leone, fraudulently converted to his own use or benefit certain property, that is to say Le.....entrusted to him by E.S. in order that he, A.B. might retain the property in safe custody.

Statement of Offence
Second Count

Fraudulent conversion of property contrary to section 20 (1) (iv) (a) of the Larceny Act, 1916.

Particulars of Offence

A.B., on the.....day.....20....at.....in the Western Area / Province of Sierra Leone, fraudulently converted to his own use or benefit certain property, that is to say, the sum of Le.....received by him for and on account of L.M.

SECOND SCHEDULE (Section 102)

THE CRIMINAL PROCEDURE ACT, 2015
(Act No. of 2015)

THE INDICTMENT (EX-OFFICIO INFORMATION)
(PROCEDURE) RULES

1. In these Rules –

“Act” means the Criminal Procedure Act, 2015

Interpretation.

Cap. 5. “deposition” means deposition taken before a Magistrate under the Act or depositions taken before a Coroner under the provisions of the Coroners Act, and includes the statement of the accused and any document exhibited to such depositions:

Provided that any requirement of these Rules that an application should be accompanied by a copy of any depositions, shall, as respects documents exhibited to those depositions, be satisfied if a copy of such parts only of the exhibits as are, in the opinion of the applicants, material accompanies the application, and the application contains an express statement to that effect;

“Master and Registrar” includes any Deputy Master and Registrar or any Assistant Master and Registrar as may from time to time be appointed.

PREFERMENT OF INDICTMENT

2. No indictment which by law may be preferred by the direction of, or with the consent in writing of, a Judge, shall be filed in the High Court without the express order of a Judge of the High Court made in open court.

3. Every application for the preferment of any indictment shall be made *ex-parte* by notice of motion to the High Court.

4. Every application shall be accompanied by the indictment which it is proposed to prefer and shall state whether or not the application has previously been made whether or not any proceedings have previously been taken under Part IV of the Act (which relates to committal proceedings and the result of such application of proceedings).

5. Where no proceedings have been taken under Part IV of the Act, the application shall state the reason why it is desired to prefer an indictment without such proceedings having been taken, and –

- (a) there shall accompany the application proof of the evidence of the witnesses whom it is proposed to call in support of the charge or charges; and
- (b) the application shall embody a statement that the evidence shown by the proofs will be available at the trial.

6. Where proceedings have been taken under Part IV of the Act and the Magistrate has refused to commit the accused for trial, the application shall be accompanied by –

- (a) a copy of the depositions; and
- (b) proofs of any evidence which it is proposed to call in support of the charge or charges so far as the evidence is not contained in the depositions,

and the application shall embody a statement that the evidence shown by the proofs and (except so far as may be expressly stated to the contrary in the application) the evidence shown by the depositions will be available at the trial.

7. Where the accused has been committed for trial the application shall state why it is made and shall be accompanied by proofs of any evidence which it is proposed to call in support of the charge or charges, so far as the evidence is not contained in the depositions, and unless the depositions have already been

transmitted to the High Court in accordance with this Act, shall also be accompanied by a copy of the depositions; and the application shall embody a statement that the evidence shown by the proofs will be available at the trial.

8. Every application shall be supported by an affidavit made by or on behalf of the applicant that to the best of knowledge the information and belief of the applicant, the case disclosed by the proofs (and depositions as the case may be) is substantially a true case.

9. Where the High Court grants the application it may at the same time issue a warrant of arrest directed to the Sheriff of the High Court to apprehend the person charged in the indictment and to cause him to be brought before the High Court as soon as possible for the purpose of ensuring his trial upon the indictment so filed.

10. The High Court shall, upon proof on oath that the person brought before it is the person charged and named in such indictment, without further inquiry or examination, fix the place, time and date of the trial which shall not be less than seven days from the date of such appearance.

11. (1) The High Court may commit the person charged to prison to await his trial or admit him to bail.

(2) Nothing in this rule shall affect the jurisdiction of a Judge to admit any accused person to bail whether in a felon or misdemeanour at any time after committal and before conviction if he thinks fit.

EX-OFFICIO INFORMATION

12. In the case of information known as *ex-officio* informations, the Attorney-General and Minister of Justice may at the time of filing such information apply to the High Court for a warrant of arrest directed to the Sheriff of the High Court to apprehend the person charged on the information and to cause him to be brought before the High Court as soon as possible for the purpose of ensuring the trial upon the information so filed.

13. The application shall be by notice of motion *ex-parte*, be accompanied by the indictment which has been filed and be supported by such affidavit as the circumstances of the case may require.

14. Upon the person charged being brought before the Court rules 10 and 11 of these Rules shall apply.

MISCELLANEOUS

15. In every case, whether it relates to an application for an indictment to be preferred or an application for a warrant of arrest in connection with an ex-officio information, the decision of the Judge on the application shall be signified in writing on the application under the hand of the Master and Registrar and a certified copy of the application shall be served on the person charged in the indictment or ex-officio information at the time of service upon him of the indictment or ex-officio information.

16. The High Court Rules, which relate to affidavits, shall apply to all applications under these Rules as far as it is applicable.

17. The Judge, in granting any application under these Rules may order that proof of all the evidence which it is proposed to call at the trial in support of the charge or charges in the indictment or ex-officio information be served by the applicant upon the person charged whether at the time of service upon him of the indictment or ex-officio information or at such other time as the Judge thinks fit.

THIRD SCHEDULE

(Section 119)

1. Committal for trial without consideration of the evidence

1 A Magistrate inquiring into an offence may, if satisfied that all the evidence before the Court (whether for the prosecution or the defence) consists of written statements tendered to the Court under paragraph 2 with or without exhibits, commit the defendant for trial for the offence without consideration of the contents of those statements, unless—

- (a) the defendant or one of the defendants is not represented by a legal practitioner; or

- (b) a legal practitioner for the defendant or one of the defendants, has requested the court to consider a submission that the statements disclose insufficient evidence to put that defendant on trial for the offence.

2. Written statement before a Magistrate

- (1) In committal proceedings a written statement by any person shall if the conditions mentioned in sub paragraph (2) are satisfied, be admissible evidence like oral of that person.
- (2) The conditions are —
 - (a) the statement purports to be signed by the person who made it;
 - (b) the statement contains a declaration by that person to the effect that it is true to the best of his knowledge and belief and that he made the statement knowing that, if it were tendered in evidence, he would be liable to prosecution if he willfully stated in it anything which he knew to be false or did not believe to be true.
 - (c) before the statement is tendered in evidence, a copy of the statement is given, by or on behalf of the party proposing to tender it, to each of the other parties to the proceedings; and
 - (d) none of the other parties, before the statement is tendered in evidence at the committal proceedings, objects to the statement being so tendered.
- (3) The following provisions shall also have effect in relation to any written statement tendered in evidence under this paragraph:-
 - (a) if the statement is made by a person under the age of eighteen it shall state his age;

- (b) if it is made by a person who cannot read it, it shall be read to him before he signs or thumbprints it and shall be accompanied by a declaration by the person who so read the statement to the effect that it was so read;
- (c) if it refers to any other document as an exhibit, the copy given to any other party to the proceedings under subparagraph 2(c) shall be accompanied by a copy of that document or by such information as may be necessary in order to enable the party to whom it is given to inspect the document or a copy of the document.
- (4) In the case of a statement pursuant to subparagraph (3) (a) that the person making it has not attained the age of fourteen, sub paragraph (3) (a) shall have effect as if for the words from “made” onwards were substituted for the words “understands the importance of telling the truth in it.”
- (5) Notwithstanding that a written statement made by any person may be admissible in committal proceedings by virtue of this paragraph the Court before which the proceedings are held may, of its own motion or on the application of any party to the proceedings, require that person to attend before the Court and give evidence.
- (6) So much of any statement admitted in evidence by virtue of this paragraph shall, unless the Court commits the defendant for trial under paragraph 1 or the Court otherwise directs, be read aloud at the hearing and where the Court so directs, an account shall be given orally of so much of any statement as is not read aloud.
- (7) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this paragraph shall be treated as if it had been produced as an exhibit and identified in court by the maker of the statement.
- (8) Section 122 shall apply to any written statement tendered in evidence in committal proceedings under this paragraph, as it applies to a deposition

taken in such proceedings: but in its application to such statement that subsection shall have effect as if paragraph (b) of subsection (1) of section 122 were omitted.

- (9) A person whose written statement is tendered in evidence in committal proceedings shall be treated as a witness who has been examined by the Court.

3. Restrictions on reports of committal proceedings

- (1) Except as provided in subparagraphs (2) and (3) it shall not be lawful to publish a written report, or to broadcast a report, of any committal proceedings containing any matter other than that permitted by subparagraph (4).
- (2) A Magistrate Court shall, on an application for the purpose made with reference to any committal proceedings by the defendant or one of the defendants, order that sub paragraph (1) shall not apply to a report of those proceedings.
- (3) It shall not be unlawful under this paragraph to publish or broadcast a report of committal proceedings containing any matter other than that permitted by paragraph 5 –
 - (a) where the Magistrate Court determines not to commit the defendant or the defendants for trial, after it so determines;
 - (b) where the court commits the defendant or any of the defendants for trial, after the conclusion of his trial or, as the case may be, the trial of the last person to be tried.
- (4) The following matters may be contained in a report of committal proceedings published or broadcast without an order under sub paragraph (2) before the time authorized by sub paragraph (3):-
 - (a) the identity of the Court and the names of the examining Magistrate;
 - (b) the names, addresses and occupations of the parties and witnesses and the ages of the defendant or defendants and witnesses;

- (c) the offence or offences, or a summary of them, with which the defendant or defendants is or are charged;
 - (d) the names of the legal practitioners engaged in the proceedings;
 - (e) any decision of the court to commit the defendant or any of the defendants for trial, and any decision of the court on the disposal of the case of any defendants not committed;
 - (f) where the court commits the defendant or any of the defendants for trial, the charge or charges or a summary of them, on which he is committed and the court to which he is committed;
 - (g) where the committal proceedings are adjourned, the date and place to which they are adjourned;
 - (h) any arrangements as to bail on committal or adjournment;
 - (i) whether legal aid was granted to the defendant or any of the defendants.
- (5) If a report is published or broadcast in contravention of this paragraph any of the following persons:—
- (a) in the case of publication of a written report as part of a newspaper or periodical, any proprietor, editor or publisher of the newspaper or periodical;
 - (b) in the case of a publication, the person who publishes it;
 - (c) in the case of a broadcast of a report, any body corporate which transmits or provides the programme in which the report is broadcast and any person having functions in relation to the programme corresponding to those of the editor of a newspaper or periodical;

commits an offence and is liable on conviction to a fine not exceeding Le2, 000.000 or to a term of imprisonment not exceeding three months.

- (6) Proceedings for an offence under this paragraph shall be instituted by or with the consent of the Attorney-General and Minister of Justice or the Director of Public Prosecutions.
- (7) Sub paragraph (1) shall be in addition to, and not in derogation from, the provisions of any other enactment with respect to the publication of reports and proceedings of Magistrate Courts and other Courts.

4. Discharge or committal for trial

- (1) Subject to this Act relating to the summary trial of indictable offences, if a Magistrate inquiring into an offence is of the opinion, on consideration of the evidence and of any statement of the defendant, that there is sufficient evidence to put the defendant upon trial for any indictable offence, the court shall commit him for trial; and if it is not of that opinion, it shall discharge him.
- (2) The court may commit a person for trial—
 - (a) by committing him to custody there to be safely kept until delivered in due course of law: or
 - (b) subject to sub paragraph (3) on bail, by taking from him a recognizance, with or without sureties, conditioned for his appearance at the time and place of trial.
- (3) Where the court has committed a person to custody in accordance with paragraph (a) of sub paragraph (2) then, if that person is in custody for no other cause, the court may, at any time before the first sitting of the court before which he is to be tried release him on his entering into such a recognizance as is mentioned in paragraph (b) of sub paragraph (2).

FOURTH SCHEDULE**(Section 227)**

FORM No. 1

Warrant of
remitting
Court.In the Court at
To (Officer)

WHEREAS (name of defendant) of
 (Address) was brought before me at on
 the day of 20..... charged with the
 offence of (statement of offence)
 committed at in the Western Area/
 Province of Sierra Leone

Now these are to command you to convey the said
 to and to produce him
 before the (Magistrate) at
 there to be dealt with according to law.

Dated this day of 20.....

.....
 Signature.

FORM No. 2

IN THE HIGH COURT OF SIERRA LEONERecogni-
sance to pay
costs.

WHEREAS application has been made to His Lordship
 under section 45 of the Criminal Procedure Act, 2015, by me
 (name of defendant) a person charged with the
 offence of

AND WHEREAS it has been further ordered that I, the
 said (defendant), shall enter into a bond with
 surety
 that I shall, if convicted, pay the costs of the prosecution:

Now I, (name of defendant), of
 (address) hereby bind myself that I will, in the
 event of my being convicted of the offence, or of any other offence,
 upon the charge now pending or any charge substituted therefore,
 pay the costs of my prosecution as certified by

Dated this day of 20.....

.....
 (Signature)

I hereby declare myself surety/We hereby jointly and
 severally declare ourselves sureties for the said
 (name of defendant) that he will, if convicted, pay the cost of the
 prosecution as he has herein undertaken, and in case of his making
 default I bind myself/ We bind ourselves to forfeit to the Government
 of Sierra Leone the amount of the said costs as certified by

Dated this day of 20.....

.....
 (Signature)

Form No. 3

Summons to
a defendant.

In theCourt

To.....(Name of defendant) of
.....(Address).

WHEREAS your attendance is necessary to answer to a
charge of(Statement of offence):

You are hereby required to appear in person before the
..... Court at atm, on the
.....day of20.....

Herein fail not

Summons to
defendant
under special
procedure in

Dated this.....day of20....

.....
(Signature)

FORM NO. 3A

In theCourt

To..... of.....
(Name of defendant) (Address)

WHEREAS your attendance (subject to what is stated below)
is necessary to answer to a charge of
(statement of offence)

Unless you choose to inform the Court in writing before the
date fixed for hearing that you plead guilty to the charge you are
hereby required to appear in person or by legal practitioner before
the Court atm, on the
day of20.....

If you plead guilty in writing or are represented by a legal
practitioner you need not attend the hearing unless you are
subsequently required to do so by the Court.

Dated this.....day of20.....

.....
(Signature)

I plead guilty to the above written charge

.....
(Signature)

Note: Your non-appearance in Court will have no effect on
the sentence to be passed if you are convicted.

This form must be used when an offence with which the
defendant is charged is punished only by a fine or by imprisonment
not exceeding one year (whether with or without a fine), it may also
be used on the direction of a Magistrate in respect of any offence
other than a felony.

FORM No. 4

In theCourt at Warrant of

To.....(name and designation of person arrest.
or persons who is or are to execute the warrant).

WHEREAS.....(name of defendant) of.....
(address) stands charged with the offence of.....(Statement
of offence)

You are hereby commanded to arrest the said.....
and to produce him before me.

Dated this.....day of20....

.....
(Signature)

(This warrant may be endorsed as follows)

If the said.....shall enter into a recognisance himself in the sum of.....Leones, withsurety.....each in the sum of..... Leones to attend before me at.....m on the.....day of.....20....., and to continue so to attend until otherwise directed by me, he may be released.

Order to bring
up a prisoner.

Dated this.....day of.....20.....

.....
(Signature)

FORM No. 5

In the.....Court at
To the keeper of the

WHEREAS.....(*name of inmate*) an inmate of the..... correctional centre now in your custody is required to appear before me to answer a charge of.....(*statement of offence*):

NOW these are to command you to produce the inmate before me atat.....m on the.....day of.....20....., and to ensure his further attendance from time to time until the said charge shall have been disposed of.

.....
(Signature)

FORM No. 6

Affidavit of Service of Summons out of the Jurisdiction.

I,..... (*name and designation*), make oath and say as follows: Affidavit of service.

At or aboutm. in the noon of the day of 20....., at.....I personally served upon(*name of person summoned*) by (*state method of service*) a summons issued by (*issuing Court*) in the matter of (*prosecutor*) versus (*defendant*) wherein the defendant is charged with (*set out charge as described in summons*).

.....
(Signature)

Sworn before me at.....this.....day of.....
20..... Search Warrant.

.....
(Signature)

FORM No. 7

In the.....Court at
To.....(*name and designation of person or persons who is or are to execute the warrant*).

WHEREAS information has been given to me upon oath of the commission or suspected or intended commission of the offence of..... (*statement of offence*) and it has been made to appear to me that there is reasonable cause to suspect that.....(*specify the animal, matter or thing clearly*) or some of them are concealed in.....at.....

NOW these are to authorise you with such assistance as you may require to search for the (animal, matter or thing specified) in the (describe the house, vessel, or place to which the search is to be confined), and if necessary to search all persons found therein and if found to produce such..... (animal, matter or thing) forthwith before this Court together with this warrant.

And I hereby authorise you to enter by force into the..... (Place to be searched) if you are not admitted after making known your authority and demanding admission.

And I hereby direct you to arrest the occupier of the(place to be searched) if any such.....(animal, matter or thing) be found.

Dated this.....day of.....20.....

.....
(Signature)

*(I authorise the execution of this warrant at any time.)

.....
(Signature).

* Strike out when Magistrate or Justice of the Peace does not think fit so to authorise or direct

FORM No. 8

To.....(Registrar or Court Clerk) of theCourt at.....(Place). ^{Nolle Prosequi.}

WHEREAS.....(name of defendant) of..... (address) has been committed for trial by the/stands charged before theCourt of..... on a charge of/with the offence of.....(statement of offence).

NOW these are to authorise and require you to enter on the record a statement that the proceedings are discontinued [stayed] by my direction.

Dated this.....day of.....20.....

.....
Director of Public Prosecutions

FORM No. 9

NOTICE OF ENTRY OF *NOLLE PROSEQUI* AT THE INSTANCE OF THE ATTORNEY GENERAL AND MINISTER OF JUSTICE OR THE DIRECTOR OF PUBLIC PROSECUTIONS

To..... in the matter of a charge of ^{Notice of nolle}
.....(state charge) against ^{prosequi.}
(name of defendant):

Take notice that in this case a nolle prosequi has been entered

Dated thisday of.....20.....

.....
(Signature)

NOTE: If the defendant is in prison he shall be forthwith released.
If he is on bail his recognizance and those of his sureties are discharged.

Witnesses are released from their obligation of further attendance at the Court.

FORM No. 10

**CERTIFICATE AND LEAVE UNDER SECTION OF THE
CRIMINAL PROCEDURE ACT, 2015**

WHEREAS it has been made to appear to me..... Attorney-General and Minister of Justice of Sierra Leone, that (*name of defendant*) who is not a citizen of Sierra Leone, has committed the offence of which is an offence within the jurisdiction:

AND WHEREAS such offence was committed within [Sierra Leone waters] [the territorial waters of Sierra Leone]:

AND WHEREAS I consider it expedient that proceedings for the trial of the said shall be instituted in the Court of Sierra Leone:

NOW these are to certify my opinion that such proceedings are expedient and to give my consent for the institution of the proceedings.

Given under my hand at in the of Sierra Leone, this day of 20.....

.....
Attorney-General and Minister of Justice

FORM No. 11

In the Court at
To (*the bailiff or other person concerned*)

WHEREAS in the matter of a charge of preferred at the instance of (*prosecutor*) against (*defendant*) it was ordered (*set out the order made*).

Order to
recover
damages, etc.
Section 61.

NOW these are to authorize and require you to recover the sum of as though it were a judgment debt in the above mentioned Court.

DATED this day of 20.....

.....
(*Signature*).

FORM No. 12

In the Court at
intention to To (*name*) of (*address*). Notice of

WHEREAS (*name*) is lying ill/ take
hurt at (*address*) and is not likely to recover, and deposition.
whereas it appears to me that the said is
able and willing to give material information relating to the offence
of (*statement of offence*) alleged to have been
committed in regard to.

NOW, therefore, take notice that I propose to take in writing
and upon oath or affirmation the statement of the said
..... at (*place*)
at m on the day of
of next

You should be present at the time and place in order to hear
the statement made *(and to cross-examine the deponent upon it).

DATED this day of 20.....

.....
(*Signature*).

*In case of notice to the prosecutor these words should be struck out.

FORM No. 13

Order to
produce an
inmate.

In the.....Court at.....
To.....(*Keeper of Correctional Centre or Police
officer*) at..... (*place*).

WHEREAS..... (*name*) is now lying ill/
hurt at.....(*address*) and is not expected to recover:

AND WHEREAS it is expedient that.....(*name*),
an inmate now in your custody, should be present in order to hear the
statement which I propose to take from the
said.....

NOW these are to command you to produce the inmate
at.....(*place*) at.....m. on.....the.....
day of.....next there to continue until the statement
shall have been taken and recorded.

DATED this.....day of.....20.....

.....
(*Signature*).

FORM No. 14

Recognisance
to look after
a lunatic.

In the.....Court at.....

WHEREAS.....(*name of defendant*) did appear
before the.....(*Magistrate or Judge*) at..... to
take his trial or/attend committal proceedings into a charge
of.....:

AND WHEREAS the said.....(*Magistrate or
Judge*) has reason to believe that the said.....(*name
of defendant*) is of unsound mind and is incapable of making his
defence and has postponed further proceedings in the matter:

NOW I hereby declare myself surety/WE hereby jointly and
severally declare ourselves sureties that the said.....
shall be properly taken care of and prevented from doing injury to
himself or any other person or property, and for his appearance when
required before the Court or before such officer as the Court may
appoint in that behalf.

And in case of my/our making default herein I bind myself/
We bind ourselves to forfeit to the Government of Sierra Leone the
sum of..... Leones.

DATED this.....day of.....20.....

.....
(*Signature*)

FORM No. 15

In the.....Court at.....
To.....(*Keeper of.....Correctional Centre or
Police officer*) at..... (*place*).

Order for
commitment
of criminal
lunatic
pending
report to
Minister.

WHEREAS.....(*name of criminal lunatic*)
being charged before the.....Court with the offence
of..... was this day by special finding found to be not guilty
by reason of insanity:

NOW these are to authorize you to
receive the said..... into your custody and safely to
keep him until further order in his behalf.

DATED this.....day
of.....20.....

.....
(*Signature*)

FORM No. 16

Minister's
Order for
confinement
of a criminal
lunatic.

WHEREAS.....(name of
defendant), being charged before the.....Court
at.....with the offence
of..... was by special finding made by the
said Court to the effect that he is not guilty of the act or omission
charged by reason of insanity (unsoundness of mind):

NOW, therefore, I.....the Minister
responsible for Social Welfare, do hereby order the
said.....of.....to be confined
in the mental hospital or correctional centre at
as a defendant of unsound mind until further order.

DATED thisday of20.....

.....
(Minister)

FORM No. 17

**CERTIFICATE UNDER SECTION 76 OF THE CRIMINAL
PROCEDURE ACT, 2015**

Certificate of
superintend-
ent of mental
hospital.

I (name)
of.....(address), the Medical Superintendent of
the Mental Hospital at hereby certify
that.....(name of defendant) against whom a
charge of is pending before the Court at
..... is in my opinion capable of making his defence to
the charge.

DATED thisday of20.....

.....
(Signature).

FORM No. 18

In the.....Court at.....I,(name of defendant) being brought
before the(Magistrate) at.....charged
with (statement of offence), do hereby
bind myself to attend in theCourt at on
the day of next to answer to the charge and
to continue so to attend until otherwise directed by the Court: and in
case of my making default herein I bind myself to forfeit to the
Government of Sierra Leone the sum of
Leones.

DATED thisday of20.....

.....
(Signature).

I hereby declare myself surety/We hereby jointly and severally
declare ourselves sureties for the above-named
.....of..... that he will attend in the Court
at on the day of
next to answer to the above-named charge and will continue so to
attend until otherwise directed by the said Court: and in case of his
making of default herein I bind myself/We bind ourselves to forfeit to
the Government of Sierra Leone the sum of.....
Leones.

DATED thisday of20.....

.....
(Signature).

FORM No. 19

Recognisance
to attend
committal
proceedings
and take trial
if committed.

In the Court at
I, (name of defendant) of
(address), being brought before the (Magistrate)
at charged with the offence of and
required to give security for my attendance in his Court and at the
High Court, if required, do bind myself to attend at the Court of the
..... (Magistrate) on everyday of the committal
proceedings in respect of the charge and, should the case be
committed for trial in the High Court, to be and appear before the
Court when called upon to answer the charge against me and to
continue so to appear until otherwise ordered by the Court: and in
case of my making default herein I bind myself to forfeit to the
Government of Sierra Leone the sum of
Leones.

DATED this day of 20

.....
(Signature).

I hereby declare myself surety/We hereby jointly and severally
declare ourselves sureties for (name of defendant)
that he will attend at the Court on every day of the
committal proceedings against him, and should the case be committed
for trial in the High Court, that he will be and appear before the Court
when called upon to answer to the charge against him and will
continue so to appear until otherwise ordered by the Court and in
case of his making default herein I bind myself/We bind ourselves to
forfeit to the Government of Sierra Leone the sum
of Leones.

DATED this day of 20

.....
(Signature).
.....

FORM NO. 20

RECOGNISANCE BOOK KEPT AT THE POLICE STATION (OR POLICE POST) AT

Date	Time of Arrest	Name and Address of Recognisor	Charge	(1) Conditions of Recognisance	Name and Address of Sureties	(2) Conditions of Bail	Date and Time laid Before Magistrate	(3) Order of Magistrate

- (1) State time and place at which defendant (recognisor) is to appear before the Magistrate and the sum in which he is bound followed by his mark or signature.
- (2) State amount in which each surety is separately bound, followed by his signature or mark
- (3) Order for enlargement of bail, cancellation of bail, transferr to a bond etc.

FORM No. 21

Remand
warrant

In the.....Court of.....
To.....(*Keeper of Correctional Centre or Police
Officer*) at(*place*)

WHEREAS.....(*name of defendant*) has the
day appeared before me charged with the offence
of.....and I consider it advisable to adjourn the
examination into the charge:

Now these are to command you to receive the
said..... into your custody and safely to keep him and
produce him before me at.....at.....m, on the.....
day of 20.....and hereafter from time to time as
may be notified to you by endorsements on this warrant.

DATED this.....day of.....20.....

.....
(*Signature*).

Form 22

Defendant's
objection to
use of prose-
cution's
written
statements
and
documents,
etc.

Defendant's objection to the use of the Prosecution's written
statements, documents and physical and material evidence at
Committal Proceedings.

In the.....Court at.....
I, (*name of defendant*) of
..... being brought before the
(*Magistrate*) at charged with the offence of
..... hereby object to the use of Prosecution's
.....
.....
(*state written statements, documents, physical and material
evidence, as may be applicable*) at these committal proceedings.

DATED this.....day of.....20.....

.....
(*Signature*).

FORM No. 23

The following is read by the Magistrate and explained to the
defendant.

Objections of
defendant.

The charge/charges against you is/are (*state
charge/charges*) and you have indicated to the Court that you wish
to object to the use of the Prosecution's written statements,
documents and physical and material evidence. I now call upon you
to state your objection or objections. (*Here record the objection or
objections of the defendant. If too long for this space continue
overleaf*).

The objection or objections of the defendant as herein recorded
was/were stated in my presence and hearing and accurately recorded
by me. He was called upon to sign or to append his mark which he
did /refused to do.

.....
(*Signature*)

DATED this.....day of.....20.....

.....
(*Signature*).

FORM No. 24

Committal
under section
119.

Committal Proceedings when Case for the Prosecution is closed.

The following is read by the Magistrate and explained to the defendant.

The charge/charges against you is/are(*here set out charge or charges*).

Having heard the evidence tendered by the prosecution, you are committed to the current (*or next*) sessions of the High Court at to stand trial for the offence of Copies of written statements and depositions (if any), record of the committal proceedings and any other document and list of things tendered in evidence shall be served on you before trial and you will be entitled to give evidence and to call witnesses.

ALIBI WARNING

I must warn you that, if you intend to give evidence of an alibi or to call witnesses in support of an alibi, at the trial in the High Court, you may give particulars now to this court or to the prosecution not later than seven days from the end of these committal proceedings. (*Here record particulars of alibi. If too long for this space continue overleaf*).

I order that the defendant be committed for trial upon indictment before the High Court at and I further order that the defendant be admitted to bail/committed to a *correctional centre*.

DATED this day of 20

.....
(Signature).
.....

FORM No. 25

In the Court at
I, (*name of defendant*) of
being committed to take trial before the
Court on a charge of and
required to give security to take my trial before the
Court, do hereby bind myself to be and
appear before the Court at
when called upon to answer the
charge against me and to continue so to appear until otherwise
ordered by the Court: and in case of my making default herein I bind
myself to forfeit to the Government of Sierra Leone, the sum of
Leones.

Recognisances
on committal
to take trial.

DATED this day of 20

.....
(Signature).

I hereby declare myself surety/We hereby jointly and severally
declare ourselves sureties for the above-named
of that he will be and appear before the
Court when called upon to answer the
charge against him and will continue so to appear until otherwise
ordered by the Court: and in case of making default herein I bind
myself/We bind ourselves to forfeit to the Government of Sierra
Leone the sum of Leones.

DATED this day
of 20

.....
(Signature).
.....

FORM No. 26

Warrant on
commitment
for trial.

In the.....Court at.....

To the Keeper of the correctional centre at.....

WHEREAS at committal proceedings held by me into a charge of.....preferred against.....
(*name of defendant*) I committed.....(*name of defendant*) for trial by the High Court upon the charge and did not admit him to bail:

Now these are to command you to receive.....(*name of defendant*) into your custody, and safely to keep him until the sittings of the High Court to be held at.....(*place*) on the.....day of.....20.....for the trial of defendants, and to produce him before the Court then and there to be tried.

DATED this.....day of.....20.....

.....
(*Signature*).

FORM No. 27

Recognisance
to prosecute
or give
evidence.

In the.....Court at.....

I.....(*name*) of.....(*address*),
do hereby bind myself to attend the High Court at
.....(*place of sitting*) at.....m, on the
.....day of.....next and then and there to prosecute
(*or to prosecute and give evidence or to give evidence*) in the matter

of a charge of.....against.....(*name of defendant*); and in case of making default herein I shall be liable to be committed for contempt.

DATED this.....day of.....20.....

.....
(*Signature*).

FORM No. 28

In the.....Court at.....
To.....(*name of prosecutor or witness*) of.....
.....(*address*)

Notice to
prosecutor
and witnesses
entering into
recognisance.

Take notice that you are bound to appear at the.....
Sessions of the High Court to be held at.....and
unless you personally make your appearance accordingly you shall
be liable to be committed for contempt of court.

DATED this.....day of.....20.....

.....
(*Signature*).

FORM No. 29

Warrant of
commitment
on refusal to
enter into a
recognisance.

In the Court at

To (corrections officer or Police Officer).

WHEREAS (name) of
(address) was called upon to enter into a recognisance to prosecute
(or to prosecute and give evidence or to give evidence) in the matter
of a charge of to be
preferred against at the sittings
of the Court to be held at on
the day of
20.....

AND whereas the said when so
called upon did refuse to enter into such recognisance:

Now these are to command you to receive into your custody
the said and safely to keep him until
after the trial, unless he sooner enters into such recognisance or
unless by an order of this Court or of the High Court you are
commanded sooner to release him.

DATED this day of 20.....

.....
(Signature).

FORM No. 30

In the Court at

To (corrections officer or Police Officer).

WHEREAS by a warrant dated a certain
..... (name) of
(address) was committed to your custody there to abide until after
the trial of before the
High Court on a charge of

Now these are to command you to release and set at liberty the said
.....

DATED this day of 20.....

.....
(Signature).

FORM No. 31

CERTIFICATE AND WARRANT UNDER SECTION
131, OF THE CRIMINAL PROCEDURE ACT, 2015

Certificate of
failure to
perform
recognisance
and warrant
thereon.

To the Sheriff
I, (Judge of the High Court or
other designation) hereby certify that the condition of the
recognisance entered into by and set out on the
obverse hereof has not been complied with.

You are hereby directed to cause to be served upon the said
..... the order and notice required by section
130 of the Criminal Procedure Act, 2015.

And you are further directed that if the said sum shall not have been paid to you within thirty days of the service of such order and notice, you shall proceed to recover it by distress and sale of the goods and chattels of the said and in default of the amount being so recovered you shall lodge the said in the prison at there to be kept safely for a period of days, and for so doing this shall be sufficient warrant and authority to all concerned.

DATED this day of 20.....

.....
(Signature).

FORM No. 32

Order and
notice on
failure to
regard
recognisance.

In the Court at

To (name) of
(address)

WHEREAS on the day of
20....., you as defendant/surety entered into a recognisance conditioned as follows—

And whereas the condition of the recognisance has not been performed:

Now these are to order you to pay the sum of Leones the amount of such recognisance wherein you were bound, and further to give you notice that if within thirty days of the date of service of this order and notice upon you, you fail to pay the sum it may be recovered in manner prescribed by

distress and sale of your goods and chattels, and in default of the amount being so recovered you may be imprisoned for a period up to days.

DATED this day of 20.....

.....
(Signature)

FORM No. 33

In the Court at

Warrant for
absconding
recognisor.

To (person or persons who
is or are to execute the warrant).

WHEREAS of
has bound himself by recognisance to prosecute (or to prosecute
and give evidence or to give evidence) in the matter of a charge of
..... against

And whereas it has been made to appear to me by
information upon oath that the
said is about to go out of
Sierra Leone:

Now these are to command you to arrest the
said
and to bring him before me.

DATED this day of 20.....

.....
(Signature).

FORM No. 34

Warrant of
committal of
absconding
recognisor.

In the.....Court at.....

To the Keeper of the *correctional centre*
at.....

WHEREASof..... has bound himself
by recognisance to prosecute (or to prosecute and give evidence) in
the matter of a charge of.....against.....

And whereas it has been made to appear to me by information
upon oath that the said.....was about
to go out of Sierra Leone, and he has been arrested under a warrant
issued by me to prevent him so doing:

Now these are to command you to receive into your custody
the said..... and safely to keep him until the
trial of the said.....and to produce him
upon the day of such trial before the High Court unless in the meantime
you receive other directions as to his disposal.

DATED this.....day of.....20.....

.....
(Signature).

FORM No. 35

Certificate of
service of
notice of
trial.

I, (Sheriff or Deputy
Sheriff) hereby certify that I have/caused to be served upon
..... (name of defendant) at
(place of service) a copy of the indictment in the matter of the
charge against him with the notice of trial, and that the nature and
exigency thereof was explained to him by,
and that this service was effected

(personally or in what manner accomplished) atm on
.....the.....day of.....20.....

DATED this.....day of.....20.....

.....
(Signature).

FORM No. 36

**CERTIFICATE UNDER SECTION 224, CRIMINAL
PROCEDURE ACT, 2015**

Certificate of
conviction
for murder.

THIS IS TO CERTIFY that at a session of the High Court held before
Mr. Justice at on the
.....day of.....20.....
..... (name of prisoner) was duly
convicted of murder and sentenced to suffer death.

This is to authorize and require all persons to whom the said
..... shall be delivered to receive the
said into their custody together
with this certificate, and him safely to keep until further order in his
behalf.

DATED this.....day of.....20.....

.....
(Signature).

FORM No. 37

(Public Seal)

President,

Order of
President to
carry out
sentence of
death.

TO THE SHERIFF OF THE Sierra Leone
GREETINGS:

WHEREAS by a judgment of the High Court bearing *date* the
..... day of 20.....
(*name of inmate*) was convicted of murder and was thereupon by
the Court sentenced to suffer death:

NOW, THEREFORE, these are to command you privately to
carry the sentence into execution by causing the
..... to suffer death by being hanged
by the neck until he is dead at m on the
..... day of 20....., and within the precincts of the
correctional centre at and thereafter to cause
the dead body of the said to be buried in
the (*cemetery*) at (*place*) and for
so doing these shall be your sufficient authority: and thereupon
without delay return you this order to me endorsed with what you
have done therein.

Issued under my hand and the Public Seal of Sierra Leone this
..... day of 20.....

.....
President

FORM No. 38

(Public Seal)

To all to whom these presents shall come:
I, President of the
Republic of Sierra Leone send greetings:

Commutation
of death
sentences.

WHEREAS by section 63 of the Constitution it is provided
that the President may grant unto any person convicted of any
offence against the laws of Sierra Leone a pardon either free or
subject to lawful conditions:

AND WHEREAS (*name of inmate*)
was on the day of 20..... convicted
before the Court at of
murder and was thereupon by the Court sentenced to suffer death:

AND WHEREAS it is in my judgment expedient that mercy
should, on the conditions hereinafter mentioned, be extended to the
said

NOW, THEREFORE, by virtue and in exercise of the powers
vested in me by the Constitution, I do
hereby grant unto the said
pardon for the offence whereof he stands so convicted on condition
that the said shall be kept imprisoned
for the rest of his life/a period of years and be confined
in the correctional centre at or in such
other correctioal centre as I shall from time to time direct, and subject
to the correctional centre rules for the time being in force.

Issued under my hand this day of
20.....

.....
President

FORM No. 39

MEDICAL CERTIFICATE OF DEATH AFTER
EXECUTION OF OFFENDER

Medical
certificate of
death after
execution.

I, the Medical Officer in
charge of the prison at.....(*or as the case may be*)
hereby certify that I this day examined the body
of.....on whom judgment of death was
this day executed in the said correctional centre (*or as the case may
be*), and that on such examination I found that the said
..... was dead.

DATED this.....day of20.....

.....
(Signature).

FORM No. 40

DECLARATION OF EXECUTION OF JUDGMENT
OF DEATH

Declaration
of execution
of death
sentence.

We, the undersigned hereby declare that judgment of death
was this day executed on in the
.....
(*describe correctional centre or place*) in our
presence.

.....
(Signature)

FORM No. 41

In theCourt at..... Warrant to
levy distress
on de-
fendants'
goods.

To (*the person charged with the
levy*).

WHEREAS (*name of defendant*)
was on the day of 20..... convicted
before me of the offence of and sentenced/
ordered to pay a fine/sum/penalty of
Leones.

AND WHEREAS the said.....has not
paid the said fine/sum/penalty or any part thereof:

Now these are to command you to make distress by seizure
of the goods and chattels belonging to the said
..... which may be found within Sierra Leone
and if the said sum shall not be paid forthwith/within
days next after such distress to sell the property distrained or so
much thereof as shall be sufficient to satisfy the said fine/sum/penalty
returning this warrant with an endorsement certifying what you have
done under it, immediately upon its execution.

DATED this.....day of20.....

.....
(Signature).

FORM No. 42

Warrant of
commitment
pending
return to
warrant of
distress.

In the.....Court at
To (keeper of Prison or Police Officer).
WHEREAS (name of defendant) was
on the day of 20..... convicted
before me of the offence ofand
sentenced/ordered to pay a fine/penalty of
.....Leones.

AND WHEREAS default having been made in payment, a warrant
of distress has been issued, but no return has yet been made thereto:

Now these are to command you to receive into your custody the
said and safely to keep him until the
..... day of 20..... when you shall
produce him before this Court at m unless the said sum
of be sooner paid, on receipt of which
the said shall be forthwith set
at liberty.

DATED this.....day of20.....

.....
(Signature).

FORM No. 43

In the Court at Commitment
To Keeper of the correctional centre at for want of
distress.

WHEREAS by a warrant of distress dated the day of
..... 20....., it was ordered that distress be
levied against the goods and chattels of
(name of defendant) for the sum ofLeones.

AND WHEREAS it has been reported to me that there are no
sufficient goods and chattels of the said
to satisfy the said sum and the expenses of such distress:

Now these are to command you to receive the said
..... into your custody together with this
warrant, and him safely to keep in the correctional centre for the
period of unless the sum of
..... Leones (as set out at the foot hereof) be
sooner paid, and on the receipt thereof forthwith to set him at liberty
returning this warrant with an endorsement certifying the manner of
its execution.

DATED this.....day of20.....

.....
(Signature).

Details of expenses:

Distress	...	...	...
Expenses of distress	...	...	...
Expenses of commitment	...	...	...
Expenses of conveyance to prison	...	...	...

Le

Le _____

FORM No. 44

Warrant of
commitment
of non-
payment of
fines.

In the.....Court at

To the Keeper of the correctional centre at

WHEREAS (*name of defendant*),
was on the day of sentenced to
pay a fine of or in default to suffer
imprisonment for the period of

AND WHEREAS the said (*name
of defendant*) has not paid the said fine of
or any part thereof:

Now these are to command you to receive the said
..... into your custody together with this
warrant, and him safely to keep in the said prison for the said period
of unless the said fine be sooner paid, and
on the receipt thereof forthwith to set him at liberty returning this
warrant with an endorsement certifying the manner of its execution.

DATED this day of 20.....

.....
(Signature)

Details of expenses:

Distress	..	..	..
Expenses of distress	..	..	..
Expenses of commitment	..	..	..
Expenses of conveyance to prison	..	..	..

Le

Le

FORM No. 45

In the Court at Warrant of
To the Keeper of the correctional centre at commitment
(no
alternative).

WHEREAS on the day of 20.....
..... (*name of prisoner*) was convicted
before me of the offence of and
was sentenced to

Now these are to command you to receive the
said into your custody
together with this warrant, and there to carry the sentence into
execution according to law.

DATED this day of 20.....

.....
(Signature).

MEMORANDUM OF OBJECTS AND REASONS

The present legislation regulating criminal procedure is the Criminal Procedure Act, 1965 (Act No. 32 of 1965).

Since its promulgation in 1965, the Criminal Procedure Act has not had any major review to bring it up-to-date with current criminal procedures.

It is in this light that a Non-Government Organisation, the Law Reform initiative took up the challenge and established a working group consisting of legal practitioners who have been engaged in criminal law practice, to undertake a review of the Criminal Procedure Act with the aim of producing a new Criminal Procedure Act that would ensure the following:-

- (a) fair, impartial and effective justice based on the rule of law,
- (b) speedy criminal trials and expeditious disposal of cases;
- (c) effectiveness of law enforce in crime prevention;
- (d) removal of loopholes that have caused arbitrary detention of suspects and accused persons;
- (e) simplification and standardization of the bail process;
- (f) reformation of prisoners, through parole, community service of suspended sentences.

The recommendations of the Working Group were further reviewed by the Law Reform Commission and Rules of Court Committee.

The Bill is therefore a culmination of the efforts of eminent legal practitioners and judges of the Superior Court of Judicature.

The attached Criminal Procedure Bill contains provisions of the Criminal Procedure Act, 1965 which are still applicable and useful and new and innovative provisions. For example (a) the term “accused” has been changed to “defendant”. This is in line with international standards as most countries refer to persons charged with offences as “the defendants” and (b) the term “constable” used in the Act has been changed to “police officer” to reflect current usage of that word.

The Criminal Procedure Act, 1965 vests control of prosecution of criminal cases in the Attorney-General and who is given power to discontinue any prosecutions. Section 66 of the Constitution empowers the Director of Prosecutions to institute, take over, continue and discontinue criminal proceedings against any person, before any court, in respect of any offence against the laws of Sierra Leone. This constitutional provision has been reproduced in this Bill

However the powers of the Director of Prosecution are exercised subject to subsection (3) of sections 64 the Constitution which gives oversight of the functions and powers of the Director of Public Prosecutions to the Attorney-General and Minister of Justice. Subsection (6) of section 66 of the Constitution also provides that the Director of Public Prosecutions in the performance of his functions is to be subject to the general or special direction of the Attorney-General and Minister of Justice.

The Act provides that a court which has convicted a person may order the convict to pay all or part of the expenses of his prosecution. This Bill has modified this provision to limit the amount of expenses a person convicted has to pay to an amount which should not exceed the maximum fine the court convicting the defendant can impose.

The Act also provides that a court may order that the person prosecuting an accused person for an offence should pay all the expenses of the prosecution or defence if it appears to the court that the charge against the accused is malicious, frivolous or vexatious. This Bill however seeks to put the responsibility for the complainant and not on the prosecutor.

In the case of bail, the Act provides that no bail shall be granted to a person who is accused of committing murder or treason. These offences carry the death penalty. However, it allows the grant of bail to persons who commit robbery with aggravation though that offence is also punishable by death. This Bill generally refuses bail to persons charged with offences that carry the death penalty including robbery with aggravation.

One other substantive change from the 1965 Criminal Procedure Act in this Bill relates to offences which are brought before a Magistrate Court (but which are to be exclusively tried by the High Court) for investigations. This procedure is known in the 1965 Act as the “preliminary investigations”. In this Bill it is more appropriately called “committal proceeding” since the idea is to conduct proceedings with a view to deciding whether to commit the case to the High Court.

In conducting “committal proceedings” in the 1965 Act, the Magistrate is empowered to deny access to any person to the court room if the Magistrate thinks the ends of justice so demand. This Bill, apart from the test of “ends of justice” includes” “offences of a sexual nature” because of the nature of such offences.

The Bill also innovatively prohibits the reporting or publication of committal proceedings except references to the identity of the court, the name of the Magistrate conducting the committal proceedings, the offence with which the defendant (s) is charged or a summary of the offence and the decision of the court to commit the defendants(s) for trial or otherwise, the names of counsel or solicitor engaged in the proceedings, and if the proceedings are adjourned, the date and place to which the proceedings are adjourned.

The jury system under the 1965 Act has been reviewed in this Bill. Jury trials have been restricted to offences punishable by life imprisonment such as murder, mutiny and robbery. All other trials are either by the judge alone or by the judge with the aid of assessors. There are many reasons for this restriction some of which are:

- (i) often a jury cannot be empanelled because of the non-availability of dedicated citizens willing to serve as jurors;
- (ii) many times case are adjourned because the jurors fail to turn up;
- (iii) In certain cases it is obvious that the jurors, respectfully, cannot comprehend the situation and the extent of their contribution to the criminal justice system; and
- (iv) some jurors get so emotionally involved in certain cases that their judgment are influenced by such emotions.

Most countries in the West Africa sub-region and the African continent have done away with jury trials because of the availability of the appeal process.

This Bill also abolishes the death penalty. In Sierra Leone a person is sentenced to death when convicted of mutiny, robbery with aggravation and murder. However this penalty has not been implemented especially since the present Government assumed power. It means that though the death penalty has been on the statute books, it has for the past years not been implemented. The abolition of the death penalty in this Bill is therefore to give legal effect to Government’s policy of not carrying out the sentence of death. This Bill, in its place provides that any person convicted of mutiny, robbery with aggravation or murder will be sentenced to life imprisonment.

The Bill contains many other new provisions including the introduction of community service as punishment all geared towards a just and innovative criminal procedure system.

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FREETOWN,
SIERRA LEONE
APRIL, 2015.